

PLANNING APPEAL DECISION

Lead Officer: Heather Morrison – Senior Development Control Officer

To inform Members of a recent appeal decision in respect of a single turbine at Beck Farm, Millom, Cumbria

Recommendation: That the decision be noted in the context of the Council's Local Plan Policies and also in relation to performance monitoring.

Resource Implications: Nil

1.0 SUPPORTING INFORMATION

1.1 Full planning permission for the siting of a single 47.5 metre high wind turbine on an isolated site comprising agricultural land to the north east of Beck Farm on the edge of Millom was refused on 10 November 2011 for the following reason:-

"The proposed siting of one large turbine, some 47.5 metres in overall height, would introduce an isolated, prominent feature, incongruous in its surroundings, which would have a materially harmful effect on the character and appearance of the surrounding rural landscape. Also there has been insufficient information provided to demonstrate that there is unlikely to be a potential noise nuisance to nearby residential properties contrary to Policies EGY 1 and EGY 2 of the adopted Copeland Local Plan 2001-2016 (Saved Policies June 2009) and the advice contained in Planning Policy Statement 22 "Renewable Energy".

1.2 A subsequent appeal against the decision has been DISMISSED.

1.3 The Inspector considers that the turbine would harm the distinctive character and appearance of this rural landscape and result in significant adverse visual effects. In addition, he considered that the evidence submitted fails to demonstrate that acceptable noise levels would occur at Beck Farm.

Contact Officer: Heather Morrison – Senior Development Control Officer

Background Papers: A copy of the Inspector's decision letter is appended.



Appeal Decision

Site visit made on 17 July 2012

by **D R Cullingford BA MPhil MRTPI**

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

Decision date: 29 August 2012

Appeal Ref: APP/Z0923/A/11/2167368

Land at Beck Farm, Millom, Cumbria, LA18 5JQ

- 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 by Mr Robert Tyson against the decision of the Copeland Borough Council.
 - The application (ref: 4/11/2439/OF1 and dated 25 August 2011) was refused by notice dated 10 November 2011.
 - The development is described as the 'erection of single 100kW wind turbine'.
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Decision

1. For the reasons given below, and in exercise of the powers transferred to me, I dismiss this appeal.

Procedure

2. The proposal exceeds one of the thresholds relating to wind farms (set out in column 1 at 3i) in Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. However, the nature and scale of the scheme would fall well below the 'indicative thresholds' suggested for identifying proposals likely to require an Environmental Impact Assessment and a Screening Opinion dated 17 February 2011 explains that a formal assessment is not required. I agree. Nevertheless, an Environmental Appraisal is submitted incorporating assessments relating to the landscape, visual impact, noise, shadow flicker, ecology, hydrology, geology, cultural heritage, aviation, electromagnetic interference and transport.

Reasons

3. The turbine would be positioned at the northern end of a small stone-walled field set amongst the rising slopes of grazing land some 450m beyond the edge of Millom (here part of the Pannet Hill estate). It is an isolated and elevated spot about 140m to the north east of Beck Farm (now largely converted to accommodate flats and dwellings) and beside a narrow rural lane. It lies within the 'Upland Fringes', a landscape characterised by rolling low fells, hilly plateau farmland and moorland (as identified in the Landscape Character Classification, now part of the Cumbria Wind Energy SPD). Millom Castle (a Scheduled Ancient Monument) lies about 600m beyond the brow of a modest intervening ridge: a footpath skirts the lower slopes through Beck Farm.
4. The proposal involves the erection of a single wind turbine. The machine would stand almost 48m in height to the tip of the top-most blade. It is expected to be a Northwind 100 model (or similar) with a 3-bladed rotor 21m in diameter sweeping out an area of 346m²; the rotor would be positioned at a hub height

of about 37m with an output of 100kW. Much of the machine would be finished in a pale grey colour. It would be set on a reinforced concrete base some 2m deep and 9m². Vehicular access would be via the adjacent minor road and through an existing field gate. The turbine would be connected to a transformer within the farm complex via an underground cable and thence to the local grid. The installation would help to reduce the energy bills on the farm, increase self-sufficiency and provide an additional source of income.

5. However, the Council have refused planning permission because they consider that such a large and incongruous feature, prominently positioned in this isolated spot, would harm the character and appearance of the landscape here. And, on the basis of the evidence submitted, they remain unconvinced that potential noise emissions would be acceptable at the dwellings nearby. In their view, the scheme would thus contravene 'saved' policies EGY1 and EGY2 of the Copeland Local Plan and the guidance previously set out in PPS22. Those are the issues on which this appeal turns.

The landscape

6. These 'Upland Fringes' are characterised by rolling low fells, hilly plateau farmland and moorland; the SPD indicates that uncluttered skylines and key views should be protected and that new development should respect the grain and scale of the landscape. I think that those aims and that description is especially pertinent here. The site lies towards an elevated corner of a modest walled field, part of the open undulating fells beside an attractive landscape of 'County importance' and not far from the National Park itself. I think that the grain and scale of this landscape is relatively modest, being criss-crossed by the stone walls of small fields, punctuated by varied undulations and folds in the topography and emphasised by the meandering path of this narrow rural lane. Yet the landscape offers some wide views towards the coast and heralds the presence of the majestic fells beyond intervening Ancient Woods and empty ridge lines. I am afraid that a turbine of the size and scale proposed, positioned in this isolated spot, would adversely affect those characteristic features. Its scale and size would not respect the modest grain and scale of the immediate landscape: its isolated and prominent position would accentuate its alien and industrial character amongst these rural surroundings: and, its rotating blades would intrude above the skyline from several vantage points punctuating the still emptiness of the ridge line with a moving machine-like silhouette. Such harmful effects would be very damaging.
7. Although I realise that the SPD advises that this landscape has a capacity to accommodate wind turbines (albeit a low to moderate one, suggested as about 3-5 machines), that does not mean that such proposals would be acceptable anywhere within it. Indeed, I consider that the particular characteristics of this particular location render it unsuitable to accommodate the proposed scheme, for the reasons outlined above. Moreover, although the Framework (the NPPF) acknowledges that the use and supply of low carbon and renewable energy should increase and exhorts Councils to recognise the responsibility on all communities to contribute to energy generation from renewable and low-carbon sources, it still requires that the impact of such projects (including cumulative landscape and visual impacts) are (or can be made) acceptable. This is consistent with 'saved' policy EGY1 which requires that renewable energy development should have no significant adverse visual effects; or seriously impinge on landscape character and distinctiveness; or lead to

unacceptable cumulative effects. I accept that this turbine would not result in significant adverse cumulative effects, given its isolated location. But, for the reasons outlined above, I agree with the Council that it would form an intrusive and incongruous feature here that would harm the distinctive character and appearance of this rural landscape, contrary to the requirements of policy EGY1.

Noise

8. The Council are concerned at the absence of information relating to the measurement of background noise and to noise imissions at wind speeds below 6ms^{-1} . However, it is explained that the 'simplified approach' condoned in the ETSU-R-97 report should be applicable here, since the calculations show that $L_{A90, 10\text{min}}$ at the nearest dwellings (save those at Beck Farm) is likely to only just exceed 35dB at wind speeds of 10ms^{-1} (and at a height of 10m). Although $L_{A90, 10\text{min}}$ is actually calculated to be 35.3dB at the nearest dwelling on the Pannet Hill estate, I accept that the methodology incorporates relatively 'worst case' assumptions (hard ground and low temperatures, for example), so that such a marginal 'infringement' of the ETSU-R-97 guidance need not invalidate the approach adopted. On that basis the explicit measurement of either background noise or noise imissions at lower wind speeds would not be necessary to demonstrate the likely limited impact of turbine noise on the nearby dwellings, other than those at Beck Farm.
9. The turbine noise ($L_{A90, 10\text{min}}$) estimated at the converted dwellings in Beck Farm ranges from 40.2dB at a wind speed of 6ms^{-1} to 45.9dB at 10ms^{-1} . It is stated that the intention is that the owners of Beck Farm would ensure that tenants of the flats would benefit from a 50% reduction in electricity costs (based on current costs of an average household consumption) over the operational lifetime of the turbine and, thereby, enjoy a financial interest in the scheme; a possible condition is suggested and the current tenants write to indicate their support for the proposal. On that basis it is claimed that higher noise limits would be appropriate at the Beck Farm dwellings following the ETSU-R-97 recommendation that *'both day and night-time lower fixed limits can be increased to 45dB(A) and that consideration should be given to increasing the permissible margin above background where the occupier of a property has some financial involvement in the wind farm'*.
10. Precisely what constitutes 'some financial involvement in the wind farm' is not (and never has been) clear¹. And, although I think that the scope implied in ETSU-R-97 is intentionally wide, I doubt that it is wide enough to cover the circumstances that apply here. First, the benefit accruing to the tenants would represent a very small portion of the potential returns from the operation of this turbine. Second, their 'financial involvement' would be something of a compulsory requirement; neither existing nor prospective tenants would be able to choose the terms on which they might be involved or the form in which they might reap any reward for their involvement.' In my view, the ETSU-R-97 recommendation implies that an 'involved occupier' can exercise an element of choice in choosing to be 'involved'. Third, the need to secure the proposed benefits for prospective as well as existing tenants could not be achieved by a planning condition, especially one only requiring a 'written commitment to provide subsidised electricity', as is suggested. I consider that such a condition

¹ See, for example, an *Analysis of How Noise Impacts are Considered in the Determination of Wind Farm Planning Applications*, a report prepared by the Hayes McKenzie Partnership Ltd for DECC, April 2011

would not just be imprecise, but also practically impossible to enforce. Hence, I do not agree that the increased noise limits applicable to occupiers with some financial involvement in the wind farm should apply to the dwellings at Beck Farm.

11. In those circumstances, the noise limits applicable at Beck Farm must be related to background noise levels; they should not exceed the background noise level by more than 5dB(A), with a lower limit of 35dB(A). As no background levels are measured, the typical background profile for a 'quiet and reasonably sheltered rural location' given in Figure 8 of the ETSU-R-97 report is used. Taken at face value, the noise estimated at the Beck Farm dwellings would exceed that background level by 1dB(A) at a wind speed of 10ms⁻¹ and by at least 8.2dB(A) at 6ms⁻¹ (imissions at lower wind speeds have not been estimated, though they would probably be greater). Clearly, the noise imissions from the machine would fail to meet the limits recommended as acceptable in the ETSU-R-97 report. I thus agree with the Council that the evidence submitted fails to demonstrate that potential noise imissions from the turbine would be acceptable at the dwellings in Beck Farm.

Other matters

12. Although the reason for refusal explicitly refers to the landscape impact of the turbine, the cited policies and the NPPF also require that visual effects are taken into account; these are addressed in both the Planning Officer's report and in the 'grounds of appeal'. Given my findings set out above, I do not need to consider the visual effects from every viewpoint, although I note that the Council are particularly concerned about the impact of the machine when viewed from the estates at Pannatt Hill and Festival Road, the dwellings at Beck Farm and other properties in the vicinity, as well as from the coast at Haverigg, the A5093 and the minor road adjacent to the site. Assessments have not been undertaken at all those viewpoints. But it is accepted that the magnitude of change would be substantial in the 'close range' view from the minor road to north of Beck Farm. I do not accept that the machine would be seen to 'blend with the sky' here or that the 'trees' (in reality, little more than bushes) would form ameliorating vertical features. On the contrary, the montage at viewpoint 1 clearly demonstrates the dominating impact of the machine amongst these modest surroundings and, in my view, that would be all the more evident from the dwellings at Beck Farm and Pannett Hill, which all lie well below the level of the turbine.
13. Similarly, the montage of the turbine in the medium range view from the A5093 (viewpoint 2) serves to demonstrate its intrusive impact on the landscape. The other vertical features referred to (the telegraph poles, the farm buildings and the shrub-like trees on the hillside) are all of a completely different scale to the proposed turbine which, being positioned just beyond the ridge-line, would form something of a lowering presence, all too ominously evident due to its rotating blades. In addition, from Salthouse Road (viewpoint 3), the whole of the turbine would be clearly visible and appear oddly marooned amidst the small fields and against the empty ridge-line, forming an intrusive and incongruous feature when seen from the properties on the outskirts of Millom. I consider, therefore, that this proposal would impose significant adverse visual effects on some of the dwellings nearby.

Conclusion

14. I have considered all the other matters raised. I have found that this turbine would harm the distinctive character and appearance of this rural landscape and result in significant adverse visual effects in relation to some nearby dwellings. In addition, I consider that the evidence submitted fails to demonstrate that acceptable noise levels would occur at Beck Farm. I appreciate that this installation would help to reduce the energy bills on the farm, increase self-sufficiency and provide an additional source of income. And, I acknowledge that these are important Government aims to which all communities should contribute where the impact of such a project would be acceptable. However, for the reasons set out above, I consider that the visual and landscape impact of this scheme, together with the implications of the likely noise emissions on the peace and quiet that might reasonably be expected by residents at Beck Farm, would tip the balance against the project. The scheme would thus fail the requirements of policies EGY1 and EGY2 of the Copeland Local Plan and I find nothing else sufficiently compelling to alter my conclusion that this appeal should be dismissed.



INSPECTOR