

**Planning Application ref: R15/0908
(Proposed windfarm on LAND AT CESTERSOVER FARM
LUTTERWORTH ROAD CHURCHOVER RUGBY
WARWICKSHIRE CV23 0QP ["Swift Wind Farm"])**

Objections of Churchover Parish Council

June 2015

1.0 Introduction

- 1.1 At its meeting on 15 June 2015, Churchover Parish Council (CPC) resolved to OBJECT to the above planning application, on the grounds set out below.
- 1.2 CPC objected to the original planning application, now scheduled for Appeal, and our objection to this reapplication, which RES states is identical, is likewise identical in many essentials. However, in more than two years since the previous application, there have been many changes in planning policy, guidance and case law such that the present objection is rephrased to account for those.
- 1.3 However, the original objection to R12/2009 is maintained and appended herewith.
- 1.4 In summary, CPC objects on the following grounds:

SUMMARY GROUNDS OF OBJECTION

Visual Impact

The proposed development would have an unacceptable visual impact upon residents, walkers and other users of the village and the immediate rural environment. The turbines would be as little as 960m from individual village dwellings, and the whole of the village lies within 1260m. Houses at Greens Close (8 dwellings in total) would be especially badly affected.

The visual amenity of dwellings beyond the village and parish boundaries would also be severely damaged, including the closest dwelling, Streetfield Cottage at 657m distance.

The applicant acknowledges that the most relevant viewpoints would experience "Large scale effect, major alteration to character, fundamental change" and this is unacceptable, even more so upon a Conservation Area and Listed Buildings and their settings.

As such the development would fail to comply with **NPPF**, Saved **Rugby Borough Local Plan saved** policies GP2 and GP5 and **Rugby Core Strategy 2011**, Spatial Vision, Spatial Vision 11 and policy CS14.

Heritage Assets

The proposed development would fail to protect and enhance the historic environment or the countryside, destroying the setting of listed buildings and in particular Holy Trinity, by dwarfing its 25m spire with 126.5m turbines within 1100m. A unique and particularly compelling importance attaches to maintaining the peace and tranquillity of the surroundings and the quality of views to, from and of churches that are religiously, socially, architecturally, historically or visually important to the community.

It is also noted that English Heritage/Historic England rejects completely the development, on the grounds that the harm, although less than substantial, is at the upper end of less than substantial. The Court of Appeal in *Barnwell Manor* judged that it is wrong to treat "less than substantial harm to the setting of the listed building as a less than substantial objection to planning permission."

As such, it would fail to comply with the **Planning (Listed Buildings & Conservation Areas) Act 1990** s.66 and ss.69-73; **NPPF**; **PPS5 Planning for the Historic Environment 2010 (Practice Guide)**; Saved **Rugby Borough Local Plan** policies GP2 and GP5; and **Rugby Core Strategy 2011** Spatial Vision, Chapter 6 and policy CS14.

Landscape

The development would produce an unacceptable change in the immediate landscape of the village and the hitherto unspoiled Swift Valley. It would exceed the landscape capacity of the area as assessed independently by the White report (adopted by the Borough Council as material to planning decisions) of 2011 and its review in 2013.

As such, the development would be contrary to **NPPF**; Saved **Rugby Borough Local Plan** policies GP2 and GP5; and **Rugby Core Strategy 2011** Spatial Vision, Spatial Vision 11 and policy CS14.

Other environmental impacts

The impacts on public rights of way will be unacceptable, turbines being as close as 30m from PROWs and oversailing them. Other peaceful enjoyment of the countryside will be interfered with or prevented, including equestrianism and angling.

The "temporary" nature of the development, 25 years, is illusory, cannot be ensured and is therefore not a material planning consideration (and that argument has been rejected by the Secretary of State). Indeed, RES admit as much saying that after 25 years they will do no more than consider removing, but also replacing or refurbishing the turbines. The worst-case development is therefore permanent.

In the Asfordby, Leicestershire windfarm appeal decision (March 2014), although employment and renewable energy benefits were identified, the Secretary of State additionally recognised that the proposal would harm the landscape, despite the proposal not being permanent, and have harmful recreational and amenity effects. The Secretary of State agreed with his inspector that within the valley setting the wind farm would dominate the views of walkers and riders and interfere with people's enjoyment of public rights of way with a real risk from 5 turbines being within topple distance. Exactly the same is true at Churchover

The planning balance

Overall, and in the light of latest Ministerial guidance and appeal decisions regarding the balance and weight to be afforded to landscape and heritage impacts, Churchover Parish Council concludes that the need for the development is minimal to non-existent and is clearly outweighed by its major adverse environmental impacts identified both by the Parish Council below and by Statutory Consultees, notably English Heritage/Historic England. The direction of travel of planning policy is to cede ultimate power of decision to the community (not the LPA) which, here, overwhelmingly rejects the proposed development. As such, planning permission should be refused in terms of current development plan policy, and bearing in mind emerging policy changes.

2.0 Visual Impact Assessment - effects on amenity of residential properties

- 2.1 The application includes a proposed 50m "micro-siting" allowance which has to be presumed to be the worst case and to reduce scaled distances by 50m. The RES analysis ignores this completely. References to distances below include the micro-siting allowance where relevant.
- 2.2 The two closest turbines are nominally located at distances ranging from 960m (T1) to 1024m (T2) from the northern edge of Churchover village and similar distances from isolated dwellings elsewhere in the Swift Valley. Thus, these are potentially 910m and 974m after micro-siting.
- 2.3 The 'old' village itself has some 67 dwellings, all between 960 (910)m and 1260 (1210)m from the nearest turbine. Just beyond the old village lie the more recent houses on the north of the Lutterworth Road, 1070 (1020)m from the nearest turbine – Adelante, 6 – 1 Greens Close and the Old Rectory. Beyond the confines of the village there are 2 parish dwellings at Gibbet Hill (1070 [1020]m from T1), and in other parishes.
- 2.4 The worst visual impact upon village dwellings will be experienced by residents of the 8 dwellings on Lutterworth Road over distances of 1070 (1020)m, with no significant intervening screening. Occupants of many of these houses will be unable to avoid permanent exposure to the windfarm, both from habitable rooms and their gardens.
- 2.5 Beyond the parish boundaries, the dwellings at Streetfield Farm (805 [755]m) and Streetfield Cottage (657][607]m) are also severely impacted, the latter being the closest of all. These viewpoints, as defined by RES, are well within the 800m they allege is the maximum for oppressive or overbearing visual effects from turbines.
- 2.6 The properties at Moorbarns are just inside the 1km line (and with micro-siting) could be as close as 910m. These isolated properties will experience unrelieved visual impact, due to their orientations and lack of any intervening vegetation.
- 2.7 The ES ignores the 50m micro-siting. If the 1km line was redrawn to include the extra 50m, several other dwellings would fall within it. For a worst-case analysis then it also should include in particular the 8 properties on the north of Lutterworth Road (Adelante, numbers 6 – 1 Greens Close and the Old Rectory) which are 1050-1070m from T1 before micro-siting.
- 2.8 It is concluded that from some properties the wind farm will be inescapably visible and give rise to material harm to their amenity, to the point that permission should be refused.

Additional impact due to motion

- 2.9 A very significant additional source of visual impact is that, unlike almost any other tall structure, wind turbine blades move (sometimes) and thus draw the eye to them. Motion causes a considerable increase in noticeability, and hence aggravates visual impact. Still worse, the "lazy" rotation common at lower wind speeds, plus the fact that in multiple installations individual turbines can turn at slightly different

speeds, creates both a robotic and a chaotic visual effect. Put simply, operating wind turbines attract attention to themselves which makes them much more difficult – indeed arguably impossible – to ignore. In the worst-affected houses and gardens in Churchover, normal peaceful enjoyment of a house and garden could be prevented substantially or completely.

3.0 The Historic Environment

- 3.1 The European Landscape Convention came into force in 2004 and defines landscape as “*an area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors.*” This acknowledges that landscapes are not just products of geology, geography, climate and ecology; they are also the result (in the UK at least) of centuries of human endeavour, as emphasised by the Government’s statutory adviser Natural England¹.

Conservation Area and Listed Buildings

- 3.2 The old village area of Churchover has held Conservation Area (CA) status for many years². Within the CA are numerous Listed Buildings (LBs), of which the most notable is Holy Trinity Church, listed Grade II*. That grade is also applied to Coton House, 2km from Churchover. Grade II status is awarded to a barn at the Manor House, and the White House (both Church Street), Heath Farmhouse (School Street) and the stables at Coton House. In addition, other CAs and LBs beyond Churchover may be affected (e.g. Newnham Paddock).
- 3.3 The Planning (Listed Buildings & Conservation Areas) Act 1990 s.66 and ss.69-73 is the main source of protection for heritage assets. Guidance issued under it in Planning Policy Statement 5 (PPS5), “Planning for the Historic Environment” is now withdrawn but its principles are perpetuated in NPPF Chapter 12 and the PPS5 Practice Guide remains in force. The Government’s objectives for planning authorities³, *inter alia*, include:
- The desirability of sustaining and enhancing the significance of heritage assets....
 - The positive contribution that conservation of heritage assets can make to sustainable communities....
- 3.4 NPPF notes⁴ that in respect of designated heritage assets “great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be.” It notes that the significance of assets can be harmed or lost through development within its setting and that such assets are irreplaceable.
- 3.5 This is an extremely powerful policy and its weight has substantially increased since 2013/14 due to decisions in the Court of Appeal. It makes clear that Grade II* LBs are next to the highest level of significance and, as the fundamental damage to Holy Trinity, for one, can hardly be doubted it is clear that the proposed development should be rejected. The magnitude of the harm would require that a “substantial

¹ Natural England, “Making space for renewable energy: assessing on-shore wind energy development”, 2010; see pp 6, 9

² Date uncertain, but ca 1979, it is thought. It has recently (2010) been reassessed and the CA status remains justified.

³ NPPF paragraph 131

⁴ NPPF paragraph 132

public benefits that outweigh that harm” be demonstrated before it could be permitted. There is nothing substantially beneficial about this windfarm, which is run-of-the-mill, of no material relevance to combating climate change, is non-viable and not needed as confirmed by Government policy to remove subsidies.

- 3.6 The proposed development will have very clear negative effects on the integrity of the CA and some of its LBs, notably Holy Trinity, and its context, due to the overwhelming dominance of turbines five times higher than the spire and as little as 1100m from it. This damage is impossible to mitigate. It will also give rise to irreparable damage to the historic setting of those assets: it is CPC’s view that the combination of heritage assets severely damaged by this proposal – the LBs, the CA as a whole, and their landscape and cultural context, the Swift Valley– are of high significance for this and future generations, as they have been for past generations for a thousand years.
- 3.7 The new approach which requires great weight to be given to the conservation of a heritage asset, including its setting, (para. 132) was confirmed in the *Barnwell Manor* windfarm judgement (March 2013) where the Court ruled that having identified some harm to a heritage asset that harm should be given “considerable weight”, creating a “strong presumption” against the grant of planning permission.
- 3.8 That approach was confirmed in the Court of Appeal in February 2014. The Report to Committee on the previous application R12/2009 should have taken that approach, but did not.
- 3.9 The Government has been at pains to simplify and clarify the planning system. In March 2012 the National Planning Policy Framework (NPPF) was introduced. This strengthened the way in which the protection of heritage assets should be considered.
- 3.10 The new approach which requires great weight to be given to the conservation of a heritage asset, including its setting, (para. 132) was confirmed in the *Barnwell Manor* windfarm judgement (March 2013) where the Court ruled that having identified some harm to a heritage asset that harm should be given “considerable weight”, creating a “strong presumption” against the grant of planning permission.
- 3.11 That approach was confirmed in the Court of Appeal in February 2014 and, as the Rugby Planning Committee meeting was not until 23 April 2014, account should have been taken of it.
- 3.16 Turning to the present case, English Heritage (as was) on 23 December 2013 assessed the proposal as follows:

“The development site consists of farmland to the north-east of the village of Churchover. The village, which contains a number of grade II listed buildings, is designated as a Conservation Area and at the heart of the village lies the grade II listed parish church.*

“The proposal is for four large wind turbines, whereas the scheme which your local authority has already refused on this site consisted of nine wind turbines. The application contains an extensive analysis of the designated heritage assets which lie near the site. However, in this letter I will concentrate on the assets which receive the most significant impacts, namely the parish church and the Conservation Area around it.

"Chapter 10 of the Environmental Statement uses the methodology set out in English Heritage's guidance on assessing the setting of heritage assets and also uses the heritage values set out in English Heritage's publication Conservation Principles. These fall into four main categories: Evidential, Historic, Aesthetic and Communal.

"I would disagree that the value of the church is 'primarily historical and evidential'. The church obviously has its place in the historic landscape which feeds into historical values and as an object in its own right it possesses evidential value. However, its relationship to the surrounding historic landscape (represented partly by the medieval agricultural landscape of ridge and furrow) is both evidential and aesthetic. It is a dominant feature in the landscape, in that it dominates views into the village both from and across the site of the proposed wind turbines. There is also a strong communal value in the parish church as the centre of communal life throughout its history.

"Overall, the setting of the church offers an important contribution to the significance of the church. Thus the intrusion into that setting that these four large turbines will form constitutes harm to the significance of the church. I would not argue that that harm is substantial. However, it is potentially of considerable impact. The test for substantial harm is a very high one; nevertheless I would place the level of harm on the setting of the church as towards the upper end of less than substantial, and thus needs to fulfil the tests set out in the first part of paragraph 132 and in paragraph 134 of the NPPF.

"I would extend a similar level of harm to the impact of the proposal on the significance of the Conservation Area as well, and thus to be subjected to the same tests.

"Recommendation

In conclusion the impact of the proposals for the installation of four large turbines on the significance of the heritage assets will be sufficient to merit this scheme being refused."

3.17 When RES's consultants produced their rebuttal the EH response was:

"The kernel of the questions from Cotswold Archaeology concerning my assessment of this scheme is around the level of harm that the scheme causes to the significance of the historic assets involved. I chose to focus my comments on the church as the most significant asset to be affected by the scheme, although, as they point out, there are others, such as the Conservation Area.

"My critique of their analysis was that when they set out the values to be attributed to the heritage assets using the guidance contained in English Heritage's Conservation Principles, they defined the contribution of the four main values rather narrowly. As they point out in their letter they acknowledge in the narrative text at 10.8.28 some of the contribution of the settings to the overall significance of the heritage assets.

"However, in my view, their assessment of the significance of the heritage assets when analysed using the values set out in Conservation Principles do not take full account of the full range of those values.

"Nevertheless, I concluded, in line with their assessment, that the overall impact of the proposals on the significance of the heritage assets will be amount to less than substantial harm. That means that paragraph 134 of the NPPF contains one of the key

tests to be applied. Obviously less than substantial harm can range from negligible, to just short of substantial, and a judgement has to be made in each case.

“Recent experience of the decisions that are being made by Inspectors and the courts would suggest that substantial harm means that the scheme would have to remove a very substantial part of the significance of the asset(s) before that could be considered the case. But the judgement to be made when the harm is less than substantial becomes more nuanced.

“The decision maker, namely yourselves [RBC], obviously needs to weigh all the planning considerations in the balance, but I am offering the view on behalf of English Heritage that the level of harm in this case is less than substantial, but more than the ‘slightly adverse’ assessed by Cotswold Archaeology. I should also say that, as they have pointed out, I did express the view with reference to the previous nine turbine scheme that a smaller scheme of, say, four turbines might be acceptable.

“However, when presented with the details of the current scheme our view is that the harm to the significance of the principle heritage assets is sufficient to cause considerable concern.

“In conclusion, I stand by the comments I made in my letter concerning the current scheme last year.

*Nicholas A D Molyneux
Principal Inspector of Historic Buildings and Areas, English Heritage
12 February 2014”*

- 3.18 It therefore seems inescapable that the only source of statutory advice clearly rejects the development, and it is also clear that there is no discernable benefit to outweigh the damage caused.
- 3.19 In this regard, CPC has been in contact with RBC regarding the substantial changes to the heritage assessment regime around the time that the last application was determined. Our position in that respect, which is an important part of this objection, is in the email exchange as follows:

From: Rob Back [<mailto:Rob.Back@rugby.gov.uk>]
Sent: 05 June 2015 11:45
To: 'Christopher Down'
Cc: Ian Davis; Adam Norburn; Nick Freer; NathanLowde; Michael Green
Subject: RE: Swift Wind Farm, Churchover - New Planning Application

Dear Dr Down,

Thank you for your email, the contents of which are genuinely useful. I entirely agree that it would be irrational for us to do anything other than take account of the latest guidance and case law in determining this (or indeed any) application and I can assure you that we will do exactly that.

Doubtless we will correspond further over the course of this application.

Regards,

Rob

*Rob Back
Head of Planning and Recreation*

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From: Christopher Down [mailto:chrisdown@morespeed.net]
Sent: 05 June 2015 10:43
To: Rob Back
Cc: Ian Davis; Adam Norburn; Nick Freer; Nathan Lowde; Michael Green
Subject: RE: Swift Wind Farm, Churchover - New Planning Application

Dear Mr Back,

We have now been able to consider your response in more detail and, again, thank you for your help. We do have points of concern with what you say as, clearly, the situation has changed markedly since 2014, especially with respect to Heritage.

Firstly, I'm sure you are aware of paragraph 010 Reference ID: 18a-010-20140306 of the Planning Practice Guidance (PPG) dated 6 March 2014 which states the following:

"In most cases the assessment of the significance of the heritage asset by the local planning authority is likely to need expert advice in addition to the information provided by the historic environment record, similar sources of information and inspection of the asset itself. Advice may be sought from appropriately qualified staff and experienced in-house experts or professional consultants, complemented as appropriate by consultation with National Amenity Societies and other statutory consultees."

No doubt you will be following this guidance and seeking independent expert advice in the context of the revised application.

Moreover, you will be aware that since the previous application was decided the findings of the Court of Appeal Barnwell Manor judgement have been reinforced on numerous occasions in appeal decisions and that these show quite clearly that "less than substantial harm" to heritage assets does not equate to a less than substantial objection to a proposed development. On the contrary, the harm must be given "considerable importance and weight" [J Lang, Barnwell Manor HC judgement] and repeated at paragraph 10 of the Court of Appeal judgement. As you will know, this is a statutory requirement set out in the Listed Buildings Act. In Barnwell Manor the Inspector was heavily criticised by the High Court and Court of Appeal for treating the less than substantial harm as a less than substantial objection and for RBC to repeat that mistake now, in light of the clear evidence that this is the wrong approach, would be risky and open to challenge.

You also mention that English Heritage (now Historic England) had stated in respect of the 9 turbine scheme that a smaller scheme might be preferred. However, on assessing the actual smaller scheme they made a clear objection, finding that the harm was just less than substantial, and recommended that the application be refused on heritage grounds. Bearing in mind the time lapse between the first and second applications, the changes to National Policy (in particular NPPF introduced in March 2012), the emerging Barnwell Manor case and the fact that at the time of the 9 turbine scheme details of a smaller scheme were not available, this change of view is not surprising. Moreover, the inherent danger in comparing two schemes is highlighted in appeal decision APP/H0520/A/13/2197548 dated 3 December 2014. In that case an Inspector assessed that a smaller scheme than the one proposed would have a lesser impact and recommended a split decision. However, the SSCLG made quite clear in his decision letter (attached) that whilst a smaller scheme might have less impact, indeed it is not surprising that it should, that did not mean that the impact became an acceptable impact when weighed correctly against the advantages of (in this case) a windfarm scheme in terms of renewable energy production.

Whilst I would agree that the planning balance in each case is to be made by the planning case officer that judgement must be properly informed, by the evidence and in particular in relation to specialist areas by the relevant statutory consultee – that is what statutory consultees are there for. In addition, any judgement must be in accordance with law, policy and guidance pertaining at the time that judgement is made. In particular, in respect of harm to heritage assets, the officer is not free to accord weight as he chooses. That is very clear from Barnwell Manor and the many appeal cases that have been decided since.

At the time of your 2014 decision the Barnwell Manor judgement was fairly new (February 2014) and the PPG yet more so (6 March 2014). Also, the implications were only starting to be apparent. That situation is now very different and it would be irrational of RBC not to take fullest account of that.

Regards,

Chris Down"

3.20 We trust that will be adhered to.

4.0 Landscape Impacts

4.1 It is widely acknowledged, even by their proponents, that landscape impacts are likely to be a particular problem with windfarm development.

4.2 In 2011, when a Landscape Capacity Study was undertaken⁵ (commissioned by Rugby Borough Council (RBC) which was adopted by RBC as a "*material consideration in planning determinations*" in April 2011. This was revisited in 2013.

Landscape character and capacity

4.3 Landscape Character Assessment (LCA) work formed the basis of the White Consultants capacity assessment in 2011⁶.

4.4 The LCA work identifies that the current proposed development⁷ lies within the "*High Cross Plateau – open plateau*" character type which was judged to have a medium sensitivity to wind energy development. Following the testing of a series of scenarios, the report concluded that this landscape type had "*...some capacity for wind-farm development – preferably one but one other may be possible.*"

4.5 The 'one' was a cluster of 1 – 7 turbines best located in the core of the upper plateau to the north, in the general area of Copston Magna. Indeed, that cluster was generally equivalent to a real proposed windfarm⁸.

4.6 The possible 'one other' was the proposed (and refused) Bransford Bridge windfarm at Churchover, where the report advised⁹:

"One further small cluster (preferably 1 – 4 turbines) may be able to be accommodated further east [of Copston Magna - CPC] but its siting and design needs to ensure that effects are minimised on Churchover and its spire" [CPC emphasis]

⁶ White Consultants, "*Rugby Borough Landscape Capacity Study for Wind Energy Developments*" Final Report, March 2011

⁷ In addition to identifying theoretical locations for wind turbine clusters, in various landscapes, the report adopted the two publicised "real" locations at Churchover and Copston Magna, on the basis that it would be nonsense to ignore them. It is highly questionable whether, if those proposals had not already emerged, the study would have identified them without such prompting.

⁸ Page 27, paragraph 7.3; the Copston Magna proposal secured permission for anemometry, but no turbine application has been made to date.

⁹ Page 27, paragraph 7.3

- 4.7 So, the conclusions of the only independent landscape study specific to windfarms at and around Churchover were that the whole of the landscape character area could absorb preferably just one cluster of 1 – 7 turbines near Copston Magna; and that a second small cluster (1 – 4 turbines) *might* be possible subject to severe qualifications.
- 4.8 The White Consultants' revisiting of their assessment¹⁰ in 2013 comments:
- *"The turbines are seen in juxtaposition with the Churchover church spire, located closer to the village than the report scenario position. They are significantly larger structures than the church and would diminish its scale and affect its context becoming the dominant foci"*. (Page 7 comment)
 - *"3.5. The above comments still mean that the individual and cumulative landscape and visual effects of the Swift windfarm will need to be carefully assessed, especially in respect of Churchover, including its spire, conservation area and effects on residents."*
- 4.9 The revisiting concludes: *"Possibly between 1-4 turbines may be appropriate."* As a simple matter of grammar it can equally be phrased as 'no turbines may be appropriate'. Between 1 and 4 turbines is only "possible", not probable or certain, so that none may also be possible; and it/they may – but equally may not – be appropriate. The White Consultants' conclusion from 2011 and endorsed in 2013 offers no support whatever for the proposal.
- 4.10 Scottish Natural Heritage guidance¹¹ stresses: *"While images are very powerful and useful in communicating information, they can never tell the whole story. They can never replicate the experience of seeing a windfarm in the landscape..."*. It also stresses that *"it is not an exhaustive guide to all possible techniques, nor does it prescribe a single method or brand of software; It is not intended to be highly prescriptive, nor suggest that there is a 'one size fits all' solution."*
- 4.11 The latest edition of "Guidelines for Landscape and Visual Impact Assessment (3rd Edition), Landscape Institute and Institute of Environmental Management & Assessment (London, 2013) makes clear that *"Landscape is about the relationship between people and place."* (p14). It states: *"Areas of landscape whose character is judged to be intact and in good condition, and where scenic quality, wildness or tranquillity, and natural or cultural heritage features make a particular contribution to the landscape, or where there are important associations, are likely to be highly valued."* (p 85)
- 4.12 It continues: *"Photographs ... cannot convey exactly the way the effects would appear on site"* (p140) either for landscape or visual effects. *"It has been common practice in the past, especially for windfarms, to present photomontages in what has been called the 'triple arrangement', in which, for a particular view, a panoramic baseline photograph, a matching wire frame image of the proposal and a fully rendered photomontage are combined in one landscape-format A3 sheet."* This is *"in general not considered to be the best way to communicate with non-landscape experts"* (p147)

¹⁰ Rugby Borough landscape capacity study for wind energy review, October 2013

¹¹ Scottish Natural Heritage, "Siting and Designing windfarms in the landscape" Version 1, December 2009. It is worth noting that Scottish guidance is used because there is no English guidance

4.13 As this outdated 'triple arrangement' is precisely how this application does assess landscape impacts, it is plain that it cannot be trusted.

4.14 RES present 19 viewpoints, all of them are created using stitched-together photographs which distort what is actually seen by people. Nonetheless, taking them on their own terms, the conclusions drawn by RES in respect of those views most relevant to Churchover are as follows¹²:

Number	View	RES assessment
1	Looking S towards Ryehill Spinney from Bransford Bridge	Large scale effect, major alteration to character, fundamental change
2	(a) Looking N from edge of Churchover (b) ditto, cumulative	Large scale effect, major alteration to character, fundamental change
3	Churchover churchyard looking north	Medium scale effect, partial alteration to character, noticeable change
5	Junction of Lutterworth and Coton roads looking N	Large scale effect, major alteration to character, fundamental change
6	PROW on W side of valley looking E to Churchover	Large scale effect, major alteration to character, fundamental change. "The proposed development would have a strong presence and would become the main focus of the view"
8	Minor road SW of Churchover looking NE	Large-medium scale effect, partial alteration to character, noticeable change
18	Minor road S of Churchover looking NNE	Large scale effect, major alteration to character, fundamental change. "The church spire would 'split' the two turbines"
19	Track to N of Churchover looking NNE	Large scale effect, major alteration to character, fundamental change

4.15 So, even on RES's assessment, of the views most immediately relevant to Churchover's environment all except two result in large scale changes to the landscape, major alterations to character, and result in permanent change mostly fundamental in character. A radical change in character such as this must inevitably be considered to be harmful.

4.16 In fact, the situation is still worse than presented by RES and not merely because of the wide-angle effect disguising the true magnitude of the changes. The positions of some of the viewpoints are not neutral and appear to have been selected to minimise adverse assessments:

- Viewpoint 2 is off a PROW and towards the middle of a field and appears to have been chosen to be low enough to diminish the visibility of the Gilmorton windfarm
- Viewpoint 3 is so chosen that the turbines are hidden by buildings and trees. RES acknowledges that "*the proposed development would commonly be seen above the rooflines to the north and between single mature trees*" and that "*the number of turbines visible would change dependent upon where the viewer was stood*", but they have carefully omitted to produce any such photomontages. No view from the modern churchyard is included, from where visibility would be highest and where the peace of the churchyard would be most damaged.

¹² Other views are not so relevant to the village itself.

- Viewpoint 5 – the wide angle hides the much greater visual impact from the Gilmorton (Low Spinney) turbines which can be seen prominently from this viewpoint
 - Viewpoint 19 is a virtual duplicate of VP2 and, like it, has been taken at a lower position in order to minimise visibility of Gilmorton windfarm.
- 4.17 Despite these criticisms, RES’s own assessments are quite severely against the visual acceptability of the development. This is aggravated by the nature of residents’ use of these routes which is not just car-borne journeys: they form daily walks for dog-walking and weekend/evening recreational strolling and there is nothing transient or glimpsed about the views. They will be permanently and adversely affected to a major degree¹³.
- 4.18 Taken overall, CPC would suggest that RES seriously underestimates the significance of these adverse landscape impacts.

Vertical v horizontal features

- 4.19 A fundamental point about the Swift Valley landscape most affected by the proposed development is that it is a relatively horizontal landscape with only modest man-made vertical elements. It is not, however, entirely a flat landscape. The River Swift itself falls from about 98m AOD at Bransford Bridge to about 90m AOD at the ford on the Churchover – Harborough Magna road, a difference of about 8m in a distance of some 3km (river length) or a fall of only 1 in 375 and therefore slow flowing and meandering.
- 4.20 This semi-natural valley landscape contains or borders some extensive developments from the last 50 years, principally the M6 motorway, Coton Park (and the emerging Rugby Gateway development), Magna Park and Swift Valley distribution parks and the gas stations. But, every one of these developments is also predominantly horizontal in form and increasing well-concealed the lower into the valley one descends. The largest elements, such as the distribution warehouses, are extensive in area (up to 90,000m²) but very low in height (15-20m at most). Churchover’s Holy Trinity is the tallest structure, at just 25m high to the top of the spire and there is nothing else remotely approaching that in the in-valley views.
- 4.21 Therefore, notwithstanding the extensive land areas taken by these modern built features, their heights are very modest and the overall result is that, considered solely as landscape building blocks, they are quite well absorbed into the naturally more horizontal landscape forms. In many cases this is assisted by landscape planting, with several years of growth. Nor do they encroach upon the nearest section of the Swift Valley, staying south of the M6 and north of the A5.
- 4.22 It is important to emphasise that there are virtually no strong vertical forms in the whole of the High Cross plateau, nor in the Borough of Rugby, with the exception of the Rugby Cement preheater tower which has a base level of 85m, a height of 110m and an upper AOD of 195m. The proposed windfarm has basal levels of 101 – 110m

¹³ For any development and especially with windfarms, one can identify dozens – hundreds maybe – of viewpoints from which only modest and non-significant visual or landscape change would occur. Multiplying such examples proves nothing. It is the few critical viewpoints, such as the impact upon the nearest and mainly affected settlement.

AOD and total heights to the blade tips of 126m, so that each turbine installation would have an elevation at the tip of around 227 - 236m AOD or 30-40m above Rugby Cement. Wind turbines are not, therefore, reflective of any pre-existing feature and will be increasing dominant when seen from within the valley.

Scale

4.23 The SNH guidance contains some important advice on relative scales of landscapes and windfarm developments. With reference to design objectives for windfarms it says the following¹⁴:

"4.33 A key design objective for a windfarm will be finding an appropriate scale for the windfarm that is in keeping with that of the landscape. To achieve this, the siting and design of the development will need to ensure that the windfarm, in relation to the following aspects, is:

- Of minor vertical scale in relation to the key features of the landscape (typically less than one third);*
- Of minor horizontal scale in relation to the key features of the landscape – the windfarm surrounded by a much larger proportion of open space than occupied by the development;*
- Of minor size compared to other key features and foci within the landscape; or separated from these by a sufficiently large area of open space (either horizontally or vertically) so that direct scale comparison does not occur."*

4.24 The present proposal completely fails to comply with this advice:

- The proposed windfarm is about 500% taller than the key features of the Swift Valley landscape (the topography, church spire, existing pylons, etc), although SNH recommends less than 33%.
- A windfarm should be of "minor horizontal scale" in relation to key features of the landscape, whereas this proposal is a major horizontal scale, because the landscape horizons are very close to the Swift Valley, due to the surrounding plateau: the windfarm is NOT surrounded by a much larger proportion of open space than occupied by the development, but would predominate over 90° views from within the valley.
- There is just one key feature or focus, Holy Trinity spire which at 25m is only 20% of the size of the turbines, whereas SNH say that turbines should be of minor size comparatively. With a separation distance between spire and turbines of more or less zero from many public viewpoints, "direct scale comparison" cannot be avoided.

Flexibility ("micro-siting") of location of turbines

4.25 The application seeks a so-called "micro-siting" allowance of 50m. In the present case, where the separation between dwellings, rights-of-way and turbines is already far too small, it would be utterly unacceptable to reduce the distances at all and certainly not by a further 50m, which is what is applied for, for visual reasons let alone noise or any other impact.

¹⁴ Page 24, paragraph 4.33

- 4.26 In the previous application process RES allegedly could provide assurances that micro-siting of turbine T1 would not move it any closer to any properties within Churchover. That is a fairly empty assurance. First, they would not say that T1 would not be closer to any property, only those in Churchover. Second, they gave no assurance about any other turbine. Third, if RES could provide that assurance (and they did not) there was clearly no need for a micro-siting provision in the first place as its only purpose is to allow for unexpected ground conditions and clearly RES knew all they need about ground conditions or they could not have made the statement. Fourth, because micro-siting is a part of the application, but has been ignored in EIA, the resulting analyses are flawed. The same criticisms apply today.
- 4.27 No such allowance should be permitted. The developer should have undertaken proper site investigations prior to application.

Public Rights-of-Way (PROW) and countryside recreation

- 4.28 In addition to full public highways, used by all vehicles, the relevant PROWs in and extending beyond the parish boundaries are:
- *Byway and National/regional cycle network route*
 - R334/E2052 – northeast from Church Street to A5 via Black Spinney
 - *Bridleways*
 - R62 – from byway R334 just north of Church Street northwest to Cestersover Farm and then Lutterworth Road
 - *Footpaths*
 - R63 and R63a – northeast from Church Street, across River Swift to A5 at Bransford Bridge
 - R66 – west-northwest from Church Street across River Swift to old Leicester railway and on to Montilo Lane and Tythe Farm
 - R98 – from The Green west across River Swift and Montilo Lane
 - R296 – north/south route connecting R98, R66 and R62, then north from Cestersover Farm to Walton Lodge Farm
 - R297 south from R98/R296 via Harborough Fields Farm and then west to Montilo Lane
 - R99, R100, R100a and R101 – a series of paths connecting Harborough Road and the ford with the M6/canal feeder underbridge.
- 4.29 To a greater or lesser extent, all of these PROWs afford uninterrupted views of parts or all of the proposed windfarm. The routes that would especially impacted visually are those either crossing the valley floor, or running along the valley sides; all, in fact, except R99 and R100 although the development will not be completely concealed from those either.
- 4.30 The effects upon PROWs will be three fold.
- 4.31 First, the detriment to the immediate landscape setting of the village. Virtually all these PROWs afford excellent views of Churchover village, its CA and its landmark

church spire. In every case where northwards views over the village and Ryehill Spinney can be obtained, the quality of the view will be damaged or destroyed, by the excessive scale of the turbines relative to the church spire – five times the height.

4.32 Second, the turbines will be extremely close to PROWs:

- Turbine 1 lies within 30-50m of R334 and with micro-siting could adjoin it
- Turbine 2 is within 100m of R63 and with micro-siting could be within 50m
- Turbines 3 and 4 are not so close to PROW (300-400m from R63) but their sites adjoin informal walking routes along the old Mill feeder.

4.33 That proximity will create a looming, overbearing, and possibly a toppling visual effect that will deter people from walking the routes or prevent their enjoyment of doing so. With the proposed hub height of 80m, the tip of the blades will be variously at between 126m and 34m above ground, depending upon where they are in the rotational cycle. Standing just 75m from a 92m diameter blade rotation circle at 34m above one's head could be terrifying, the more so if the plane of rotation is at right angles to the footpath, when it will be overhead. The overall effect upon walkers will be extremely intimidating.

4.34 Third, the noise from blade rotation and reorientation would destroy any semblance of a peaceful country walk. None of the noise assessment considers this aspect. Added to the visual effects, the combination is likely to prove daunting.

4.35 There is no statutory distance between PROWs and turbines, but often fall-over distance (126.5m minimum in this case) is taken to be the minimum acceptable, and there should be no over-sail of the turbine blade above the PROW. The <100m separation distance of turbines 1 and 2 are less than the minimum fall-over distances of 126.5m which, in reality may in any case be more like 150m.

4.36 The difference in relative heights will aggravate impact upon PROWs. Churchover village and the proposed windfarm are at comparable ground levels, around 110mAOD. However, views from PROWs) include several where the PROW is below the ground level of the turbines. Those crossing the River Swift are at about 92-96m AOD, whereas the nearby turbines are based at 110-115m AOD. Therefore, the already substantial height of 126.5m will effectively be increased, to 140-150m, when perceived from those viewpoints. That inevitably increases the looming, overbearing, dominating, effects.

4.37 Equestrian activities are common and widespread in and around Churchover, where there are several livery yards, and therefore the effects of the proposed development on equestrianism are very relevant.

4.38 Turbines 1 and 2 lie within 30-100m of byway R334/R62. The British Horse Society has issued guidance on stand-off distances from windfarms, which is that:

"as a starting point when assessing a [windfarm] site and its potential layout, a separation distance of four times the overall height should be the target for National Trails and Ride UK routes [i.e. 500m in this case], as these are likely to be used by equestrians unfamiliar with turbines, and a distance of three times overall height [375m] from all other routes, including roads, with the 200m recommended in the Technical Guidance to PPS 22 being seen as the minimum,

where it is shown in a particular case that this would be acceptable. The negotiation process recommended in PPS 22 should indicate whether, in the particular circumstances of each site, these guidelines can be relaxed or need strengthening to minimise or eliminate the potential difficulties.

- 4.39 Therefore the BHS recommends a minimum distance of about 500m between main horse routes and about 375m for all others. This compares with the <100m now proposed, and the minimum 200m recommended in PPS22¹⁵. Moreover, the 200m is the *minimum* and only acceptable subject to negotiation around specific site characteristics.
- 4.40 Of all recreational activities, among the most "quietly contemplative" must be angling. Warwickshire flyfishers hold rights to the north bank¹⁶. They stock the river annually and fishing within 200m of T2, at least, will be the antithesis of quiet enjoyment, not least because of the noise impacts.
- 4.41 The quiet enjoyment of other rural pursuits, including riding to hounds and rough shooting, will also inevitably be damaged by wind turbines within 100m.

Temporary Nature

- 4.42 The planning application specifies a 25-year life for the development but, unlike most similar applications, does not promise its removal after that time. On the contrary, the application states: "*At the end of this period, a decision would be made as to whether to remove, refurbish or replace the turbines.*"
- 4.43 This is a remarkable change of tune from the pre-application consultation. The exhibition boards stated¹⁷ unequivocally: "*A wind farm typically has a 25-year lifetime. Decommissioning is simple. The turbines are taken away and other visible infrastructure, such as the substation, is removed¹⁸ and the land is restored.*"
- 4.44 Therefore, the application cannot be judged on the basis of a lengthy but nonetheless temporary life. It must be assumed to be permanent and be judged as such.
- 4.45 In rejecting an appeal at Asfordby, Leicestershire for 9 turbines¹⁹, the Secretary of State noted that the Inspector acknowledged that during the 25 year period of operation, the impact of the turbines on the landscape would be adverse, but assumed that, after this period, the site would be restored to its former appearance. However, whilst the Inspector considered that the harm caused would be both temporary and reversible, the Secretary of State had regard to the significant length of time over which harm would be experienced which, bearing in mind that the need to allow for construction and dismantling periods, would amount to considerably more than 25 years. The Secretary of State noted that the Inspector concluded in his balancing exercise that the proposal would create a wind farm landscape in the valley where the turbines would be sited, and he considered that this adverse impact should be given significant weight despite its potentially less than permanent nature.

¹⁵ PPS22, Companion Guide p172, paragraph 56; although superseded that does not invalidate the advice.

¹⁶ <http://www.warwickshireflyfishers.co.uk/3.html>

¹⁷ RES Statement of Community Consultation, Appendix 2

¹⁸ But, note, the concrete foundations are not proposed to be removed

¹⁹ APP/Y2430/A/13/2191290 of 4 March 2014

4.46 In this application, RES do not even promise 25 years!

5.0 The planning balance

- 5.1 From the above assessment it is clear that, in terms of adverse impacts upon planning factors of acknowledged importance, the proposed development has only one point in its favour: that obtaining increased contributions from renewable energy remains at the heart of Government policy. The balance to be struck, therefore, is whether the merit of the very minor and uncertain addition to UK renewable energy supplies represented by the development is outweighed by the environmental damage caused by the development.
- 5.2 During 2013 and subsequently, the Government has, directly and through the Localism Act, made clear that local concerns and considerations carry greater weight than hitherto implied.
- 5.3 On 29 July 2013 the Government published 'Planning practice guidance for renewable and low carbon energy'. It repeatedly emphasises local environment, local topography, local communities, and that the need for renewable or low carbon energy does not automatically override environmental protections.
- 5.4 Since the Secretary of State recovered several windfarm appeals for his own determination during 2013 and more during 2014, there is an increasing body of evidence that illuminates the changed emphasis he now required, not least in respect of local conditions.
- 5.5 In one case, at Nun Wood²⁰, he agreed that *"... in many ways the area immediately surrounding a settlement is the most important and accessible expression of its rural location."* (CPC emphasis) This local emphasis is the centre of CPC's concerns; although the windfarm would have adverse consequences across the parish, the greatest harm would be to the village and its immediate Swift Valley context.
- 5.6 The previous Secretary of State's concerns that the correct approach was not being taken either by Councils or Inspectors in the case of windfarm proposals caused him to take the serious step of recovering a significant number of appeals and, more recently, calling in some applications. In 2014 he decided 28 recovered appeals and 25 were dismissed²¹, and those refusals were predominantly on landscape and heritage grounds.
- 5.7 The present Government has continued that policy, indeed, refined it, in two ways, with the announcement in the Queen's Speech (27 May 2015) that:

"...the primary decision maker for onshore wind consents in England and Wales will be the local planning authority. These changes will be supported by changes to the national planning policy framework to give effect to the manifesto commitment that local communities should have the final say on planning applications for wind farms"

and

²⁰ APP/Y0435/A/10/2140401 of 17 December 2013

²¹ Planning 16.1.2015 p08-09

"the commitment to end new subsidy for onshore wind farms will be delivered separately, and the Department of Energy and Climate Change will be announcing measures to deliver this soon."

- 5.8 At Churchover, where the substantial visual harm to the area immediately surrounding the settlement is acknowledged by RES's own assessment, and the harm to the setting of the listed church is equally demonstrable, as identified decisively by English Heritage, a refusal on landscape and heritage grounds is fully justified.

END
CPC/CGD 16.6.2015