
Appeal Decision

Site visit made on 12 August 2014

by Mr A Thickett BA(HONS) BTP MRTPI Dip RSA

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

Decision date: 22 August 2014

Appeal Ref: APP/L3245/A/14/2218229

Land north of Sydnall Farm, Lightwood, Shropshire, WV16 6UN

- 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 Hallmark Power Ltd against the decision of Shropshire Council.
 - The application Ref 13/03126/FUL, dated 22 July 2013, was refused by notice dated 2 April 2014.
 - The development proposed is the erection of two 250kW wind turbines and associated infrastructure, including access track.
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Decision

1. The appeal is allowed and planning permission granted in accordance with the conditions set out in the schedule at the end of this decision.

Procedural matter

2. The Council did not attend the site visit. A public footpath runs through the field which would contain the proposed turbines and the appellant's agent agreed that I could carry out an unaccompanied site visit. The Council confirmed its agreement in an e mail dated 12 August 2014.

Main Issue

3. The main issue is the impact of the proposed wind turbines on the character and appearance of the area.

Reasons

4. The proposed turbines would have a hub height of 30m with blades of 15m giving height to tip of blade of 45m. The turbines would be located in a field to the north of the farmhouse and buildings at Sydnall Farm. The site lies in the open countryside in a gently undulating landscape characterised by fields bounded by mature hedges interspersed with tall trees and woodland. The area is dotted by farms with mainly traditional farm buildings. The boundary of the Shropshire Hills Area of Outstanding Natural Beauty lies about 4km to the south west of the appeal site.
5. The turbines would introduce a feature not currently seen in the immediate area and would be taller than the surrounding trees. However, the undulating nature of the landscape and the blocks of woodland would limit views of the proposed turbines. In their report to committee Council officers conclude that woodlands to the south west of the site *'provide enclosure and break up distant*

views from within the Shropshire Hills AONB¹. Having seen the site and travelled around the area, I agree and do not consider that the proposed development would harm the AONB.

6. The appellant's Landscape and Visual Impact Assessment (LVIA) acknowledges that there will be a degree of local impact but I agree with its conclusion that the turbines would respect the scale and composition of the landscape. Further, the local topography and woodlands also limit views from nearby roads and settlements. Walkers using the footpaths within the field and on its eastern boundary would have a clear view of the turbines. However, walkers would be passing through which would limit the impact of the turbines and the turbines would occupy only a small percentage of the countryside visible on a good day.
7. The Council refer to a number of other permitted and pending schemes for turbines within 5km of the appeal site. In their report to committee the Council's officers do not disagree with the findings of the LVIA that the nature of the landscape combined with the distance between the permitted and proposed turbines is such that there would be no adverse cumulative impact on the character of the area. I have neither seen nor read anything to persuade me to disagree.
8. A heritage statement submitted by the appellant assesses the potential impact of the proposed development on heritage assets within 5km of the site. The report concludes that, due to the character of the landscape and the nature of the assets and their location, no harm would accrue to any listed building. I have considered the concerns expressed regarding Upton Cresset Hall and other listed buildings in the area but my observations lead me to agree with the appellant's assessment.

Other matters

9. The mandatory requirement for wind turbine developers to consult with local communities² came into force after the planning application was submitted to the Council. The nearest residents who do not have a financial interest in the proposed development live about 540m from the site. The appellants commissioned an acoustic report which concludes that the occupiers of that property should not be adversely affected by any noise generated by the proposed turbines. The Council's Public Protection Specialist has no objection but I agree with him that a condition should be imposed placing a limit on the noise generated by the proposed turbines.
10. The Shropshire Hills & Ludlow Visitor Survey Report records that 92% of visitors said that what appeals to them most about the area is its landscape and scenery. I don't doubt that this is the case but the Council submit no evidence, by way of a survey, to support the assertion that the proposed turbines would have an adverse impact on tourism. The appellant, on the other hand, cites studies undertaken by the Welsh Government, Anglesey Council and Visit Scotland which conclude that wind turbines do not have a significant impact on visitor numbers.

¹ Area of Outstanding Natural Beauty

² For developments for more than two turbines or for turbines with a hub height in excess of 15m; The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2013.

11. The field is cultivated and does not provide an attractive habitat for amphibians. The appellant's ecological consultant considers the risks to great crested newts to be low and the Council's Biodiversity Technician did not consider a survey for great crested newts to be necessary. The turbines have been re located to take into account best practice guidance regarding the siting of turbines and linear features such as hedges used by bats for navigation. Again, the risks are considered to be low and I see no need for a condition relating to ecological matters.

Conditions and unilateral undertaking

12. I have considered the Council's suggested conditions in light of the advice in the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (PPG). In addition to those mentioned above, it is necessary, in the interests of visual amenity, to impose conditions regarding the finish of the turbines and laying cables underground. In light of my conclusions, I do not consider the grant of a temporary planning permission to be appropriate but I will require the proposed turbines to be removed should they cease generating electricity. The Ministry of Defence seek the imposition of a condition to safeguard aviators which I agree is necessary.
13. The PPG sets out tests for conditions, one of which is that they should be precise. The condition citing the various documents, letters and e mails supporting the appeal application do not specify which parts of those documents must be complied with, leaving the appellant unclear regarding what is needed to comply with the condition. Further, there is no need to specify that the planning permission only relates to the land within the red line and it is a mystery to me why the development should comply with the LVIA viewpoint plan and site ownership plan.
14. Given the need to safeguard nature conservation interests, I am surprised at the suggestion that a condition be imposed allowing the proposed turbines to be sited within 20m of the position shown on the site plan. The extent of the concrete bases and access track is shown on the submitted plans and a condition requiring these details is unnecessary. I have seen nothing to suggest that the turbines are likely to fall over and see no need to require Turbine 1 to be relocated.
15. According to the Design and Access Statement the turbines would be delivered using normal HGVs. I have seen nothing to suggest that the local highway network cannot accommodate HGVs and do not consider a condition relating to vehicle movements or remedial works to be necessary. I have neither seen nor read anything to suggest that the appellant would not use the existing access to Sydnall Farm and so see no need for a condition prohibiting the creation of a new access. In light of the isolated location of the site, I do not consider a condition limiting the times construction may take place to be necessary.
16. The Heritage Statement submitted by the appellant concludes that there is little likelihood of there being any archaeological remains on the site and a condition requiring an archaeological watching brief is, therefore, unnecessary. The appellant's assertion that interference with TV reception is highly unlikely is supported by the consultation responses from relevant bodies cited in the committee report. I do not, therefore, consider a condition requiring mitigation measures to be necessary.

17. The appellant submits a unilateral undertaking which commits the developer to make an annual contribution of £2,500 to Ditton Priors Parish Council. Regulation 122 of the Community Infrastructure Levy Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission if it is; necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The appellants desire to share the benefits of the development with the local community is laudable but I do not consider that the contribution is necessary to enable the development to proceed. I understand that the money would be spent on community projects but have read nothing to indicate how they would be related to the development or that the contribution is fairly and reasonably related in scale and kind to the development. Consequently, I afford the unilateral undertaking no weight.

Conclusions

18. The electricity generated by the turbines would produce an additional income stream for the farm and farm diversification is supported by the NPPF. The PPG states that all communities have a responsibility to help increase the supply of green energy but that the need for renewable energy does not automatically override environmental protections. I have assessed the planning concerns of the Council and others and consider that the proposed wind turbines would not have an unacceptable impact on the character and appearance of the area. I conclude therefore, the proposal complies with Policies CS5, CS6, CS13 and CS17 of the Shropshire Local Development Framework; Adopted Core Strategy 2011.
19. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed.

Anthony Thickett

Inspector

Schedule

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The appeal is allowed and planning permission is granted for the erection of two 250kW wind turbines and associated infrastructure, including access track at land north of Sydnall Farm, Lightwood, Shropshire, WV16 6UN in accordance with the terms of the application, Ref 13/03126/FUL, dated 22 July 2013, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers: M5398-01; 250-00-1500; 329-50-000 and cabling plan Enq No. 1968438.
- 3) No development shall take place until details of the external finish of the turbines 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.
- 4) No development shall take place until the local planning authority has been provided with written confirmation that the Ministry of Defence has been notified in writing of:
 - i. The date construction will start and when it is proposed to finish
 - ii. The maximum height of the wind turbines, and
 - iii. The latitude and longitude of the wind turbines
- 5) All electricity and control cables shall be laid underground.
- 6) Within 6 months of a wind turbine ceasing to be used for the generation of electricity, it shall be permanently removed from the land and the site restored in accordance with details to be submitted to and approved in writing by the local planning authority prior to these works being carried out.
- 7) The level of noise emissions from the turbine hereby permitted shall not exceed 35 dB LA90 when measured at the boundary of any dwelling which lawfully exists or has planning permission for construction at the date of this planning permission at wind speeds up to 10ms at rotor centre height. All instrumentation and methodology for evaluating compliance with this condition and the positions for all measurements of noise and wind speed, shall have been previously approved in writing by the local planning authority.