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Mr N Lowde
Planning Department
Town Hall
Rugby Borough Council
Rugby
CV21 2RR

03 June 2015

Dear Mr Lowde,

Re: APPLICATION REF. R/15/0908 – CHURCHOVER WINDFARM

On 6 January 2014 I wrote to object to the proposed Churchover windfarm under the reference of the first planning application, R12/2009. Since the new application is for the same development those objections continue to apply and I append a copy of that letter.

I now write to re-emphasise my objections which carry yet greater force in view of the substantial weight of evidence which clearly demonstrates that the assessment of and weight to be attached to the harm to heritage assets, in particular, was incorrectly applied in your assessment of the original scheme.

Since the Council's first decision and your report to Committee which heavily influenced that decision there has been, as I'm sure you are aware, significant clarification of the way in which the harm to heritage assets (HA) should be addressed.

As you know, this springs from the Court of Appeal judgement dated 18 February 2014, concerning the Barnwell Manor Windfarm case. Although that judgement pre-dates the planning decision and your Committee report it is clear that the findings of the case were not properly taken into account in your original assessment of the Churchover windfarm.

In particular, the Barnwell Manor judgement emphasises and re-emphasises that the weight to be attributed to any harm to heritage assets, whether substantial or less than substantial, must, in line with sections 66(1) and 72(1) of the Listed Buildings Act, be given "considerable importance and weight". The judgement states that this is a statutory requirement compared with the policy requirement to give significant weight to the generation of renewable energy. It also makes clear that, contrary to your assertion in your Committee report that "the weighting of these factors is quintessentially a matter of judgement", the decision maker is required specifically to give considerable importance and weight to any harm to HAs. Moreover, it is insufficient simply to quote the wording. It is also necessary to demonstrate that this weight has, in fact, been applied. I consider that far from showing this your report demonstrates that you did not apply the statutory weight correctly and hence concluded that the benefits of the renewable energy outweighed the harm to HAs and other harms.

In addition to this fundamental flaw the Barnwell Manor judgement effectively discredits the “reasonable onlooker” test on which you place some reliance.

Although you note that the turbines would be seen as a backdrop to the Holy Trinity Church Spire from the south you ignore the fact that from the north, including from the A5(T), they would be seen in front of the church spire, intruding into its setting to a considerable degree and detracting from its significance.

Since the Barnwell Manor judgement there have been numerous appeal decisions which lend further support to my objections. I need not quote them all but would draw your attention to the following:

APP/Y2430/A/13/2191290 dated 4 March 2014 – Asfordby. This SSCLG decision makes clear that the temporary nature of a 25 year windfarm, relied upon in your Committee report, carries little weight (Paragraph 19 of the Decision Letter):

“However, whilst the Inspector considers that the harm caused would be both temporary and reversible, the Secretary of State has 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..... he considers that this adverse impact should be given significant weight despite its potentially less than permanent nature”.

APP/H0520/A/13/2197548 dated 2 December 2014 – Bythorn, Cambridgeshire. This SSCLG decision is relevant because of the importance of church spires being prominent in the landscape (as is Holy Trinity spire), the fact that Bythorn church (the most affected) is Grade II* Listed, the same as Holy Trinity, the fact that a split decision was proposed by the Inspector, due mainly to the unacceptable effect of three of the turbines on listed buildings and their significant adverse landscape effects on the intimate scale of small valleys (the same would be true of the intimate, small scale Swift Valley) despite their much smaller size than in the Churchover proposal. But the SSCLG made clear in dismissing the entire proposal that although a smaller scheme would have a lesser effect on HAs and landscape the Inspector had given too much weight to this reduced harm. In the case of Churchover, the Council has clearly had in mind the previous 9 turbine scheme and has compared the two (most explicitly in the area of landscape harm), finding, not surprisingly, that the 4 turbine scheme would have a lesser effect. However, what is clear from the Bythorn decision is that less harm does not equate to acceptable harm. Each proposal must be considered on its own merits and in the case of Churchover it is clear that the 4 turbine scheme would result in significant harm so the fact that this is less harm than the 9 turbine scheme is of little consequence.

APP/Y2003/A/13/2207858 dated 22 December 2014 – Winterton Landfill. This SSCLG decision is of particular relevance because it turned on the considerable importance and weight to be attached to preserving the setting of a Grade II* listed church located some 1.1km from the closest of three turbines, up to 127m in height and proposed for a period of 25 years. There are clear parallels with the Churchover case. At Winterton the SSCLG disagreed with the Inspector’s recommendation and decided that the appeal should be dismissed.

APP/22830/A/11/2165035 dated 22 December 2014 – Helmdon. This SSCLG decision letter addresses in Para. 27 the requirements in para. 97 (not 79 as quoted in your Committee report) of the NPPF that all communities have a responsibility to help increase the use and supply of green energy, but makes clear that this does not mean that the need for renewable energy will automatically

override environmental protection and the planning concerns of local communities. Moreover, the commitment by the new Government to ensure that local people have a final say in windfarm proposals adds weight to the need to take full account of local opposition to proposals. In the case of Churchover you acknowledge that “there is a significant degree of local opposition”. It is clear that this must be given greater weight now than was attributed to it in 2014.

I enclose all of the above decisions for your convenience. There are, of course, numerous other decisions which support the thrust of the arguments above, repeatedly finding in particular that the harm to HAs clearly outweighs the benefits of renewable energy production.

Also of relevance is the letter sent by Planning Minister, Brandon Lewis, to PINS on 27 March 2015, emphasising the effect of development on landscape character as an important material consideration (article and letter enclosed). You should recognize that the Council’s original landscape assessment of the 4 turbine scheme was woefully inadequate and based almost entirely on a comparison with the earlier 9 turbine scheme. This is completely unsatisfactory. Moreover, you may be aware that the same landscape advisor has raised an objection to the proposed Churchover solar farm on landscape grounds. I have considerable difficulty in understanding how, in the light of this objection, he could now rationally conclude that the effect of the wind turbines on landscape character would be acceptable.

I have considered the RES Supplementary Environmental Information but note that it fails completely to address the significant shift in emphasis in the consideration of developments, specifically wind farms, affecting heritage assets that has occurred since the previous application was determined. It is not at issue that the proposal is sustainable for the purposes of Para. 14 of the NPPF. However, this is of little consequence since the specific planning balance regarding heritage assets still needs to be undertaken and the statutory weight attributed as well as the usual balancing of other issues.

I have little faith in the Borough Council’s willingness to look objectively at the effects of the proposed Churchover windfarm, the strong objection from Historic England (formerly English Heritage) and the weight of evidence in the form of court judgements and appeal decisions that have emerged over the past 12 months or so which overall point firmly towards the need to refuse permission for this unwanted blight on the undeveloped, historic landscape around Churchover and the Listed Buildings and Conservation Area that make up the village. However, failure to do so would be irrational, verging on the *Wednesbury* unreasonable, and so I hope that I am mistaken in my pessimism.

Yours sincerely

Karen Down

Karen Down (Mrs)