

Appeal Decision

Site visit made on 31 May 2017

by A Jordan BA Hons MRTPI

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

Decision date: 27 June 2017

Appeal Ref: APP/A4710/W/16/3162646

Lower Hazelhurst Farm, Withens Road, Cold Edge Road, Wainstalls, Halifax, HX2 7UA

- 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 Brian Curran against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref 15/01619/FUL, dated 12 December 2015, was refused by notice dated 13 May 2016.
 - The development proposed is wind turbine 30.5m hub height, 35m diameter rotor with 48m tip height with associated substation.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Brian Curran against Calderdale Metropolitan Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy, and whether it would impact upon the openness of the Green Belt;
 - The effect of the proposal on the visual amenity and the landscape character of the area;
 - The effect of the proposal on the living conditions of residential occupiers;
 - The effects of the proposal on protected species; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
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Policies

4. The Development Plan for the area is made up of saved policies from the *Replacement Calderdale Unitary Development Plan* (UDP). Policy GNE1 seeks to ensure that development is restrained within the Green Belt. Policy BE1 aims to ensure that development proposals make a positive contribution to the quality of the existing environment. Policy NE12 states that within the Special Landscape Area development which would adversely affect landscape quality will not be permitted.
5. Policies EP28 and EP30 support proposals for the generation of renewable energy including wind power developments, provided the environmental benefits of the scheme outweigh any adverse impact and the development would not cause significant harm to the visual quality or character of the landscape or designated sites of nature conservation value. The policies also seek to ensure that such proposals do not detrimentally affect the amenity of local residents.
6. Policy NE16 advises that the habitats of rare or threatened wildlife species, and the species themselves, will be protected. Where development is permitted, conditions or planning obligations will be used to minimise disturbance, including providing new or replacement habitats where necessary.
7. The Framework seeks to support the transition to a low carbon future in a changing climate and encourage the use of renewable resources. It encourages local planning authorities to provide a positive strategy to promote energy from renewable and low carbon sources and to increase its use and supply. Footnote 17 of the Framework advises that in assessing the likely impact of potential wind energy development, regard should be had to the National Policy Statement for Renewable Energy Infrastructure. Amongst other things, this, in effect, emphasises the role onshore wind generation can play in the Government's strategy for meeting the legally binding target of reducing UK greenhouse gas emissions, as well as achieving the UK's obligation of 15% of energy consumption from renewable energy resources by 2020.
8. The Framework also requires account to be taken of the different roles and character of areas and to recognise the intrinsic character and beauty of the countryside. I have also taken into account the Ministerial Statement of 6 June 2013 and the Planning Practice Guidance (PPG). These advise that the cumulative impact of wind turbines should be taken into account and the need for renewable energy does not automatically override environmental protection or the planning concerns of local communities.

Reasons

The Benefits

9. The appellant predicts that the proposal would generate an estimated 856,000kW annually which is sufficient to power the equivalent of 204 average homes. This would help reduce carbon emissions saving 423 tonnes of carbon every year, reduce energy costs and reduce the applicant's reliance on fossil fuel. The proposal would also provide a secure electricity supply for the national grid with surplus to feed the host property. In doing so it would help reduce the carbon footprints of both farm and the applicant's off-site haulage business. I am also advised that the proposal would create the equivalent of

11.5 new jobs (where 1 job is equivalent to 50 person weeks) over its lifetime through its manufacture, construction and maintenance, which could support research and investment into the UK renewable energy sector. These benefits carry considerable weight.

10. The appellant has also advised that the proposal would generate new income which could be re-invested in his business and property, thereby protecting and creating local jobs and protecting the appearance of the rural landscape. However, I have no substantive evidence that income generated would be invested in this way, and this limits the weight I can attribute to these stated benefits.

Green Belt

11. The Framework outlines in paragraphs 89 and 90 the types of development which are not inappropriate development within Green Belt. The appeal proposal does not comprise development which falls within these categories. It would therefore be inappropriate development which is, by definition, harmful to the Green Belt. Substantial weight must be attributed to such harm.
12. The proposal would have a tower height of some 30.5m and a maximum height to blade tip of 48m. Although the tower would be relatively slender in form, the proposal would nonetheless be of significant size and this would erode the openness in this part of the Green Belt. This would be contrary to Policy GNE1 of the UDP, and paragraph 79 of the Framework which states that openness is an essential characteristic of the Green Belt. The consequent reduction in openness is therefore a matter to which I must also attribute significant weight.

Visual Impact and Character

13. The appeal site lies within an area designated as a Special Landscape Area in the UDP. The South Pennines Wind Energy Landscape Study (Julie Martin) classifies the area around the site as comprising Moorland Fringes/Upland pastures. This is largely made up of open unimproved grassland with some areas of grazing enclosed by drystone walls. Open moorland is punctuated with wooded cloughs. Isolated farmsteads and small clusters of largely traditional buildings are evident in the landscape. Long range views of the conurbations are available from elevated points. The open views and general absence of development mean that the landscape has limited capacity to absorb further development without harm to its character and the Ovenden Moor Windfarm is a significant intrusion in most views in and around the site. Further afield, especially to the east and north, the haphazard proliferation of small and medium scale turbines has had a harmfully erosive effect on the appearance of the rural landscape.
14. The turbine would measure 30.5m to hub with a maximum height to blade tip of 48 m and would be finished in semi-matt light grey colour. It would be located in an open field, a short distance from the existing farmhouse. As part of the proposal the appellant provided a Landscape and Visual Impact Assessment (LVIA) which contains views from 8 viewpoints in the local area and an assessment of the zone of theoretical visibility. I have dealt with these in turn below. The views were agreed with the Council and I am satisfied that the assessment along with my own visual appraisal of the wider area during the site visit are sufficient to determine the likely visual impact of the scheme.

15. Due to its height and elevated position on the hillside the turbine would be very prominently visible in local views, particularly from the south and west. When viewed from Haigh Clough (viewpoint 3) the turbine would dominate views. Although it would be seen within the wider context of Ovenden Wind Farm to the north, its scale and appearance would nonetheless result in it appearing as a prominent feature in its own right in the open landscape. In viewpoints 4 and 5 from Lumb Lane and Hough Cote the existing windfarm would be seen in the background, and due to the relative distances and heights of the structures, the effect would be one of turbines spreading down the hillside. This proliferation would have a harmful erosive effect on the character of the valley in local views. In viewpoint 2 from Knoll Hill, with the existing windfarm to the rear, the proposal would appear as an isolated and prominent feature which, notwithstanding existing man-made intrusion, would have a significant adverse effect on local landscape.
16. Because of to the topography of the valley, the turbine would be less prominent in midrange and long views. From Ogden Reservoir (viewpoint 7) the LVIA shows the turbine as a small isolated feature breaking the ridgeline. On the day of my visit, which was conducted on a clear sunny day with excellent visibility, long distance views of turbines to the south west were available in shared views. Ovenden Wind Farm was also visible in wider views. The proposal would not be a prominent feature but would be distinct from these existing clusters and so would increase the spread of turbines in the landscape. This effect would also be evident from viewpoint 6, Spoil Hill, where the viewer would also be conscious of the proliferation of turbines to the north and east. From Haigh House Lane, (viewpoint 1), the turbine would break the skyline and would appear as a separate feature to Ovenden Wind Farm. Therefore, whilst the turbine would not be prominent in these vistas and would be partly offset by existing features, it would add to the erosive effect of turbines in the landscape. This would cause cumulative harm to landscape character.
17. In local views the visual impact of a turbine of the scale and location proposed would be significantly harmful. This effect would be reduced in medium and longer range views by the significant number of other turbines visible in the landscape. As a result the proposal would be contrary to Policies EP28 and EP30 of the UDP. The harm identified would be temporary and reversible but would nevertheless be in place for a significant period of time. This harm weighs against an approval in the planning balance.

Living Conditions

18. Local residents have expressed concern in relation to the effects of the proposal on the living conditions of some adjoining properties. During the site visit I was able to view the site from Spring Terrace which is situated around 300m downhill from the proposed turbine. When viewed from within the modest gardens to the rear of the properties the turbine would be an imposing feature which would dominate views in that direction. From Haigh Court Barn the proposal would be a very intrusive presence in views from all the main rooms to the rear of the property, which currently enjoy an open and generally unspoilt outlook. However, taking into account the distance from the proposed turbine and the wider views available from these properties, I am satisfied that whilst the development would severely diminish the quality of the views available from these properties, it would not be so dominant as to result in

these properties being unpleasant or unattractive places to live. In this regard, although I concur that the proposal would be harmful to the character and appearance of the area, as outlined above, it would not be harmful to living conditions.

19. The proposal is accompanied by a Shadow Flicker analysis. This shows that only 2 properties, Upper Hazelhurst Farm and Lower Hazelhurst Farm would fall within the zone of effect. I note the concerns of some nearby residents in relation to shadow flicker. However, I am satisfied with the appellant's appraisal that based on a standard assessment of 10 times the rotor diameter within 130 degrees of north, none of the neighbouring properties identified would be likely to suffer any adverse effects in this regard. Local residents have also raised concerns in relation to noise and the impacts of construction. Having regard to the submitted noise assessment and the potential for managing the effects of construction, I am satisfied that any potential effects in these regards could be mitigated by measures secured through planning conditions. The effect of the proposal on living conditions is therefore a neutral factor in the planning balance.

Protected Species

20. The site lies around 500m from the *South Pennine Moors Site of Special Scientific Interest (SSSI)* which is part of the *South Pennines Special Protection Area (SPA)*. In order to mitigate any potential effects on protected habitat the appellant has advised that an area of land within an adjoining property, Moorlands Farm, is to be managed as a habitat for some protected species of birds. Natural England is satisfied that these measures, outlined in paragraph 1.1.2.5 of the submitted Ecological Assessment, would mitigate any adverse effects of the proposal in relation to protected habitat.
21. The appellant has advised that the landowner has agreed to the management of this land through the duration of the operational life of the turbine. However, I have not been provided with a copy of this agreement and so cannot be assured that it would fulfil the purposes proposed or bind successors in title. In this regard, based on the information before me I am unable to conclude that the proposal would adequately mitigate against any potential effects on protected habitat or species. This weighs against the proposal in the planning balance.

Other Matters

22. The proposal has been the subject of significant local interest. I note the responses in support of the proposal and the greater number of responses opposing the development, including the comments of Craig Whittaker MP. I have found harm in relation to the impact on local landscape, and the potential effect of the proposal on protected species which were matters of concern for a number of those who responded. It therefore follows that the proposed scheme would not meet the transitional arrangements set out in the Written Ministerial Statement of 18 June 2015 and this also weighs against the proposal in the planning balance.
23. I note the comments received from Leeds Bradford Airport, which has removed their original objection to the proposal. I therefore have no basis for concluding that the proposal would harm aviation interests and this matter is a neutral factor in the planning balance.

24. I also note that Lumb Mill, a Grade II* Listed Building lies around 2 kilometres south of the turbine. The building lies along the beck below the level of the road and so is largely hidden from the road. Whilst it is possible that the turbine will be visible in shared long range views, such views would also be likely to encompass other existing turbines in the landscape. As such the proposal would have a neutral effect on the setting of the listed building and so would preserve the significance of the heritage asset. This is a neutral factor in the planning balance.

The Balancing Exercise

25. The proposal would harm the Green Belt by way of inappropriateness and also through a reduction in openness and would conflict with policy GNE1 of the UDP. There would also be a further moderately harmful cumulative effect on the character of the surrounding landscape and a more direct and detrimental impact on visual amenity in local views in conflict with policy NE12 of the UDP. The proposal also fails to demonstrate that it would provide acceptable mitigation for protected species contrary to policy NE16 of the UDP.
26. Paragraph 88 of the Framework requires that substantial weight be attached to any harm to the Green Belt. Although Paragraph 91 of the Framework accepts that the wider environmental benefits associated with increased production of energy from renewable sources can provide the very special circumstances needed to outweigh Green Belt and any other harm, this harm must be clearly outweighed by other considerations.
27. The proposal would generate electricity from a renewable resource estimated at 856,000kW annually which would increase the security of supply. It would also bring some economic benefits through employment in renewable technologies and assist in contributing to the appellant's income and so the viability of his business.
28. When considered together, the harm to the Green Belt and the visual impact of the proposal would not be clearly outweighed by the benefits of the scheme. These matters are in themselves determinative. I add to this the consideration that some of these planning impacts were identified by the local community and have not been addressed. Accordingly, the proposal would not comply with the transitional arrangements set out in the Written Ministerial Statement of 18 June 2015. Furthermore, the proposal fails to demonstrate that the potential effects on protected species would be appropriately mitigated.
29. Very special circumstances therefore do not exist and the proposal would conflict with UDP policies GNE1, NE12 and NE16 of the UDP and national policy outlined within the Framework. The proposal would not comprise sustainable development. Therefore, for the reasons given above, and having regard to all other matters raised, the appeal is dismissed,

Anne Jordan

INSPECTOR