
Appeal Decision

Site visit made on 27 September 2016

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 02 March 2017

Appeal Ref: APP/D0840/W/16/3145697

Villaton Farm, Boyton, Launceston PL15 8NT

- 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 Harold Mcanlis against the decision of Cornwall Council.
 - The application Ref. PA15/05525, dated 15 June 2015, was refused by notice dated 14 October 2015.
 - The development proposed is the installation of 1 x 5kW small wind turbine (R9000) on a 15m tower.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of 1 x 5kW small wind turbine (R9000) on a 15m tower at Villaton Farm, Boyton, Launceston PL15 8NT in accordance with the terms of the application, Ref. PA15/05525, dated 15 June 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 6384_P0013_01: Location Plan; Un-numbered: Access Route; and 0140-AD-00281: 15m Hutchinson Ram Tower Outline.
 - 3) No development shall take place until details of the coloured finish(es) of the wind turbine and tower have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
 - 4) The wind turbine hereby permitted shall be removed from the site and the land restored to its former condition within 12 months of any period of non-use of the wind turbine exceeding 6 months.
 - 5) The noise emission from the wind turbine when operating in isolation shall not exceed the predicted integer sound pressure level LAeq,T whn calculated in accordance with Equation A.2 in the BWEA Small Wind Turbine Performance and Safety Standard 29 [February 2008] (that is basic hemispherical sound propagation) using the noise label sound power level LWd,8m/s, at the curtilage of any noise-sensitive premises lawfully existing at the date of this permission at wind speeds up to and including 8m/s at rotor centre height. Sound limits at noise sensitive properties include: 'Meadowside' (National Grid Reference 228810, 094734) – 33dB(A) and (the financially involved) Villaton Farm (National Grid Reference 228874, 094497) – 38dB(A).

Main Issue

2. The Council refused planning permission for the proposed development because: *It is considered that the proposal is contrary to planning guidance contained in the Ministerial Written Statement issued on the 18th June 2015 and paragraph 14 of the National Planning Practice Guidance 2015 by reason that the proposal does not have the support of the affected community and their concern in respect of landscape harm cannot be fully addressed.*
3. After the site visit took place, on 22 November 2016, to be exact, the Council adopted the Cornwall Local Plan: Strategic Policies 2010-2030¹. In their submissions on how this affected their case, the Council suggest that the adverse impact on the landscape, coupled with the lack of support from the local community, outweigh the benefits of the proposal. Unsurprisingly, the appellant takes a rather different view.
4. With all that in mind, it appears to me that the main issue in this case involves an assessment of any harm the proposal would cause to the landscape, set against the benefits it would bring forward. Importantly, that assessment needs to take place in the context of the development plan, and the National Planning Policy Framework², as well as the Written Ministerial Statement of 18 June 2015³.

Reasons

5. Starting with the development plan, CLP Policy 1 echoes the National Planning Policy Framework in seeking to promote sustainable forms of development.
6. CLP Policy 2 sets out the spatial strategy which is to maintain the dispersed development pattern of Cornwall with strategic growth in the main towns and cities. Otherwise, proposals are required to protect and enhance, amongst other things, quality of place. A range of renewable and low carbon technologies are encouraged to provide solutions to current and future needs.
7. CLP Policy 14 deals specifically with renewable and low-carbon energy and has a number of strands. The first supports the production of renewable energy where of relevance to wind turbines and this particular case, they are within an area allocated by Neighbourhood Plans. The proposal is not in such an area.
8. Strand 2 supports renewable energy developments that are led by or meet the needs of local communities, and create opportunities for co-location of energy producers with energy users. The proposal is intended to serve Villaton Farm and as such, draws support from this strand. Notwithstanding that, strand 3 says that when considering such proposals, regard will be had to the wider benefits of providing energy from renewable sources, as well as the potential effects on the local environment, including any cumulative impact.
9. That brings into play CLP Policy 23 which relates to the natural environment. Under this policy, development proposals need to sustain local distinctiveness and character. In the Cornish landscape generally, development should be of an appropriate scale, mass and design, recognising and respecting landscape character.

¹ Referred to hereafter as CLP

² Referred to hereafter as the Framework

³ Referred to hereafter as the WMS

10. In terms of landscape impact, the single point the Council raise against the proposal, the appeal site is on farmland within an open, exposed plateau. Unlike the existing, much larger, wind turbines nearby, the wind turbine proposed is relatively limited in scale and it would be seen in most views towards it in the context of a substantial complex of farm buildings. For those reasons, it would be seen as a simple, functional adjunct to the prevailing farming operation. It would cause no significant harm to the landscape and there would be no harmful cumulative impact.
11. On that overall basis, there would be no departure from CLP Policy 23. Given that the proposal would bring forward benefits through the generation of renewable energy for the farming operation, it draws support from strands 2 and 3 of CLP Policy 14 and complies, therefore, with CLP Policies 2 and 1, and the development plan as a whole.
12. In terms of the Framework, we are told in paragraph 98 that decision-makers should not require applicants for energy development to demonstrate the overall need for renewable or low-carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. In simple terms, an application should be approved⁴ if its impacts are (or can be made) acceptable. On my analysis, the proposal complies with that requirement and accords, therefore, with the Framework which we are told sets out the Government's planning policies for England and how these are expected to be applied⁵.
13. That brings me on to the WMS which is, of course, a material consideration. For proposals like that at issue in this appeal, where the transitional provisions apply, we are told that local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities, and therefore has their backing.
14. The Council rejected the originating application because objections had been received and concerns about landscape harm could not be fully addressed.
15. Leaving aside the fact that the WMS does not require planning impacts to be *fully* addressed, the fact that objections remain to the proposal means that it cannot be said to comply with the transitional provisions of the WMS. However, for the reasons I have set out, the landscape harm caused by the proposal would be very limited indeed. Moreover, most of the objections at application and appeal stages come from residents of settlements a considerable distance from the appeal site from where, having visited in the course of my site visit, the wind turbine proposed would be barely, if at all, visible.
16. In that context, I do not regard the failure of the proposal to comply with the requirements of the WMS as a material consideration of sufficient weight to justify setting aside the fact that it accords with the development plan, and the Framework.
17. On that basis, mindful of the operation of s.38(6) of the Planning Compulsory Purchase Act 2004 (as amended), I am of the view that planning permission ought to be granted for the proposal, subject to conditions.

⁴ Unless material considerations indicate otherwise

⁵ Paragraph 1 of the Framework

Conditions

18. Standard conditions relating to commencement and the approved plans are clearly necessary as is another to deal with coloured finish(es) and to secure removal when no longer in use.
19. A condition specifying the height of the wind turbine is not required as this is clearly shown on the relevant plan. Similarly, a condition requiring a Construction Phase Traffic Management Plan would be an unnecessary imposition for a wind turbine of the relatively small scale proposed.
20. A condition to deal with noise is necessary but that suggested seems to me over complicated for a wind turbine of the nature and scale proposed. All that is required is for a noise limit to be set at relevant properties in the spirit of the simplified condition set out in ETSU-R-97.

Conclusion

21. For the reasons given above I conclude that the appeal should be allowed.

Paul Griffiths

INSPECTOR