

SERIOUS ERRORS BY GEDLING BOROUGH COUNCIL ON GREEN BELT POLICY RESULT IN WIND TURBINE OPERATING WITHOUT PLANNING CONSENT

Following a lengthy legal battle by a local resident, the Court of Appeal has today quashed the planning permission granted by Gedling Borough Council for the erection of a 66m wind turbine on Green Belt land at Woodborough.

The initial approval was granted on 2 November 2011 in the face of substantial opposition including objection by the Council's own Design and Conservation Consultant and 1125 letters of objection from members of the public.

The action was brought by Mr. Chris Holder also of Woodborough, a member of the action group WACAT (Woodborough and Calverton against Turbines in the Green Belt) when it became clear that Gedling Borough Council had seriously misapplied the green belt policy when advising the planning committee who made the final decision.

In full knowledge of the proceedings, the land owners, Mr. and Mrs. Charles-Jones of Woodborough Park went ahead with the project; erecting the turbine and bringing it into operation in February 2014. Following the Court of Appeal judgment quashing the planning permission, the turbine is operating without planning permission.

The application for planning consent must now be re-determined by the Council's planning committee (or the Secretary of State if he calls it in) in the light of policy changes by the Government which are less favourable to onshore wind turbine development, let alone wind turbine development in the Green Belt.

Mr. Holder's solicitor, Susan Ring of Richard Buxton Environmental and Public Law commented "this is a very important case and will determine how future applications for renewable energy projects are dealt with throughout the country on Green Belt land. The judgment deals with important issues such as precedent effect, alternatives, energy production and efficiency; it also serves as a warning to developers who erect turbines before judicial review proceedings have been resolved that they do so at their own risk and will have to bear the costs of dismantling the turbine if the planning permission is quashed and not re-granted."

Lord Justice Maurice Kay rejected the Council's arguments that energy production and efficiency are not relevant and do not need to be taken into account by planning committees when considering a planning application for a turbine:

"I believe Mr Kimblin to be simply wrong in his submission that, having regard to the full range of applicable policy, matters such as volume and efficiency are irrelevant and can be left to the working of the market."