



Appeal Decision

Site visit made on 16 February 2015

by **John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**

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

Decision date: 24 March 2015

Appeal Ref: APP/D2510/A/14/2217972

Land to the south of Rotten Row, Mablethorpe, Lincolnshire LN12 1NX

- 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 Richard Walker against the decision of East Lindsey District Council.
 - The application Ref N/180/01998/13, dated 15 October 2013, was refused by notice dated 7 April 2014.
 - The development proposed is erection of 1 x 40m (hub) high, 68m (tip) high wind turbine plus ancillary development.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 no. 500kW wind turbine with a hub height of 40 metres and a maximum height to blade tip of 68 metres and erection of a substation, crane platform and hardstanding on land to the south of Rotten Row, Mablethorpe, Lincolnshire in accordance with the terms of the application Ref N/180/01998/13, dated 15 October 2013, subject to the conditions in a schedule attached to this decision.

Procedural matter

2. The Council determined the application on the basis that it is for 'the erection of 1 no. 500kW wind turbine with a hub height of 40 metres and a maximum height to blade tip of 68 metres and erection of a substation, crane platform and hardstanding'. This is an accurate description of the proposed development and the appeal will be determined on the same basis.

Reasons

3. The Council's reason for refusal of the application is specific in that it does not allege that the proposed wind turbine would be, in itself, harmful. The Council's concern, as expressed in the reason for refusal, is that "Cumulatively with other existing and consented wind farms..." the proposed wind turbine would have a harmful impact on the local area and the wider landscape.

4. Consequently, the main issues are; first, the effect of the proposed wind turbine, cumulatively with other existing and consented wind farms in the area, on the character and appearance of the area and the wider landscape, including views into and out of the Lincolnshire Wolds Area of Outstanding Natural Beauty; and second, whether, in the overall planning balance, the harm caused is significantly and demonstrably outweighed by the environmental and other benefits of the proposed renewable energy development.

The first issue - the character and appearance of the landscape

5. The proposed turbine would be located at Helen House Farm on the south side of Rotten Row, a cul-de-sac country lane. The farmstead is located within local character area J1 'Tetney Lock to Skegness Coastal Outmarsh', as designated in the Council's Landscape Character Assessment. The character area is described as "...a mostly simple and rural landscape with intensive agricultural fields..." and "...an intact rural landscape with a very evident and distinctive character created in part by the extensive pattern of drainage...". The drainage of the mainly flat landscape is evident to the north and south of Rotten Row and in the wider area.

6. Character area J1 is about 32 kms long, north to south, and between about 3 and 4 kms wide. The landscape is open and views are far reaching including across the neighbouring local character area to the west, I1 'Holton le Clay to Great Steeping Middle Marsh', towards the higher ground of the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB). Views over the landscape from the high ground are recognised as contributing to the special character of the AONB. Paragraph 115 of the National Planning Policy Framework (NPPF) states that great weight should be given to conserving the landscape and scenic beauty of AONB's.

7. Character area J1, and to a lesser degree character area I1, has been a focus for wind energy developments in recent years. The Council is concerned that the proposed turbine would be harmful "...in that the character area in which it sits is turning from one where developments sit within it to one where...turbines dominate". They have described a route through the character area, from south to north, from which there are views of a succession of existing wind energy developments. The first is a group of two turbines at Croft, to the west of Skegness, then a large group of turbines at Bambers Farm near Mablethorpe, and then a group of twenty turbines at Conisholme Fen in the north of the area.

8. The Croft turbines are about 15 kms from those at Bambers Farm and those at Conisholme Fen are about 12 kms further north. At Croft the Bambers Farm turbines are scarcely visible on the skyline and they do not become an obvious feature in the landscape until the Croft turbines are left well behind. The visual relationship is similar between the turbines at Bambers Farm and Conisholme Fen. Planning permission has been granted for eight turbines at Gayton le Marsh about equidistant between Bambers Farm and Conisholme Fen and these must be given consideration. The proposed turbine that is the subject of the appeal is about equidistant between Bambers Farm and Gayton le Marsh.

9. The Council has referred to existing and proposed wind farms out at sea but, though they make a slight contribution to an overall perception of the number of turbines in the area, they do not have any effect on the character or appearance of the landscape (note underlining of 'land'). Given the distance between the Croft turbines and those at Bambers Farm there is no cumulative effect on the character of the landscape between these two developments. Bambers Farm is prominent in the landscape to the south of Mablethorpe but on heading north along the A1031 or west along the A1104/A157 towards Louth the turbines are in the background and Conisholme Fen is but a distant feature on the skyline to the north.

10. The Gayton le Marsh turbines will be introduced into the landscape about 3 kms to the north of the A157 and to the west of the A1031. The eight large turbines will be prominent in the landscape but as a single feature. Moving north on the A1031 they will pass into the background and the twenty turbines at Conisholme Fen is still a distant feature, albeit closer than before, about 8 kms

away in the distance. On the A157 the Conisholme Fen turbines are never closer than 8 kms away up to its junction with the A16 to the south of Louth. There is only a slight cumulative effect between existing and permitted wind farms on the character and appearance of the landscape.

11. The proposed single turbine is only of medium size and its impact on the character and appearance of the landscape, in itself, would be slight. The turbine, which would be about 1.5 kms west of the A1031, would be visible in some views together with each of the permitted and existing groups of turbines to the south-east and north-west, such as in views west from the A1031. But the cumulative effect on the character and appearance of the landscape would be no more than slight and thus less than substantial.

12. The Council has listed several other wind energy developments that are 'in planning' and several others for which a scoping opinion has been sought. The sites of these are spread across the landscape character area. The only significant development 'in planning', apart from one at the very northern edge of the landscape character area, is one for nine turbines at Orby. But this development is on a site about 13 kms to the south-east of the appeal site and would be unlikely to have a cumulative effect on the landscape together with the proposed mid-size turbine at Rotten Row. The developments at scoping stage need not be considered because they are at too early a stage in the planning process.

13. The Bambers Farm multiple turbines are visible from high ground in the AONB but at a distance of about 10 kms. Similarly, from the same vantage points the Gayton le Marsh turbines will be a visible group in views towards the sea but at a similar distance. They will be, given that the two developments are only 6 kms apart, visible together in the same views. The proposed turbine would be significantly lower in height than the Gayton le Marsh turbines and somewhat lower in height than those at Bambers Farm. It would, furthermore, be a single feature and would be equidistant between the two groups. Consequently, the proposed turbine would not add to any cumulative effect there might be, when the Gayton le Marsh development is constructed, on the views from the high ground of the Wolds that are recognised as contributing to the special character of the AONB.

14. The proposed wind turbine would have, together with existing and permitted wind energy developments, no more than a slight adverse cumulative effect on the character and appearance of the area and the wider landscape. There is, however, albeit slight, conflict with saved policy A5 of the East Lindsay Local Plan Alteration 1999 (LP), which is the Development Plan for the area.

The second issue – the environmental and other benefits of the proposed turbine

15. At the heart of the overall planning balancing exercise is Section 38(6) of the Planning and Compulsory Purchase Act 2004; which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, determination must be made in accordance with the plan unless material considerations indicate otherwise.

16. A wind turbine in a rural location will, almost inevitably, cause harm to the character of the landscape and thus, if there is a relevant development plan policy as there is in this case, will be in conflict with that policy. National policy on renewable energy is set out in the NPPF. The NPPF supports the provision of renewable energy if the impacts are, or can be made, acceptable. In paragraph 98

it is recognised that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

17. All letters of representation sent to The Planning Inspectorate in relation to the appeal support the proposed development whilst many letters sent to the Council at application stage oppose the proposed development. All matters mentioned in opposition to and support for the scheme have been taken into account but they do not, either individually or collectively, contribute anything further to matters that must be considered in the overall planning balance.

18. No information has been provided on how much power would be generated by the turbine. However, it is claimed that "The turbine would allow the farm business to operate in a more environmentally and financially sustainable manner, with any excess electricity being sold back to the national grid where it would contribute to the country's renewable energy provision and contribute to the proportion of the UK's 15% renewable target by 2020". These are environmental and farm diversification benefits to be weighed in the planning balance.

19. The proposed wind turbine would have, together with existing and permitted wind energy developments, no more than a slight adverse cumulative effect on the character and appearance of the area and the wider landscape, and there would be slight conflict with saved LP policy A5. This is the harm and the conflict with the development plan to be weighed in the planning balance.

20. The planning balance requires planning judgement to be exercised. The slight harm that would be caused by the proposed development and the slight conflict with the development plan is significantly and demonstrably outweighed by the environmental and other benefits of the wind power scheme, and is therefore, in NPPF terms, acceptable. In this case, determination is made other than in accordance with the development plan and planning permission has thus been granted, subject to conditions, for the erection of 1 no. 500kW wind turbine with a hub height of 40 metres and a maximum height to blade tip of 68 metres and erection of a substation, crane platform and hardstanding on land to the south of Rotten Row, Mablethorpe, Lincolnshire.

21. The Council submitted a list of sixteen suggested conditions with the appeal questionnaire and these were sent to the Appellant's Agent but he has offered no comment on them. The conditions meet the tests set out in National Planning Practice Guidance and are all necessary and reasonable. They have been amended and/or combined, where necessary, in the interests of clarity and precision. The reason for each condition is given in the schedule.

John Braithwaite

Inspector

Conditions for Planning Permission N/180/01998/13

1. The development hereby permitted shall be commenced before the expiration of three years from the date of the planning permission.

Reason: To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be for a period of 25 years beginning with the date when electricity is first exported to the electricity grid (the 'First Export Date'). Written notification of the First Export Date shall be submitted to the Local Planning Authority no later than one calendar month after the event.

Reason: To limit the time period of the permission.

3. The wind turbine and associated plant and machinery hereby permitted shall be removed from the site no later than three months after either, the date that is 25 years after the First Export Date, or, the date on which the wind turbine has ceased to produce electricity for a continuous period of six months. In either case removal shall include on-site concrete up to a depth of one metre below ground level and the site shall be restored to its previous use and condition.

Reason: To ensure the removal of the turbine and associated equipment.

4. Notwithstanding details submitted with the application details and a specification of the wind turbine hereby permitted, to conform to the design and specification of the EWT DW52/54 500kW turbine, shall be submitted to and approved in writing by the local planning authority. The turbine shall have a base to top tip height of no more than 68 metres, shall have three blades, and shall be matt grey or off-white in colour. The sub-station hereby permitted shall be as shown on drawing no. 13008003. Development shall be carried out in accordance with the approved details and specification.

Reason: In the interests of the visual amenity of the area.

5. All cabling between the turbine and the sub-station hereby permitted and to the grid connection from the sub-station shall be underground.

Reason: In the interests of the visual amenity of the area.

6. The level of noise emissions from the turbine hereby permitted (including the application of any tonal penalty) shall not exceed 35 dB LA90,10 min up to wind speeds of 10 metres/sec measured at a height of 10 metres above ground level at any nearby noise sensitive property.

Reason: To prevent noise disturbance and to protect residential amenity.

7. Development shall not commence until Rotten Row, between the proposed access and the A1031, has been improved in accordance with details that have been submitted to and approved in writing by the local planning authority.

Reason: In the interests of highway safety.

8. Development shall not commence until space has been laid out on site for the parking, turning, loading and unloading of vehicles within the site. The space so laid out shall be retained during the lifetime of the development.

Reason: In the interests of highway safety.

9. Development shall not commence until details of the proposed access off Rotten Row has been submitted to and approved in writing by the local planning authority. The approved access shall be constructed and brought into use before any other development hereby permitted is commenced.

Reason: In the interests of highway safety.

10. Development shall not commence until a routeing plan for all construction vehicles has been submitted to and approved in writing by the local planning authority. The routeing plan shall prohibit all HGV construction vehicles from using Three Bridges Lane and shall be adhered to during the construction period.

Reason: In the interests of highway safety.

11. Development shall not commence until details of measures to prevent the deposit of mud and debris on the public highway have been submitted to and approved in writing by the local planning authority. The approved measures shall be adhered to during the construction period.

Reason: In the interests of highway safety.

12. The turbine hereby permitted shall be fitted with 25 candela omni-directional red or infrared aviation lighting, with an optimised flash pattern of 60 flashes per minute of 200 ms to 500 ms duration, at the highest practicable point.

Reason: In the interests of aviation safety.

13. No name, sign, symbol or logo shall be displayed on any external surface of the turbine or sub-station building hereby permitted other than those required to satisfy statutory health and safety requirements.

Reason: In the interests of the visual amenity of the area.

14. Construction work on the development hereby permitted shall only take place between 0800 to 1800 hours on Mondays to Fridays and 0800 to 1400 hours on Saturdays, other than in the event of an emergency.

Reason: To protect trees and hedgerows in the vicinity of the site.

15. Prior to the First Export Date a scheme for the investigation and alleviation of electromagnetic interference to terrestrial television caused by the operation of the wind turbine hereby permitted shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the investigation, by a qualified television engineer of any complaint of television interference at a lawfully occupied dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of the Use Classes Order) which exists or had planning permission at the date of the permission, where such a complaint is made to the developer by the local planning authority within 12 months of the First Export Date. Where interference is determined by the engineer to be attributable to the development mitigation measures shall be carried out in accordance with the approved scheme.

Reason: To ensure that television reception is not impaired by the development.