
Appeal Decision

Site visit made on 11 July 2016

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 21 October 2016

Appeal Ref: APP/E2340/W/16/3145808

Moor Hall Farm, Barnwood Road, Earby, Lancashire BB18 6LQ

- 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 Mr Charles Ashton against the decision of Pendle Borough Council.
 - The application Ref 13/15/0349P, dated 19 June 2015, was refused by notice dated 17 September 2015.
 - The development proposed is the installation of 1 no endurance X-35 wind turbine.
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Decision

1. The appeal is dismissed.

Procedural matters

2. At the same time as this appeal was lodged a separate appeal (appeal B¹) was lodged against the Council's refusal² to approve a different turbine. This site lies on land belonging to Oak Slack Farm, and is located some 210m away from the appeal site in this case. I viewed the 2 sites consecutively on 11 July 2016. I have considered the cumulative effect of both turbines together where relevant below.
3. The decision notice for the refusal solely referenced Policy 5 of the Replacement Pendle Local Plan 2001-2016. On 17 December 2015 the Pendle Local Plan Part 1: Core Strategy (the LPP1) was adopted. Whilst some aspects of the 2001-2016 Plan have been saved, Policy 5 has been replaced by Policy ENV3 of the LPP1. This change occurred prior to the submission of the appeal in March 2016. Both parties therefore had the opportunity to consider this change to the development plan in their initial submission, and in the case of the appellant, within his final comments.

Planning Policy

4. Policy ENV3 of the LPP1 supports renewable energy proposals that are an appropriate scale for their setting, meet the relevant national policy and guidance tests and do not have an unacceptable impact upon the landscape and visual character of an area, either on their own or cumulatively.
5. The National Planning Policy Framework (the Framework) states that planning plays a key role in supporting the delivery of renewable energy and associated infrastructure, which is central to the economic, social and environmental

¹ APP/E2340/W/16/3145819

² 13/15/0356P

dimensions of sustainable development. When determining applications, local planning authorities should, unless material considerations indicate otherwise, approve the application if its impacts are, or can be made, acceptable.

6. The day before the application was submitted, on 18 June 2015, a Written Ministerial Statement (WMS) was published. This states that when determining planning applications for wind energy development, local planning authorities should only grant permission if the site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan, and following consultation it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing. Planning Practice Guidance (PPG) makes it clear that whether the proposal has the backing of an affected local community is a planning judgement.

Main Issue

7. The main issue in this case is:

- whether the benefits of the proposal, including the production of energy from a renewable source, outweigh any harmful impacts, including the effect on the character and appearance of the surrounding area, having regard to the development plan and any relevant material considerations.

Reasons

Benefits

8. The proposed 48m high to tip turbine would produce approximately 738 MWh of electricity a year, representing an annual CO² saving of approximately 437 tonnes, and 13,110 tonnes over the 30 year lifespan of the turbine. The energy generated would be fed directly into Moor Hall Farm, and would power the dairy operations at the farm, safeguarding existing employment generated by the Farm. The turbines would allow the business to become self-sufficient and surplus energy would be exported into the national grid. The appellant details how the running costs at the Farm have been steadily increasing, putting more pressure on the business and notes the reduction in the number of dairy farms in Yorkshire due to rising energy prices, cheaper foreign imports and supermarket price wars. The Farm also faces pressure from the wholesaler who purchases milk produced by the farm to diversify and reduce their carbon footprint.

Character and appearance

9. The proposed turbine would be sited within a field to the south east of the town of Earby, within the Pennines. Whilst not subject to any environmental designations, the landscape is attractively undulating with steep hills. The site lies just to the west of Coolham Lane, which leads up from Earby towards the Colne to Skipton Road. This road ascends quickly from Earby, and as a result from the site there are far reaching views towards the west over the valleys of the Leeds and Liverpool Canal and the Earby Beck. Likewise, views of the site are also available from other points across the valley.
10. Other vertical structures in the valley landscape are reasonably limited, with 2 existing turbines located close to the appeal site near the top of Bleara Moor (Broom House Farm). These 23.2m turbines are visible from certain locations

within the valley. A communications tower at Proctor Heights to the east is also visible from various points. By contrast the land further to the south east, along the Colne to Skipton Road is punctuated by a large number of small scale wind turbines, such that turbines are seemingly in view for the majority of the journey.

11. The site lies within the landscape character area of '14b Lothersdale and Cringles rolling upland farmland'. This area is defined as a landscape of rolling hills, divided into a patchwork of improved pasture by stone walls and punctuated by small stands of trees. Moorland is confined to the higher rounded summits. The definition notes that settlements are infrequent and that the character area includes a range of man-made alterations, including a wind farm, which are conspicuous in an otherwise rural and pastoral landscape.
12. In 2005 Lancashire County Council produced a document entitled 'Landscape Sensitivity to Wind Energy Development in Lancashire' (the LSWEDL). This defines the site as being in an area with moderate to high sensitivity to wind energy development and that only small and possibly medium scale wind energy development will likely be appropriate. As a single turbine, the proposal would be small scale. The LSWEDL states that the regular landscape of gentle, rolling topography would suggest only a modest sensitivity, but that the local presence of cloughs, and steep crevices, distinctive pattern of continuous stone walls dividing the patchwork of improved pasture and the stands of trees and woodland combine with the settlement and roads patterns to elevate this sensitivity. The LSWEDL notes that it is a broad scale study undertaken to provide strategic guidance.
13. In contrast a Landscape and Visual Impact Assessment (LVIA) submitted by the appellant concludes that the overall sensitivity of the landscape is low, that the change caused by the turbine will be small and the significance of impact will be minor. This assessment concludes that the presence of nearby small scale farm based turbines similar to the proposal indicates an acceptance that the landscape can accommodate wind turbines and thus has a lower sensitivity to small scale wind energy development.
14. The proposed turbine would be relatively slender, and I note the appellant's statement that the turbine has been sited slightly down the hillside, so that from the LVIA viewpoints such as No 2 that the turbine would not be seen against the skyline, whereas the Broom House turbines and the communications mast are more obvious. However, I noted on site that from this distance and from viewpoint 3 the reduced height of the Broom House turbines helps to reduce their effect, as does the slender design of the mast, minimising their effect on the landscape.
15. From other viewpoints such as No 1 the rotating blades of the proposal would be seen above the skyline. From viewpoints closer in, such as by the small settlement of Kelbrook and on the road from this village to Earby the turbine would be especially and clearly visible against the skyline (viewpoints 4 and 5). From the north west the turbine would also be clearly visible above the rolling hillside (viewpoint 6).
16. The effect of such a visible development would detract from the stone walls that criss-cross the hillside and the patchwork pasture. The turbine and its rotating blades would clearly stand out within the landscape, detracting from the peaceful rural and pastoral countryside. Cumulatively when viewed with

Appeal B, this effect on the character and appearance of the area would be magnified; both in terms of landscape character and visual impact.

17. The Council refer me to a number of appeals which have taken place for proposed turbines to the south of the appeal site. These have largely been dismissed, partly for cumulative effects upon the landscape. This case is partially different to those in that the site appears in a separate valley, and one which is largely untouched by turbines at present. Nevertheless, I have sympathy with this view. When travelling from Colne towards Skipton there are numerous small scale turbines visible. Once the turn is taken to the west along Coolham Lane/Bleara Road, aside from the smaller Broom House Farm turbines, the landscape becomes clearer. The construction of a turbine on this site, and the adjacent site, would increase the dominating effect of the string of turbines and affect the tranquil nature of the valley. I also note in this case that the proposed turbine is significantly taller than many of the turbines sited to the south.
18. I therefore conclude that the proposal would have an unacceptable impact upon the landscape and visual character of an area, both solely and when considered cumulatively with Appeal B, and when viewed as part of a journey through the wider landscape.

Other material considerations

19. The appellant met with Earby Town Council. The Council confirmed that they supported the scheme, and considered that the wider environmental and economic benefits of the proposal would outweigh any harm to the area. Taking the contrary view were 16 public objections to the scheme and an objection from Kelbrook and Sough Parish Council. The objections cover a wide range of issues, including concerns over visual impacts and effect on the countryside. Whilst I note the support from the Town Council, countered against this must be the views of the Parish Council at Kelbrook, from where views of the turbine would be prominent (viewpoint 4). As such it cannot be said that the proposal has the backing of all the affected local communities, and it would thus be contrary to the WMS.
20. An ecology survey submitted by the appellant identifies the site as a habitat for breeding curlew and lapwing and considers that breeding birds could be disturbed by the proposal. In mitigation, a managed area of land suitable for alternative breeding ground was proposed to the north east of the site. However, this land is not within the ownership of the appellant or the landowner. As such neither party has control over the area of land nor would it be possible to impose a condition to ensure that the land identified was kept and preserved. No legal agreement has been submitted to cover the area of land and show agreement between the respective owners. As such the proposal would be contrary to Policy 4D of the Local Plan, which states that development proposals that would adversely impact or harm, directly or indirectly, legally protected species will not be permitted.

Conclusions

21. I place considerable weight on the public and private benefits of the proposal. The proposed turbine would generate a significant amount of renewable electricity and help to make the appellant's business more sustainable. I particularly note the evidence concerning the reduction in the number of dairy

farms locally and the effect that the proposal would have on the running costs of the dairy farm.

22. However, this has to be balanced against the harm that would be caused to the character of the landscape. I do not consider that the turbine is an appropriate scale for its setting and it would have an unacceptable impact upon the landscape, both solely, and cumulatively with other existing turbines and with the proposed Appeal A turbine, and would be contrary to Policy ENV3 of the PP1. Such impacts cannot be made acceptable. Furthermore, the proposal does not have the backing of the affected local community and the proposal, in the absence of suitable ecological mitigation, would be contrary to Policy 4D of the Local Plan
23. The proposal would, when taken overall, be contrary to the development plan, the Framework and the WMS. I therefore conclude that the benefits of the proposal, including the production of energy from a renewable source, do not outweigh any harmful impacts having regard to the development plan and any relevant material considerations.
24. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR