
Appeal Decision

Hearing days on 20 September and 9 November 2016

Site visit made on 20 September 2016

by B.Hellier BA(Hons) MRTPI

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

Decision date: 20 March 2017

Appeal Ref: APP/R2330/W/16/3148861

Windy Harbour Farm, Kings Highway, Accrington, Lancashire, BB5 5UX

- 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 DC21 Group against the decision of Hyndburn Borough Council.
 - The application Ref11/15/0126 dated 20 March 2015, was refused by notice dated 22 October 2015.
 - The development proposed is the erection of 2 Endurance X-33 wind s, 31m to hub and 47m to blade tip.
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Decision

1. The appeal is dismissed.

Main issues

2. I consider the main issues are:
 - the effect of the two turbines in isolation and cumulatively with other turbine developments on the character and appearance of the surrounding area;
 - the effect on aviation safety with particular regard to the Warton radar system; and
 - whether any harm identified would outweigh considerations favouring the proposal, including the benefits associated with renewable energy.

Procedural matter

3. The reason for refusal relating to radar referred to the impact on the Warton (MOD), Prestwick and St Annes (NATS¹) radars. Subsequently the appellant has agreed mitigation with NATS for Prestwick and St Annes which could be secured by condition and which overcomes the NATS objection.

Reasons

Planning policy

4. The development plan includes the Core Strategy (CS)². Policy Env5 supports renewable energy development subject to a number of criteria, including the landscape impact of the proposal individually and cumulatively. CS Policy Env3

¹ NATS is the main air navigation service provider in the UK

² Hyndburn Borough Council Local Development Framework *The Core Strategy* Adopted January 2012

expects development to be appropriate to the landscape character type within which it is situated. It should seek to enhance or conserve landscape character. Development on the upper slopes of prominent hillsides should be resisted and the impact on prominent ridge and summit lines should be minimised.

5. Government policy is to support the development of renewable energy sources, including wind power, to help to ensure a secure energy supply and to reduce greenhouse gas emissions. European Union Directive 2009/28/EC commits the UK to a legally binding target to achieve 15% of all energy generated from renewable resources by 2020. The National Planning Policy Framework (NPPF) advises that an application for renewable energy should normally be approved if its impacts are, or can be made, acceptable (paragraph 98). However it should be assessed against the NPPF objective of achieving sustainable development as a whole which includes the need to recognise the intrinsic character and beauty of the countryside. I consider CS Policies Env3 and Env5 generally accord with the NPPF and should be given full weight.
6. In considering aviation safety the NPPF says that consideration of wind turbine proposals should follow the approach set out in the National Policy Statement for Renewable Energy Infrastructure (EN-3) and the Overarching National Policy Statement for Energy Infrastructure (EN-1). Wind turbines may cause false returns when built in line of site to radar installations. Where, after reasonable mitigation or operational changes have been proposed, development would significantly impede or compromise the safe and effective use of defence assets or impact on the safe and efficient provision of en route traffic control services for civil aviation, then consent should not be granted¹.

Character and appearance

Landscape effect

7. To the east of Accrington and the A56 is an area of upland, generally between 350m and 400m high, forming a broad ridge between the Calder and Irwell valleys to the north and south respectively. At 409m Great Hameldon is the highest point and the most northerly. This hill rises steeply from the Calder valley and from the west where there is an initial steepening to Moleside Moor and then to a small plateau at about 330m, before a second rise to the summit. From the north and west this forms a marked step on the skyline.
8. The two proposed turbines would be situated on this plateau on adjacent enclosures of rough grazing at 328m and 333m AOD just below the open moors of Great Hameldon. There is a grassed over/abandoned reservoir and building foundations nearby. To the north is Windy Harbour farmhouse and outbuildings and, at a slightly lower level, a high voltage transmission line following the contours. Beyond the farm, out of sight, are quarry workings on the north face of the hill. There is a well-formed track, the Kings Highway, traversing the hillside and a network of public footpaths.
9. To the west are the outskirts of Huncoat and Accrington and to the north there are wide views over the settlements of the Calder valley against the distant backdrop of Pendle Hill. From the east the turbines would be tucked down below Great Hameldon and would not be seen.

¹ EN-1: Paragraphs 5.4.7 and 5.4.17

10. A local authority sponsored report by Julie Martin Associates (JMA) gives guidance on landscape capacity¹. The appeal site lies within the *Enclosed Uplands* landscape character type (LCT). This is a non-designated landscape which the capacity study describes as having: an open, expansive scale; relatively low landscape quality; and a reduced sense of wildness and tranquillity. On this assessment it is given a generic moderate to low sensitivity rating. However the JMA report notes that the northern edge of the LCT forms a sensitive skyline that is part of the eastern setting to Accrington. Turbines on the appeal site would be seen on this skyline. Taking this into account I consider the sensitivity of the location to be at least moderate.
11. On the appeal site, whilst there is evidence of past quarrying/industrial activity, the landscape is reverting to a natural appearance. There is a degree of solitude which is missing from LCT locations closer to the A56 corridor. The stepped profile of Great Hameldon is a distinctive and prominent landscape feature. The introduction of the turbines would be at odds with these characteristics and would give rise to a significant adverse landscape effect.

Visual effect

12. At close quarters the turbines would inevitably be intrusive to users of the Kings Highway, a bridleway, and the surrounding footpath network. The footpath alongside the turbines provides a route up Great Hameldon from the west. Two long distance recreational routes pass over the moors, the Burnley Way and the Rossendale Way. From the Rossendale Way there would be skyline views from Higher Whins. The Burnley Way follows a route to the east of Great Hameldon which would hide the turbines but further to the north they would be seen on the skyline from Shuttleworth Hall. Boat users and walkers following the Leeds and Liverpool Canal would have a similar view.
13. There are notable medium distance views² from the formal viewpoints at Huncoat War Memorial and from the trig point and memorial in Peel Park. From both locations the principal panorama is to the west and north but the easterly aspect looking up to Great Hameldon is also impressive. The turbines would be prominent and intrusive. The photomontages in the submitted landscape and visual impact assessment do not include western viewpoints but my assessment is that the turbines would be seen against the sky.
14. The submitted ZTV³ shows that much of Padiham, Altham, Clayton-le-Moors and the higher parts of Accrington, all within 5km of the appeal site, have longer distance views of the site. In practice within the built up area open views towards the hills are limited and tend to be from open spaces⁴ and from smaller clusters of development at Green Haworth and Bedlam. From this distance the turbines would be smaller landscape elements but would nonetheless be seen breaking above the skyline.
15. Having regard to the sensitivity of walkers, riders and recreational users I consider the effect of near and medium distance views would be of major/moderate significance with a more limited effect on longer views from

¹ *Landscape Capacity Study for Wind Energy Developments in the South Pennines* Julie Martin Associates. January 2010

² Between 1km and 2.5km from the appeal site

³ Zone of Theoretical Visibility. Takes account of topography but not building and vegetation.

⁴ For instance Bullough Park, Oakhill Park and Baxenden Golf Course

the north and from the open spaces and higher parts of Accrington. Overall this would give rise to significant visual harm.

Cumulative effects

16. On the western side of the Great Hameldon ridge there is an existing turbine at Hen Heads (47m) and a consented turbine at Mitchells House (68m) both within 2km of the appeal site. They are/will be seen in views from the west together with the telecommunications masts on Hameldon Hill. The appeal development would add to and extend skyline clutter. To the east of the divide Hameldon Hill windfarm (3 x 91m and 3 x 110m) and the Higher Micklethwaite Farm (1 x 67m) turbine would be seen in combination with the proposal from the north and there would also be sequential views travelling along the M65 and A679 Burnley to Accrington road.
17. The Council does not raise cumulative harm as an issue. However I consider there would be a cumulative effect on the skyline of the upland mass which would be to the detriment of both the character of the LCA and to local views. Whilst it would not result in a totally new landscape it would further erode existing landscape character.

Conclusion on character and appearance

18. The upland area provides the eastern setting of Accrington, physically and visually defining its influence. It is a sweeping landscape with a strong skyline terminating with the stepped profile of Great Hameldon. From many points the turbines would appear above this skyline and this would be intrusive in near and medium distance views particularly in association with other turbine developments. I consider considerable weight should be given to the landscape harm this would cause.

Radar impact.

19. The site lies some 37km from the radar system at Warton airfield operated by BAE Systems for the Ministry of Defence (MOD). Both the MOD and the appellant were represented by radar specialists.
20. Warton is principally a production and testing centre for military aircraft and is also used for other military and private civilian flights. In addition to supporting airfield traffic the radar provides a LARS (Lower Airspace Radar Service) to pilots in uncontrolled airspace, the highest level of service being a deconfliction service advising on measures necessary to maintain safe distances to any other aircraft/hazards in the vicinity. In uncontrolled airspace pilots may be flying under VFR (visual flight rules) rather than relying on instruments. There is no obligation to use LARS, although many do, and LARS is only available during the working day.
21. Above the appeal site controlled airspace starts at 3,500 feet and just to the north the ceiling rises to 4,500 feet. Aircraft coming into Warton would, at this point, be dropping out of controlled airspace. In particular, the site lies close to the direct arrival route from Pole Hill to Runway 25 in an area where the radar controller provides navigational advice to ensure pilots become safely established on the instrument landing system. Any other aircraft within 5 miles would be treated as a hazard and would be likely to require avoiding instructions. The concern of the MOD is that the radar would record the turbines as false aircraft plots. Whilst in isolation it accepts this would not be

unsafe, a proliferation of turbines (and false aircraft returns) such as this would gradually reduce safety margins. The returns could be avoided by desensitising the radar in this location but the more the system is desensitised the less effective it is.

22. The appellant commissioned readings of the signal strength of the Warton radar beam at the appeal site and also carried out a theoretical assessment. It was concluded in both cases that the power received back by the radar from the turbines would be less than its best MDS (minimum discernable signal). It simply would not register the signal. Conversely the technical assessment carried out by the MOD concludes that the returns from the turbines would be visible to the Warton radar.
23. It was agreed that if the signal strength allows for detection then the two turbines in isolation would be close enough to each other for the radar to treat them, correctly, as a static features. However the radar would also assess the signal in association with other signals received, including those from the cluster of turbines on the flank of Hameldon Hill some 2km to the east. The MOD assessment concludes that, having regard to the speed of the rotating blades in the two locations and the separation distance, the signals would be likely to track as an aircraft.
24. The MOD has not made available the parameters/inputs under which its software was run. An FOI request from the appellant for background information is being dealt separately but not in a timescale to assist me. The lack of shared information means that the appellant has to make assumptions about the performance characteristics of the particular radar system at Warton. Consequently the values given to some of the inputs may be questioned, including the impact of tilt and the reflectivity of the turbine. The turbines would be in line of sight of the radar. Having regard to this and the many interacting factors affecting radar returns I consider a proper precautionary stance is to assume that there would be a readable signal from the turbines.
25. It does not follow that the turbines would give rise to false aircraft plots. On their own it is agreed that they would not. The nearby Hameldon turbines are in the eastern shadow of the hill and they currently only give occasional returns to the Warton radar. What information there is indicates that it is large wind farms such as those at Scout Moor and Oswaldtwistle Moor that sometimes cause false plots rather than single turbines.
26. In this instance it is conceivable that the appeal turbines and Hameldon Hill turbines would act, in radar terms, as a windfarm with the risk of additional false returns. Any such returns would add to the complexity of the approach of an aircraft coming in to Warton. Every extra hazard, real or appearing to be real, increases risk. In these circumstances the risk would be small and operationally manageable but there would nonetheless be a small adverse effect on aviation safety and on the effective operation of the Warton radar to which I give moderate weight.
27. I was shown a number of examples of wind turbine applications where the MOD had objected and then, when its views were challenged on appeal, undertaken detailed assessments and then withdrawn its objection. For instance the approved turbines (3 x 46m) at Carr Hall are closer to Warton than the appeal site but the MOD eventually acknowledged that the radar would read them as a single feature with no nearby turbines to create false plots. Whilst this two

stage approach is not helpful for applicants the fact is that the MOD only maintains an objection in a relatively few cases. It is not a reason to ignore an objection when it is sustained.

The planning balance

28. The proposed development would provide some 1,230MWh of electricity per annum. This equates to the usage of 300 typical homes and would result in a saving of 760 tonnes of CO₂ each year. Whilst this energy output would be modest the NPPF recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. In addition income from the development would support the viability of the existing Windy Harbour Farm holding. I give significant weight to these benefits.
29. Against this the proposed turbines in this location, both individually and cumulatively, would give rise to considerable harm to the character and appearance of the countryside on the eastern fringe of Accrington which would clearly outweigh the benefits. In addition the moderate adverse impact on aviation safety adds further weight against the proposal although on its own it would not have been determinative. As a result of these environmental and social impacts the proposal would not be sustainable development. It would conflict with the provisions of CS Policies Env-3 and Env-5 and would be contrary to the development plan as a whole. Since the impacts are not acceptable and cannot be made acceptable paragraph 98 of the NPPF indicates that the appeal should fail.

Conclusion

30. For the reasons given above and having regard to all matters before me I conclude that the appeal should be dismissed.

Bern Hellier

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Charles Ashton	DC21
Mr Matthew Tidmarsh	DC21
Mr Terry Cook	Buccaneer Consulting Limited

FOR THE LOCAL PLANNING AUTHORITY:

Ms Elizabeth Johnson	Principal Planning Officer
Mr Alec Hickey	Planning Officer

MINISTRY OF DEFENCE:

Ms Kate Williamson	BAE Systems (Flight Control Manager)
Mr Ed Nixon	BAE Systems
Mr Desmond Egan	Defence Infrastructure Organisation
Mr Steve Speke	MOD radar/communications

DOCUMENTS

- 1 Landscape Capacity Study for Wind Energy Developments in the South Pennines. January 2010
- 2 Updated LVIA Viewpoint 4
- 3 Map showing public rights of way
- 4 Map showing turbine applications in Hyndburn
- 5 Sector Map showing coverage of a return to Warton radar from a turbine of the scale proposed
- 6 Amended list of suggested conditions from the Council