

Item 6 (Pages 17 - 256) – CB/16/01389/FULL – Land off A5 at Checkley Wood Farm, Watling Street, Hockliffe

Additional Consultation/Publicity Responses

Four additional letters of support received from 24 & 41 Timber Lane, Woburn; 24 Stoke Road, Linslade and 27 Albany Road, Leighton Buzzard.

Bedfordshire Gardens Trust

At Appendix A is an objection from the Bedfordshire Gardens Trust, responding on behalf of the Gardens Trust.

It is noted that the Bedfordshire Gardens Trust concur with Historic England that the impact on the significance of Woburn Park would be low-moderate and that the impact on Battlesden Church would be less than substantial, albeit at the higher end of the scale.

The Bedfordshire Gardens Trust also states that there would be a similar level of harm to the significance of Battlesden Park in general.

It is noted that the conclusion of the letter indicates that any harm to these heritage assets should be exceptional (wholly exceptional in the case of Grade I Listed heritage assets). However, this is not the correct policy test as set out in the NPPF. Paragraph 132 of the NPPF states that any harm should require clear and convincing justification, but it is only substantial harm which should be exceptional or wholly exceptional. None of the specialist heritage consultees has stated that the proposal would have substantial harm to any heritage asset.

It is considered that the conclusions set out in Section 5 of the report still apply.

Richard Buxton Environmental & Public Law

At Appendix B is a letter from Richard Buxton Environmental & Public Law writing on behalf of the Bedford Estates.

Counsel's advice has been sought on the content of the letter.

In respect of the requirement for an Environmental Impact Assessment, Counsel has advised that she does not think that the corrected Screening Opinion would be upheld as an unlawful approach. She has noted that the 2017 EIA regulations were not in force at the time the Screening Opinion was released and are therefore not pertinent to this matter.

In reference to Green Belt Considerations, it appears likely that the letter from Mr Buxton is in response to the previous iteration of the committee report, as it refers to a paragraph number that no longer exists in the current report and also raises issues which existed in the previous iteration of the report but have now been addressed within the updated version of the report.

In particular, the report now balances “any other harm” as well as inappropriateness of development in the Green Belt when considering whether very special circumstances exist.

The report also explains more clearly within the planning balance why it is considered that very special circumstances exist in this case.

Counsel has confirmed that whether or not very special circumstances exist is a matter of planning judgement for the decision maker. Matters of planning judgement cannot be questioned in law, unless decisions are irrational. She does not consider that the conclusions within the report are irrational.

Counsel considers that the updated report is written in such a way that, should the Committee approve the application, the Council ought to be able to resist a challenge to the decision in a Judicial Review scenario.

Savills

Attached at Appendix C is another letter from Savills. This draws the attention of Committee Members to the concerns of the Landscape Officer and considers further the Council’s Wind Turbine Guidance Note.

The Landscape Officer did raise concerns in regards to the development, but did not object to the proposal. The conclusion of the Landscape Officer was that if the proposal were to be progressed, it should be identical in design to the existing Double Arches turbine and have similar nacelle / blades height so that the two turbines should read as a single cluster. The proposal is for a turbine which would be identical in design to the Double Arches turbine and would have similar nacelle / blades height.

Section 4 of the report addresses Officer’s interpretation of the Wind Turbine Guidance Note. It acknowledges that it may be appropriate to consider that the proposal represents a cluster, as the proposed single turbine would be clustered with the existing Double Arches turbine, but then points out that the proposal would not represent more than one development within the landscape character area as the other part of the cluster would be the existing turbine at Double Arches. The cluster would therefore not compete with Double Arches, but include it. Section 4 of the report includes assessments of a cluster of turbines against the criteria set out within the guidance note.

SCWT

An additional letter has been received from the SCWT campaign, which is attached at Appendix D.

In response to this letter, the points raised are predominantly covered within the Officer's report at Section 7.

In response to point 1 of the letter, it is noted that it was Planning Officers and the Development Management Committee who considered that removing the Excessive Amplitude Modulation condition was a reasonable decision at the time, on the basis of government policy and several contemporaneous Appeal decisions.

In response to point 2 of the letter, it is noted that MAS Environmental clearly state in their response to the planning application on page 77 of the report that the conditions agreed (and recommended to be imposed) addressed their concerns in respect of amplitude modulation. This is why Officer's consider that the proposed condition would adequately protect neighbouring residents from unacceptable levels of noise pollution.

In response to point 3, the Council legally cannot impose, as part of this application, a condition on a wind turbine that does not form part of this application and is not located within the red line of the application site. As is noted in paragraph 7.14, any reports of EAM in the area would be sufficient to trigger investigation under the recommended condition for this wind turbine. It is noted that neither MAS nor the Council's Environmental Health Officer has outstanding concerns in respect of EAM.

Additional Comments

Additional information was submitted to the Enforcement Team to support a noise complaint for the existing wind turbine at Double Arches in relation to properties at Overend. The Enforcement Team will proceed with an investigation in accordance with the measures set out within the planning conditions which control the Double Arches turbine.