

Item No 05:-

16/01657/FUL (CD.9360/A)

**Withington Estate
Withington
Gloucestershire
GL54 4BG**

Item No 05:-**Installation of 2 x 18m wind turbines at Withington Estate Withington Gloucestershire
GL54 4BG**

Full Application 16/01657/FUL (CD.9360/A)	
Applicant:	Mr & Mrs Bruno Brenninkmeijer-McKenzie
Agent:	
Case Officer:	Alison Williams
Ward Member(s):	Councillor Robin Hughes
Committee Date:	12th October 2016
RECOMMENDATION:	REFUSE

Main Issues:

- (a) Principle of the Proposed Development
- (b) Impact on the Character of the Surrounding Area and AONB
- (c) Impact on the Setting of Withington Conservation Area
- (d) Residential Amenity
- (e) Biodiversity
- (f) Other considerations

Reasons for Referral:

Cllr. Robin Hughes has requested that the application is reported to the Planning and Licensing Committee for determination for the following reasons: 'Normally I would have no hesitation in giving delegated authority for refusal of wind turbines, but having visited the site, I wonder whether this site might not be a suitable location. These wind turbines are forecast to produce 76,000kw of electricity/annum reducing the production of carbon dioxide by some 41 tonnes/annum, not inconsiderable by any standard! I would very much value the thoughts of the 'Planning and Licensing Committee' in connection with this application and would recommend an advanced site visit if at all possible as well, please.'

1. Site Description:

This application relates to a field located to the west of Withington that falls within open countryside and the AONB. The field also forms part of the Withington Estate. There is a woodland to the south western corner of the field boundary, sporadic mature trees and hedging along the southern boundary. The eastern boundary is defined by a hedge with a PROW running alongside. The northern boundary is defined by sporadic mature trees and hedging. The land slopes away to the south west corner, rises gently to the south east corner and rises again to the north.

There is a 46.5m high electricity pylon located within northern central section of the field.

The Withington Conservation Area western boundary at the edge of the village is located approximately 1.3km from the proposed turbines (as the crow flies).

The proposal is for 2 wind turbines to provide energy for the Withington Estate. Each tower would measure a total of 17.96m with an additional 0.7m base and would have three 6.6m long rotary blades resulting in a height of 24.56m when the blade is in a vertical position. The colour would vary with the tower finished in grey, the shell and blades finished in white and the electronic cabinet in light grey.

2. Relevant Planning History:

There is no planning history relevant to this site although a previous application for a wind turbine was withdrawn with reference 11/03448/FUL and a further application which was refused 13/00849/FUL which was located approximately 980m to the east.

3. Planning Policies:

NPPF National Planning Policy Framework
 LPR02 Renewable Energy
 LPR05 Pollution and Safety
 LPR09 Biodiversity, Geology and Geomorphology
 LPR15 Conservation Areas
 LPR42 Cotswold Design Code
 LPR46 Privacy & Gardens in Residential Deve

4. Observations of Consultees:

Landscape officer - objects - comments contained within the officer assessment

Biodiversity Officer - no objection subject to conditions

Environmental Health - No objection subject to conditions

National Grid - No objections

MOD - No objections subject to informative

Cotswold Conservation Board - Object - negative impact on the AONB, contrary to the landscape strategy, highly visible.

5. View of Town/Parish Council:

No comments received

6. Other Representations:

29 letters of objection have been received that raise objection to:

1. Visual harm to character and appearance of the AONB
2. Adverse impact on biodiversity
3. Turbines would be in an elevated position
4. Pylons are static turbines move
5. Noise pollution
6. Adverse impact on neighbouring amenity
7. Existing trees are insufficient to screen
8. No community value
9. Adverse impact on Public Right of Way
10. Lack of consultation
11. Precedent
12. Risk of lack of long term management or removal once no longer used
13. Impact on tranquillity
14. Loss of value of property

7. Applicant's Supporting Information:

Design & Access Statement.
 Environmental Statement and Landscape Visual Impact Assessment.
 Ecological Survey (Link Ecology) October 2015
 Shadow Flicker Assessment
 Viewpoint/photomontages

8. Officer's Assessment:

(a) Principle of the Proposed Development

Ministerial Advice

In the House of Commons Written Statement HCWS40, on 18 June 2015, the Secretary of State for Energy and Climate Change (Amber Rudd) said:

The Government is committed to meeting objectives on cutting carbon emissions and the UK's 2020 renewable energy targets. Onshore wind has deployed successfully to-date and is an important part of our energy mix. We now have enough onshore wind in the pipeline, to be subsidised by bill payers through the Renewable Obligation or Contracts for Difference, for onshore wind to play a significant part in meeting our renewable energy commitments. The Government was elected with a commitment to end new subsidies for onshore wind and to change the law so that local people have the final say on onshore windfarm applications. She continued: "My Rt. Hon. Friend the Secretary of State for Communities and Local Government is today making a statement on onshore wind development and local planning in England. This will set out new considerations to be applied to proposed wind energy development so that local people have the final say on wind farm applications".

Accordingly, the Secretary of State for Communities and Local Government (Greg Clark) issued his contemporaneous Written Statement HCWS42 (18 June 2015) stating that:

"In applying these new considerations, suitable areas for wind energy development will need to have been allocated clearly in a Local or Neighbourhood Plan. Maps showing the wind resource as favourable to wind turbines, or similar, will not be sufficient. Whether a proposal has the backing of the affected local community is a planning judgement for the local planning authority."

Where a valid planning application for a wind energy development has already been submitted to a local planning authority and the development plan does not identify suitable sites, the following transitional provision applies. In such instances, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing.

The Cotswold District Local Plan 2001 – 2011 Policy 2 sets out the renewable energy Policy for the District. This does not allocate specific sites for renewable energy however it does set out 5 criteria to be met which are:

Proposals for renewable energy installations will be permitted provided that the proposed development:

- a) Would not result in any significant loss of amenity due to noise or interference with telecommunications reception;
- b) Would not result in an unacceptable risk to public health or safety, including harmful environmental effects from any associated transmissions;
- c) Does not, by its visual impact, significantly harm the character or appearance of the Cotswolds AONB, Special Landscape Areas, historic landscapes, archaeological sites, or the character or setting of Conservation Areas or Listed Buildings;
- d) does not significantly harm the ecology of habitats, other biodiversity interests or sites of archaeological importance; and

e) is justified, where necessary, in terms of national energy policies of local and regional requirements.

The emerging Local Plan as set out in the Reg 19 is at an early stage and has not yet been through examination and therefore carries limited weight. However the policy does not allocate specific sites for renewable energy. The Policy INF10 sets out that:

1. Proposals for the generation of energy from renewable or low carbon sources will be permitted, provided that:

a) Any adverse impacts (either individually or cumulatively), including visual, upon the landscape, heritage, biodiversity, highways and/or residential amenity, are or can be satisfactory mitigated;

b) It is of an appropriate type, scale, design for the location and setting;

c) It is compatible with surrounding land uses, such as military activities; and

d) It avoids use of the best and most versatile agricultural land unless justified by compelling evidence.

2. The infrastructure and all associated apparatus and structures relating to the installation must be removed, and the site reinstated where appropriate, should it become redundant for energy generation purposes.

Chapter 10 of the NPPF sets out the National Planning Policy in relation to meeting the challenge of climate change.

Paragraph 93 of the NPPF sets out that "planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development."

Paragraph 97 of the NPPF sets out that "to help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should:

* have a positive strategy to promote energy from renewable and low carbon sources;

* design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts;

* consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources;

* support community-led initiatives for renewable and low carbon energy, including developments outside such areas being taken forward through neighbourhood planning; and

* identify opportunities where development can draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.

Para 98 of the NPPF sets out that "when determining planning applications, local planning authorities should:

* not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and

* approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.

Paragraph 115 of the NPPF states that "great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation

of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.”

Planning Practice Guidance PPG ID 5 identifies the planning considerations for a range of renewable sources. It sets out at para 007 that Policies based on clear criteria can be useful when they are expressed positively (i.e. that proposals will be accepted where the impact is or can be made acceptable). It is therefore considered that the current local plan policy and emerging policy are in line with the PPG and are therefore afforded significant weight.

Para 14 of the PPG sets out that a number of questions that should be considered when determining applications for wind turbines.

(b) Impact on the Character of the Surrounding Area and AONB

The site is located approximately 1,300m west of the village of Withington within the farmland associated with the Withington Estate, in the Cotswolds AONB.

The proposal is for the erection of 2 turbines. The wider field in which the turbines would be located is currently used for rough pasture there is an existing National Grid pylon in the field. The field is rectangular shaped and is contained by low, broken hedgerows to the south, east and western boundaries and a low stone wall with scattered trees to the northern boundary. A pocket of woodland adjoins the south western corner and the garden of a stone cottage borders the south eastern corner of the field.

The field is sandwiched between two country roads which border the wider field to the north and south. There are a number of public rights of way situated within the wider countryside; one follows a route from the south, along the eastern boundary and then northwards of the site.

The proposal is for 2 wind turbines to provide energy for the Withington Estate. Each tower would measure a total of 17.96m with an additional 0.7m base and would have three 6.6m long rotary blades resulting in a height of 24.56m when the blade is in a vertical position. The colour would vary with the tower finished in grey, the shell and blades finished in white and the electronic cabinet in light grey. The Design and Access Statement (DAS) states that no hedgerows would be removed to accommodate the underground cables and the turbines would be accessed via the existing agricultural routes.

Visibility

A Landscape and Visual Impact Assessment (LVIA) has been submitted in support of this application. A number of viewpoints were assessed from the immediate and wider context; the viewpoints were taken from an analysis of a Zone of Theoretical Visibility (ZTV). It was concluded that the proposal would result in an effect of moderate / minor which is classified as 'Not Significant'. It was considered in the LVIA that the pylons would always be the most dominant feature and the introduction of two smaller turbines would be insignificant to the view. In addition was stated that the local vegetation would provide screening and reduce the perception of the turbines.

However Officers consider that the turbines would become a highly prominent feature, particularly from local views. The proposed turbines would be sited within the rural gap between two roads. A section of the road to the northern side of the site also makes up part of the PRoW. The boundary vegetation does not offer any meaningful screening, particularly in views westwards from the two carriageways. The landform is also slightly elevated and so the turbines would be highly prominent. Again from the adjacent PRoW, while an existing hedgerow provides separation between the user and the site, this is fairly sparse. Given the height of the towers and movement of the blades it is considered the turbines would again be highly conspicuous in views westwards.

While it is appreciated that the pylons are already a prominent and incongruous feature in the landscape this does not justify additional harm and it is considered that the proposal would clutter the landscape. In addition the movement of the blades and the colour would be conspicuous in the landscape and eye catching from the surrounding context. As such the proposals would result in a negative visual impact and would detract from important views.

Character

The site and the wider landscape falls just within the character area 7C High Wold and is further refined as Cotswolds High Wold Plateau (Landscape Strategy and Guidelines for the Cotswolds AONB). The site and the surrounding countryside typify this type of landscape. The character assessment states that "Despite its predominantly agricultural character, the wide, elevated, gently undulating plateau landscape retains a strong sense of remoteness contributing to its high sensitivity. Wide panoramic views, a high degree of inter-visibility, and limited woodland cover also add to the sensitivity of the High Wold landscape to tall vertical elements, such as telecommunication masts and wind turbines".

The Cotswold Conservation Board has identified "the introduction of vertical elements such as communication masts, wind turbines, electricity pylons" as a local force for change. The potential landscape implications are "introduction of visually intrusive "urban" features to rural landscapes", "introduction of unnatural movement" and "breaking up the Cotswolds skyline".

Therefore while the land is already occupied by existing pylons this does not justify further urbanisation of the rural landscape. The turbines would have a cumulative impact when sited next to existing pylon towers. It is considered that the colour, movement and size would be visually prominent from a number of local and distant views and would be seen against the skyline. While it is acknowledged that it is important to promote the use of renewable energy this must be set against the impact of the development on the AONB and its effects on the particular landscape character of the immediate surroundings.

The site lies within the Cotswolds AONB, wherein the Local Planning Authority is statutorily required to have regard to the purpose of conserving and enhancing the natural beauty of the landscape. The proposal would cause harm to the character and appearance of the AONB by virtue of scale, position and design which will be visually prominent in the landscape. The proposal is contrary to NPPF paragraphs 17, 109 and 115; Cotswold District Local Plan Policies 2 and 42.

(c) Impact on the Setting of Withington Conservation Area

The turbines would be located approximately 1.3km from the Withington Conservation Area. While the turbines would be visible, given the separation distance the proposals would not result in harm to the setting of the Withington Conservation Area.

(d) Residential Amenity

The Public Protection Team has been consulted in relation to noise. It raises no objection subject to conditions restricting the noise limits from the turbines.

The nearest residential properties are located approximately 240m to the south east of the site at 1 Lyons Lodge, 2 Lyons Cottage and Lyons Lodge and 260m to the south east at Hill Barn. To the south west (260m) is Staple Cottage and 1 and 2 Staple Cottage. Shadow Flicker can only affect properties within 130 degrees either side of north as turbines do not cast long shadows on their southern side. In addition at distances greater than 10 rotor diameters from a turbine, the potential for shadow flicker is very low. The turbine rotor is 13.2m in diameter therefore the x 10 gives a distance of 132m.

The Lyon's properties are within the 130 degrees shadow flicker line of both turbines and Hill Barn is within only turbine 2. However they are located more than 132m from the turbines and as such shadow flicker would not adversely impact the amenity of these residents.

Users of the public footpath would also be more than 132m (approx. 160m) from the turbines and as such shadow flicker would not adversely impact upon those users.

(e) Biodiversity

The submitted Ecology Survey (Link Ecology Ltd Oct 2015) identified the main habitat as species poor semi-improved grassland with hedgerows around the fields and a small woodland copse to the south.

The site has been comprehensively studied for the impacts to all potential wildlife in the area and a detailed assessment made for both birds and bats and managing the landscape features around the turbines to reduce any potential bird strike. In addition consideration has been given to bats, birds, reptiles, amphibians etc. during construction. The Councils Ecological Officer concludes that the recommendations and mitigation contained within the ecological report would ensure that biodiversity would not be adversely impacted upon subject to conditions. The proposals are therefore in accordance with Policy 9 of the Cotswold District Local Plan and Chapter 11 of the NPPF and the PPG.

(f) Other considerations

Other issues raised by objectors have been the potential for a precedent for further or larger turbines. All applications are considered on their own merits and therefore the proposals would not set a precedent for further development.

Loss of property value is not a material planning consideration.

Lack of consultation was raised as an issue however the application has been advertised via 2 site notices: 1 on the southern field entrance and the other on the northern entrance to the public right of way that passes to the east of the site. In addition, a total of 7 properties (those adjacent to the site) have been notified by letter. Withington is 1.3km from the proposed turbines and as such it was not deemed necessary to directly notify all properties within the village given the separation distance. The Parish Council was also consulted.

9. Conclusion:

While the proposals would provide 76,000kw of electricity per year and a reduction of approximately 41,200kg of carbon dioxide per year that would go some way towards meeting the EU Renewable Energy Directive, it is considered that the adverse impact and harm to the character and appearance of the AONB by virtue of scale, position and design which would be visually prominent in the landscape would not be outweighed by the renewable energy production. The proposals are therefore contrary to NPPF paragraph 17, 109 and 115; Cotswold District Local Plan Policies 2 and 42. The application is therefore recommended for refusal.

10. Reason for Refusal:

While the proposals would provide 76,000kw of electricity per year and a reduction of approximately 41,200kg of carbon dioxide per year that would go some way towards meeting the EU Renewable Energy Directive, it is considered that the adverse impact and harm to the character and appearance of the AONB by virtue of scale, position and design which would be visually prominent in the landscape would not be outweighed by the renewable energy production. The proposals are therefore contrary to NPPF paragraph 17, 109 and 115; Cotswold District Local Plan Policies 2 and 42.

Withington Estate, Withington

16/01657/FUL CD.9360/A

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ETL

257.6m

**APPLICATION
SITE**

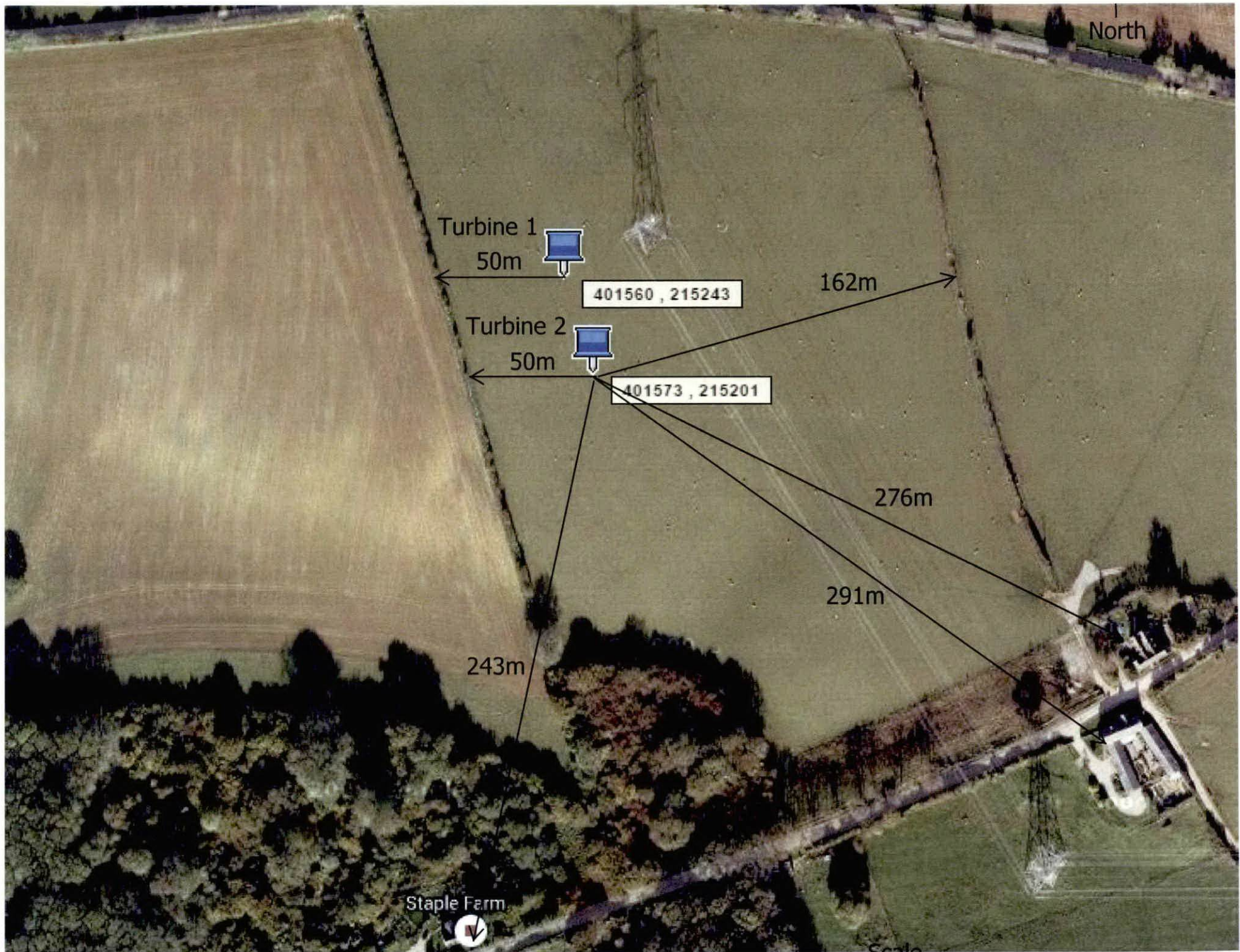
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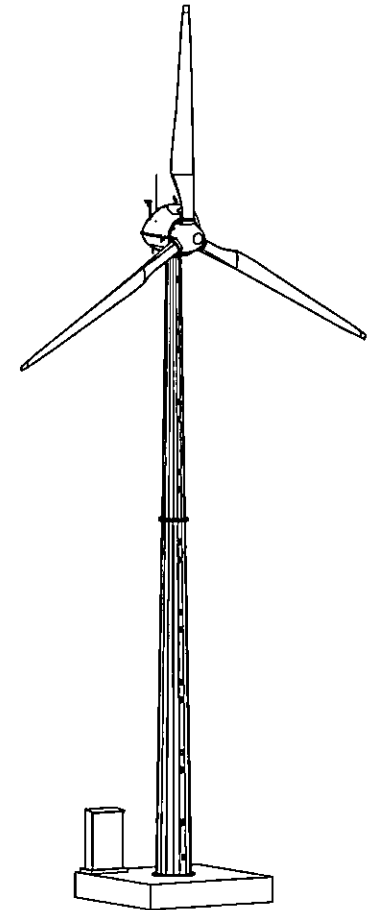
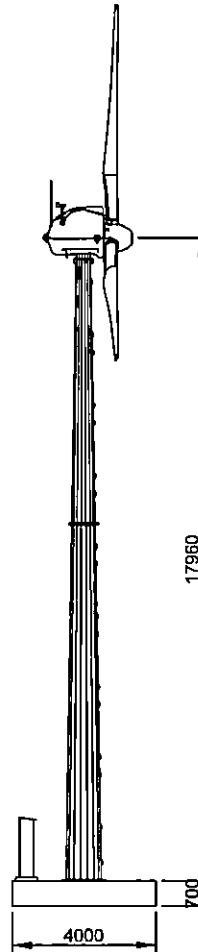
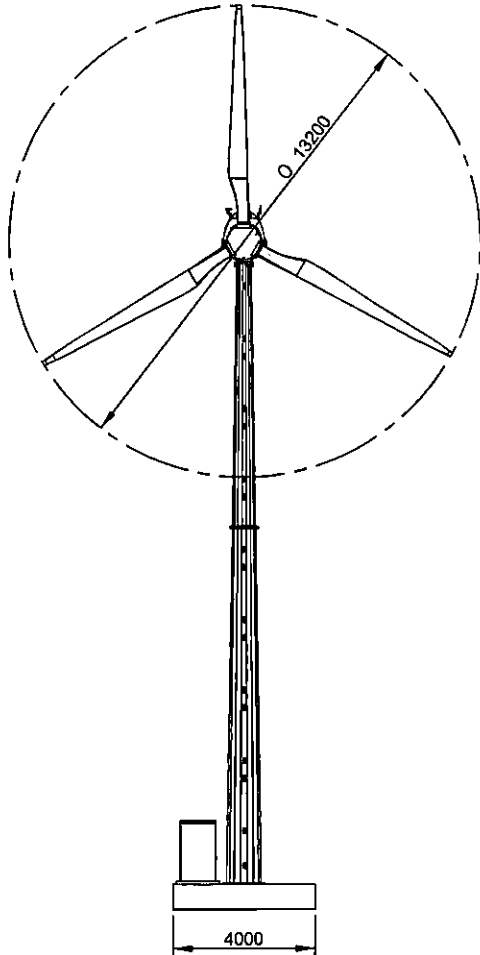
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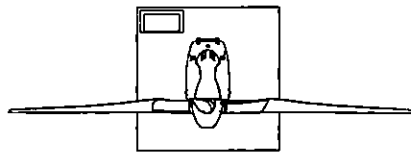


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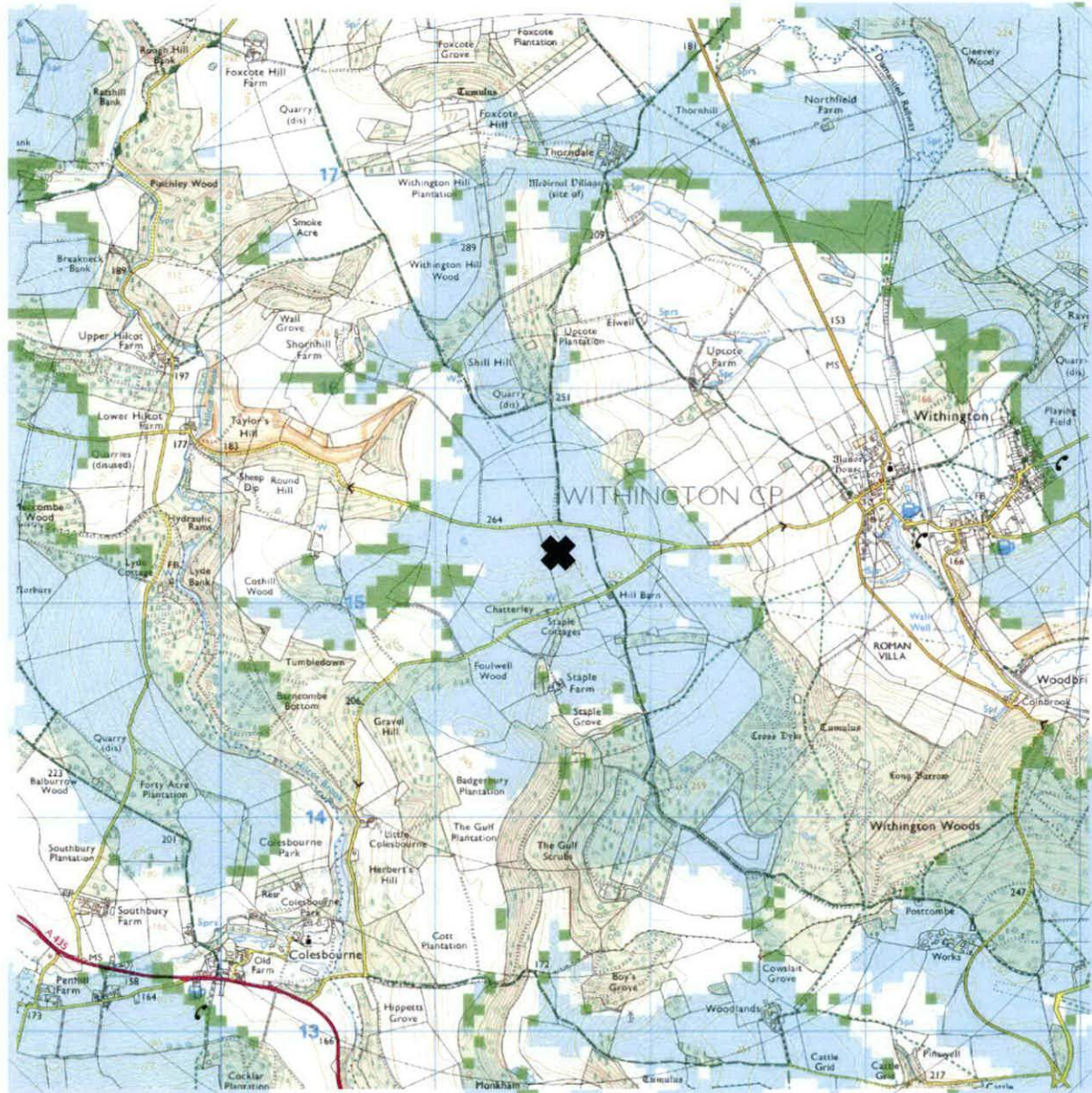




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Legend

⊗ Proposed Turbine

Zone of Theoretical Visibility (ZTV)

Potential View of Turbine

1 turbine visible

2 turbines visible

⊗ Location of Wind Turbines

This ZTV illustrates potential visibility of the proposed turbine. It is calculated using a Digital Terrain Model (bare ground topographical information) as such it does not incorporate surface screening features such as trees and buildings and represents a 'worst-case' scenario for views to the proposed turbine.

Turbine dimensions used within the ZTV: 94

Height to blade tip: 24.56m

Height to hub: 17.96m

Rotor Diameter: 13.3m



victre

Project: Withington Estate

Figure Title: ZTV (1)

Date: 02/12/2015

Figure No: ZTV1



Penderfyniad ar Apêl

Ymweliad safle a wnaed ar 11/08/15

gan Emyr Jones BSc(Hons) CEng
MICE MCMi

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 19.08.15

Appeal Decision

Site visit made on 11/08/15

by Emyr Jones BSc(Hons) CEng MICE
MCMi

an Inspector appointed by the Welsh Ministers

Date: 19.08.15

Appeal Ref: APP/A6835/A/15/3004924

Site address: Ty Coch, Crossways Road, Pen y Cefn, Caerwys, Mold, CH7 5BP

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 David Read against the decision of Flintshire County Council.
- The application Ref 051826, dated 21 February 2014, was refused by notice dated 22 January 2015.
- The development proposed is the erection of a single wind turbine (45 metre hub height, 67 metre blade tip height), two metering units, access track, assembly and crane areas.

Decision

1. The appeal is dismissed.

Main Issues

2. I consider the main issues in this case to be:
 - (a) The effect of the proposal on the character and appearance of the surrounding rural area, part of which lies within an Area of Outstanding Natural Beauty; and,
 - (b) The effect of the proposal on the setting of buildings listed as being of special architectural or historic interest at Ty Coch and Plas Cerrig Farm.

Reasons

Character and appearance

3. The site is in an area of gently undulating countryside with an open character which allows views in several directions. It lies within 800m or so south of the A55 close to junction 31 and its associated service area, around 680m east of the B5122, and approximately 350m north of Crossroads Road. There are also various public rights of way in the immediate vicinity.

4. In such a location a turbine of the height proposed would appear as a prominent feature on the skyline from many locations with the rotation of the blades drawing the eye. Although the area is crossed by two lines of electricity pylons, they are static in nature and the proposed turbine would be significantly taller than the pylons. Whilst acknowledging that the Zone of Theoretical Visibility (ZTV) takes no account of screening from vegetation, buildings, and minor changes in topography, the submitted ZTV suggests that the turbine hub would theoretically at least be visible from most areas within a 5km radius apart from the area around Whitford to the north east and the A541 corridor. The visual impact of the proposal would also be experienced during periods of poor visibility and the hours of darkness owing to the National Police Air Service requirement for the turbine to be illuminated.
5. The application was accompanied by a Landscape and Visual Impact Appraisal (LVIA). This identifies a moderate adverse effect during the operational phase on the Clwydian Range Regional Landscape Character Area within which the site lies. Insofar as LANDMAP aspect areas are concerned, a similar effect is identified on the visual and sensory aspect area within which the site lies (FLNTVS008), noting that the proposed development would be visible on the same skyline as the pylons which run through the aspect area in several views from the surrounding area with the turbine becoming another prominent feature on this skyline.
6. The LVIA indicates effects on the other aspect areas within which the site lies ranging from imperceptible through negligible to slight adverse. Insofar as other aspect areas in the vicinity are concerned, predominant effects are identified on two further visual and sensory aspect areas, due to views of the turbine being available from the more open and elevated areas of these areas.
7. The Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) is located around 3,700m to the south and 2,920m to the south west of the site. The proposed turbine would be seen in views into and out of the AONB, breaking the skyline in many instances, and the LVIA assesses the overall effect on the AONB as being moderate adverse.
8. However, the turbine would be much taller than the existing manmade elements in the local landscape, incorporate moving elements, be seen as a prominent feature from a wide area particularly during the winter months, and result in long term effects. As a result, I am of the view that the magnitude of landscape effects would be high within a radius of several kilometres and that the overall effect would be substantial adverse.
9. Insofar as visual effects are concerned, the LVIA identifies moderate to substantial adverse effects in respect of users of the A55 (the key visitor gateway to North Wales), A5151, A5026, B5122 and public rights of way. Moderate adverse effects are also identified in respect of parts of the settlements of Caerwys, Gorsedd and Lloc with a number of individual dwellings experiencing effects ranging up to substantial adverse. I also consider that users of the service area at junction 31 would also experience a substantial adverse visual effect with the turbine breaking the skyline against the backdrop of the AONB.
10. For the above reasons, the proposal conflicts with *Flintshire Unitary Development Plan* (UDP) policies GEN1, GEN3, L1, L2, EWP1 and EWP4.

Listed buildings

97

11. The original farmhouse and agricultural range at Ty Coch some 260m from the proposed turbine are listed as being a well preserved small roadside farmstead of a type once common in Flintshire, retaining 19th century character. Plas Cerrig Farm around 560m away contains three separately listed buildings. The farmhouse including an attached former barn and bakehouse is listed as a well preserved sub medieval regional house type improved as part of a visually strong 19th century farm group. A barn, cartshed and granary as well as a cowshed are listed for their contributions to an impressive farm group. Given the agricultural origins, the rural landscape setting in which these buildings exist is of considerable importance to their significance and the way they are perceived, experienced and valued.
12. Views of the turbine from the above listed buildings would be largely screened by other buildings and, during the summer months at least, natural vegetation. Nevertheless, setting is defined as the surroundings in which an historic asset is experienced, its local context, embracing present and past relationships to the adjacent landscape. From other locations, including the B5122, Crossways Road and public rights of way in the area, the turbine would feature prominently on the skyline in the surroundings in which the listed buildings are experienced with the scale and movement of the blades drawing the eye. Although the appellant suggests that the impact would be moderate adverse at worst, for the above reasons, I am of the view that it would be substantial adverse and that the proposal, therefore, conflicts with UDP policies GEN1, HE2, EWP1 and EWP4.

Other considerations

13. Interested persons raise concerns relating to health issues, visual and noise impacts on their holiday cottage business, and the impact of shadow flicker on horses kept at their livery business.
14. Notwithstanding the studies referred to, the Welsh Government's *Technical Advice Note 8: Planning for Renewable Energy* (TAN 8) states that there is no evidence that ground transmitted low frequency noise from wind turbines is at a sufficient level to be harmful to human health.
15. The LVIA refers to properties near Plymouth Copse experiencing oblique, close and open views of the turbine above and between intervening vegetation which would have a substantial adverse effect. Nonetheless, the turbine would not represent an unpleasantly overwhelming and unavoidable presence in main views from the dwelling/holiday accommodation or garden/patio areas, such that there would be every likelihood of the property being regarded as an unattractive and thus unsatisfactory (but not uninhabitable) place in which to live or stay.
16. TAN 8 also notes that the report "The Assessment and Rating of Noise from Wind Farms" (ETSU-R-97) describes a framework for the measurement of wind farm noise and gives indicative noise levels calculated to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on wind farm development or adding unduly to the costs and administrative burdens on wind farm developers or planning authorities. The submitted Assessment of Environmental Noise establishes that the predicted operational noise levels at key noise sensitive locations (including Plymouth Copse which is referred to as Ffrenics House) would not exceed the limits established in ETSU-R-97.

17. Shadow flicker effects have been proven to occur only within ten rotor diameters of a turbine which in this case would be 440m. According to the above Assessment of Environmental Noise, Plymouth Copse would be 701 metres from the turbine whilst the LVIA refers to properties near Plymouth Copse being 730m away. Both of these are well in excess of 440m such that shadow flicker effects would not be experienced.
18. Cadw's consultation response of 11 April 2014 stated that the proposal would not adversely impact on the setting of any Scheduled Ancient Monuments (SAMs). However, in its letter of 17 June 2015 it recommends that the settings of multiple monuments over a broad area are likely to be affected by some degree. Nonetheless, no detailed analysis of the importance of the settings to the significance of the individual monuments of concern or the impact thereon is provided to support this view. The appellants Historic Environmental Appraisal notes that views from two SAMs may be partially impacted, but again no detailed analysis is provided. Given the lack of detailed evidence, I am unable to conclude with any degree of certainty whether or not the proposal would preserve the settings of SAMs. However, given my overall conclusion below this is not critical to my decision.
19. The turbine would contribute to the Welsh Government's renewable energy targets and this attracts substantial weight in the overall balance. Further benefits would result from farm diversification and the contribution to the local economy.

Overall conclusion

20. Modern wind turbines are large structures which generally have significant landscape and visual effects and these need to be balanced against the benefits of renewable energy generation. The *Planning (Listed Buildings and Conservation Areas) Act 1990* requires that special regard be had to the desirability of preserving the settings of listed buildings. The proposal would not do so, and, along with the identified substantial adverse landscape and visual effects and conflict with development plan policies, this far outweighs the benefits in this case.
21. For the reasons given above I conclude that the appeal should be dismissed.


Inspector



Appeal Decision

Site visit made on 6 May 2015

by **Michael Moffoot DipTP MRTPI DipMgt MCMi**

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

Decision date: 8 July 2015

Appeal Ref: APP/G0908/W/14/3000998

Land north of Waterflesh, Aikton, Wigton, Cumbria CA7 0JL

- 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 Allerdale Borough Council.
 - The application Ref: 2/2014/0292, dated 16 April 2014, was refused by notice dated 14 October 2014.
 - The development proposed is installation of 1 no 500kW wind turbine (maximum tip height 77m) and associated infrastructure, including an access track.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council issued a screening opinion which concluded that the appeal proposal did not comprise development requiring an EIA¹. The Westnewton Action Group argues that an EIA is required, but I have seen no compelling evidence to show that one is necessary in this case.
3. Concerns have also been expressed regarding the adequacy of the appellant's supporting information, including the Landscape and Visual Appraisal (LVA), and the methodology employed. However, on the basis of the evidence before me and what I observed during my comprehensive site visit I am satisfied that I can give the proposal full and proper consideration.
4. The Secretary of State for Communities and Local Government issued a Written Statement on 18 June 2015 setting out considerations to be applied to proposed wind energy development. I have had regard to the changes to policy arising from the Statement and amendments to the *Planning Practice Guidance* which, in the light of the facts in this case, do not alter my conclusion and decision.

Application for Costs

5. An application for costs was made by Hallmark Power against Allerdale Borough Council. This application is the subject of a separate Decision.

¹ Environmental Impact Assessment under the Town and Country Planning (EIA) Regulations 2011

Main Issues

6. The main issues in this case are: ¹⁰⁰
- (i) the effect of the proposed development on the character and visual quality of the surrounding area, including the setting of the Solway Coast Area of Outstanding Natural Beauty (AONB)
 - (ii) the effect of the proposal on the living conditions of the occupiers of dwellings in the locality with particular reference to outlook, noise and disturbance and shadow flicker; and
 - (iii) whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that may be caused.

Reasons

Policy background

7. Of the development plan policies referred to by the parties in this case, I consider the following to be most relevant to the appeal scheme. Policy S19 of the *Allerdale Local Plan (Part 1) (2014)* promotes proposals for renewable energy and low-carbon technologies. ~~Amongst other things, it takes a positive view where such proposals do not (either in isolation or cumulatively) have an unacceptably adverse impact on the amenity of local residents and/or a significant adverse impact on the location in relation to visual impact and impact on the character and sensitivity of the surrounding landscape. Regard is also paid to potential benefits to the local economy and community, including agriculture.~~
8. Policy S32 supports proposals which make a positive contribution to the area by maintaining or improving the quality of the environment and amenity, but not where, amongst other things, they would be detrimental effect to the local area in terms of visual amenity, distinctive character or environmental quality or cause significant adverse environmental impact in relation to landscape. Furthermore, the policy does not support proposals which would have an unacceptable effect on residential amenity and surrounding land uses.
9. Policy S33 seeks to protect, conserve and, where possible, enhance the landscape character and local distinctiveness of the Plan Area. It requires development to be compatible with the distinctive characteristics and features of Cumbria's landscape types and sub-types, and also sets out various criteria for assessing proposals, including locally distinctive natural features, visual intrusion or impact and scale in relation to the landscape and openness, remoteness and tranquillity.
10. The *National Planning Policy Framework* ('the Framework') emphasises the clear presumption in favour of sustainable development and the role the planning system plays in addressing climate change. It states that applications should be approved if the project's impacts are (or can be made) acceptable. The Framework also favours renewable energy projects, advising that they should be granted permission unless the significant positive weight in favour of a proposal is outweighed by any adverse consequences arising from its construction and operation. However, it also refers to the landscape and visual impacts that renewable energy developments can have and the need to recognise the intrinsic character and beauty of the countryside.

11. I have also had regard to other relevant documents, including the *Overarching National Policy Statement for Energy (EN-1)* and the *National Policy Statement for Renewable Energy Infrastructure (EN-3)*. The *Planning practice guidance for renewable and low carbon energy (2013)* has been archived and replaced by the *Planning Practice Guidance (2014)*(PPG).

Character and visual quality

12. The appeal site lies in open countryside to the south-east of Little Bampton and within an undulating pasture that forms part of Park House Farm situated about 1km to the east. The surrounding landscape is predominantly agricultural in character, consisting of a patchwork of rectilinear fields and open pastures bounded by hedges and sporadic trees augmented by random blocks of woodland. The proposed three-bladed 500kw wind turbine would have a hub height of about 50m and a blade tip height of approximately 77m. It would be fixed to a concrete hard-standing and the scheme would include a sub-station and formation of a new access track from the minor road to the south of the site.
13. The *Cumbria Landscape Character Guidance and Toolkit* supports appropriately located wind energy developments in line with the provisions of the *Cumbria Wind Energy Supplementary Planning Document (2007)*, which includes guidelines for assessing landscape impact and capacity for wind turbine developments. The appeal site falls within the 'Lowland' landscape character type with an overall sensitivity to turbine development described as 'moderate', and within the 'Low Farmland' landscape character sub-type characterised by undulating rolling topography criss-crossed by hedges, trees and fences, intensely farmed agricultural pastures, patchy woodland and large rectangular fields.
14. The site is also within the 'Solway Basin' National Character Area², described as a low-lying area of gently undulating hills that grade into the coastal plain and estuarine landscape of the Solway Firth. The key characteristics include a flat, open landscape with smooth low hills inland and a flat, coastal plain and improved grassland managed for dairy and beef cattle and sheep with some arable farming on lighter soils. I recognised all these characteristics during my site visit.
15. Although it lies near to the AONB, the countryside in the vicinity of the appeal site is not protected by national landscape designations. However, objectives in the Framework and relevant local planning policies include protection of the countryside, and careful consideration of the visual impact of the appeal proposal on the area is therefore required.
16. The landscape here imparts a distinct feeling of openness and tranquillity despite the presence of overhead electricity lines and telegraph poles and, in the wider landscape, pylons and wind turbines. However, these vertical elements do not significantly encroach upon the sense of being in an essentially rural setting. Built development in the form of farmsteads and small settlements nestle in the landscape and are relatively unobtrusive. This open quality is reinforced by the extensive horizon and panoramic views over the wider countryside and the landscape sensitivity is therefore high.

² Published by Natural England

17. The appellant's LVA acknowledges that the proposed turbine would inevitably have an effect on some of the elevated areas surrounding the site, resulting in a medium magnitude of change and a moderate landscape effect within a radius of about 2km. It also describes the 'Low Farmland' landscape character sub-type as having a medium susceptibility to change.
18. In the local landscape context I have described, the effect of this utilitarian and intrusive vertical moving structure would be considerable. It would be a substantial and discordant skyline feature visible from various viewpoints in the locality, and as such would severely detract from the qualities of this landscape by introducing an uncharacteristic feature at odds with the area's openness. As a single vertical element in its wider setting the turbine would not have a significant impact on the landscape, and I acknowledge that from some vantage points its impact would be mitigated by intervening buildings, woodland and topographical variations. Nevertheless, whilst the impact of the turbine on the landscape character of the area would be relatively localised it would be significant, and I conclude that its effect would be moderate to major.
19. Similar circumstances arise in respect of visual quality. The surrounding roads and public rights of way would give users clear views of the turbine albeit not at ~~close quarters, and it is evident that local residents also enjoy this attractive~~ landscape. The impact of the proposal on these receptors would be fairly localised. It would be a significant feature from a number of viewpoints on the nearest roads to the east, west and south. It would also be clearly visible from the public right of way to the south of Waterflesh³ and from the route between Waterflesh, Quarry Gill Farm and Lavrickstone, and would be similarly visible from the southern edge of Little Bampton. Moreover, the scheme would not have any appreciable visual association with farm buildings or other properties, including Park House Farm, but rather appear as a random and isolated feature in the landscape.
20. From all these viewpoints the turbine would, to varying degrees, be observed as an overtly man-made structure in an attractive open landscape which is not characterised by vertical elements to any appreciable extent. The appellant's Zone of Theoretical Visibility indicates that the development would be seen over a wide area, and especially so from the north and west. Nevertheless, from distances of about 2km and greater the impact of the turbine on receptors would progressively diminish, and it would not be particularly intrusive in the wider landscape due to distance, landform, vegetation and built development. As a consequence, the magnitude of visual impact would vary from modest at a distance to significant at closer range. Overall, therefore, I consider that the visual impact would be moderate.
21. The appeal site is about 4km from the boundary of the AONB. The *Solway Coast AONB Landscape and Seascape Character Assessment* advises that the setting of the AONB includes both those areas from where the AONB can be seen (i.e. when looking towards it,) and areas which are seen from the AONB when looking out from within its boundaries. Although the impact of the turbine would be mitigated by distance it would be a large structure and would be clearly visible from within the AONB and from some viewpoints outside looking towards it. From a number of these locations the turbine would be

³ Also referred to as Water Flish and Water Flish Farm

observed as an intrusive and discordant element at odds with the landscape quality of the AONB and harmful to its setting.

22. Concern has also been expressed regarding the cumulative impact of the proposal. There is a 33m high turbine at Moordyke about 1km to the south-west of the appeal site and a 27m high one near Park House Farm. There is also a 34m high turbine at Oughterby and a wind farm at Great Orton comprising some six turbines each about 67m in height. Reference has also been made to other turbine developments in the wider area. From various vantage points to the north, east and west of the appeal site the proposal would be observed in the context of some or all of these installations, compounding the presence of turbines in this local landscape. There are a significant number of wind turbines in the wider landscape, but the proposal would not generally be viewed in their context due to distance. Although the cumulative impact with the closest turbines would not be significant in this case, it adds weight to my concerns regarding the proposal.
23. Drawing these findings together, I conclude on the first issue that these impacts would be adverse and of a magnitude which should be accorded moderate to major weight in the planning balance.

Occupiers' living conditions

24. In order to address community concerns and in the interests of residential amenity and safety, the supporting text to policy S19 of the Local Plan states that a minimum separation distance of 800m between wind turbines over 25m (to blade tip) and residential properties will be expected. However, it recognises that in some cases due to site-specific factors such as orientation of views, land-cover, other buildings and topography it may be appropriate to vary this threshold where it can be demonstrated that there is no unacceptable impact on residential amenity.
25. The Council has identified a number of properties which it considers would be affected by the proposed development. Although I did not visit the properties during my site visit, in most cases I was able to adequately assess the occupiers' outlook from a position near to the dwellings. From Waterfloss and the adjacent bungalow (about 450m to the south-east of the appeal site) and Lanshaw House and Lanshaw Cottage (some 600m to the west) the turbine would be clearly visible from within the dwellings and from their gardens, and the moving blades would reinforce its presence. Despite the expansive panorama, it would seriously impose upon the occupiers' outlook. The turbine would also be prominent from The Hawthorns on the southern edge of Little Bampton notwithstanding a separation distance of some 730m. I was not, however, able to find The Buildings to undertake an assessment. Whilst the turbine would be visible from Laverickstone Farm, the dwelling is just outside the 800m cordon, although I acknowledge that the installation would be prominent from the property.
26. Concerns have also been raised by some residents about noise from the proposed development. The appellant's noise assessment is based on a candidate turbine and suggests that noise levels would be reduced to an acceptable level. The Council's Environmental Health Officer is satisfied that planning conditions could limit the level of noise from the turbine, and in the absence of substantive technical evidence to refute the appellant's submissions I see no grounds to take a contrary view.

27. Shadow flicker generally only occurs where certain meteorological, seasonal and geographical conditions prevail and within a distance equivalent to ten rotor diameters of a turbine; in this case about 540m. As Waterflossh would be within this distance and may be within 130° of north of the turbine⁴, I would have sought further information regarding this matter if I were minded to allow the appeal. It could also address concerns regarding the implications of shadow flicker for road users.
28. My favourable finding in respect of noise is outweighed by the harm to the occupiers' outlook from Waterflossh and the adjacent bungalow, from Lanshaw House/Lanshaw Cottage and from The Hawthorns. As such, the proposal would conflict with those parts of Local Plan policies S19 and S32 which are concerned with safeguarding the amenity of local residents.

Other Matters

29. The proposal has attracted a significant number of objections that include additional concerns to those addressed above. The appellant's Traffic Management Plan concludes that the infrastructure associated with the development could be satisfactorily transported to the site subject to appropriate mitigation measures, and the Highway Authority has no objections in principle to the proposal subject to conditions and an agreement to undertake any necessary road repairs. I see no reason to dispute these findings and suggestions.
30. As the turbine would not be close to any public right of way or road, concerns regarding wind-shear and topple are unfounded. The appeal site is not in an ecologically sensitive area or subject to any special protection and the turbine would be more than 50m from the nearest hedgerow or tree. Although I share some concerns regarding the impact on wildlife there is no compelling evidence to show that the proposal would have an unacceptable effect upon wildlife or other nature conservation interests, and I note that Natural England offered no objections in principle to the proposal. Nevertheless, as in the case of shadow flicker, this is a matter on which I would have sought further evidence had I been minded to allow the appeal.
31. Reference has been made to the impact of the development on heritage assets including the cumulative impact on a Grade I listed building in conjunction with "another development". However, the location of these sites is unclear from the evidence before me, and further information would be necessary for me to reach a view on the matter. Little evidence is before me regarding the implications of the proposal for the setting of Hadrian's Wall World Heritage Site.
32. Although it is submitted that the turbine would not provide community benefits, the generation of renewable energy brings benefits for the local and wider community. With regard to the provisions of the Localism Act 2011, the views of those who oppose development have to be considered together with the wider environmental benefits arising from this form of energy generation. I understand the concern that approval of the turbine would create a precedent for other similar developments in the area, but this is not a matter to which any weight can be attached as future proposals would have to be considered on

⁴ Paragraph 21, PPG

their merits and with regard to national and local policies and other material considerations.

33. Other submissions concern matters unrelated to the planning merits of the appeal and do not affect my judgement of the issues that I consider relevant to the proposal.

The planning balance - whether the benefits outweigh the harm

34. The Framework states that "*all local communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local people*". A balancing exercise between the benefits and harmful effects therefore needs to be undertaken to determine a scheme's acceptability.
35. The appellant states that the turbine would produce about 1.3 million kWh of electricity per year - enough to meet the needs of about 316 homes - and would offset some 565 tonnes of CO₂ over this period, thus contributing to meeting national renewable energy targets aimed at addressing climate change. The Framework advises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. ~~It is also submitted that the development comprises agricultural diversification thereby reducing farming costs for the landowner.~~
36. The factors that weigh against the proposal are the significant harm to the character and visual quality of the area and the harm to the setting of the AONB having regard to the height and location of the proposal, together with the unacceptable harm to the living conditions of the occupiers of a number of nearby dwellings.
37. Weighing these factors in the balance, I conclude that the proposed development would cause harm of a weight and magnitude that would significantly and demonstrably outweigh the benefits of the scheme. As such, it would conflict with the Local Plan policies I have referred to.
38. For these reasons, and notwithstanding some local support for the proposal, I conclude that the appeal should be dismissed.

Michael Moffoot

Inspector