

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 north east of Middelgill Farm, Howgate, 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 67m high wind turbine on agricultural land to the north east of Middelgill Farm, Howgate. Following the submission of the appeal this application was reported to the Planning Panel on 27 March 2013 at which Members resolved to indicate that they were minded to refuse the application for the following reason:-

"The proposed siting of one large scale wind turbine, some 67 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. There has also been insufficient information provided to demonstrate that it is not likely to be a potential noise nuisance to nearby residential properties. On this basis the proposal is considered to be contrary to Policies EGY1 and EGY2 of the adopted Copeland Local Plan 2001-2016 (Saved Policies June 2009) and the advice contained in the National Planning Policy Framework (March 2012). "

1.2 The appeal has now been **DISMISSED**.

1.3 The Inspector disagreed with the conclusions contained within the submitted Landscape and Visual Impact Assessment which stated that the turbine would have a moderate to slight impact and therefore would not be significant. The Inspector noted that the turbine would be a tall structure which would be sited in a prominent, exposed position that would be apparent in views from the local area but in particular from south and south west. He concluded that the stark, utilitarian appearance of the turbine combined with its height and siting would result in it breaching the skyline from many views. This would make it an incongruous feature that would have a high to very high impact on the appearance and character of the rural area. He considered this effect to be unacceptable and would not be outweighed by the wider community benefits that would result from the proposed turbine.

1.4 In terms of noise and potential impacts on residential amenity the Inspector considered that a suitable condition could be imposed to control noise levels to the occupants of the nearest property, Middle Gill Cottage.

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 18 November 2013

by **R J Yuille MSc Dip TP MRTPI**

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

Decision date: 28 January 2014

Appeal Ref: APP/Z0923/A/13/2193255

Land to the north east of Middlegill Farm, Howgate, Whitehaven, CA28 6PP

- 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 Empirica Investment Ltd against Copeland Borough Council.
 - The application Ref: 4/12/2397/0F1 is dated 22/06/12.
 - The development proposed is the erection of a 67m single wind turbine.
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Decision

1. The appeal is dismissed and planning permission for the erection of a 67m single wind turbine is refused.

Main Issues

2. The main issues in this appeal are; firstly, whether the proposed turbine would have a harmful effect on the appearance of the landscape; secondly, whether it would cause harm to the living conditions of the occupants of the neighbouring dwelling at Middle Gill Cottage by reason of noise; and, thirdly, if it would cause such harm, whether this would be outweighed by any wider community benefits that might result from it.

Reasons

Policy Considerations

3. Since the Council determined the application the subject of this appeal it has adopted its *Local Plan 2013-2028 Core Strategy and Development Management Policies*. Policies ER2 and DM2 of this plan, when read as a whole, allow any benefits of renewable energy projects to be balanced against any harm they might cause to the environment and to amenity. This is consistent with the approach taken in the National Planning Policy Framework. I will attach full weight to these policies.

Effect on Landscape

4. The proposed turbine would be located in an area of lowland ridges and valleys lying alongside the Cumbrian coast. This is an attractive rural landscape consisting of hedged pastures interspersed with areas of woodland and copses. There are a number of settlements and farm groups in and adjoining the area and the A595 (Distington Bypass), the line of the Cumbria Coastal Railway and a line of electricity pylons all run through it. It is a landscape which is judged in the Cumbria Wind Energy Supplementary Planning Documents as having a

moderate capacity to accommodate wind energy development – in other words there is no objection in principle to a single turbine of the scale proposed.

5. The appellant has submitted a Landscape Visual Impact Assessment carried out by suitably qualified professionals in accordance with best practice. This provides a systematic way of assessing the landscape, its character and its sensitivity as well as the sensitivity of various viewpoints or receptors. However, while it is systematic, it is, inevitably, not entirely objective. At its heart lie a series of judgements about matters such as the significance of visual impacts.
6. There is much to agree with in this document - for instance that the proposed turbine would not have a significant effect on the landscape by reason of the removal or alteration of significant features and that the issue of cumulative impact is not a determining issue in this instance. However, having visited the site and inspected it from a number of the viewpoints referred to in the Landscape Visual Impact Assessment I do not agree with its judgement that the visual impact of the turbine would be moderate to slight and therefore not significant.
7. The proposed turbine would be a tall structure located in a prominent, exposed position on the eastern slope of the Lowca Beck Valley overlooking the Distington Bypass. It would be particularly apparent in views from the south and south west. For example, from views in the vicinity of Moresby Hall and St Bridget's Church it would be visible to tourists, footpath users and residents who would see it in its entirety on the undeveloped hillside with its blades and upper sections breaching the skyline. Similarly from points on Lowca Top Road it would be visible almost in its entirety and be considerably more apparent than existing turbines, which are set beyond the ridgeline where only their tops can be seen in the distance. From these various viewpoints it would be seen mainly by people using the minor road but also by the residents of Lowca and footpath users. Taken as a whole I consider that the proposed turbine would constitute a major change in the overall view.
8. Seen from closer viewpoints such as the Howgate roundabout on the Distington Bypass and from the lay-bys on the northern and southern carriageways of that road it would be a dominant feature with its upper sections clearly visible in an elevated position rising well above the level of the skyline. Although from these views it would be seen principally by major road users it would, particularly from points near the roundabout where traffic is slowing and the turbine would be seen more or less directly ahead, have an overbearing appearance on the overall views. It would take many years for road side planting to screen this turbine to any significant degree.
9. The stark, utilitarian appearance of the proposed turbine, its height - breaching the skyline in many views - and its prominent position would all combine to make it an incongruous feature, one that would have a high to very high impact on the predominantly rural appearance of the valley side on which it would be set.
10. I consider that such a turbine would have an unacceptable effect on the character and appearance of the landscape. In coming to this view, I note that there are a number of other wind turbines, both existing and planned, in the

wider area but these tend to be located either closer to the coast than the proposed turbine or further inland beyond the ridge on which it would stand.

Noise

11. The various noise assessments submitted by the appellant have been submitted to close scrutiny by neighbouring residents. One area of particular concern is that wind speed measurements have not been carried out in accordance with best practice¹ - put briefly the wind speed measurements were not taken at the right height or, arguably, in the right place. This is important; accurate wind speed measurement is fundamental to any noise assessment because, amongst other things, wind speed will determine the noise emitted by the turbine and because background noise levels need to be correlated with wind speed. However, I consider these defects could be dealt with by way of a planning condition which, before development commenced, required the appellant to measure actual background noise levels related to wind speeds in accordance with best practice.
12. I also share concerns expressed by local people about the appellant's judgement that the lower absolute daytime noise limit on the site should be 40 dB L_{A90}. In my opinion this is too high. I acknowledge that this is an area where judgement must be applied - planning judgement as much as acoustic judgement - and no prescriptive guidance has been produced to shape that judgement. It is necessary therefore to balance, on the one hand, the relatively limited harm in terms of noise that the proposed turbine would cause (because it would affect few properties and the duration and level of exposure to noise experienced by these properties would be low or medium to low) against the relatively limited benefits it would bring (because its power output would be limited). Having carried out that balance I, like local residents, consider the lower limit should be nearer to 35 dB L_{A90} than to 40 dB L_{A90}. However, once again this is a matter which could be dealt with by way of a suitably worded planning condition which would specify the appropriate lower absolute daytime limit.
13. I am satisfied, therefore, that, with the imposition of a suitable planning condition, the proposed turbine would not cause unacceptable levels of noise to the occupants of Middle Gill Cottage.

Wider Community Benefits

14. Relatively little evidence is provided as to the amount of energy that the proposed turbine would generate or the purpose to which it would be put. Nonetheless it can be assumed that the energy it would generate would be used on site or exported to the grid. Either way it would make a contribution to the provision of low carbon energy and while this would be limited, the Framework makes clear that even small scale projects can make a valuable contribution to cutting green house gas emissions. I will, therefore, attach considerable weight to the wider community benefits of the proposed turbine.

Balancing exercise

15. In balancing the harm the turbine would cause against its benefits I have treated its lack of harm in terms of noise as a neutral factor.
16. The proposed turbine would have the undoubted benefit of helping to meet the need for renewable energy. However, as is made clear in the Written

¹ A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise.

Ministerial Statement of June 2013, this does not automatically override environmental protection. In this instance, the local landscape, while not formally designated, is a valued feature and I consider that the significant harm the proposed turbine would cause to its character and appearance outweighs the wider community benefits of that turbine. In this respect the proposed turbine would run counter to the relevant aims of policies ER2 and DM2 of the emerging Core Strategy and Development Management DPD and of the Framework.

Other Matters

17. Other matters such as transport and access, shadow flicker and the effect of the turbine on health have been raised by neighbouring residents. These are dealt with by the Council in its committee report where the conclusion is drawn that they are not reasons for refusing planning permission. On the basis of the submitted evidence I agree with these conclusions.

Conclusions

18. For the reasons given above I conclude that the appeal should be dismissed.

RJ Yuille

Planning Inspector