
Appeal Decision

Hearing held on 20 August 2013

Site visit made on 20 August 2013

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: 7 November 2013

Appeal Ref: APP/T2350/A/13/2193882

Carr Hall Garden Centre, Whalley Road, Wilpshire, Lancashire, BB1 9LJ

- 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 DC21 Ltd against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2012/0539, dated 15 May 2012, was refused by notice dated 21 December 2012.
 - The development proposed is the installation of three Endurance 50Kw wind turbines, 46m in overall height (i.e. to blade tip).
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Decision

1. The appeal is allowed and planning permission is granted subject to the conditions set out in the Schedule at the end of this decision.

Main Issues

2. Following the submission of the appeal the Ministry of Defence withdrew its objection regarding the impact of the proposed turbines on air traffic control radar. The main issues are;
 - whether the proposal comprises inappropriate development in the Green Belt and, if so, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development
 - the impact of the proposed wind turbines on the character and appearance of the area
 - the impact of the proposed wind turbines on the enjoyment of users of nearby footpaths
 - the effect of the proposed wind turbines on protected species.

Policy

3. The Council's decision notice cites conflict with the North West of England Regional Spatial Strategy (RSS). The RSS was revoked on 20 May 2013 and, consequently, the development plan for the area is the Ribble Valley Districtwide Local Plan 1998.
 4. The examination into the soundness of the Council's Core Strategy 2008 – 2028 was in suspension at the time of the Hearing. The reasons for that suspension do not relate to considerations directly material to this case.
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Nevertheless, as I cannot be certain that the policies relevant to this appeal will be adopted as they stand, I afford them limited weight.

Reasons

Green Belt

5. The turbines would be 36.4m to hub with a blade diameter of 9.6m giving a height to tip of blade of 46m. The appellant accepts that wind turbines are not listed as a type of development deemed not to be inappropriate in the Green Belt in the National Planning Policy Framework (NPPF). Inappropriate development is, by definition, harmful to the Green Belt. The structures would have an adverse impact on the openness of the Green Belt and represent a visual encroachment. The NPPF states that substantial weight should be given to any harm to the Green Belt. Policy ENV4 of the Local Plan says that planning permission will not be given for inappropriate development in the Green Belt except in very special circumstances.

Character and appearance

6. The proposed wind turbines would be located on Wilpshire Moor within an open field on a hillside between the villages of Wilpshire and Langho. Carr Hall Wood borders the northern edge of the field and separates it from Carr Hall and the garden centre. Wilpshire and Langho are both visible from the site and contribute to the character of the landscape. As do the farms and buildings on the edge of these settlements and the A666, A59 and the railway line that runs through the valley. According to the Ribble Valley Landscape Character Assessment, the appeal site falls within the Lowland Fringe Farmland character area. The assessment describes the lowland fringe landscape as small scale and complex with varied landform and vegetation with the influence of human habitation much more evident than upland areas.
7. Near to the entrance of the garden centre on the A666 the turbines would be read in the context of the substantial Carr Hall, the large two storey garden centre building and its wide access road and extensive areas of hardstanding and parking. This significant built form would lessen the visual impact of the turbines and their effect would be further reduced by distance, Carr Hall Wood and the hillside rising behind and above them. The turbines would be visible to those travelling along the A666 and the A59 but the experience of the landscape is already heavily influenced by buildings, telegraph poles and roads, which in my view, lessens its sensitivity to the proposed change.
8. A public footpath skirts the southern boundary of the appeal site and is part of a route between Snodworth Road and Wilpshire golf course. Starting at Snodworth Road, one catches a glimpse of the Oswaldtwistle Moor wind farm to the south before passing through Little Snodworth Farm. Adjoining the farm buildings is an extensive hard surfaced area used to store horse boxes, caravans and motor homes. Moving on, Wilpshire and the occupied and cultivated landscape (including the well tended golf course) around it lie in the foreground and what I was assured was Preston visible further afield. On the morning of the hearing, I could also see the emissions for a large chimney near Clitheroe (around 6 miles away) and later, at the site visit, Blackpool Tower was visible through the haze on the horizon.

9. The Council acknowledge that the proposed turbines would not have a significant impact on the Forest of Bowland Area of Outstanding Natural Beauty (AONB) due to the '*mitigating effects of distance (5.0km+ between the AONB and the site)*'. Further, that from the AONB, the turbines '*would appear as a relatively minor feature in a broad view that was characterised by some significant man influenced features such as pylons, major roads, a railway line and the settlements of Whalley, Wilpshire and Billington*'.
10. I consider that the same is true of closer views and consider that the landscape, already influenced by man made features and structures, would accommodate the turbines without unacceptable harm to its character and appearance. I conclude, therefore, that the proposal complies with Local Plan Policies G1, G5, ENV24, ENV25, ENV26 and national guidance.

The enjoyment of local footpaths

11. There are a number of public footpaths in the vicinity of the site and permissive rights of way through the adjoining field to the east (Little Snodworth Farm). Walkers using the footpath running along the southern boundary of the site would have close views of the turbines but would be passing through, limiting the impact of the turbines on the overall experience of any walk. Further, the turbines would occupy only a small percentage of the countryside visible on a good day which, as indicated above, is heavily influenced by man and, depending on the route taken, could include views of the Oswaldtwistle Moor wind farm.
12. Walking the path on the southern boundary of the site I could hear traffic passing by on the A666. The short section of path passing the turbines is likely to be only a small part of a walk through this countryside and I am not persuaded that the noise generated by the wind turbines would significantly impair the enjoyment of this or other paths in the area.
13. In its publication 'The Strategic Road Network and the Delivery of Sustainable Development', the Department of Transport indicates that the Highway Agency will seek a setback from a highway boundary equal to the height of a wind turbine plus 10%. This guidance is aimed at safeguarding road users but, in my view, can reasonably be applied here. The closest turbine would be around 80m from the nearest public footpath. The same turbine would be 47.6m from the boundary with the adjoining field to the east, within which and running parallel to the boundary is a permissive path and private ride. The path is set off the boundary and (having walked it) I am satisfied that the separation distance accords with the above guidance.
14. Concerns are raised regarding ice throw but I have seen no evidence to counter the appellant's assertion that it is a rare phenomenon in England. The Council conceded at the hearing that a condition requiring the maintenance of the turbines was not required on safety grounds. Having considered the evidence, I agree and conclude that the proposed turbine would not have an unacceptable impact on users of nearby footpaths and that the proposal complies with Policy G1 of the Local Plan.

Ecology

15. The Council's reason for refusal alleges that there is insufficient information to enable a proper assessment of the impact of the proposed development on

protected species, namely bats, lapwing and curlew. In a letter dated 3 June 2013 an ecologist from Lancashire County Council states that mitigation measures should be required to *'demonstrate that the proposals would not result in adverse impacts on individual bats'*.

16. Linear features, particularly hedgerows and tree lines, are important habitats for bats, providing flight paths between roosts and foraging sites and as foraging habitats. Natural England's Technical Information Note TIN051 'Bats and onshore wind turbines, Interim guidance' advises that wind turbines should be at least 50m from a habitat feature (trees, hedges). The closest turbine to Carr Hall Wood would be 60m away, the nearest to the dry stone wall on the southern boundary would be 78m away. I have neither seen nor heard anything to suggest that the fence on the eastern boundary provides the type of linear feature favoured by bats.
17. A survey carried out by the appellant's ecological consultants recorded low levels of activity close to the site of the proposed turbines. The report concludes that given the location of the turbines *'no significant impacts on bat population are predicted'*. These findings accord with TIN051 which states that; *'Whilst bats are still active further away from linear features, the level of bat activity is likely to be so low that there is a very low risk of impact'*. In light of the survey's findings and the advice in TIN051, the Council conceded at the hearing that there was no need for mitigation measures with regard to bats. For the same reason, I see no need to require the impact of the turbines on bats to be monitored.
18. The Council also conceded at the hearing that, contrary to the County Ecologist's assertion, the appellant's surveys do show that the impact of the proposed turbines on lapwing and curlew would not be significant. The appellant's ecologist acknowledges that research suggests that the construction and operation of wind turbines can have an adverse impact on birds. However, I see no reason to question the assertion that the research cited relates to unenclosed upland habitats and to much larger machines than proposed here. I heard that the installation of the turbines would take only a matter of days, not months as for large wind farms, so the level of disruption would be significantly less.
19. The site is used for grazing but provides suitable nesting opportunities for lapwing, curlew and other birds. However, I am satisfied that, subject to a condition prohibiting work in the nesting season (unless there are no nests present) the proposed development would not have an adverse impact on protected species. I conclude, therefore, that the proposal complies with Policies ENV7 and ENV26 of the Local Plan.

Other matters

20. A noise survey submitted by the appellant with the planning application was challenged by a local resident. Further work was done to support the appeal. The Council are satisfied and, having considered the reports, I agree that, subject to the imposition of a condition regarding noise levels, the proposed turbines would not have an adverse on those living nearby. The appellant has submitted a plan showing the area around the turbines within which shadow flicker could occur. There are no buildings within this area and, given the size of the proposed turbines and the distance and orientation of the nearest

residential properties, it is highly unlikely any residents would suffer from shadow flicker.

21. The owners of Little Snodworth Farm run a livery business. At the hearing I saw video footage of horses calmly grazing beneath a similar turbine and the appellant was supported by a livery owner who reported that the two turbines on her property had no impact on the horses in her care. I appreciate the fears expressed by the owners of Little Snodworth Farm. However, from the evidence submitted, there would seem to be no reason why, provided appropriate care is taken, horses or riders should be inconvenienced or endangered by the proposed turbines.

Conditions

22. I have considered the Council's suggested conditions in light of the advice in Circular 11/95. The Council accepted at the Hearing that a number of conditions included requirements designed to control and mitigate the impact of much larger wind turbines and which are unnecessary in this case¹.
23. In light of my conclusions regarding the visual/landscape impact of the development, the grant of a temporary planning permission would conflict with the advice in the Circular². It is necessary, in the interests of the visual amenity of the area, to include conditions relating to; storage, track laying and laying of cables, the finish of the turbines and to require their removal should they stop being used to generate electricity.

Conclusions

24. Planning practice guidance for renewable and low carbon energy says 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 and the planning concerns of local communities. I have assessed the planning concerns of the local community and find the only harm to be the inappropriate nature of the development in the Green Belt.
25. The three turbines would be slim features and their impact on openness would be limited. For the same reason and, in light of my findings regarding the impact of the development on the character and appearance of the area, I do not consider that any visual encroachment would be significant. However, the turbines constitute inappropriate development in the Green Belt and it is necessary to consider whether the harm by reason of inappropriateness is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.
26. The NPPF acknowledges that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. The NPPF also states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
27. The appellant produces a letter from Electricity North West supporting the proposal as a form of distributed generation (DG), stating that '*DG through*

¹ For example, I heard that the turbine components are delivered on standard HGVs so conditions relating to the management of abnormal loads are unnecessary.

² Paragraph 109

*wind PV and CHP is key to achieve our low carbon future*³. I heard that the existing electricity connection at Carr Hall Garden Centre is of insufficient capacity to serve all the equipment required to run the business. Further, that reliance on diesel generators has had an adverse impact on the business due to the seemingly ever increasing cost of fuel and the inability to offer potential franchisees a reliable supply of electricity. The proposal would facilitate a three phase connection and, in addition to providing some renewable energy to the grid, would help secure and create local employment.

28. I consider that these matters amount to the very special circumstances necessary to justify the development in the Green Belt. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be allowed

Anthony Thickett

Inspector

³Distributed Energy is defined as generating electricity close to where it is consumed. PV = Photo voltaic, CHP = Combined Heat and Power.

Schedule

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The appeal is allowed and planning permission is granted for the installation of three Endurance 50Kw wind turbines, 46m in overall height (i.e. to blade tip) at Carr Hall Garden Centre, Whalley Road, Wilpshire, Lancashire, BB1 9LJ in accordance with the terms of the application, Ref 3/2012/0539, dated 15 May 2012 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 DC21 'Wind Turbine Installation at Carr Hall Garden Centre' drawing numbers: 01, 02, 03, 04 and 05.
 - 3) Within 6 months of a wind turbine ceasing to be used for the generation of electricity, the turbine 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.
 - 4) The level of noise emissions from the turbines hereby permitted shall not exceed LAEQ(T) of 35 dB 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 8ms⁻¹ at rotor centre height. Any noise measurement shall be made at a height of 1.2m and at a minimum distance of 3.5m from any façade or acoustically reflective surface. 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.
 - 5) The external finish of the turbines hereby permitted shall be: nacelle and blades RAL 9003 semi matt; towers RAL 9016 semi matt.
 - 6) No development shall commence until a construction method statement, describing the works to be undertaken and pollution prevention measures to be implemented during the construction phase, has been submitted to and approved in writing by the local planning authority. The construction method statement shall include the following details:
 - i. Location of construction/storage compounds
 - ii. Track construction and laying of cables
 - iii. Excavation for and construction of turbine bases
 - iv. Soil storage and spreadingDevelopment shall be carried out in accordance with the approved details.
 - 7) All electricity and control cables shall be laid underground.
 - 8) No works, vegetation clearance, site preparation or vehicle movements associated with the installation of the wind turbines hereby permitted shall take place between the months of March and August inclusive unless the results of a survey confirming the absence of nesting birds is submitted to and approved in writing by the local planning authority. The survey shall be conducted by a suitably qualified ecologist in accordance with a methodology submitted to and approved in writing by the local planning authority.
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APPEARANCES

FOR THE APPELLANT:

Mr M Tidmarsh	DC21 Ltd
Mr G Richards	DC21 Ltd
Mr A Donellan	Carr Hall Garden Centre
Mr J Roche	
Mrs C Billington	

FOR THE LOCAL PLANNING AUTHORITY:

Mr G Thorpe	Ribble Valley Borough Council
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INTERESTED PERSONS:

Mr D Teulon
Mr T Pickup
Mrs J Bremner
Mrs K Garner
Cllr L Rimmer
Mrs J Cummings
Mr J Gilligan
Mrs V Hargreaves
Mrs C Boardman
Mr B Boardman
Mr I Green
Mrs J Cooper
Mr D Bremner

Documents submitted at the Hearing

- 1 Appellant's final statement
- 2 Bat Conservation Trust Position Statement
- 3 Sheet showing suggested colour and finish of the proposed wind turbines

Plans submitted at the Hearing

- A Site Plan showing the distance between the proposed wind turbines and the site boundaries