

PLANNING APPEAL DECISION

Lead Officer: John Groves – Head of Nuclear, Energy & Planning

To inform Members of a recent appeal decision in respect of a site to the south east of Castlerigg Farm, Moresby Parks, Whitehaven.

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 An appeal was submitted against the non-determination of a planning application for the erection of a single 77m high wind turbine on agricultural land to the south east of Castlerigg Farm, Moresby Parks. Following the submission of the appeal this application was reported to the Planning Panel on 17 July 2013 at which Members resolved to indicate that they were minded to refuse the application for the following reason:-

"The proposed turbine due to its scale, prominence and proximity to the existing wind farm at Fairfield Farm and the approved turbine at Watch Hill is likely to have a significant landscape and visual impact and also an unacceptable wider cumulative impact within the landscape when seen in context with existing and approved wind turbines. The degree of harm is of a scale and character which prevents it being offset by the likely scale of benefits and it is concluded that the adverse effects of the proposal significantly and demonstrably outweigh the benefits of the proposal. As a consequence the proposal is considered to be contrary to Policies EGY 1 and EGY 2 of the adopted Copeland Local Plan 2001-2016 and the provisions of the National Planning Policy Framework."

1.2 The appeal has now been ALLOWED.

1.3 Landscape Character and Visual Impact

The Inspector acknowledged that the turbine would be an intrusive man made feature within the landscape which would be visible from nearby settlements, roads and footpaths. However he considered that its siting within an environment containing other tall man-made structures and the undulating, expansive nature of the surrounding landscape would serve to ensure that the proposal would be in scale with its context, limiting its effect on landscape character.

1.4 Cumulative Impact

The Inspector noted that the landscape already contains the Fairfield wind farm and approval has also been given for a single turbine at Watch Hill. Given the scale of the existing and proposed turbines and the separation distance between them he did not consider collectively that they would become a significant or defining characteristic of the

area such that they would have a harmful effect on the overall experience of the landscape.

1.5 Heritage Assets

The Inspector did not consider that the turbine would form a major element within the setting of the Parton Roman Fort or Moresby Hall and therefore would have little significance to these heritage assets.

1.6 Other Matters

The Inspector considered that the other issues raised by local residents with regards to noise, potential impacts on residential amenity, highway safety and ecology had been adequately addressed in the submitted application. He concluded that no negative effects would arise from the proposal with regards to these issues.

1.7 Benefits

The Inspector recognised that the development would contribute to the generation of renewable energy which would assist in meeting national targets that seek to reduce carbon emissions in order to tackle climate change. It would also make a contribution to supporting a rural enterprise and economic activity. He concluded that these matters carried great weight and outweighed the minor harm to landscape character and moderate harm in terms of visual impact.

Contact Officer: Nick Hayhurst – Senior Planning Officer

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

Appeal Decision

Site visit made on 6 January 2014

by **Richard McCoy BSc MSc DipTP MRTPI IHBC**

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

Decision date: 16 April 2014

Appeal Ref: APP/Z0923/A/13/2199076

Castlerigg Farm, Moresby Parks, Whitehaven CA28 8UT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Daniel Harper against Copeland Borough Council.
 - The application Ref 4/13/2125/OF1, is dated 28 March 2013.
 - The development proposed is the erection of a wind turbine (max 77m to blade tip) and associated infrastructure including: turbine foundation, crane hard-standing, substation, electrical cabinet, new access track and underground cabling.
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Procedural matters

1. I note the recommendation attached to the officer's report to the Council's Planning Panel submitted with the Council's statement. While this is not the application decision as jurisdiction over that was taken away when the appeal was lodged, I have treated it as the decision the Council would have made, had it been empowered to do so.
2. Since the time the above recommendation was made, saved policies EGY1, EGY2 of the adopted Copeland Local Plan 2001-2016 (LP) have been replaced by policy DM2 of the Copeland Local Plan 2013-2028: Core Strategy (CS) and Development Management Policies (DM) Development Plan Document which was adopted on 5 December 2013. Furthermore, the saved policies of the Cumbria and Lake District Joint Structure Plan 2001-2016 have been revoked and the Planning Practice Guidance for Renewable and Low Carbon Energy (July 2013) has been cancelled. I have dealt with the appeal on this basis.
3. I have also had regard to the Planning Practice Guidance (the guidance) launched on 6 March 2014.

Decision

4. The appeal is allowed and planning permission is granted for the erection of a wind turbine (max 77m to blade tip) and associated infrastructure including: turbine foundation, crane hard-standing, substation, electrical cabinet, new access track and underground cabling at Castlerigg Farm, Moresby Parks, Whitehaven CA28 8UT in accordance with the terms of the application Ref 4/13/2125/OF1, dated 28 March 2013, subject to the conditions set out in the annex to this decision.

Main Issues

5. The main issues are the effect of the proposed turbine on the surrounding area in terms of landscape character, visual impact and any cumulative effect, the effect on the setting of nearby heritage assets and whether any harm, in the light of the development plan, would be outweighed by the national objective of promoting renewable energy generation.

Reasons

Background and policy

6. The appeal site is an agricultural field located around 350m to the south east of the Castlerigg Farm complex. Proposed is the erection of a single turbine that would stand around 77m tall to the blade tip, on a concrete base. A cabinet to house associated electrical equipment and a substation are also proposed. A link to the national grid would be formed via an underground cable.
7. The CS and DM policies make similar provision for renewable energy development and landscape protection as the replaced LP policies, with the exception that in line with the National Planning Policy Framework (NPPF) they provide for the balancing of adverse impacts with the benefits of the development. Specifically, CS Policy ER2 supports new renewable energy generation proposals which best maximise renewable energy resources and minimise environmental and amenity impacts, while DM policy DM2 sets out the criteria to be satisfied (reflecting those of replaced LP policies EGY1 and EGY2) including '*That there would be no unacceptable adverse visual effects*', '*That there would be no unacceptable adverse effects on landscape or townscape character and distinctiveness*' and '*Provision is made for the removal and site restoration at the end of the operating life of the installation*'.
8. The Cumbria Wind Energy Supplementary Planning Document (SPD) has been adopted by Copeland Borough Council. The Landscape Character Assessment on which the SPD is based is the Cumbria Landscape Character Guidance and Toolkit (LCGT). These locate the appeal site within the Type 9ii "Moorland Hills and Low Plateaus" which has a moderate capacity to accommodate turbine development.
9. The NPPF states a presumption in favour of sustainable development at paragraph 14 and paragraph 93 makes clear that the provision of renewable energy infrastructure is central to the economic, social and environmental dimensions of sustainable development. The NPPF also states that even comparatively small scale projects can make a significant contribution to meeting national need.
10. This is reflected in the guidance which states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. It goes on to state that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.
11. The guidance makes clear that there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account

the requirements of the technology and, critically, the potential impacts on the local environment, including from cumulative impacts. The views of local communities likely to be affected should be listened to.

Landscape character and visual impact

12. The proposal would stand in an agricultural field that occupies an elevated position, next to an unclassified road, and enjoys extensive views across moorland to the east and westward across agricultural fields towards the coast. The proposed turbine would be situated around 0.7km to the north east of Low Moresby and around 1.25km north of Moresby Parks. The Lake District National Park (LDNP) boundary is around 8km to the east and the St Bees Heritage Coast (SBHC) a similar distance to the south west. The operational Fairfield wind farm (5 x 76m turbines) is situated 0.7km to the east of the appeal site and a line of tall electricity pylons passes around 1km to the south east.
13. Natural England's document: *The North West Landscape Character Framework* identifies the site as being within the West Cumbria Coastal Plain Regional Character Area and the further sub-division of the 'Type 9' landscape by the LCGT places it within Sub Type 9a 'Open Moorlands'. This is considered to have a capacity to accommodate up to a small group (linear or cluster arrangement of 3-5 turbines). Type 9a landscape is assessed as being high open landscapes. The area containing the appeal site is not subject to any formal designation and forms part of a coastal margin/plateau edge which is influenced by man-made features and modified by agricultural practices. It gives way to a plateau landscape of agriculture and forestry that includes some infrastructure development such as high voltage transmission lines and wind turbines.
14. The LCGT makes clear that the open character and expansive views across moorland and higher farmed areas are sensitive to large scale infrastructure development that could obscure or significantly interrupt the views. It advises against siting large scale wind energy and other vertical structures in open and prominent areas where it could degrade the open expansive character. It also advises that they should be sited so as to prevent visual clutter with existing pylons.
15. The appellant has submitted a Landscape Visual Impact Analysis (LVIA) which conforms to current best practice and includes a series of photomontages and wire line drawings to illustrate the effect of the proposal. The LVIA study area focussed on a radius of 10km to assess the effect on landscape character and 25km to assess visual impact and cumulative effect.
16. From my observation, within a radius of around 2km, the proposal would appear as an intrusive man-made feature in the landscape. I note from the uncontested list in the LVIA that over this range, views of the proposal would be obtained from the settlements of Low Moresby, Common End, Moresby Parks, and from surrounding minor roads and nearby public footpaths. From Low Moresby and Common End, the upper section of the turbine and the blade tips respectively would be in view, filtered in both cases by intervening landform and vegetation, while from Moresby Parks the proposal would be seen with the Fairfield turbines which would reduce its visual impact.

17. The turbine would feature prominently in views from the footpaths located to the south east of West Croft, to the south east of the B5308 (that leads through Middle Gill Farm) and to the east of Moresby Parks. In the case of the latter, the proposal would be seen in conjunction with the Fairfield turbines and would not form a dominant feature in the landscape. With regard to the other footpaths and surrounding minor roads, while the proposal would be a noticeable new feature, its harmful effect would be moderate as it would occupy a small proportion of the available panorama and views would be intermittent, being screened by landform and vegetation.
18. From these close range vantage points, the medium scale of the proposal, its siting within an environment containing other tall man-made structures and the undulating, expansive nature of the surrounding landscape, either singly or in combination, would serve to ensure that the proposal would be in scale with its context, limiting its effect on landscape character.
19. In longer range views, including from the A595, the Cumbria West Coast railway and settlements beyond a 2km radius, the proposal would be partially screened by the undulating landscape and existing vegetation, and would be seen within a context of other development including other tall infrastructure such as turbines and pylons. Views from both the LDNP and SBHC would be tempered by distance and landform such that the proposal would appear as a minor feature on the horizon.
20. I note the Council's argument that the Fairfield turbine development has resulted in the threshold capacity for the area being reached. However, the SPD makes clear in paragraph 1.16 of Part 2, that the potential of the landscape to accommodate a single wind energy development does not necessarily mean that only 1 more development would be acceptable in each landscape character type. Acceptability of a scheme would be determined by a landscape and visual impact assessment and a consideration of any cumulative effects. I deal with cumulative effects below, but on the basis of the LVIA I consider that the proposed siting would minimise adverse effects in terms of landscape character and visual impact. The turbine would be sufficiently integrated in terms of distance, scale and appearance with the Fairfield development such that in medium to longer range views it would seamlessly blend with that scheme.
21. Consequently, the harmful effect of the proposal on landscape character would be minor and its visual impact would range from moderately harmful from nearby vantage points, to minor from further afield. Nevertheless, as a proposal that would cause limited harm to landscape character and moderate harm in terms of visual impact, it would conflict with CS Policy ER2 and DM Policy DM2.

Cumulative impact

22. With regard to cumulative landscape impact, the Fairfield turbines are nearby and a single turbine has been approved at Watchhill, around 0.35km to the south of the proposal. Other wind farms and single turbine developments may be seen in the wider area as set out the appellant's Statement of Case. However, the separation distances with the other wind turbine developments would be such that the effect of those turbines and this proposal on the landscape would remain distinct. Consequently, the proposal would not result

in a level of change whereby it would become a significant or defining characteristic of the landscape.

23. In terms of cumulative visual impact, the LVIA takes into account the cumulative effects of the proposal in conjunction with other wind turbine developments in the general area. The viewpoints illustrated take account of the operational, consented and proposed wind turbine developments within the 25km radius. While there may be some locations within the surrounding area from where 2 or more of these turbines may be seen in a particular view or sequence of views, given the scale of existing and the proposed turbine and the separation distances between them, I consider that they would not collectively become a significant or defining characteristic of the area such that they would have a harmful effect on the overall experience of the landscape.
24. In addition, although sufficiently separate to be a distinctive element, the proposal would be well related to the Fairfield wind farm such that it would not extend the modest wind farm landscape that exists as the baseline in this area. Against this background, I consider that the proposal would not, cumulatively in sequence or combination with the other wind turbine developments, have a harmful landscape or visual impact. Accordingly, in this regard it would not conflict with CS Policy ER2 and DM Policy DM2.

Heritage assets

25. The appellant's *Archaeological and Cultural Heritage Statement* demonstrates that for the majority of heritage assets in the area there would be no inter-visibility with the proposal. However, in respect of Parton Roman Fort (which forms part of the Frontiers of the Roman Empire World Heritage Site) and the nearby listed buildings at Moresby Hall and the Church of St Bridget, the proposal would appear as development within their setting.
26. The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or, may be neutral. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special regard should be paid to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development.
27. The proposed turbine would be seen from the fort looking through the church yard (which includes the separately listed chancel arch of St Bridget that stands as a romantic ruin) with Moresby Hall in the foreground. While I note that the Cumbria County Council Historic Environment Officer raised no objections and the appellant's submitted assessment concluded that there would be no indirect effects on the settings of surrounding cultural heritage, in my judgement, the inter-visibility between the proposed turbine and Parton Fort, Moresby Hall and the Church of St Bridget would have an adverse effect on their settings. The turbine would be seen on elevated ground to the north east of the church, with its upper section breaking the skyline. However, the adverse effect would be ameliorated to some extent by the intervening distance, difference in levels, the presence of existing buildings, pylons and electricity poles which occupy the foreground, as well as the very small portion of the available panorama that the proposal would occupy.

28. Against this background, I consider the appeal site does not form a major element within the setting of these heritage assets and therefore contributes very little to their significance. Consequently, giving considerable weight to the desirability of preserving the setting of the listed buildings and the World Heritage Site, I consider that the effect on the significance of the heritage assets would be minor. This would equate to less than substantial harm for the purposes of paragraph 134 of the NPPF.

Other matters

29. The nearest dwellings not financially connected with the proposal are West Croft and The High. The former consists of a cluster of farm buildings and a dwelling located on elevated ground to the north east of the proposal. The orientation of the dwelling and the screening provided by the nearby farm buildings would limit views of the proposal. The latter consists of 2 dwellings roughly 100m apart. Both sit at a much lower level than the proposal with views obscured by the orientation of the southern most dwelling, and intervening buildings and landform in the case of the other dwelling. As such, the proposed turbine would not have an overbearing presence in the outlook from these dwellings.

30. With regard to the dwellings in neighbouring settlements such as Low Moresby and Moresby Parks, I consider that the intervening distance, topography and vegetation would prevent their occupiers experiencing a harmful change to their living conditions in respect of outlook, as a result of this proposal.

31. Furthermore, I note from the officer report that based on the consultation responses from the Council's Environmental Health Officer, the County Council's Highways Control Officer, Natural England and the RSPB, that subject to conditions relating to highway safety, control of noise levels and mitigation measures to minimise any risk to Hen Harriers, the proposal would not have a negative effect with regard to living conditions (noise and shadow flicker) highway safety and ecology. From my assessment of the submitted evidence, I have no reason to disagree.

32. A recent decision by the Secretary of State dismissed an appeal and refused planning permission (ref. APP/Z0923/A/13/2191361) at nearby Arlecdon (Weddicar Rigg Wind Farm) to the east of the appeal site. This related to a scheme for 6 wind turbines and it was concluded that it would be the dominant and defining characteristic of the landscape that would considerably extend the modest area of wind farm landscape already created by the Fairfield Farm Wind Farm, and would occupy an excessive proportion of this Landscape Character Area. For these reasons I do not consider it to be comparable to this proposal.

Benefits

33. The turbine would provide around 1,773,000 kWh of electricity per annum. The appellant claims that the additional income raised from exporting energy to the national grid would help to support the farming enterprise for a period of around 25 years. The development plan provides in-principle support for renewable energy and the NPPF at paragraph 98 recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The development would contribute to the generation of renewable energy which would assist in meeting national targets that seek to reduce

carbon emissions in order to tackle climate change. It would also make a contribution to supporting rural enterprise and economic activity.

Conditions

34. Several conditions have been suggested by the Council and the appellant, and I have assessed and where necessary amended these in the light of the tests set out in the NPPF and the guidance. Standard conditions are imposed relating to commencement time and to ensure that the development is constructed in accordance with the submitted drawings, for the avoidance of doubt and in the interests of proper planning.
35. Further conditions are required to establish the start (the time electricity is 1st exported to the grid) and duration of the permission for the turbine, and to ensure the site is restored (I am satisfied that referring to the *removal of development* will have sufficient clarity in this regard) within 12 months of the end of the permission or the turbines ceasing operation, in the interests of amenity. I consider a period of 12 months would allow greater flexibility in dealing with any issues that might arise on site causing the turbine operation to be temporarily suspended.
36. In addition, I shall attach a condition to ensure that the access is constructed and drained in accordance with full details to be submitted to the Council in the interests of highway safety. I shall also attach conditions regarding the colour and finish of the turbine and materials to be used on the switch room in the interests of visual amenity. In respect of noise, while I note the submitted email exchange between the appellant and the Council's Environmental Health Officer, I am satisfied that the conditions suggested by the Council would satisfy the tests in the NPPF and would safeguard residential amenity. Finally, a condition to safeguard foraging Hen Harriers is necessary in order to protect ecological interests.

Conclusion

37. The proposal would contribute to the generation of renewable energy which would assist in meeting national and regional targets that seek to reduce carbon emissions in order to tackle climate change. It would also make a contribution to the running costs of the farm business by creating an alternative source of income, supporting rural enterprise and economic activity. These matters carry significant weight in favour of the proposal.
38. The overall conclusion is that the minor harm to landscape character, the moderate harm in terms of visual impact, and the less than substantial harm to the significance of the heritage assets as a development within their settings would be clearly outweighed by the acknowledged environmental and economic benefits. The development plan provides in-principle support for renewable energy and the NPPF at paragraph 98 recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Having regard to the guidance, and in light of the facts in this case, I conclude that the appeal should be allowed.

Richard McCoy

INSPECTOR

Annex

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the drawings submitted with the application and appeal.
- 3) This permission shall be for a period not exceeding 25 years from the date that electricity from the development is first exported to the grid. The date of the 1st production of electricity shall be notified in writing to the local planning authority within 28 days of the event occurring. Within 12 months of the cessation of electricity generation at the site or the expiry of this permission whichever is the sooner, all development shall be removed and the land restored in accordance with a scheme to be submitted to and approved in writing by the local planning authority, prior to any development commencing.
- 4) If the turbine ceases to be operational for a continuous period of at least 12 months, the development hereby permitted shall within 3 months be removed in its entirety from the site and the site shall be restored in accordance with the scheme referred to in condition 3.
- 5) Notwithstanding the detail shown on the submitted drawings, no development shall take place until full construction and drainage details for the whole of the area bounded by the carriageway edge, entrance gates and splays has been submitted in writing for the approval of the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Notwithstanding the details in the submitted drawings, no development shall take place until full details of the finish and colour of the wind turbine have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 7) No development shall take place until 3.3 hectares of land, further from the turbine than 300 metres, has been fenced off for foraging hen harriers in accordance with approved drawing ref. no. 1272/ENV/10669/012. The layout of the specified land shall not be altered without the prior written consent of the LPA in consultation with Natural England. The specified land shall be safeguarded in accordance with the following approved management regime at all times during construction, operation and decommissioning of the wind turbine hereby approved:
 - i) create a wide buffer of rough grass with a sacrificial crop/bird seed mix in the middle,
 - ii) allow grazing during March-April to "tidy up" the aftermath; and
 - iii) ensure the sacrificial crop is a root crop that sets seed in its 1st winter, which would then be re-sown annually to provide bird seed for small birds to act as a food source.

All ground works relating to the development site (as opposed to the mitigation land) must be undertaken during the period of April – September, outwith the period when Hen Harriers are present within the

sensitivity area. If the turbine is erected during October – March the work must be undertaken between 1 hour after sunrise and 2 hours before sunset to prevent disturbance of birds around roosting areas.

- 8) The rating level of noise emissions expressed as $LA_{90, 10min}$ from the combined effect of the turbine hereby permitted, as measured or calculated, and corrected for the presence of any tonal components, in accordance with ETSU-R-97, at any dwelling lawfully existing at the date of this permission, shall not exceed:
1. (a) Between 0700 and 2300 hours the greater of 35 dB(A) or 5 dB(A) above the day-time background noise levels for each of the wind speeds set out below.
 2. (b) Between 2300 and 0700 hours the greater of 43 dB(A) or 5 dB(A) above the night-time background noise levels for each of the wind speeds set out below.

Wind speed (m/s)	3	4	5	6	7	8	9	10	11	12
Day-time background noise level (dB(A))	24	28	32	36	39	42	45	47	48	50
Night-time background noise level (dB(A))	26	29	31	34	37	40	42	45	48	51

- 9) Following notification from the local planning authority (LPA) that a justified noise complaint has been received, the wind turbine operator shall at their own expense, employ a competent and qualified person to measure and assess by a method approved by the LPA, whether noise emissions from the turbine meet the specified level. The assessment shall commence within 21 days of the notification and the LPA shall be notified in writing of the results, in accordance with the approved method, within 60 days of the notification. The turbine operation shall cease if the specified level is confirmed as being exceeded.
- 10) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the switch room building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.