



Appeal Decision

Site Visit made on 19 January 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2021

Appeal Ref: APP/V2635/W/20/3258421

Church Field Farm, West Head Road, Stowbridge, King's Lynn, Norfolk PE34 3NL

- 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 Russell Agriculture against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 19/01191/F, dated 28 June 2019, was refused by notice dated 28 February 2020.
 - The development proposed is relocation of existing 10Kw wind turbine within same field further south.
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Decision

1. The appeal is allowed and planning permission is granted for relocation of existing 10Kw wind turbine within same field further south at Church Field Farm, West Head Road, Stowbridge, King's Lynn, Norfolk PE34 3NL in accordance with the terms of the application, Ref 19/01191/F, dated 28 June 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1059-10 and PL EVO10-15M Revision 2.2.
 - 3) The wind turbine hereby approved shall be maintained in accordance with the manufacturers' recommendations. A log shall be kept of all maintenance and be made available for inspection at the request of an officer of the Council within 28 days of that request. If this requirement is breached, the local planning authority can by notice in writing to the operator or owner require the operation of the wind turbine to cease, either completely or during specified conditions or times.
 - 4) Within six months of the wind turbine ceasing to be used for the generation of electricity, the turbine shall be permanently removed from the land and the site restored in accordance with details to be submitted to and approved in writing by the local planning authority prior to these works being carried out.

Procedural Matter

2. The Procedural Guide Planning Appeals – England states that *only the person who made the planning application can make an appeal*. In this case, the appeal was lodged by Mr D Russell of Russell Agriculture. While that person may be a representative of the company, the appeal cannot technically be

transferred to another person, it must continue in the original name of the applicant. I have therefore considered the appeal on this basis.

Background and Main Issue

3. The appeal site concerns a small part of a largely open field, occupied by two wind turbines previously granted permission by the Council in 2011¹ and 2012². The former is the subject of this appeal and would be moved south of its current position to enable an approved agricultural storage building³ to be erected as an extension to the existing farmyard adjacent.
4. The main issue is the effect of the proposed development on the living conditions of nearby occupiers, in respect of noise.

Reasons

5. The turbine granted permission in 2012 was supported by a noise assessment based on ETSU-R-97⁴ principles. The appellant has provided individual and cumulative noise data for both wind turbines, based on the principles previously accepted by the Council in 2012.
6. I appreciate that the Council's advice on planning applications for wind energy developments has evolved since 2012 and they have produced their own guidance⁵. However, I am conscious that the National Planning Practice Guidance (NPPG)⁶ contains the most up-to-date expression of government policy in respect of wind energy developments. This suggests that ETSU-R-97, including any supplementary guidance to it, should be used by local planning authorities when assessing and rating noise from such development.
7. I have not been provided with any development plan policies which refer to the Council's guidance, nor any compelling evidence to demonstrate why it would not be appropriate for the proposal to be assessed utilising the previously accepted methodology. Moreover, given that both turbines are already in situ within the same field it would be both reasonable and proportionate to utilise the same methodology to calculate the individual and cumulative noise impact of the relocated turbine.
8. The Council suggest that the turbine was approved in 2011 as the noise level would not be more than 5dB over background for all wind speeds up to 10m/s. Based on the previously accepted methodology, the appellant predicts that the noise level for the turbine at nearest receptors would also not exceed the background noise level by more than 5dB, when measured individually or cumulatively with the 2012 turbine.
9. The precise location of the background noise level is not clear but I am mindful that this has been agreed upon by the main parties. I therefore have no reason to doubt that it would be representative of the area, particularly in respect of the predominant wind speeds and directions. With that in mind, the evidence before me does not convince me that the alternative location of the proposal

¹ Planning Reference: 11/01052/F.

² Planning Reference: 12/00380/F.

³ Planning Reference: 19/01153/FM.

⁴ ETSU-R-97: The assessment and rating of noise from wind farms.

⁵ Small Scale Wind Turbines - Shadow Flicker and Noise guidance.

⁶ Paragraph: 015 Reference ID: 5-015-20140306; Revision date: 06 03 2014.

would result in greater disturbance by noise due to the prevailing wind direction.

10. While I do not rule out the possibility that some local occupiers may notice noise from the wind turbines due to the existing background noise levels, I conclude that the effect of disturbance from noise associated with the proposed development would not have a harmful effect on the living conditions of those occupiers. Hence the proposal would accord with the aims in respect of living conditions and renewable energy expressed in Policy CS08 of the Council's Core Strategy (Adopted July 2011), Policy DM15 of the Site Allocations and Development Management Policies Plan (Adopted September 2016) and paragraph 127 of the National Planning Policy Framework (the Framework).
11. I have not found in relation to para 130 of the Framework, as this relates to the design of development and the Council did not identify harm associated with the proposal in this respect.

Other Matters

12. Concerns have been expressed by a third party in relation to the effect of the proposal on their mental and physical health. I accept that the anxiety about health itself can be a material consideration, but I have not been provided with any substantive evidence to demonstrate that there have been or would be any unacceptable health effects experienced by anyone living within the vicinity of the existing or proposed locations of the turbine.

Conditions

13. In addition to the standard time limit for the appeal, in the interests of clarity I have specified the approved plans. In order to safeguard the living conditions of nearest receptors, a condition controlling the maintenance of the turbine, and recording of the same, is reasonable and necessary to ensure it operates correctly in the future. That condition also includes measures to restrict operation of the turbine if these obligations are not correctly complied with.
14. I am also conscious of the guidance in the NPPG in respect of the decommissioning of wind turbines, so a condition is included to ensure that if the turbine ceases to be used for the generation of electricity, it shall be permanently removed from the site within a period of six months. I have also specified that details of site restoration should be agreed with the local planning authority prior to being carried out.

Conclusion

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

Paul Thompson

INSPECTOR