

## PLANNING APPEAL DECISION

Lead Officer – Tony Pomfret, Development Control Manager.

To inform Members of a recent appeal decision on land near Couderton House, Couderton.

**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:** None

### 1.0 SUPPORTING INFORMATION

1.1 Planning permission for the erection of a 11kw wind turbine on land near to Couderton House at Couderton was refused on 28 October 2010 for the following reason:-

“ The proposed siting of a wind turbine of this scale in such an exposed and prominent location in a visually sensitive setting in open countryside which is designated 'Landscape of County Importance', together with the potential adverse affect on residential amenity as a result of noise and flicker / visual disturbance to neighbouring residential properties is contrary to Policies EGY 1, EGY 2 and ENV 6 of the adopted Copeland Local Plan 2001-2016.

1.2. A subsequent appeal against this decision has been dismissed. Whilst the Inspector did not consider that turbine would be unduly prominent on the landscape he did concur with the Council's view that it would harm the amenity of neighbouring residents in terms of visual impact, shadow flicker and potential noise.

1.3 A copy of the Inspectors decision letter is attached.

**Contact Officer:** Heather Morrison, Senior Planning Officer.

**Background Papers:** Planning application file 4/10/2420/OF1



---

## Appeal Decision

Site visit made on 12 July 2011

by **R Ogier BA MRTPI**

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

Decision date: 25 July 2011

---

**Appeal Ref: APP/Z0923/A/11/2151408**

**Land at Couderton House, Couderton, Egremont, Cumbria CA22 2UR**

- 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 Joseph Carr against the decision of Copeland Borough Council.
  - The application Ref 4/10/2420/0F1 dated 1 September 2010, was refused by notice dated 28 October 2010.
  - The development proposed is erection of a single 11 kW Gala wind turbine.
- 

### Decision

1. The appeal is dismissed.
2. I have taken account of the views of local residents and other interested parties in reaching this decision.

### Main Issue

3. The main issues in this appeal are firstly, the visual impact of the proposed turbine on the general landscape and secondly, its effect on the amenity of nearby residents in terms of visual impact, noise and shadow flicker.

### Reasons

#### *First issue – general landscape impact*

4. The Council's formal decision records that the appeal site falls within a designated Landscape of County Importance (LOCI) as indicated on the Proposals Map of the Copeland Local Plan (LP) and the subject of saved LP Policy ENV6. The context of LOCI has changed since they were defined in the Cumbria and Lake District Joint Structure Plan (JSP), because the JSP policy to which they relate has not, unlike some other JSP policies, been extended to become part of the North West of England Plan (Regional Spatial Strategy). The only reference now to LOCI in the development plan is therefore in the LP.
5. LP Policy ENV6 seeks to protect LOCI from inappropriate change. However, any consideration of the influence of the LOCI designation in the assessment of landscape impact in this appeal should have regard to national planning policy in PPS22 *Renewable Energy*, which states that local landscape designations should not be used in themselves to refuse planning permission for renewable energy (RE) developments. The impact of the proposed turbine on the landscape in which it would stand should therefore be assessed on the individual merits of the case.

6. The proposed two-blade turbine with a hub height of 18 metres and maximum rotor tip height of 24.5 metres, would be sited in an open field to the south of the largest of the appellant's farm buildings, which adjoins a dog training area and the rear gardens of several dwellings. The appeal site slopes gradually away in a south-westerly direction from these neighbouring sites, circumstances that would slightly reduce the effect of any views from the dwellings towards the proposed turbine, because the turbine would be on slightly lower ground. I accept that the turbine is larger than a domestic turbine is likely to be. An existing silo immediately to the south of the agricultural building has a height of 21 metres and whilst not as high as the maximum blade height of the turbine, is on slightly higher ground than the turbine would be. The two structures would therefore be of comparable height, but with the silo the more bulky feature in the landscape.
7. The surrounding countryside is gently undulating, mainly used a grazing land, strongly dominated by boundary hedgerows, and sloping gradually towards the coast. The appellant's Grounds of Appeal and Design & Access and Planning Statements contain photographic montages of the proposed turbine. That based on a view from the junction of Well Lane and Nethertown Road suggests that it would be partly visible against the skyline but, depending on its colour, not unduly prominent in views northwards from that location. It would be seen in association with but not in immediate juxtaposition to the farm silo, which would remain the more conspicuous feature.
8. Views I obtained from Nethertown Road further to the south similar to Photomontage 10 would not present so different an image of the turbine, although it would at certain angles of view appear more detached from the silo. Other views such as represented by Photomontages 4, 5 and 9 would also show no greatly different degree of visibility. Photomontages 3 and 6-8 suggest no sight of the turbine at all. I saw that the turbine could be glimpsed between buildings from the main street in Coulderton, but this would not be a strong or lasting visual impression.
9. My conclusion on the first issue is therefore that the proposed silo would be a conspicuous but not unduly prominent feature in the general landscape. Its presence would be acceptable in general landscape terms within the LOCI, and the proposed development would accord with LP Policies EGY1(2) and ENV6.

*Second issue – residential amenity*

10. There are three aspects of residential amenity that the proposed turbine might have the potential to affect – visual impact, shadow flicker and noise. The occupants of dwellings most likely to be affected live at *Lambertain House, Lambertain Barn, Anlie Croft and Townend Farm*. One component of visual impact is appearance, and references have been made to the proposed turbine having the look of an industrial structure. The submitted elevation drawing indicates that the design of the turbine would incorporate a slim 'tower' tapering towards the top. This is a fairly common feature of modern single turbine installations, although I have already accepted that the hub height and rotor blade length of the turbine is larger than many domestic turbines.
11. It is clear that parts of the proposed turbine would be visible, to a greater or lesser extent, from rear windows and the open or elevated parts of rear gardens of these residential properties. The outlook from *Lambertain House* and *Lambertain Barn* is constrained by the mass of the large agricultural

building behind Coulderton House already referred to, to the extent that the occupants of those dwellings are bound to place more value and reliance on the open rear views that are available. The turbine would be visible from a roof terrace at the rear of the latter property. The distance from the turbine to the nearest residential building is about 160 metres, and to the boundary of the nearest neighbouring property 70 metres. Whilst rear garden vegetation would restrict some views, mitigation of impact by distance is a more significant factor to be assessed.

12. At the nearest potential viewing location from adjoining land the proposed turbine, with a top rotating component with a maximum height of almost 25 metres, would be likely to exert a dominant presence on those viewing it. The impact would lessen slightly with distance, and from rear windows of dwellings and immediate gardens would be less still, although still noticeable. There would be what I would assess as being a slight to moderate loss of visual amenity for at least some of the neighbouring residents due to the visual impact of the turbine, including the movement of its rotor blades.
13. As for shadow flicker, it is clear from local representations and given the location of the late afternoon or evening sun to the west of the appeal site that there could potentially be occasions when the sun would be visible behind the turbine to residents, as it dropped towards the western horizon before sunset. The Technical Annex to *Planning for Renewable Energy – A Companion Guide to PPS22* states that flicker effects have been proven to occur only within ten rotor diameters of a turbine. The rotor diameter of the proposed turbine is 13 metres, and so none of the neighbouring dwellings or immediate gardens would be close enough to the turbine for material flicker effects to occur.
14. Some flicker could be experienced in the further reaches of gardens or in the dog training paddock associated with *Lambertain Barn*. I note the domestic value attributed to the use of that paddock by the occupiers of the dwelling. The Companion Guide states that when the sun is low, it is more likely to be obscured by cloud on the horizon or intervening buildings or vegetation. A photographic image of the shadow cast by the farm silo in the evening sun reveals that at the same time the extreme southern end of the dog paddock would be shaded by boundary vegetation. Nevertheless, there would be the potential for occasional shadow flicker from the proposed turbine's rotor blades affecting some other parts of the dog training area. I am satisfied that the use that the occupants of Lambertain Barn give to this area in connection with their social or domestic lives is, in terms of shadow flicker, a material consideration.
15. Turning to the noise impact of the turbine, the Council has not submitted a further statement on this appeal, and so has not responded to the Grounds of Appeal (GOA) which refer to the conclusions of a noise assessment report (NAR) submitted with the appeal. The GOA indicate that the operation of the proposed turbine has been assessed under the guidance in PPS22 *Renewable Energy* and *The Assessment and Rating of Noise from Wind Farms* (ETSU 1997). The conclusion reached in the NAR is that the proposed turbine would have little or no impact on the living conditions of nearby residents.
16. I am satisfied that the background noise level in this rural area will not be greatly influenced by road traffic noise, as traffic flows are self-evidently low. Wind in this coastal area could tend to raise the background level at certain times. The appellant points out that the type of turbine to be used has a low

rotational speed that keeps noise levels low, although a neighbour disputes the contention that the speed is low.

17. For the purposes of the noise assessment the dog training area has been excluded from the outdoor amenity area associated with *Lambertain Barn*, on the basis that ETSU advises that noise limits should only be applied to those (external) areas 'frequently used for relaxation or activities where a quiet environment is highly desirable'. I note that the Council's officer report implicitly accepts the training paddock as part of the garden of *Lambertain Barn*. According to the occupants of *Lambertain Barn* the paddock is used daily and although it could not truly be described as an area for relaxation, it is maintained by the occupants that some of the show dogs who would use it may be affected by low frequency noise. On balance, I regard the decision to exclude the paddock as misguided; the implication of this is that the conclusions drawn in the NAR in relation to noise levels are based on inappropriate survey data.
18. In the light of the foregoing I conclude that the proposed turbine would harm the amenity of neighbouring residents in terms of visual impact, and the living conditions of the occupants of *Lambertain Barn* in terms of shadow flicker and potentially, noise. The proposed development would thus fail to accord with saved LP Policy EGY1(1 & 5) and in consequence, Policy EGY2.

*Other matters and overall conclusion*

19. I have considered all the other matters raised in the written representations, including representations about the potential effect of the proposed turbine on local birdlife, which I am satisfied should not affect the outcome of this appeal. The proposed turbine would make a small but material contribution towards meeting national, regional and local renewable energy targets, the objectives of which seek to increase the production of clean energy from renewable sources, to reduce carbon emissions and combat climate change. Although there is no clear evidence that the appeal project is put forward to support a farm diversification scheme or to benefit the local agricultural economy, general encouragement is also given in planning policy to domestic wind generation schemes.
20. Even so, I am satisfied that the energy production benefits of the proposed turbine do not outweigh the harm done to the residential amenity of neighbours which, despite my conclusion that no harm would be done to the general landscape of the area, is decisive in my overall conclusion that the appeal should not succeed.

*Richard Ogier*

Inspector