



Appeal Decision

Site visit made on 16 October 2012

by K D Barton BA(Hons) DipArch DipArb RIBA FCI Arb

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

Decision date: 20 November 2012

Appeal Ref: APP/W1145/A/12/2178715

Rexon Cross Farm, Broadwoodwidge, Lifton, Devon PL16 0JJ

- 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 Aspire Planning Limited (Mr Ben Lewis) against the decision of Torridge District Council.
 - The application Ref 1/0176/2012/FUL, dated 29 February 2012, was refused by notice dated 7 June 2012.
 - The development proposed is the erection of 1 no wind turbine (72 metres to blade tip) and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 no wind turbine (72 metres to blade tip) and associated works at Rexon Cross Farm, Broadwoodwidge, Lifton, Devon PL16 0JJ in accordance with the terms of the application, Ref 1/0176/2012/FUL, dated 29 February 2012, and subject to the conditions in the attached schedule.

Effect on the Character and Appearance of the Surrounding Landscape

2. The appeal site, which is part of the Rexon Cross farm holding, is within a field in the countryside approximately 155 metres above sea level. Access would be from an existing field gateway to the north-east. This would join a curving road that leads towards Rexon Cross and a junction with the A30 to the south-west of the site, and which passes Roadford Lake and Visitor Centre to the north-west of the site before crossing Roadford Dam. A *Joint Landscape Character Assessment for North Devon and Torridge Districts* indicates the site is within Landscape Character Type (LCT) 5A: Inland Elevated Undulating Land, approximately 350 metres to the north of where the LCT changes to 3H: Secluded Valleys. The site lies outside any national or locally designated landscape area.
3. The *Visual Representation of Windfarms – Good Practice Guide* notes that for turbines between 53 and 83 metres total height it is not possible to identify the taper of the turbine tower or identify nacelle detail, and that a casual observer may find blade movement unnoticeable, at distances over 10 kilometres. A *Landscape and Visual Impact Assessment (LVIA)*, whose scope was agreed with the Council and that was prepared in accordance with best practice, has been submitted and considers a study area of 10 kilometres as this is where the most noticeable effects may occur. The zone of theoretical visibility indicates that views of the turbine would quickly diminish with distance due to the undulating landform and the density of vegetation in the wider landscape and the Council's landscape sensitivity assessment acknowledges that the

landscape has the capacity to accept turbines of this type and size without detriment to the overall landscape character.

4. The relatively large-scale landform of LCT 5A, human influence in the form of a working agricultural landscape and the presence of medium regular fields indicate a lower sensitivity to wind energy development, although other factors such as church towers and barrows/forts on the skyline increase sensitivity. The Council's landscape strategy for LCT 5A "is for a landscape with occasional wind energy development of up to small size clusters of turbines comprising turbines that may be up to and including sizes in the 'large' category". The proposal is for a single turbine in the 'medium' category.
5. The most immediate views of the proposed turbine would be from Roadford Lake, which is a tourist attraction and used for a number of outdoor activities. There would be views of the proposed turbine above the trees from the far side of the lake, and on the skyline from farther afield but the visitor centre faces away from the appeal site. Similarly, those participating in outdoor pursuits are likely to be concentrating on their activity rather than admiring the landscape, many views of which would in any event be unaffected. The impact would therefore be as assessed in the LVIA rather than the greater impact that the Council considers would occur.
6. There would be views from the A30 but drivers travelling at speed would be concentrating on driving not the scenery and would be low sensitivity receptors. Intermittent views would be obtained from near Lewdown on the line of the old A30 but although elevated, vegetation and development would screen a number of views. Whilst the turbine would be a vertical feature, it would be a slim structure seen in isolation. It would break the skyline from some viewpoints but its slenderness would mean that it would have only a slight impact in the wider landscape or on the overall landscape character. The proposal would have, at worst, moderate-major effects on a few close range receptors with moderate-minor effects on landscape character areas in close proximity to the development.
7. Whilst CPRE Cornwall object to the scheme some 8.8 kilometres (5.5 miles) from the county boundary, the separation distance would be adequate to prevent this single turbine from having any significant impact on views from Cornwall. Indeed, the Dartmoor National Park Authority does not object to the proposal due to the distance of the proposed turbine some 9.5 kilometres from the National Park.
8. The accuracy of the photomontages prepared by South West Water to show views from its proposed holiday village, has been questioned. However, even if the turbine were visible as shown from a vantage point at a distance approaching 300 metres away, a 3 metre high Devon bank would provide some screening. The site is currently seasonal with parts closed off in winter when the café only opens at reduced times. Moreover, it would seem likely that the main views from the holiday village would be towards the lake and the landscape beyond rather than across a car park towards the turbine. Whilst South West Water's concern for the viability of its proposed development is understandable, there is little evidence that a turbine would have any detrimental impact on visitor numbers. Indeed, there has been no decrease in visitor numbers at South West Water's Tamar lakes where three turbines have been erected around 1 kilometre from the lake shore.

9. English Heritage specifically refer to the impact on a number of heritage assets. No separate Historic Impact Assessment has been submitted but there is an assessment in the LVIA. Bridestowe, Lifton and Lydford are outside the zone of theoretical visibility due to the screening provided by surrounding development, and the dense vegetation within the wider landscape, whilst the distance of the Bratton Clovelly, Eworthy, Germansweek and Stowford Conservation Areas from the proposal would prevent any material impact on their settings.
10. Stowford Church, which is listed Grade II* and has been grant aided at public expense, is also considered in the LVIA. From the Churchyard views towards the site are limited due to topography and vegetation. The main view of the site is from the highest corner of the Churchyard between vegetation. The turbine would be visible on the distant skyline with existing poles and wires in the foreground. Consequently there would be no material impact on the setting of the listed building. Similarly, from Launceston Castle the proposed turbine might be visible in the far distance over 10 kilometres away but this would have no significant impact on its setting.
11. There is one other turbine scheme within a 10 kilometre radius. This includes two turbines, 25 metres to blade tip, on a site in excess of 4 kilometres from the appeal site. That scheme is not yet operational but the Council accepts that the separation distance, and the size of the turbines, would mean that there was no detrimental cumulative impact.
12. The proposal would have a slight detrimental impact on the character and appearance of the surrounding landscape, contrary to the objectives of saved Policies DVT2C(1), DVT6(a), ENV1(1)(a), and ENV5 of the *Torrige District Local Plan* (LP) and saved Policies ST1(2), CO1, and CO6 of the *Devon Structure Plan* (SP) but needs to be balanced against any benefits.

Effect on Nearby Residential Properties and an Approved Holiday Village in terms of Noise and Shadow Flicker

13. The nearest residential properties are Eastlake Bungalow some 709 metres to the east and East Banbury Farm in the region of 810 metres to the south-west. A noise report submitted with the application concludes that the proposal would comply with the requirements of ETSU-R-97 and that a condition could be imposed to limit noise to 35dbA at wind speeds of up to 10metres/second at 10 metre height. The Council's Environmental Protection section raised no objection to this. In terms of shadow flicker, this generally occurs within a 130° zone directly north of the turbine and within a distance of up to 10 times the rotor blade diameter from the turbine. There is no residential dwelling within that zone.
14. An outline planning permission exists for a holiday village around 290 metres to the north on the opposite side of the road and the ridge. There is a year remaining for reserved matters to be submitted but the layout is fixed by the outline consent. Additional information was submitted by the appellant very late in the application process and was not considered by the Committee. An updated noise report notes that the proposed turbine would comply with the criterion set out in ETSU-R-97 and would be unlikely to have a detrimental effect on the proposed holiday village. In addition it would comply with the general criterion of $L_{A90, 10 \text{ mins}}$ of 35dB at all but the high integer wind speeds with a southerly wind. However, the prevailing wind at the site is likely to be

westerly. Similarly, in terms of shadow flicker, software has been used to predict potential shadow flicker. Three chalets were assessed at both ground and first floor window heights and no potential for shadow flicker was identified.

15. The proposed turbine would not, therefore, have any significant detrimental impact on the living conditions of the occupiers of nearby residential properties, or a holiday village that has outline planning permission, in terms of either noise or shadow flicker. The proposal would comply with the aims of saved LP Policies DVT11(a) and DVT13(1), and SP Policy CO16 in that respect.

Other Matters

16. An Ecological Assessment was submitted with the application and, in spite of the location of a Nature Reserve at the far end of Roadford Lake, concludes that it is unlikely that the proposal would have any significant adverse effect on any protected species, including local populations of bats and birds. Natural England's *Technical Information Note TIN051: Bats and onshore wind turbines* has been taken into account in siting the turbine and there is no objection from Natural England. The Barn Owl Trust notes that available evidence indicates that appropriately sited turbines do not pose a significant hazard to Barn Owls as they have a large home range and forage predominantly well below the level of the rotor blades. The Trust has yet to receive a report of a turbine causing a Barn Owl injury or fatality.
17. Notwithstanding the appellant's view that there are no heritage assets nearby, the Council's archaeology section refers to a lithic artefact recovered from north of the site and two prehistoric enclosures and a possible medieval settlement to the south-east. There may be unknown assets within the site but a condition requiring a programme of archaeological work prior to any development would safeguard any archaeology on the site.
18. Reference has been made to a possible local community fund managed by the Parish Council but no mechanism has been proposed to provide for this and I have given the possibility no weight. Although some local residents state they have not been informed of the proposal there is no evidence that the application was not publicised in accordance with statutory requirements.

Benefits

19. There are no targets for onshore wind energy production but the EU Renewables Directive obliges the UK to produce 15% of its energy requirements from renewable sources by 2020. The *National Planning Policy Framework (Framework)* encourages the use of renewable resources which is identified as central to the economic, social and environmental dimensions of sustainable development. It recognises that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. Energy generated by the proposed turbine would feed directly into the grid at a connection point adjacent to the site. The turbine would be on a working farm and would add an element of diversification to the business.

Conclusions

20. The proposal would have no significant impact on the living conditions of the occupiers of neighbouring properties, or a proposed holiday village, in terms of noise or shadow flicker. There would be no adverse impact on ecology nor,

with suitable safeguards, would there be a significant impact on archaeology. Whilst there would be a slight impact on the character and appearance of the surrounding landscape this would be outweighed in this case by the small but important contribution the proposal would make towards the production of renewable energy generation and cutting greenhouse gases.

Conditions

21. I therefore turn to consider what conditions, other than the normal time condition and those relating to noise levels and archaeology mentioned above, should be attached. In the interests of clarity and good planning the approved drawings should be listed and the development required to be carried out in accordance with them.
22. The maximum height of the blade tip, and the rotor diameter, should be set out to ensure that the turbine erected is no larger than that considered in the LVIA. Similarly, details of the colour and finish of the turbine should be submitted for approval, the use of any unnecessary signs or logos prohibited, and any electrical cabling should be run underground and the excavated ground made good to ensure that the visual impact is minimised. For the same reason, details of temporary construction arrangements should be submitted as should the details of the switch gear housing. The turbine should be required to be removed within 30 years of this decision, or if it ceases to be operational for a period of 12 months, and the site restored to safeguard the character and appearance of the surrounding area.
23. To protect the living conditions of the occupiers of nearby properties a condition requiring an investigation by an independent noise consultant in the event of a complaint, and for any mitigation measures found to be required to be carried out in accordance with an agreed timetable should be attached. Details of the access route, any highway accommodation works, and the date of delivery should be submitted for approval in the interest of safety and to protect the amenity of local residents. Provision should also be made for an investigation and for mitigation measures to be implemented should there be any interference or loss of television or radio signal due to the turbine in the surrounding area.
24. In the interests of safety details of any lighting on the turbine should be submitted for approval and a red light should be provided at the highest practicable point. A condition requiring the operation of the turbine to cease should there be any interference with electronic infrastructure operated or controlled by NATS En Route Plc or any other body responsible for air traffic movements in the UK should also be attached.
25. Whilst the Council has suggested a restriction on construction working hours such a restriction would be unreasonable in this rural location.

K D Barton

INSPECTOR

Schedule of Conditions attached to Appeal Decision Ref APP/W1145/A/12/2178715

- 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 the following approved plans: ASP-001, 002, 003, 004, 005, and PowerWind dwg no 9000000017.
- 3) No development shall take place within the appeal site area until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to, and approved in writing by, the local planning authority.
- 4) The maximum height to blade tip of the turbine shall not exceed 72m, when measured from ground level. The rotor blade diameter shall not exceed 56m.
- 5) Details of the colour and finish of the wind turbine shall be submitted to, and approved in writing by, the local planning authority. The turbine shall be constructed in accordance with the approved details.
- 6) No development shall take place until details of a temporary construction compound and switchgear house have been submitted to, and approved in writing by, the local planning authority. Details shall include a scheme for removal of the compound and reinstatement of the land following completion of construction works. The temporary construction compound and switchgear house shall be provided in accordance with the approved details.
- 7) The turbine hereby permitted shall be removed from the site and that part of the site shall be restored within 30 years of the date of this permission, in accordance with a scheme of work to be submitted to, and approved in writing by, the local planning authority. The scheme of work, including a restoration plan, shall be submitted to the local planning authority not less than two months before the expiry of the 30 year period.
- 8) If the turbine hereby permitted ceases to be operational for a continuous period of 12 months (unless cessation is due to repair or replacement), it shall be dismantled and removed from the site and that part of the site shall be restored in accordance with a scheme of work which has been submitted to, and approved in writing by, the local planning authority. The scheme of work, including a restoration plan, shall be submitted to the local planning authority within 2 months following the expiry of the 12 month period and the approved scheme of work implemented within 2 months of approval.
- 9) Noise from the wind turbine shall not exceed 35dB(A) $L_{A90\ 10\ mins}$ in wind speeds up to 10 metres per second as measured at the boundary of the curtilage of the nearest dwelling. Wind speeds shall be measured at the turbine, standardised by reference to a height of 10 metres as described in ETSU-R-97 Page 120, using a reference roughness length of 0.05 metres.
- 10) Within 14 days from the receipt of a written request from the local planning authority (following a complaint to the local planning authority from the occupant of a dwelling which lawfully existed or had planning permission at the date of this permission), the wind farm operator shall, at the wind farm operator's expense, employ an independent noise consultant approved by the local planning authority to assess the level of noise emissions from the wind farm at the complainant's property.

- 11) The independent noise consultant, referred to in condition 10, shall follow procedures to be submitted to, and approved in writing by, the local planning authority prior to the commencement of the consultant's investigations, and thereafter the wind farm operator shall provide to the local planning authority the independent consultant's assessment and conclusions regarding the noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 2 months of the date of the written request of the local planning authority.

In the event that the results of the above measurements indicate that the specified noise limits have been exceeded at any dwelling then, within 21 days of notification in writing of this by the local planning authority, the operator shall submit in writing to the local planning authority:

- i) a scheme of noise control measures to achieve compliance with agreed noise levels;
- ii) a timetable for implementation of the noise control measures;
- iii) a programme of monitoring to demonstrate the efficiency of the noise control measures.

The noise control measures will be implemented and the monitoring undertaken in accordance with the scheme and timetable agreed in writing by the local planning authority.

- 12) The development shall not commence until details of the access route along which the turbine and its constituent components will be transported to the site, including any highway accommodation works required along the route to facilitate the movement of vehicles, as well as the expected delivery date, have been submitted to, and approved in writing by, the local planning authority. The turbine and its components shall be transported to the site in accordance with the approved details.
- 13) No development shall take place until details of external lighting (red or infrared lighting) on the wind turbine have been submitted to, and approved in writing by, the local planning authority. Lighting shall be installed in accordance with the approved details.
- 14) Upon installation of the turbine, hereby approved, a single red or infrared 25 candela omni-directional light with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration shall be fixed at the highest practicable point. Prior to commencement of works, details of the siting shall be submitted to, and approved in writing by, the local planning authority. This light shall remain in situ until the turbine is removed in accordance with conditions 7 or 8.
- 15) All electrical cabling between the turbine and the on-site connection building shall be located underground. Any ground excavated in connection with the cabling shall be reinstated to its former condition within 3 months of the commissioning of the wind turbine in accordance with a scheme which has been submitted to, and approved in writing by, the local planning authority prior to commencement of works on site.

- 16) No symbols, signs, logos or lettering, other than any required for health and safety or traffic management shall be displayed on any part of the turbine.
- 17) In the event of the turbine causing harmful interference to any electronic infrastructure operated or controlled by NATS En Route Plc, or any other body responsible for the safe and expeditious movement of air traffic in the UK, the turbine shall cease operating until such time as any technical difficulties are resolved.
- 18) Within 24 months of the final commissioning of the turbine and within 14 days from the receipt of a written request from the local planning authority (following a complaint to the local planning authority from the occupant of a dwelling which lawfully existed or had planning permission at the date of this permission), the turbine operator shall, at its own expense, employ a qualified television and domestic radio engineer to investigate the complaint of domestic television and radio signal loss or interference at that property. The engineer shall prepare a report of findings of the investigation which shall be submitted to the local planning authority for approval within 6 weeks of the date of the local planning authority's written request. Where necessary, the report should set out the details of works necessary to mitigate any adverse effects to domestic television and radio signals at the property caused by the development, and when such works will be carried out. Any mitigation works must be carried out in accordance with the approved mitigation scheme.
- 19) Notwithstanding the details shown in the application hereby permitted, prior to their installation, details (and/or representative samples) of the colour and texture of the facing and roofing materials to be used in the construction of the switch gear house shall be submitted to, and agreed in writing by, the local planning authority. The agreed details shall be implemented before the development hereby permitted is brought into use and shall thereafter be retained as such.

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Services Department:

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Fax: 01793 414926

Textphone: 0800 015 0516

E-mail: customers@english-heritage.org.uk