
Appeal Decisions

Hearing held on 19 October 2016

Site visit made on 19 October 2016

by Andrew R Hammond MSc MA CEng MIET MRTPI

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

Decision date: 24 January 2017

Appeal A Ref: APP/B3438/C/16/3149744

Appeal B Ref: APP/B3438/C/16/3149745

Land adjacent to the Bungalow, Lask Edge Farm, Lask Edge, Leek ST13 8QS

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - Appeal A is made by Mr Robert Scott and Appeal B is made by Mrs Hazel Scott against an enforcement notice issued by Staffordshire Moorlands District Council.
 - The enforcement notice, numbered SME/2016/00088, was issued on 11 April 2016.
 - The breach of planning control as alleged in the notice is without planning permission, the erection and installation of a 5kW micro turbine on a 15m tower (the Turbine) in the approximate position marked with a cross on the attached plan numbered WT 1.
 - The requirements of the notice are dismantle, take down and completely remove the turbine from the land.
 - The period for compliance with the requirements is within 3 months of the Notice taking effect.
 - The appeals are proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.
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Decision Appeal A

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Decision Appeal B

2. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matter

3. The appellants withdrew appeals under Ground (f) following advice that these were not valid. That was not the case and the Ground (f) appeals were re-instated with the appellants confirming that what they were seeking was permission for the turbine on a reduced height mast such that the impact on the landscape and the openness of the Green Belt would be reduced, thus affecting the 'Green Belt' balance.
4. In effect the appellants plead under both grounds that planning permission should be granted for a wind turbine of reduced height. At the Hearing the

Council contended that a lower wind turbine could not be considered as it represented an entirely different scheme. I consider this argument to be incorrect and that the proposal could represent lesser steps which might remove the objection to the scheme. As the two grounds of appeal have been amalgamated I have dealt with them together.

Main Issue

5. It is common ground between the parties that the development represents inappropriate development in the Green Belt. The main issue in this appeal is therefore whether the harm by virtue of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to justify the scheme on the basis of very special circumstances.

Background

6. In February 2014 planning permission was refused for a 5kW wind turbine at Lask Edge Farm. This decision was successfully appealed (Ref APP/B3438/A/14/2216593) and the wind turbine was erected. The appeal decision was challenged on several grounds. The Secretary of State conceded on the ground that the Inspector failed to give adequate reasons for the conclusion that the harm to the Green Belt was clearly outweighed by other considerations so as to justify the scheme.
7. The appeal was, therefore, redetermined and dismissed by decision dated 27 January 2016.

Reasons

The Wind Turbine Sensitivity Study

8. The appellants contend that the 2015 Wind Turbine Sensitivity Study should not be given significant weight and that 'very special circumstance' do exist.
9. The 2015 Wind Turbine Sensitivity Study contains an assessment of the sensitivity of the various landscape character types to different scales of wind energy development. It was produced to aid the assessment of the effect of wind turbine proposals in respect of landscape impact but is not adopted policy.
10. The appellants suggest that, as the Study failed to recognise the permission for and existence of the appeal turbine at the time of its publication, it is deficient and should carry little weight. Nevertheless I consider it is a valid tool when assessing landscape impact.

Landscape

11. The Turbine is located in the Gritstone Uplands Landscape Character Type which lies to the west of Biddulph following a north-south ridgeline. The key characteristics of the area include an upland ridge landscape comprising undulating slopes with localised steep sided valleys; an open plateau with extensive views; and scattered large farms with stone buildings. The turbine sits on the west facing slope of Lask Edge Ridge some 75m from a modern bungalow and the stone built farmhouse that comprise Lask Edge Farm. Some 250 m to the south-east on the ridge is a tall telecommunication mast.
12. In respect of landscape impact the Inspector in the redetermined appeal concluded that in long distance views the scale of the turbine (at some 17.75m

to blade tip) is such that it has little impact on the character or appearance of the landscape and where it can be seen it represents a small element in the landscape. From my own observations I have no reason to disagree with this conclusion.

13. In close range views, however, the Inspector concluded that particularly from the west where, despite its small scale the turbine presents a prominent feature in the landscape, exacerbated by its dynamic nature as opposed to the static telecommunications mast nearby and by the physical separation from Lask Edge Farm. The Inspector continued by stating that in several close views along Lask Edge Road the turbine is seen in combination with the telecommunications mast and a line of telegraph poles. In all these views he considered that by its dynamic nature the turbine resulted in visual confusion compromising the characteristics of the landscape with a moderate adverse landscape and visual impact.
14. Again, my own observations on the site visit led me to concur with the conclusions of the previous Inspector. Whilst a reduction in height by some 3m might provide some mitigation, it would not remove the harm in its entirety, with significant landscape harm remaining.
15. I therefore consider that the turbine, whether at its current height of some 17.75m to blade tip or reduced in height by some 3m, would cause significant harm to the landscape in conflict with Staffordshire Moorlands Core Strategy (as amended) Policies DC3, SS1, SO8 and SO9 which seek to protect and promote local distinctiveness; and to protect and improve the character of the countryside and its landscape.

The Green Belt

16. The National Planning Policy Framework (the Framework) makes clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt, and any other harm, is clearly outweighed by other considerations.
17. The Framework at paragraph 79 states that openness is one of the most important attributes of the Green Belt. In this respect the term openness refers to a lack of development and not exclusively to a lack of visibility. Whilst the landscape remains visible the wind turbine represents development which in itself reduces openness and, in addition, it interrupts visibility by an engineered dynamic structure. Nevertheless, I agree with the previous Inspector that the harm to openness is minor given the small scale of the turbine.
18. One of the five purposes of including land in the Green Belt is to assist in safeguarding the countryside from encroachment. Whilst the footprint of the turbine is small and the degree of encroachment limited, the turbine is a conspicuous engineered structure in an otherwise open field, particularly with its rotating blades. This results in the encroachment into the countryside appearing greater than would be the case with a static structure. Therefore, the turbine conflicts, albeit to a minor degree, with one of the key purposes of including land in the Green Belt.

Other Matters

19. Local objectors raised a number of other issues and/or asked for submissions made at the redetermination stage to be taken into account. These issues related to biodiversity, public safety, risk to horses and riders, and living conditions including shadow flicker and health effects. The Inspector considering the redetermination appeal considered all of these matters in detail and concluded that there was nothing of substance to them or that fears were unfounded. No new evidence has been submitted to cause me to depart from that conclusion.

Other Considerations

20. The tackling of the effects of climate change is a key Government policy. The Framework recognises that even small scale renewable energy schemes can make a valuable contribution to the imperative of reducing greenhouse gas emissions. The turbine is intended to produce some 17,000kWh per annum of electricity with an annual reduction of some 7 tonnes of CO₂ although these figures might be reduced slightly were the height of the rotor reduced by around 3m. Although the individual contribution of this small turbine is slight, in combination with other schemes the turbine has a significant role in offsetting the adverse effects of climate change. I attach significant weight to this benefit in favour of the appeal.
21. The appellant states that the annual electricity consumption of Lask Edge Farm in 2014 was 11.69 MW (*sic*)[MWh] plus 3.44MWh which was provided by an existing solar array. It has been suggested that the electrical demands of the premises could be met by the introduction of further solar panels which would be less harmful to the Green Belt. However, the appellant argues that even by doubling the extent of solar generation the needs could not be met.
22. The appellant aims to make the premises as carbon neutral as possible in terms of electricity and heating and to that extent has introduced a biomass pellet boiler for heating. This uses on average some 12 tonnes of energy to heat the house with an estimated 58MWh (heat). The original farmhouse at Lask Edge Farm is being converted to ancillary accommodation which the appellant suggests will use an estimated 4MWh of electricity and 14MWh (heat).
23. The appellant's figures indicate that the total electricity demand of Lask Edge Farm and the ancillary accommodation could be met by the wind turbine with the majority of the heating demand met by the biomass pellet boiler. This is a consideration of some weight in favour of the appeal proposal.

The Green Belt Balance

24. The benefits of the scheme in respect of the reduction in greenhouse gas emissions and the maximisation of renewable energy means of meeting the total demands of Lask Edge Farm carry significant weight. Nevertheless the harm by virtue of inappropriate development is substantial, added to which is the limited Green Belt harm in respect of loss of openness and harm relating to one of the key purposes of including land in the Green Belt. To this harm must be added the identified harm to the character of the landscape in conflict with development plan policy. I conclude that the benefits of the scheme, considered in their totality, do not clearly outweigh the harm to the Green Belt,

and other harm, so as to justify the scheme, whether as existing or reduced in height by some 3m, on the basis of 'very special circumstances'.

25. For the above reasons, and taking account of all material planning considerations raised, both appeals on both Ground (a) and Ground (f) are dismissed.

Andrew Hammond

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Chris Scott
Mr R Duncan

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ben Hurst, Staffordshire Moorlands District Council
Mr Arne David Swithenbank , Staffordshire Moorlands District Council

INTERESTED PERSONS:

Mr Roger Carter
Mr Hal Wilson
Mrs Lesley Roberts
Cllr John Jones
John Steele
Barbara Turnock
Kathryn Turnock
Mrs Freda Nadin