



Appeal Decision

Hearing held on 13 September 2006

Site visit made on 13 September 2006

by **Keith P Durrant MA BArch(Hons) RIBA ARIAS**
MRTPI FRSA

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

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Date: **21 SEP 2006**

Appeal Ref: APP/T9501/A/05/1187939

Brigantium, Rochester, Northumberland NE19 1RH

- 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 Lord Redesdale against the decision of Northumberland National Park Authority.
- The application Ref 04/NP/81, dated 27 October 2004, was refused by notice dated 14 April 2005.
- The development proposed is a domestic wind power generator.
- At the hearing an application for costs was made by Lord Redesdale against the Northumberland National Park Authority. This application is the subject of a separate Decision.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Clarification of the Application.

1. The description of the development on the planning application form was amended by the local planning authority to "siting of a wind turbine"; a description subsequently also used by the appellant. For the avoidance of doubt, I shall use this revised description but amend "siting" to "erection" to reflect more accurately what is being proposed.

The Main Issues and Planning Policies

2. The appeal site sits close to the A68 in the small village of Rochester, in the heart of the Northumberland National Park, on land used as an archaeological reconstruction centre. The 6kW and 11.6 m high turbine (to the blade tip) would provide electricity for the associated café and related visitor facilities. In that context, my decision turns on the balance between the impact on the character and appearance of the highly valued and protected landscape of the National Park; and the benefits, both nationally and to the business on the site, of using renewable energy.
3. The landscape qualities of the Park were described at the hearing as embracing its tranquillity arising from its open long views; its attractive mix of moorland, valleys and scattered groups of trees; and its rich cultural and historical heritage. The protection of those qualities (which underpin its national park designation) is recognised in national policies on renewable energy (in PPS22), which says that planning permission for projects should only be granted where it can be demonstrated that those designation objectives will not be compromised (and any adverse effects clearly outweighed by the environmental, social and economic benefits). The caveat that support for small scale turbines in Policy CD15 of the Northumberland National Park Local Plan is dependant on it not being visually intrusive is based on the same weight to be given to the objectives of designation as set down in legislation - and interpreted for this national park in Policies C1 and CD 1 of the Local Plan.

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Reasons for Decision

4. Sited within the village envelope of Rochester (alongside buildings and other man-made structures within Brigantium, an artificially created tourist attraction) I judge that the impact of the turbine on the character and appearance of the important open qualities of the wider national park landscape would be minimal and not conflict with the policies of the Local Plan summarised above. I come to that conclusion because the structure would in scale and form be comfortably contained with a pattern of field, trees and buildings which is not so sensitive to change locally as would be the more visible open land beyond the village; so that, set within the wider views of the valley and moors beyond (such as from the south east above the site), both the visual impact and the change in one's perception of what makes the area special would not be harmful to its preservation.
5. The most noticeable impact would be to travellers on the A68 passing the site. Although for the most part shielded from view by the cafe buildings and trees, the turbine would I agree be obvious for short stretches of the road, above the skyline on rising ground. Assessed locally, I do not however regard that as intrusive nor (as the Park Authority suggests) as an alien structure out of keeping with its immediate surroundings; nor (for the reasons given above), a serious diminution of the tranquillity of the moors and its settled rural ambience. Any minor change in visitors' perception of the National Park is as likely to be positive as negative; given the opportunity to stop and visit the site which is implicit in the application, when driving through on the way to and from Scotland or touring in the area.
6. In arriving at the conclusion that any harm to the landscape of the National Park would be minimal, I also give significant weight to the very real benefits from contributing to achieving national and regional objectives to combat climate change and expand renewable energy sources. In this case, the benefits are increased by the use to which this small scale turbine is to be put, in supporting a rural tourist enterprise which gives employment in the village and serves visitors to the Park. That balanced approach is supported by national policies in PPS22.
7. Turning to other matters raised in representations, I am satisfied that noise from the turbines would be contained within national guidelines; and that neither television reception nor road safety on the A68 is likely to be adversely affected by erecting a small single turbine. Some individual residents, including at Dene Brae, would be more aware of the turbine than many others in the village, but at a distance and contained behind trees and hedges. I judge that it would not be so oppressive that their living conditions would be significantly harmed, such that the impact outweighs my positive conclusions above. This is a specific proposal on a specific site with its own attributes and opportunities for beneficially using renewable energy. Its sets therefore no precedent for other sites in the National Park.

Planning Conditions

8. Given the sensitive location of the site in a national park and near residents, I shall impose conditions that ensure that the turbine is removed and the land restored when electricity is longer generated; that the details of the colour and materials of the turbine are agreed with local planning authority; and that any additional interpretation works and structures are also agreed. I shall also make it explicit that the height and siting of the turbine is to be as envisaged in the application.

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Formal Decision

9. I allow the appeal, and grant planning permission for the erection of a single wind turbine on land at Brigantium, Rochester, in accordance with the terms of the application, Ref 04/NP/81, dated 27 October 2004, and the plans and specification submitted with it; and subject to the following conditions:
- 1) The development hereby permitted shall begin before the expiration of five years from the date of this decision.
 - 2) The overall height of the turbine hereby permitted shall be no more than 12 metres to the blade tip.
 - 3) The turbine hereby permitted shall be sited approximately 65 metres north east of the existing café and visitor centre building.
 - 4) No development shall take place until details of the materials and colour of the tower and blades of the turbine hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 5) No development shall take place until a scheme for the enhancement of the interpretation of the site, resulting from the incorporation within it of a wind turbine, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.
 - 6) On cessation of electricity generation, the structure hereby permitted shall be removed from the site and the ground reinstated in accordance with a scheme to have been previously agreed in writing by the local planning authority.

Keith P Durrant

INSPECTOR

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APPEARANCES

FOR THE APPELLANT:

Mr Adrian Smith MRTPI MRICS 6 Selborne Avenue, Low Fell, Gateshead NE9 6ET
(*Planning Consultant*)

Lord Redesdale School House, Rochester, Northumberland NE19 1RH
(*Appellant*)

Dr Moira West Horsley House, Rochester, Northumberland NE19 1TA
(*Chair, Parish Council*)

Dr J D Roberts Redewater View, Rochester, Northumberland NE19 1RH

FOR THE LOCAL PLANNING AUTHORITY:

Ms Frances Clark Ward Hadaway Solicitors, 102 Quayside,
Newcastle upon Tyne NE1 3DX

Mr Adrian Hinchcliffe The Green, Newton, Stocksfield NE43 7UL
(*Member, Northumberland National Park Authority*)

Ms Lucy Butler Development Control Manager
(*NNPA*)

Mr Jonathan Mullard Director of Policy and Strategy
(*NNPA*)

INTERESTED PERSONS:

Mr N MacAlister Dene Brae, Rochester, Northumberland NE19 1TD

Mr E M Lamb The Manse, Rochester, Northumberland NE19 1TD

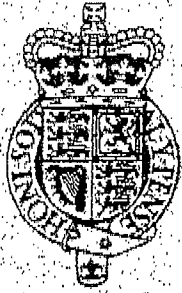
Dr J West Horsley House, Rochester, Northumberland NE19 1TA

Additional DOCUMENTS submitted at the hearing

Document 01 Draft list of conditions, submitted by the LPA

Document 02 Extract from the DTI Energy Review, July 06, submitted by the appellant

Document 03 Photomontage of the site, submitted by Mr Lamb



Costs Decision

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Date: **21 SEP 2006**

Costs application in relation to Appeal Ref: APP/T9501/A/05/1187939

Brigantium, Rochester, Northumberland NE19 1RH

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Lord Redesdale for a full award of costs against Northumberland National Park Authority.
- The hearing was in connection with an appeal against the refusal of the Authority to planning permission for a domestic wind power generator.

Summary of Decision: The application fails and no award of costs is made.

The Submissions for Lord Redesdale

1. The Authority acted unreasonably by not showing (contrary to Paragraphs 8 and 9 of Annex 3 of Circular 8/93) that it had reasonable planning grounds for refusing planning permission contrary to the consistent advice of its officers; and by not taking account of local opinion in support of the proposals particularly from the Parish Council when it carried out its site visit; nor in taking balanced view of the benefits to the viability of the appellant's enterprise at the site. Its evidence at the hearing did not substantiate the reason for refusal, in particular relying only on a subjective assessment of the landscape impact.

The Response by Northumberland National Park Authority

2. The Authority showed at the hearing that it had fully and carefully considered the visual impact of the proposal in arriving at its decision to refuse the application, based on several meetings and a lengthy site visit. That is not unreasonable behaviour. Its evidence demonstrated that its subjective judgment was not relevant, given its statutory duties and development plan policies. It had considered the renewable energy benefits by reference to PPS 22. Where a balanced judgment is taken, an award of costs on substantive matters should not be made against the authority, as Paragraph 8 of Annex 3 indicates.

Conclusions

3. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
4. In its national park, the Authority will inevitably give great weight to protecting the qualities of its landscape in assessing the impact of development. I am satisfied that in this case it did so diligently and carefully, with the benefit of all the information it needed as experienced Members to balance benefits against harm including making a judgment about

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visual impact after a lengthy site visit. That was clearly demonstrated in its evidence at the hearing, including on site; and in its clarity of comment and debate justified departing in its judgments from that of its officers. The extent to which it followed its own protocols in involving the Parish Council during determination of the application is not a matter for me

5. I consider therefore that unreasonable behaviour resulting in unnecessary expense, as described in Circular 8/93, has not been demonstrated and I therefore conclude that an award of costs is not justified.

Formal Decision

6. **I refuse the application for an award of costs.**

Keith P Durrant

INSPECTOR
