



Appeal Decision

Site visits made on 8 & 15 June 2010

by **D L Burrows** DipTP MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
21 June 2010

Appeal Ref: APP/Y3425/A/09/2119100

Land at Aston Hall Farm, Aston By Stone, Staffordshire (grid ref: Easting 392394, Northing 330306)

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Severn Trent Water Limited against the decision of Stafford Borough Council.
- The application Ref 09/12437/FUL, dated 21 July 2009, was refused by notice dated 1 December 2009.
- The development proposed is the erection of one no.60m high wind monitoring mast for a temporary period of two years.

Preliminary matters

1. Subsequent to the accompanied site visit on the 8 June, as agreed with the parties present, I carried out a more extensive unaccompanied visit of the site and its surroundings on Tuesday 15 June 2010.

Decision

2. I allow the appeal, and grant planning permission for the erection of one no.60m high wind monitoring mast for a temporary period of two years on land at Aston Hall Farm, Aston By Stone, Staffordshire (grid ref: Easting 392394, Northing 330306) in accordance with the terms of the application, Ref 09/12437/FUL, dated 21 July 2009, and the plans submitted with it, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Within 1 week of commencement of the development hereby approved, the applicant and/or developer shall notify the local planning authority in writing of the commencement date.
 - 3) The development hereby approved shall be removed and the land reinstated to its previous condition on or before the expiration of 2 years from the date of commencement, in accordance with a scheme of works to be submitted to and approved in writing by the local authority before development commences. The date of removal of the mast shall be notified to the local planning authority 1 month before the removal/reinstatement works commence.
 - 4) No construction or removal works shall take place within the bird breeding season (March to August) inclusive.
 - 5) Development shall not commence until details, numbers and locations of bird deflectors to the guy wires have been submitted to and approved in writing by the local planning authority. The approved deflectors shall be fitted concurrently
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with erection of the mast/guy wires and shall be retained thereafter throughout the life of the development.

- 6) The mast shall not be illuminated at any time.

Main issues

3. The main issues are the effect of the proposal on the character and appearance of the countryside, its residents/visitors and wildlife.

Reasons

Character and appearance

4. The appeal site lies to the south east of Stone in the Trent valley. The rolling topography gently rises from the river and Trent and Mersey Canal. The area is largely agricultural in nature with trees and hedges marking field boundaries and the watercourses. Footpath 23 (the Aston to Burston Trail) runs close by the site linking Aston By Stone to the north west with the rather smaller village of Burston to the east. Numerous other footpaths and the canal towpath provide access for walkers to enjoy the countryside. The A34 to the west and the A51 and mainline railway to the east afford views of the area to road and rail travellers. Although the farmland and landscape have a pleasant rural appearance, the area is not protected by any national or local designations which afford its landscape any special protection. Its appearance is similar to many other country areas.
5. The mast would be a 60m high, slender (up to 22cm diameter), galvanised steel column secured by 7 high steel guy wires on 4 sides extending 35 and 42m from the mast. Attached to the mast would be anemometers and wind vanes at various heights. At ground level there would be a small weatherproof enclosure containing the data logger. The visual impact of the mast would be tempered by its slender, simple structure which would not block views.
6. Whilst the countryside is not devoid of man made structures, containing as it does a mixture of buildings and uses, I saw at my visit that there are remarkably few tall structures in the locality. There is what appears to be a communications mast at the Staffordshire Fire and Rescue Headquarters and floodlights at the Stone Hockey Club, both on the A34. Inevitably by its size and metallic appearance the mast would be uncharacteristic in this largely rural landscape. It would not be associated with any of the existing rural uses and this would emphasise its presence. However because it would be seen in the context of the extensive countryside area, it would not fundamentally alter the rural character of the locality.
7. I accept that its construction – the narrowness of the guy wires and column - when seen against a backdrop of, mainly, sky would lessen its impact. However the Council requires bird deflectors to be attached to the guy wires to minimise bird strike. These would also emphasise its presence. The nature of the terrain and its landscape would however mean that from many aspects on the surrounding footpaths, roads and canal the views would be intermittent or partial. This would temper the prominence of the structure. Nevertheless my conclusion on this issue is that the proposal would be incongruous and would result in a degree of harm to the appearance of the locality. As a consequence it would be contrary, in particular, to policies QE1, QE6 of the *West Midlands*

Regional Spatial Strategy (RSS), policies D2, NC2 of the Staffordshire and Stoke-on-Trent Structure Plan (SP) and policies E&D2, E&D7 of the Stafford Borough Local Plan (LP).

8. The Trent and Mersey Canal is a conservation area and I am told there are 41 listed buildings in the locality. The canal is well used with a marina in course of construction to the north of the site. The rural surroundings provide a tranquil setting for the canal as it gently meanders through the countryside. That tranquillity is nevertheless affected by the traffic noise from the A51 and the high speed trains. The canal is at some distance from the appeal site and I saw that because of the landscape there is not always inter-visibility between the two. Moreover whilst I accept the mast is a substantial structure in its own right, its impact does not fundamentally alter the character of the countryside which provides the setting of the conservation area.
9. As requested I visited 2 listed buildings. Yew Tree Cottage is in Aston By Stone. Its setting is very localised. It lies within and is an integral part of the village. It is separated from the appeal site by other buildings. Its setting would be unaffected by the proposed development. Similarly Burston Farm Villa is seen as part of a built complex within the rural area along the banks of the canal. In the direction of the appeal site the landscape adjacent to the canal means the setting of this property is also very localised.
10. The combination of the above factors lead me to conclude that the proposal would not harm the character or appearance of the conservation area or the setting of listed buildings. The proposal is therefore acceptable in terms of the objectives of national policy in *PPS5: Planning for the Historic Environment* (which replaced PPG15 earlier this year), RSS policy QE5, LP policy E&D23 and SP policies NC18/NC19. This matter does not therefore add weight to the harm I have already identified to the appearance of the area generally.

Residents and visitors

11. The visibility of the mast would have an impact on residents and visitors alike. In terms of residents' living conditions the mast would be relatively remote from any domestic property. Where it could be seen from houses or gardens its design and appearance is not such that I consider it would result in an overbearing structure which would unacceptably dominate views from residential properties. It would be seen in a wide countryside setting. Similarly the mast has no mechanical parts which would generate noise. This would not therefore be an issue. It is possible that there would be some minor disruption whilst the mast was being erected from construction traffic and the like, but this would be very localised and short term. I am told the construction phase would not involve the use of HGVs or abnormal load vehicles. Whilst the mast was in use traffic to and from it would be limited to those occasions when there was an equipment failure as recorded data would be recovered remotely. I do not therefore find the proposal would result in material harm to the living conditions of local residents.
12. I saw from my extensive site visit that residents/visitors travelling in the area either by foot, water, train or car would experience different degrees of visibility of the proposed mast, principally due to location and speed of movement. People's perception of the effect of the development would also

vary, whilst some including a substantial number of local people would find the impact of the mast unacceptable, others could welcome the introduction of the structure and find that it added diversity to the countryside. Yet others, particularly if travelling at speed could potentially be unaware of the structure. Undoubtedly from close up the mast would dominate peoples' perception of the rural area. However because the proposal would be a single structure in an extensive countryside area, its visibility and adverse impact would not be so great so as to fundamentally comprise either residents' or visitors' experience of this rural location.

13. *PPS1: Delivering Sustainable Development* acknowledges that community involvement is vitally important in the planning process and necessary to achieve sustainable development, but this does not equate to rejecting a proposal only because of the weight of public opinion. Refusal of a proposal must be made on sound planning grounds. I note that in this case that a significant number of the objections refer to the unacceptability of the locality for a wind farm, but such a proposal is not before me for determination. My considerations are confined to examination of the issues of a wind monitoring mast, not wind turbines. It does not follow that acceptability of the present proposal would automatically result in the approval of a wind farm in the locality. The planning issues are different.
14. In conclusion I find the proposal would not result in material harm to the residents of or visitors to this rural area. Consequently it would not be contrary to the objectives of SP policy D1.

Wildlife

15. I am aware of the work undertaken to enhance biodiversity in the past 10 years or so which has improved the river margins by providing floodplain grazing marsh. I am told this has increased wetland and farmland birds as well as otters, water voles and the like. I understand that the land along and to the west of the river is now a Grade 1 County Site of Biological Importance. However this area is to the east of the appeal site and would not be affected by the proposed development.
16. The appellant has undertaken an ornithological assessment. It says that the mast's location was selected so as to avoid the main area of bird flight activity along the river. To ensure no unacceptable impact on the bird population however it suggests that construction works should be undertaken outside the usual bird breeding season, that the guy cables should have reflective and non reflective disks attached to provide warning to flying birds and that the mast should not be illuminated. The Council is content that subject to suitable conditions relating to these matters the proposal would be acceptable in respect of birds. The Staffordshire Wildlife Trust (WT), the RSPB and the Council's biodiversity officer all generally accept these precautions would provide suitable mitigation measures. From the representations before me I see no reason to differ from their views.
17. I note in addition that the Staffordshire Wildlife Trust would like to see the non cultivation of an area of land to provide a weedy sward for farmland birds, but as the proposal does not necessitate the removal of hedges/trees or the reduction in bird habitats I do not consider this would be a suitable condition

on any permission. In any event it is likely that an area inside the guy wires would be left uncultivated. Similarly, as it has been acknowledged that the proposed scheme would provide little risk of bird strike, the recording of bird collisions and the monitoring of potentially sensitive bird species would not be necessary. I am satisfied that the 2 conditions in para 16 would adequately address the safety of birds.

18. The WT's letter of the 27 October 2009 makes it clear that the collision risk to bats would be almost negligible. I do not therefore consider it necessary to require bat monitoring equipment to be installed on the mast. I note however it is the appellant's intention to do so and this would no doubt provide useful information on bat activity in the area.
19. In respect of badgers, surveys during 2009 did not identify any setts within 30m of the site. Given the small area which would be affected by the works it is unlikely that badgers would be affected by the proposal. However should a sett be discovered as part of the preconstruction check of the land, a license would need to be obtained from Natural England prior to commencement of works. From the information available I am therefore satisfied that the proposal would not have any unacceptable impacts on this protected species.
20. As a result subject to the 2 conditions to mitigate impacts on the bird population I am satisfied that the proposal would be in accord with the objectives of national guidance in *PPS9: Biodiversity and Geological Conservation*, RSS policies QE1, QE7, QE9, SP policy NC6 and LP policies E&D7, E&D36, E&D39, E&D41.

Other material considerations

21. Renewable energy matters - The proposal itself does not produce renewable energy. However it is a basic part of the process of site selection. There may already be information on wind conditions in the general locality but this does not negate the need for the collection of site specific information to enable detailed consideration of the suitability of a site, its viability and/or size of scheme. Because of this I consider that renewable energy policy guidance as set out in, amongst other places, *PPS:22 Renewable Energy* and its companion guide are relevant. There is a clear commitment at national level to the exploration of the potential to generate energy from wind. PPS22 says renewable energy projects should be encouraged where environmental, social and economic impacts can be adequately addressed. A balanced decision therefore needs to be made.
22. The companion guide recognises that the assessment of whether or not a particular site will harness sufficient wind power requires the use of data from site based anemometers gathered for at least 12 months. In this case a 2 year period would be generally in accord with the guide. The form of the wind mast is derived from its function. It needs to be tall to gather information on wind speed, frequency etc at various heights. And it needs to be robust enough to be stable thus ensuring there are no safety problems for members of the public. It is therefore almost inevitable that a mast would be incongruous in a rural setting.
23. I acknowledge that it may be that national policy regarding energy from wind developments will change in the future. But so far as I am aware, at this

moment in time no legislative changes are in the pipeline. It does not fall within an inspector's remit, nor would it be appropriate when determining a planning appeal for an inspector, to surmise what changes could be made to national policy or to rely on statements in a political party's green paper, albeit that party now forms part of the Government. In the future, if/when an application for a wind farm development is submitted to the Council, its assessment would take into account national/emerging national policy at that time.

24. Agricultural land – The area of the appeal site is limited. It would have no more than a negligible impact on the agricultural use of the land which would, for the main part, continue whilst the mast was in place. Moreover at the end of a 2 year period the mast would be dismantled and the land restored to its former condition. This matter can be addressed by an appropriate planning condition. Consequently it does not weigh against the proposal or offend the terms of SP policies D1, D6 and LP policy E&D16.
25. Previous appeals – I have considered the previous appeals referred to by the appellant where inspectors have allowed wind monitoring masts. However in reaching a decision I have been primarily mindful of the particular circumstances of the proposal before me. NATS has confirmed that the proposal would not conflict with its safeguarding criteria for air traffic. Devaluation of property is not a planning matter. In any event I have no substantive information before me to indicate whether or not a proposal for a 60m mast for a temporary period of 2 years would have an impact on property values. Neither do I have details of the proposed building at the marina which was rejected at appeal. I note however that that development was fundamentally different to the appeal proposal. It was for a permanent building in connection with leisure uses.
26. It has been suggested that the application should be subject to assessment under the Environmental Impact Regulations. However the proposed development is not listed under either Schedule 1 or 2 of the regulations. Given the mast's distance from roads and its static nature with no moving parts, it is unlikely to distract drivers or compromise highway safety.
27. I have taken account of all the other matters raised in this case. When weighing them all in the final balance I consider that the degree of harm to the appearance of the locality would not be sufficient on its own to justify refusal of a temporary renewable energy related proposal. In reaching this conclusion I am mindful that, subject to appropriate conditions, the proposal would not cause material harm to any other interest of acknowledged importance and would gather preliminary data for a potential renewable energy project.

Conditions

28. In respect of temporary permissions, para 109 of *Circular 11/95 The Use of Conditions in Planning Permissions* clearly sets out the inappropriateness of granting a temporary permission because of the effect on the amenities of the area and the appropriateness of granting a time limited permission for a temporary development. In my opinion the appeal proposal falls within the latter category. I have looked at and amended the conditions suggested by the Council in the light of 11/95. I shall impose conditions limiting the life of the

permission, requiring the mast's removal, timing of construction, details of bird deflectors and illumination for the reasons given in the text of this decision.

Conclusion

29. I conclude the appeal should be allowed.

D L Burrows

INSPECTOR