

PLANNING APPEAL DECISIONS

Lead Officer: Tony Pomfret – Development Control Manager

To inform Members of recent appeal decisions at Frizington Road Garage, Frizington and 5 Ellerbeck Barns, Egremont

Recommendation: That the decisions be noted in the context of the Councils local plan policies and in relation to performance monitoring.

Resource Implications: Nil

1.0 SUPPORTING INFORMATION

1.1 Frizington Road Garage, Frizington Road, Frizington

1.1.1 Advertisement Consent was refused for the retrospective display of an illuminated sign on this site in September 2010 on the following grounds:-

"The sign, as displayed, is not directly related to the adjacent business premises or any other local businesses and, as such, constitutes unnecessary commercialism on a prominent site which would be detrimental to the visual amenities of the area at variance with the guidance set out in Planning Policy Guidance (PPG) 19 "Outdoor Advertisement Control."

1.1.2 A recent appeal against this decision has been DISMISSED. The Inspector concurred with the Councils view that the proposed sign would be incongruous by reason of its illumination, its height and its prominent location. She also considered that it would add to the clutter of advertisements on the garage forecourt. Overall she concluded that the proposed sign would have a materially harmful effect on the character and appearance of the surrounding area.

1.1.3 A copy of the Inspectors decision letter is attached.

1.1.4 Following the receipt of the appeal decision the site has been checked and the offending sign has now been removed. This negates any need for enforcement action.

1.2 5 Ellerbeck Barns, Egremont

1.2.1 Planning permission for the erection of a wind turbine on land near to 5 Ellerbeck Barns, Egremont was refused on 24 August 2010 for the following reason:-

"The proposed siting of such a large wind turbine in such a prominent elevated and visually sensitive setting in open countryside which is designated 'Landscape of County Importance', coupled with the potential for noise nuisance to nearby residential properties, is contrary to Policies EGY 1, EGY 2 and ENV 6 of the adopted Copeland Local Plan 2001-2016."

1.2.2 A subsequent appeal against this decision has been DISMISSED. The Inspector concurred with the Councils view that the proposed turbine would be an isolated and prominent feature, incongruous in its immediate surroundings. Overall she concluded that the proposed turbine would have an unacceptable materially harmful effect on the character and appearance of the surrounding rural landscape.

1.2.3 A copy of the Inspectors decision letter is attached.

Contact Officers: **Nick Hayhurst – Senior Planning Officer**
 Heather Morrison – Senior Planning Officer

Background Papers: **Planning application files 4/10/2370/0A1 and 4/10/2051/0F1**



Appeal Decision

Site visit made on 31 January 2011

by **Ruth V MacKenzie BA(Hons) MRTPI**

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

Decision date: 7 February 2011

Appeal Ref: APP/Z0923/H/10/2139626

Frizington Road Garage, Frizington Road, Frizington, Cumbria CA26 3QU

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Matt Swindles against the decision of Copeland Borough Council.
 - The application (Ref No 4/10/2370/0A1, dated 29 July 2010) was refused by notice dated 6 September 2010.
 - The advertisement proposed is an internally-illuminated free-standing double-sided display unit.
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Decision

1. I dismiss the appeal.

Main Issue

2. The Council has not raised any objection on public safety grounds, and I see no reason to disagree. Amenity is the only remaining consideration and, for the purposes of this appeal, I consider that the main issue is the effect of the proposed display unit on the character and appearance of the surrounding area.

Reasons

3. The garage forecourt on which it is proposed to locate the display unit has a prominent totem sign which advertises the garage and its facilities in an effective manner. Other, less prominent, signs are also being displayed. In common with the totem sign, the proposed double-sided sign would be adjacent to the A5086 which runs through the village.
4. There are terraced houses on the opposite side of the A5086, overlooking the garage. There are also houses on both sides of the garage, apart from a small gospel hall which adjoins the site to the north. Thus the proposed display unit would be seen in the context of a predominantly residential setting. I note that Appendix E to the Annex to *Communities and Local Government Circular 03/2007* advises that poster advertising is out of place in any predominantly residential locality and should not normally be allowed.
5. To my mind, Frizington village has an attractive un-commercialised appearance principally due to the limited number of illuminated advertisements. Notwithstanding Circular 03/2007's guidance that small-scale poster advertising may be appropriate in some villages I have reached the view that,

in this particular village, the proposed display unit would be incongruous by reason of its illumination, its 1.9m height and its prominent location.

6. In accordance with the advice in *Planning Policy Guidance Note 19: Outdoor Advertising Control* I have also considered the cumulative effect of the proposed unit. To my mind, it would unacceptably add to the advertising clutter on the garage forecourt. For those reasons, I have reached the view that on its own, and cumulatively, it would be an unattractive feature at odds with its residential surroundings.
7. Having regard to all other matters raised, I conclude that the proposed display unit would have a materially harmful effect on the character and appearance of the surrounding area. The appeal is therefore dismissed.

Ruth V MacKenzie

INSPECTOR



Appeal Decision

Site visit made on 31 January 2011

by **Ruth V MacKenzie BA(Hons) MRTPI**

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

Decision date: 11 February 2011

Appeal Ref: APP/Z0923/A/10/2138140

5 Ellerbeck Barns, Egremont, Cumbria CA22 2UA

- 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 John Antins against the decision of Copeland Borough Council.
 - The application (Ref No 4/10/2301/0F1, dated 23 June 2010) was refused by notice dated 24 August 2010.
 - The development proposed is the erection of a wind turbine to generate electricity.
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Decision

1. I dismiss the appeal.

Main Issue

2. I consider that the main issues in this appeal are, firstly, the effect of the proposed wind turbine on the character and appearance of the surrounding rural landscape; and, secondly, its impact on the living conditions of nearby residents, with particular reference to noise.

Inspector's Reasons

The first issue – character and appearance

3. The proposed 2-bladed wind turbine would be mounted on a tower 18.3m high. At their highest, the tips of the blades would be about 25m above ground level. The turbine would be located at the top of a slope approximately 100m from some stone buildings, Ellerbeck Barns, which have been converted into 5 dwellings. The appellant lives in one of these barns. He anticipates that the turbine would produce up to 40 MWh of electricity a year for his own domestic use. Any surplus electricity would be sold to the national grid.
4. The site lies within open countryside which is designated as a Landscape of County Importance in the *Copeland Local Plan 2001-2016* (LP). Despite the presence of nearby outbuildings and what appeared to be an outdoor riding arena, I saw that the landscape hereabouts is one of rolling hills, large fields and few trees.
5. So far as I am aware, the B5345 is the nearest publicly-accessible place from which the turbine could be seen. When viewed from the road, it would be about 50m away and silhouetted against the skyline. This, in my opinion, would accentuate its height and prominence.

6. There are telegraph poles beside the road, but other vertical structures are rare. The appellant has drawn my attention to the presence of pylons 700m away and the Sellafield nuclear power station about 7km away, but these are not visible from this stretch of the B5345. Thus, in my opinion, the proposed turbine would be an isolated and prominent feature, and one that was incongruous in its immediate surroundings. LP policy ENV 6 seeks to protect Landscapes of County Importance from inappropriate change and, to my mind, the incongruity of the proposed turbine would conflict with this objective.
7. Criterion 2 of LP policy EGY 1 requires there to be no significant adverse effects on landscape character or distinctiveness. In my view, this criterion would not be satisfied because, for the reasons described above, the proposed turbine would have a materially harmful effect on the character and appearance of the surrounding rural landscape.

The second issue – living conditions

8. The nearest residents, apart from the appellant himself, are those living at Nos 1, 2, 3 and 4 Ellerbeck Barns (about 100m away), and Ghyll Cottage and Ghyll Farm (both about 130m away). The appellant's Design and Access Statement indicates that, from a distance of 100m, the noise from the turbine would be 40dB(A). In terms of nearby residents' living conditions, much would depend on the prevailing background noise levels. Unfortunately the appellant has not provided any survey data, although he suggests that the proximity of the B5345 would increase background noise levels over and above what might normally be expected in a rural area. However, in the absence of any further information it is not possible for me to reach a reasoned conclusion on whether or not the noise from the turbine would unacceptably worsen living conditions for nearby residents.

Conclusion

9. Notwithstanding my inability to reach a conclusion on the second issue, my concerns about the effect on the rural landscape are sufficient to lead me to my decision that the proposed turbine would be unacceptable.
10. In reaching my decision I have taken into account all other matters raised. In accordance with Key Principle 1(iv) in *Planning Policy Statement 22: Renewable Energy* I have given significant weight to the wider environmental, economic and energy benefits of this renewable energy proposal. Furthermore, I do not dispute the appellant's claim that similar turbines have been permitted in other sensitive landscapes such as Areas of Outstanding Natural Beauty. However, no specific examples have been given and, in any case, I have assessed this appeal proposal on its own individual merits.
11. Neither these, nor any other matters, are sufficient to outweigh the considerations that have led me to my decision that the proposed turbine would be unacceptable because of its harmful effect on the landscape. The appeal is therefore dismissed.

Ruth V MacKenzie

INSPECTOR