
Appeal Decision

Site visit made on 4 August 2020

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 10th August 2020

Appeal Ref: APP/G2713/W/20/3246847

Land at The Old Mill, Hornby, North Yorkshire DL6 2JH

- 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 PJ and Mrs VA Nightingale against the decision of Hambleton District Council.
 - The application Ref: 17/00313/FUL, dated 7 February 2017, was refused by notice dated 20 November 2019.
 - The development proposed is the erection of a 6KW wind turbine with a hub height of 15m and height to blade tip of 17.8m..
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Preliminary Matters

1. The description of development noted above is a brief summary of the information submitted on the application form and elsewhere. It adequately describes the proposal.
2. I have noted that the Appellants have suggested that the proposal should not be treated as a new development as it would be an extension of the existing electricity supply at The Old Mill and, in effect, an extension of that property. However, that cannot be the case. The proposal is a form of development which unarguably falls to be considered as new development and does not benefit from any form of permitted development rights.
3. It has also been suggested that the Written Ministerial Statement (WMS) of 18 June 2015 is not applicable here. In reality that WMS is still extant, though it has been overtaken by the revised National Planning Policy Framework (NPPF) which deals with similar matters. As a later expression of Government policy I give greater weight to the NPPF than to the WMS.
4. The Appellants have pointed out what are said to be inaccuracies in the Council's reporting of this case. Irrespective of that I am satisfied that I have fully understood the proposal. I am required to consider the matter afresh and have carefully considered all the relevant material.
5. I note that the Appellants' home was formerly a wind powered mill, though the actual mill is now partly demolished. However, this historical association does not form any precedent for wind power in this location.

Decision

6. The appeal is dismissed.

Main Issue

7. The main issue in the appeal is whether the benefits of the renewable energy resulting from the proposed development are sufficient to outweigh any harm to the character and appearance of the local landscape or the setting of the Hornby Conservation Area so that it has the backing of the local community.

Reasons

Landscape Character and Appearance

8. Hornby is set in a rural area of very gently undulating landform. The predominant character is that of mixed pasture and arable land, with various field sizes mainly delineated by hedgerows. There are areas of woodland and smaller stands of trees scattered throughout the area. There are also villages and individual farmsteads throughout the locality, Hornby being one such village. Of particular note in the vicinity of the appeal site are the large buildings at Grange Farm to the south, and the pylons and overhead cables which cross the local fields. There are extensive views in some directions depending on intervening vegetation and buildings. It is a pleasant though unremarkable tract of landscape. There is naturally some sensitivity to future development and the level of sensitivity hereabouts is, in my judgement, in the moderate range.
9. The proposed development would change the character of the landscape immediately around it. The open pasture field within which it would stand would become a field with a wind turbine exerting a strong influence on the character of that field. But any such influence would quickly wane with distance. From the village street to the north and from the highway to the east of the village the turbine would be perceived in glimpsed views only, and these would have little impact on the overall character of the area, especially bearing in mind the already strong influence of the pylons crossing nearby.
10. I have no doubt that there would be more distinct views of the turbine available from the southern part of some of the dwellings in Hornby, but these views would be at some distance. It is also apparent that many of those views would be heavily filtered by intervening trees, and that further tree planting on the Appellants' land could further mitigate any impact. There would be clear views from the public footpath to the south, but again at some distance and in the context of the pylons. The fact that the turbine would include the turning blades would tend to draw attention, but its modest height and screening by vegetation from some positions would limit any visual intrusion. Taken in the round it is my judgement that the proposed turbine would have no more than a minor to moderate adverse impact on the character and appearance of the surrounding landscape.

Setting of the Conservation Area

11. My duty under S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area.
12. Hornby is an attractive village with a main street which runs roughly south-west to north-east. The Conservation Area (CA) includes the historic core of the village and is at some distance to the north of the appeal site. Part of the character of the CA derives from its inward looking configuration, with the

properties facing, and relating to, the extensive village green. Whilst there is an undoubted relationship with the surrounding countryside this seems to me to be a more tenuous link. Any historic link to the use of the surrounding land for agricultural purposes is not readily apparent.

13. The wind turbine would be difficult to observe in tandem with the CA from any publicly available viewpoint. When this is added to the level of impact on the character and appearance of the area in general that I have set out above, it is my judgement that there would be no discernible impact on either the character or appearance of the CA. Neither would its setting be affected adversely.

The Planning Balance

14. The starting point is that renewable energy is to be welcomed in order to combat the effects of climate change, as set out in the NPPF. This is a material consideration in favour of the proposal even though it is of modest scale.
15. The development plan in this area includes the Hambleton Local Development Framework Core Strategy (CS) of 2007 and the Hambleton Local Development Framework Development Policies (DP) of 2008. The Council relies on DP Policies DP28, DP30 and DP31 albeit that others are cited as being relevant in the Officer's Report. The NPPF is also an important material consideration.
16. Policy DP28 is consistent with the NPPF in seeking to conserve the historic heritage of the area. However, as will be clear from my findings above I do not find any conflict with this policy in respect of the Hornby Conservation Area.
17. As I have indicated, there would be a minor to moderate adverse impact on the character and appearance of the landscape. This would be in conflict with parts of Policy DP30, though there would be no impact on any designated landscape (such as an Area of Outstanding Natural Beauty) or any important long distance views.
18. It is unclear to me why the Council relies on Policy DP31, as this deals with habitat and species protection, and biodiversity. Local residents have expressed concerns that the wind turbine would adversely affect wildlife such as birds and bats, but there is no substantive evidence here that this would be likely or unacceptable. The site is not designated for any reason related to biodiversity and I am unable to conclude that the proposal would be in conflict with this policy.
19. Turning to the NPPF it is clear in the policy expressed there that the planning system should support a transition to a low carbon future. The Appellant is not required to demonstrate a need for renewable energy, and proposals should be approved where impacts are acceptable (or can be made so). Footnote 49 of the NPPF sets out further policy on wind energy developments and in particular identifies 2 matters which should be satisfied. On the first matter there is no dispute that the proposal is not within an area identified in the development plan as suitable for wind energy. In order to be acceptable it must be also be demonstrated that planning impacts identified by the affected local community have been fully addressed and that the proposal has their backing.
20. The development plan is now of some age and predates the first requirement of NPPF footnote 49. I have not been informed of any impending review of the development plan so it would not be possible for the development to comply

with that requirement. On the second strand of the footnote I have read and understood the objections made by several local residents. However the NPPF does not assist in identifying the local community. Certainly local residents are part of it, but the fact that a number of objections have been made does not necessarily reflect the views of the entire community. Had there been concern amongst the majority I would expect that to be reflected by elected representatives of the Parish or local planning authority. The information before me is that the Parish made no comment on the proposal. At application stage the Council is required to make a judgement on whether the proposal has the backing of the local community and in this case clearly determined that it had no such support.

21. I have dealt with the objections based on landscape and visual impact, the potential effect on wildlife, and the impact on heritage assets above. The remaining principal concern of local residents relates to noise. However, the detail submitted by the Appellants for the candidate turbine at the time of the application indicates that the potential for noise disturbance at any village dwelling is exceedingly small. One further matter concerns pre-application consultation. In this case the size of the scheme means that such consultation by the Applicants was not required.
22. I summarise here my findings on the main issue and the planning balance:
- First, impact on the character and appearance of the area would be adverse and minor to moderate. There is conflict with Policy DP 30;
 - Secondly, there would be no adverse impact on the character or appearance of the Conservation Area, or its setting, and no conflict with the development plan in that respect;
 - It would be impossible for the proposal to be in an area identified for wind energy development in the development plan because of the age of the plan.
 - The objections of some local residents does not necessarily mean that the local community as a whole takes a similar view, but I have no current reliable information on the balance of views overall within the community.
23. This is a finely balanced case. Renewable energy is to be welcomed and in this case it would be achieved with only minor to moderate harm to the landscape, but it would nonetheless be in conflict with the development plan. I have no reason to conclude that there would be unacceptable harm to the CA, to wildlife or any unacceptable noise disturbance. In turn that means that matters of concern as expressed by the local community have been addressed to a degree, but I am not in a position to find that the community as a whole now backs the proposal. In light of the strong policy guidance in footnote 49 of the NPPF I must conclude that for that reason the benefits in this case do not outweigh the harm and therefore the appeal must fail.
24. For the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR