



Department for
Communities and
Local Government

Our Ref: APP/A4710/W/15/3134617

Mr Michael Coates
TJ Coates Ltd
2 Unity Hall Court
Tingley
Wakefield
West Yorkshire
WF3 1BE

28 October 2016

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY MR IAN WHITLEY
LAND AT GREEN HOLES FARM, COAL GATE LANE, SOYLAND, HALIFAX, WEST
YORKSHIRE HX6 4NH
APPLICATION REF: 14/01464/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Mr Philip Major, BA (Hons) DipTP MRTPI, who made a site visit on 21 December 2015 and considered your appeal against the decision of Calderdale Metropolitan Borough Council to refuse planning permission for the installation of 1 No small scale 85kW Endurance E4660 wind turbine (36.55m to blade tip) at land at Green Holes Farm, Coal Gate Lane, Soyland, Halifax, in accordance with application ref: 14/01464/FUL, dated 6 December 2014.
2. On 2 June 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal gives rise to important issues for the application of wind farm policy.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission be granted subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission, subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy and statutory considerations

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case the development plan consists of the saved policies of the Replacement Calderdale Unitary Development Plan (adopted 2006). The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR 5.
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Secretary of State's Written Ministerial Statement (WMS) of 18 June 2015 on Local Planning.

Main issues

8. The Secretary of State agrees with the Inspector that the main issues are those set out at IR 42.

Whether the proposal constitutes inappropriate development in the Green Belt

9. For the reasons given by the Inspector at IR 45-46, the Secretary of State agrees that the proposal does not fall into any of the categories defined in paragraphs 89 and 90 of the NPPF, and agrees that the proposal is inappropriate development in the Green Belt. Inappropriate development is by definition harmful to the Green Belt and, as indicated in the NPPF, such harm attracts substantial weight against the proposal.

The effect on the openness and purposes of the Green Belt

10. For the reasons given by the Inspector at IR 47, the Secretary of State agrees that there would be a minor to moderate loss of openness. He further agrees for the reasons given at IR 48 that there would be conflict with that purpose of Green Belt designation which seeks to safeguard the countryside from encroachment, and that taken together with the impact on openness these harms carry moderate weight. The Secretary of State considers that overall the harm to the Green Belt, including through inappropriate development, carries substantial weight.
11. The Secretary of State also notes that the saved Calderdale Replacement Unitary Development Plan Policy GNE1 seeks to restrain development outside the main urban areas through the general extent of the Green Belt. However, for the reasons given by the Inspector at IR 50, the Secretary of State agrees that this policy does not follow the National Planning Policy Framework approach, and carries limited weight.

Character and appearance

12. For the reasons given at IR 51-53, the Secretary of State agrees with the Inspector that a turbine of the size proposed would not seem out of place at this location, and that the impact of the turbine would quickly recede with distance. The Secretary of State agrees

with the Inspector's conclusion at IR 53 and IR 59 that the overall effect on the character of the landscape would be minor to moderate at worst.

13. The Secretary of State agrees with the Inspector, for the reasons given at IR 55, that the turbine would be prominent in views from some local rights of way, and that such views would have a significant visual impact at close range. He further agrees that the visual impact would quickly lessen with distance, and that the local topography means that views of the turbine would be partially or wholly interrupted in a significant number of locations. He agrees with the Inspector's conclusion at IR 59 that the impact on visual appreciation of the area would be minor to moderate.
14. For the reasons given at IR 56-58, the Secretary of State agrees with the Inspector's conclusion at IR 58 and IR 59 that the cumulative impact of the proposal would be slight.
15. Overall, the Secretary of State considers that these minor to moderate adverse impacts on landscape character and visual appearance, and the slight adverse cumulative effect, carry limited weight against the proposal.

Benefits of the proposal

16. The Secretary of State considers that the provision of clean renewable energy carries significant weight in favour of the proposal.
17. He has taken into account representations on the economic benefits that would flow from the proposal, but agrees with the Inspector at IR 70 that the number of jobs created may be open to debate, and considers there is little certainty that these jobs would materialise. He therefore considers that the economic benefits flowing from the proposal carry moderate weight.
18. The Secretary of State has taken into account that a programme of ecological enhancements would be secured by condition, and the Inspector's analysis at IR 69. However, he considers that there is little certainty at this point about the exact scope or scale of what would be delivered. Overall he considers that the environmental benefits associated with the scheme carry moderate weight.

Written Ministerial Statement (WMS) on Local Planning

19. The Secretary of State's Written Ministerial Statement (WMS) of 18 June 2015 is a material consideration in this case. This indicates that the proposed development can be found acceptable if, following consultation, the planning impacts identified by local communities have been addressed and the proposal therefore has their backing. The WMS was issued after the Council determined the application, but the Secretary of State agrees with the Inspector, for the reasons given at IR 6 and IR 72, that the transitional provision in the WMS should apply in this case.
20. The Secretary of State agrees with the Inspector, for the reasons given at IR 43-44, that the pre-application consultation was fairly targeted at the local community. For the reasons given at IR 72, he is satisfied that the local community has indicated its backing for this development. The Secretary of State acknowledges that Ripponden Parish Council objects, but he agrees with the Inspector that it seems that the Parish Council does not reflect the views of the community closest to the appeal site. Therefore the Secretary of State considers no planning impacts have been identified by the local community, and therefore there is no conflict with the WMS.

Other matters

21. The Secretary of State notes Natural England's view that this proposal is not likely to have any significant impact on the features for which the South Pennine Moors Special Area of Conservation (SCA) and Special Protection Area (SPA) have been designated, and would not damage or destroy the Site of Special Scientific Interest (SSSI) (IR 62). He considers that this issue does not weigh against the proposal.
22. The Secretary of State acknowledges that there are a number of heritage assets (listed buildings) in the general area, the closest being at a distance of over 400m. He agrees with the Inspector at IR 63 that these buildings are set within the wider landscape, but their settings relate primarily to their immediate surroundings and their associated buildings. He agrees with the Inspector that this proposal would have no effect on these settings.
23. In relation to residential amenity, the Secretary of State agrees with the Inspector at IR 64 that there would be unlikely to be any noise or shadow flicker impacts as a result of this proposal.
24. The Secretary of State agrees with the Inspector at IR 65 that there is no likelihood of the proposal having a material impact on tourism or recreational use of the area.

Planning conditions

25. The Secretary of State has given consideration to the Inspector's analysis at IR 40, the recommended conditions set out at the end of the IR (and shown at Annex A of this letter), and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework.

Planning balance and overall conclusion

26. For the reasons given above, the Secretary of State considers that the proposal conflicts with the Calderdale Unitary Development Plan policy GNE1, albeit this carries limited weight. For the reasons given above he considers that it is in accordance with policies EP28, EP30 and BE1. Overall the Secretary of State considers that the proposal is in accordance with the development plan as a whole. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
27. The Secretary of State has considered the proposal against national Green Belt policy as set out in the NPPF. He has concluded the proposal constitutes inappropriate development in the Green Belt, and that there is further harm from loss of openness and encroachment on the countryside. Overall he considers these harms to the Green Belt carry substantial weight against the proposal. There are minor to moderate adverse impacts on landscape character and visual appearance, and a slight adverse cumulative effect, and the Secretary of State considers that these impacts carry limited weight against the proposal.
28. The Secretary of State considers that the provision of clean renewable energy carries significant weight in favour of the proposal. He considers that the economic benefits flowing from the proposal carry moderate weight in favour of the proposal, and the environmental benefits which would arise from the scheme also carry moderate weight in favour.

29. The Secretary of State has considered whether these considerations amount to very special circumstances which clearly outweigh the harm to the Green Belt by reasons of inappropriateness and any other harm. He agrees with the Inspector that they do, and that very special circumstances have been demonstrated which justify the development.

30. The Secretary of State therefore concludes that this appeal should be allowed and planning permission granted, subject to conditions.

Formal decision

31. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your appeal and grants planning permission, subject to the conditions set out in Annex A to this decision letter, for the installation of 1 No small scale 85kW Endurance E4660 wind turbine (36.55m to blade tip) at land at Green Holes Farm, Coal Gate Lane, Soyland, Halifax.

32. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

33. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

34. A copy of this letter has been sent to Calderdale Metropolitan Borough Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Maria Stasiak

Authorised by Secretary of State to sign in that behalf

Annex A

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) All cables from the turbine shall be underground. All excavated ground in connection with cable laying shall be reinstated to its former condition in accordance with details to be submitted to and approved in writing by the local planning authority prior to development commencing.
- 3) If the wind turbine hereby permitted ceases to be operational for a continuous period of six months the turbine shall be permanently removed and the site restored to its former condition in accordance with a scheme submitted to and approved by the local planning authority within 3 months of the cessation of use of the turbine and the approved scheme shall be implemented within the 3 months of its approval.
- 4) No construction works shall take place between March and August inclusive unless a pre-construction check for bird nesting activity has been carried out by a suitably qualified ornithologist which indicates that no nesting is present. The pre-construction check shall be reported in writing and a copy provided for the local planning authority within 7 days of its completion.
- 5) Prior to the commencement of development a programme of ecological enhancements shall be submitted to and approved in writing by the local planning authority. The enhancements shall be carried out in accordance with the approved details and shall be implemented over a period of 10 years from the first operation of the turbine. On completion the enhancements shall be retained thereafter.
- 6) Prior to commencement of development a programme of post construction bird monitoring shall be submitted to and approved in writing by the local planning authority. The bird monitoring shall be carried out in accordance with the approved details for a period of 2 years from first operation of the turbine.
- 7) The development hereby permitted shall be carried out in accordance with the following approved plans: 169-PO1 (Location Plan and Block Plan), E-4660 Elevation, 24m Tower, Class II.

Report to the Secretary of State for Communities and Local Government

by Philip Major BA (Hons) DipTP MRTPI

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

Date: 25 July 2016

Town and Country Planning Act 1990

Appeal by Mr Ian Whitley

Calderdale Metropolitan Borough Council

Site visit made on 21 December 2015

Land at Green Holes Farm, Coal Gate Lane, Soyland, Halifax HX6 4NA.

File Ref: APP/A4710/W/15/3134617

File Ref: APP/A4710/W/15/3134617

Land at Green Holes Farm, Coal Gate Lane, Soyland, Halifax HX6 4NA.

- 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 Ian Whitley against the decision of Calderdale Metropolitan Borough Council.
- The application Ref: 14/01464/FUL, dated 6 December 2014, was refused by notice dated 20 March 2015.
- The development proposed is the installation of 1 No small scale 85kW Endurance E4660 wind turbine (36.55m to blade tip).

Summary of Recommendation: That the appeal be allowed and planning permission granted subject to conditions.

Procedural Matters

1. The site visit for this proposal was carried out as noted above on the basis that the appeal would be determined by an appointed Inspector. Subsequently, prior to the issue of the decision the Secretary of State recovered the appeal for his own determination. The reason given for recovery is that the appeal gives rise to important issues for the application of wind farm policy.
2. I note that the appeal statement submitted includes the planning application reference 14/014664/FUL. I take this to be a typographical error as the correct reference is used elsewhere, including in final comments. I also take the reference in the penultimate paragraph of the appeal statement to be incorrect where it refers to case reference 14/01464/FUL (the current case) as being a previous application.

The Site and Surroundings

3. The appeal site forms part of a pasture delineated by stone walls in an exposed upland part of the Pennines. It lies within the Moorland Fringe as described in the South Pennines Wind Energy Landscape Study of 2014. The surroundings include pastures leading down towards lower ground, with some incision of steep narrow valleys which have an element of tree cover. Close by is open moorland on higher land. There are a number of footpaths and lanes which cross the area, together with scattered cottages and farmsteads, including the nearby Green Holes Farm. Villages and towns are located some distance away on lower slopes and in larger valley bottoms. The site is in the Green Belt.

Planning Policy

4. National energy policy is familiar as set out in the National Planning Policy Framework (NPPF). It is supportive of renewable energy where the impacts are, or can be made) acceptable. In relation to Green Belts the NPPF policy is also familiar. Inappropriate development is harmful by definition and should not be approved except in very special circumstances.
5. At local level Green Belt policy is found in saved policies of the Replacement Calderdale Unitary Development Plan (UDP). Here Policy GNE1 seeks to restrain development outside the urban area through the general extent of the Green Belt. Saved UDP Policy EP28 is permissive of renewable energy subject to criteria, including that environmental benefits outweigh adverse impacts, and no significant harm to the character or visual quality of the landscape results. Policy

EP30 has similar aims, and in addition (amongst other things) seeks to avoid harm to the amenity of local residents, and minimisation of the visual impact of turbines. These policies reflect the approach and balancing exercise which is implicit in the NPPF. UDP Policy BE1 is a general design policy which requires, at the very least, high standards of design and requires an assessment of individual proposals.

6. The Secretary of State's Written Ministerial Statement (WMS) of 18 June 2015 is a material consideration in this case. This indicates that when a planning application has been submitted for wind energy development by the date of the WMS the transitional provision in the WMS will apply. That is that the proposed development can be found acceptable if, following consultation, the planning impacts identified by affected local communities have been addressed and therefore has their backing. I do not agree with the Appellant that the WMS should be disregarded as it was issued after the Council determined the application. In any event the Appellant has addressed the WMS and I take the representations made into account in this report.

The Proposals

7. This proposal is straightforward in seeking planning permission for a single wind turbine with 3 blades. Each blade would be about 11.5m in length mounted on a single tower with a turbine hub and nacelles almost 25m in height. Overall height to blade tip would be about 36.5m.

The Case for the Appellant

8. The main points of relevance are set out below.
9. It is accepted that the proposal falls within the definition of inappropriate development in the Green Belt, but very special circumstances exist in this case which clearly outweigh any harm. As noted in paragraph 91 of the NPPF such very special circumstances may include the wider benefits associated with increased production of energy from renewable sources.
10. In this case the development would generate renewable energy to supply a new farm building, would assist in the growth and diversification of the farm business, and would supply energy to the grid to help in meeting national energy commitments. Income generated would assist in managing and improving the landholding. In this case about 90% of the energy would be supplied to the grid.
11. The proposal would meet the objectives of the NPPF in adhering to the 3 dimensions of sustainable development. Social benefit would be provided in the production of renewable energy, in this case in a remote area. The reduction in greenhouse gas emissions (in the region of 169 tonnes per annum) would tackle the potential for the environment to be affected by climate change. The proposal would also be a prudent use of natural resources by reducing the need for use of fossil fuels. The turbine would be a component of a balanced energy policy and would help to protect consumers from price shocks in the longer term.
12. Environmental management of the landscape would be facilitated by the diversification of the holding into new technology. Investment into green energy is an important part of this environmental stewardship. The income from the energy generated would allow investment in the business for the long term. It would ensure the farm remains competitive and is able to continue to repair walls

and footpaths, to plant new hedgerows and to maintain buildings. Viable farms are essential to the rural landscape and to its management so that the distinctive character and environmental quality can be maintained. Income would enable investment in the Upland Entry Level Stewardship Scheme in discussion with Natural England. Discussions have been ongoing and a raft of environmental improvements are planned which would require the employment of a full time worker to implement over 10 year period. The plans include planting of woodland and formation of ponds in order to provide enhanced habitats for upland birds, mammals and invertebrates.

13. This proposal, though modest in scale, would stimulate economic growth and create jobs. The holding currently is not sufficiently viable and the owner has a full time job elsewhere to support the farm. This is not viable in the long term. Income from the energy generated would allow investment and expansion in the beef production unit sufficient to enable the creation of full time work for 2 people on the holding. In addition the income would allow the construction of an on-site well (powered by the turbine) to provide fresh water, and income to repair stone walls. The equivalent of 4 full time jobs would also be created in construction and management, together with regular repair and maintenance jobs.
14. In terms of landscape the turbine would occupy a small footprint and the slender profile would not block the expansive views. Loss of openness would be modest. It would be located close to a new agricultural building which it would serve and be about 200m from a turbine of an identical type. A number of other wind turbines of similar scale are located around the landscape. This turbine would sit lower and would be better assimilated into the background landscape as it sits below the skyline and would be of a grey colour rather than white. It would also be seen alongside the farm buildings and existing turbine, which offer scale comparators. There would be no unacceptable cumulative impact.
15. The landscape capacity study is a broad brush exercise. Character and sensitivity varies within the Moorland Fringe character area and each proposal must be assessed on its own merits. This turbine would be at the lower end of the identified small-scale range of 25m to 60m. Moorland Fringe is classed as being of moderate to high sensitivity to small scale turbines. As this is at the lower end of the range it should attract the moderate sensitivity assessment.
16. The Landscape Guidance for Wind Turbines up to 60m high in the South and West Pennines (Julie Martin 2013) provides general guidance and key principles to aid site selection. This indicates that very small turbines are best suited to lower ground such as the side slopes of ridges or hills, whilst small commercial turbines may be accommodated more easily on low hills or expansive slopes where they may be seen as a small part of a simpler and larger scale landscape. This turbine would be located on an expansive slope backed by higher hills.
17. The NPPF has a presumption in favour of planning permission being granted unless harm is demonstrated. The Council has not been able to demonstrate that harm. UDP Policies EP28 and EP30 indicate that planning permission should be granted, subject to meeting criteria. There are no objections from consultees within the Council, including its Countryside Officer. Natural England supports the proposal as it will enable enhancement of the environment. There would be no impact on the nearest Special Area of Conservation (SAC) Special Protection

Area (SPA) or Sites of Special Scientific Interest (SSSI). Local walkers have also supported the proposal.

18. It is unusual for a wind turbine to receive so much public support and little objection. These types of development, in less sensitive locations, with limited harm and where there are exceptional benefits, should be approved without delay. Pre application consultation carried out pursuant to S61W of the 1990 Act has resulted in support from many, with only 1 objection. There are 15 people living within 2km of the proposed turbine and all have been consulted. All of them support the application and consider that planning impacts have been addressed, proving conclusively that the scheme has the backing of the local community.
19. There is no definition of local community in the WMS of 18 June 2015, but it would imply those living close to the development and most likely to be affected by it. The views of Ripponden Parish Council do not necessarily reflect the views of the local community in this respect. The local Ward Councillor supports the proposal. It is reasonable to take the local community to be the same as those consulted under the requirements of S61W, and this consultation was carried out by agreement with the Council.
20. The benefits of the scheme as set out, and the backing of the local community, are weighty material considerations which amount to very special circumstances sufficient to overcome any Green Belt or other harm.

The Case for the Council

21. The main points of relevance are set out below.
22. The publication of the NPPF has not changed the legal requirement that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The presumption in favour of sustainable development set out in the NPPF does not apply as this site is in the Green Belt. Nevertheless an assessment of the extent to which the proposal is sustainable is required.
23. There is strong support for renewable energy in the NPPF. Applications should be approved for such schemes if impacts are (or can be made) acceptable. The NPPF recognises that even small scale projects provide a valuable contribution.
24. UDP Policies EP28 and EP30 are relevant and are permissive of renewable energy subject to compliance with criteria. These are that the environmental benefits of the scheme in meeting local, regional and national energy needs and reducing global pollution should outweigh any adverse impact. The proposal must be assessed in relation to impacts on landscape, nature conservation, heritage assets, recreation and tourism, amenity and infrastructure.
25. UDP Policy GNE1 seeks to restrict development outside the urban areas through the general extent of the Green Belt. Section 9 of the NPPF is the principal consideration in this respect. The proposal does not fall into any category described as 'not inappropriate' and it must therefore comprise inappropriate development. As such very special circumstances must be clearly demonstrated if such projects are to proceed.

26. The ground coverage of the turbine and mast would be modest but it would be clearly visible and lead to a degree of urbanisation representing a loss of openness. The immediate landscape is devoid of such large structures with the exception of the existing turbine on the holding. The proposal would cause significant harm to the openness of the Green Belt by way of its siting, scale and movement and this would add to the substantial harm by inappropriateness.
27. Policies EP28 and EP30 seek to ensure that wind turbines make best use of topography and physical features to avoid significant harm to visual quality or character. Policy BE1 requires, at the least, maintenance of quality by good design, and development is expected to respect or enhance established character in terms of siting, layout, scale, height, form, design and materials (amongst other matters).
28. The proposal lies within the Moorland Fringe landscape as identified in the South Pennines Wind Energy Landscape Study (Julie Martin 2014). This is determined to be of medium to high sensitivity to turbines of 25m to 60m to blade tip, and is vulnerable to change. Here the immediate landscape is small scale and characterised by a network of fields with irregular boundaries, and scattered farmsteads. The landscape study suggests this type of landscape is best suited to micro or very small turbines up to 25m to tip. In this case the contrast in scale of the turbine with the nearby farm buildings would result in it appearing larger than it would in a simple expansive landscape. The relatively wild upland landscape of the nearby South Pennine Moor would also be harmed by an additional turbine.
29. Although it is unlikely to be visible from Ripponden the turbine would be seen from the opposite side of the valley around Barkisland. The area around the site forms the foreground to the high moorland plateau from that perspective.
30. The landscape is a key factor in the value of the area to those using it for recreation, such as walkers and horse riders. The area enjoys a network of public rights of way and the development would have an impact on the users of these rights of way. NPPF paragraph 75 seeks to ensure that policies protect and enhance rights of way.
31. In cumulative terms turbines are becoming a defining influence of the area around Ripponden. This is a constraint on future development. In addition, and with the exception of the existing turbine at this property, other turbines are generally lower. These existing modest turbines would result in the perception of the scale of the proposal being heightened, to the detriment of the landscape. Being viewed together with, and at a greater elevation than the existing turbine at the property would increase the visual impact.
32. In this case the addition of a further turbine would harm landscape character, would introduce visual harm, and would harm the openness of the Green Belt.
33. Very special circumstances need to be demonstrated, and these may include the wider environmental benefits associated with renewable energy, as set out in the NPPF. It is not unusual for planning policies to pull in different directions. UDP Policy EP28 requires a balance to be struck between encouraging renewable energy and addressing harm, in line with the approach taken in the NPPF.

34. The Appellant has set out a number of benefits associated with the proposal. These include that the energy generated would represent a significant provision of the needs of the farm and provide a useful contribution to national energy targets whilst reducing carbon emissions and improving air quality. There are economic and social benefits on a relatively small scale which attract some weight in the balance. The need for renewable energy does not automatically override environmental protection or justify inappropriate development in the Green Belt.
35. The intention to carry out environmental improvements in association with Natural England would attract funding at the rate of £62 per hectare per year. This provides a secure regular payment. As such, although the turbine would generate extra funding, the environmental improvements are not dependent on the provision of another turbine. These benefits are therefore modest.
36. There are no objections to the proposal in respect of noise, residential amenity, highway safety, nature conservation (subject to conditions) heritage or aviation.
37. The Appellant consulted with neighbours prior to the application being submitted. In total 21 responses were received and no objections were raised to the proposal or its design. One objection was received from a resident of Barkisland, some 2.6 miles away, and from Ripponden Parish Council. The Parish Council can be considered to represent the views of the local community in relation to the WMS of 18 June 2015. Planning permission should only be granted if the concerns of the local community have been addressed, and in this case they have not. Letters of support do not change this requirement.
38. The harm by reason of inappropriateness is substantial, to which must be added the harm to openness of the Green Belt, and harm to landscape character and visual amenity. The benefits of the scheme are considerable, but not sufficient to clearly outweigh the harm to the Green Belt, and the other harm identified so as to justify the development. The proposal therefore fails to comply with the NPPF and UDP Policies GNE1, BE1, EP28 and EP30.

Written Representations

39. In this case written representations have been submitted which both support and object to the proposal. The matters raised by the representations are adequately set out in the cases of the Appellant and Council set out above and I do not need to repeat them here.

Conditions

40. The Council has suggested a number of conditions in the event of planning permission being granted by the Secretary of State. The Appellant has suggested amendments to the ecological enhancement condition which reflect the fact that some of the matters controlled by the condition would require the turbine to be operational prior to the condition biting. I accept that suggested change as reasonable. I also accept that it would be reasonable to set an end date for post construction ecological monitoring to avoid onerous future requirements. Other conditions dealing with matters of the installation of cables, trenching, and decommissioning are reasonable and necessary in the interests of the appearance of the area. Where necessary I have altered the wording of conditions to aid precision in the schedule attached to this report.

Conclusions

41. In this section of the report the numbers in square brackets refer to paragraphs in the preceding sections.
42. The main considerations in this appeal are:
- (a) Whether the proposal constitutes inappropriate development in the Green Belt;
 - (b) The effect on the openness and purposes of the Green Belt;
 - (c) The effect on the character and appearance of the area;
 - (d) If the development is inappropriate, whether the harm by inappropriateness, and any other harm, is clearly outweighed by other considerations put forward in favour of the proposal so as to amount to the very special circumstances necessary to justify development.

Consultation [6, 18, 19, 20, 37]

43. It is useful to outline first the pre application consultation which was carried out by the Appellant. Those living within a radius of up to 1km of the appeal site have been consulted. Documentary evidence indicates that the majority support the proposal, none objected, and as such no alterations to design and siting were required prior to the application being submitted. I have been informed that the extent of consultation was agreed by the Council. It seems reasonable to me, therefore, to conclude that the pre application consultation was fairly targeted at the local community.
44. Notwithstanding the pre application consultation the proposal was also the subject of further consultation during its consideration by the Council, and at appeal stage. The evidence submitted to me indicates that the vast majority of respondents support the proposal. There was objection from Ripponden Parish Council and one individual.

Whether Inappropriate [9, 25]

45. Paragraph 91 of the National Planning Policy Framework (NPPF) indicates that elements of many renewable energy projects will comprise inappropriate development when in the Green Belt. The development would consist of a single mast with a wind turbine generator at the top, and it cannot reasonably be argued that this proposal, whether considered as a building or engineering operations, preserves openness. It is therefore apparent that the proposal does not fall into any of the categories defined in paragraphs 89 and 90 of the NPPF which can be regarded as being not inappropriate in the Green Belt. The Appellant accepts that the proposal must be considered to be inappropriate development in the Green Belt.
46. I concur and conclude that the proposal is inappropriate development in the Green Belt. Inappropriate development is by, definition, harmful to the Green Belt, and as indicated in the NPPF, such harm attracts substantial weight.

Openness and Purposes [14, 26, 32]

47. The wind turbine would be seen as a man made element in the Green Belt which would detract from openness. Whilst acknowledging that a slim structure such as that proposed would allow the overriding open nature of the surroundings to be

retained for the most part, there would nevertheless be a perceived loss of that openness. The loss of openness would be minor to moderate in this instance, especially as some of the turbine would be hidden by topography from some public viewpoints.

48. There are 5 purposes of including land in the Green Belt, as set out in the NPPF. In this case there appears to be no material conflict with 4 of them. However, it must be the case that there is some encroachment into the countryside here given the nature of the development and the scale (albeit modest) of mast envisaged. The very presence of the turbine would be seen as the encroachment of engineering works into a formerly undisturbed part of the rural scene. As such there is conflict with that purpose of Green Belt designation which seeks to safeguard the countryside from encroachment. Taken together with the impact on openness I consider that these considerations attract moderate weight against the proposal.
49. On the first 2 main considerations, therefore, there is conflict with the objectives of the NPPF in relation to the Green Belt. As explained in the NPPF inappropriate development should not be approved except in very special circumstances, and those circumstances will not exist, unless the harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
50. I have noted that saved Calderdale Replacement Unitary Development Plan (UDP) Policy GNE1 seeks to restrain development outside the main urban areas through the general extent of the Green Belt. This policy does not seem to me to follow the line taken in the NPPF inasmuch as it does not set out any categories of development which are not inappropriate in the Green Belt, or make provision for a judgement on whether other considerations might outweigh the restrictive nature of the policy. As such the policy carries limited weight. I will address whether very special circumstances exist later in the report.

Character and Appearance [14, 15, 16, 27, 28, 29, 30, 31]

51. I am informed that the site lies within the Moorland Fringe as described in the South Pennines Wind Energy Landscape Study of 2014. Landscape character here is identified as being of medium to high sensitivity to small turbines of 25m to 60m to blade tip. The study is also said to indicate that very small scale turbines of up to 25m to blade tip are best suited to small scale landscapes. However, I agree with the Appellant that any broad landscape study could not be sufficiently fine grained to cater for the variations in character which are almost sure to be found within it.
52. The Council suggests that the landscape character hereabouts is small scale. However, I do not agree that that is so. The undulating upland landscape in the vicinity of the appeal site includes some quite large pastures separated by simple stone walls, as well as the nearby open moorland. In my judgement, therefore, the landscape character around the site is best described as medium scale and simple in form. It is further down the slopes that the field patterns become more complex and small scale, there is more in the way of tree cover, and there are more cottages and farms nestling in sheltered locations.
53. In this medium scale context the turbine would be seen as a feature of commensurate proportions. Notwithstanding the overall findings of the 2014

study (South Pennines Wind Energy Landscape Study) I consider that a turbine of the size proposed would not seem out of place here. There would be an obvious change in the character of the landscape at close quarters, where it would be seen as an area of improved pasture with a wind turbine. But the impact of the turbine would quickly recede with distance and the landscape character would be perceived as it is now – upland moorland fringe with rolling pastureland delineated by stone walls all of which is set above the lower lying valley farmsteads to the south and east. Because of the localised nature of the impact the overall effect on the character of the landscape would be minor to moderate at worst.

54. The visual impact of the proposal relates to the way in which the development would be seen by particular users of the landscape. In this locality there are many public rights of way, and even on a late December afternoon I saw a number of people using them. Representations also indicate that this is a well trodden location. The people who use public footpaths, bridleways and lanes for recreational purposes can be regarded as sensitive receptors (or viewers) in that changes to the appearance of the landscape are likely to have a greater impact on their perceptions of the area than would be the case for other receptors such as motorists.
55. Having walked a number of the local rights of way I saw that the turbine would be prominent in views from some of them. For example it would be highly visible in the northerly view from Flight House Road, and a clear skyline feature when seen from the footpaths to the north of the site. Such views would have significant visual impact at close range. However, as with the impact on character, so the visual impact would quickly lessen with distance. Additionally, the local topography means that views of the turbine would be partially or wholly interrupted in a significant number of locations. In longer distance views, such as those from the opposite side of the Ryburn valley, the impact would be reduced by that distance, but also by the fact that there would be likely to be a backdrop of moorland hills.
56. In cumulative terms the turbine would be introduced into a landscape which already hosts a number of such developments. There is already a similar turbine at Green Holes Farm, to the north of the farm buildings, and further turbines (roughly in a northerly direction) at Crow Hill. I also saw what appear to be similar turbines in other directions at greater distance. Lower down the valley slopes are a number of smaller turbines, sometimes in clusters.
57. In this context the viewer can often see a number of wind energy developments from the same location simultaneously, or in sequence when travelling through the area. The proposal here would add to that cumulative impact, but in a minor way. The proximity to the existing turbine at Green Holes Farm, and the fact that the 2 turbines would flank the buildings there, would give some sense of coherence to them as joint facilities serving that holding. The cumulative impact with that existing turbine would be minor.
58. In the wider landscape this extra development would not add unduly to the experience of being in, or passing through, an area in which wind powered energy generation features. The total number of turbines would not be significantly increased and, excluding that at the holding which I have dealt with above, they would remain well spaced. The experience of being in this locality

would continue to be one in which the undulating landscape would be fully appreciated. I therefore consider that the cumulative impact arising from this proposal would be slight. It is pertinent to note at this point the support for the wind turbine from a significant number of people who use the area for recreational purposes with the existing presence of other such developments.

59. Taking these considerations in the round I find that there would be a minor to moderate impact on landscape character and visual appreciation of the area, and a slight impact in cumulative terms. Albeit that some people do not object to wind turbines, or positively support them, it is fair to regard these impacts as adverse.

Other Considerations [10, 11, 12, 13, 20, 34, 35]

60. The Appellant's application and appeal submissions deal at some length with the benefits which would be provided by this development. These include:

- the provision of clean renewable energy to assist in the national commitment to reduce greenhouse gas emissions and address the impacts of climate change;
- an increase in the capacity of the local grid for the benefit of others;
- the diversification and adaptation of a rural business, enabling investment in capital projects, new water supply, and the management of the landscape and ecology of the area (in this case with the assistance of Natural England);
- the stimulation of economic growth, support of other local businesses, and creation of jobs at the holding and in the wind energy sector;
- the public backing for the proposed development, including from the local ward member.

61. Before turning to the planning balance I will deal with other matters.

Other Matters [17, 30, 36]

62. The appeal site is quite close to the boundary with the Special Protection Area (SPA) of the South Pennine Moors and a Special Area of Conservation (SAC) which is also a Site of Special Scientific Interest (SSSI). However, there is no evidence that the development would have any impact on the protected sites. As noted by the Council, Natural England considered the proposal and reached the view that it would not be likely to have any significant impact on the features for which the SPA and SAC have been designated. Likewise Natural England concluded that the SSSI would not be damaged or destroyed. I have no reason to reach any other conclusion and hence the proximity to these protected sites does not weigh against the proposal.

63. There are a number of heritage assets (listed buildings) in the general area. The closest are at a distance of over 400m. The Council concluded that the settings of these assets would not be harmed by the proposal, and having seen them on my site visit I agree with that conclusion. The listed buildings are set within the wider landscape, but their settings relate primarily to their immediate surroundings and their associated buildings. The proposal would have no effect on these settings.

64. In relation to residential amenity the Appellant has provided evidence that there would be unlikely to be any noise or shadow flicker impacts. The Council agrees, as do I.
65. Objection has been made which indicates that the proposal may impact negatively on tourism. However, as noted, there is support from some people who often walk in the area. On balance I do not consider that there would be any likelihood of the proposal having a material impact on tourism or recreational use of the area.

The Planning Balance [10, 11, 12, 13, 20, 23, 24, 25, 33, 34, 38]

66. The primacy of the development plan is not in doubt and that is where the balancing exercise must start. In this case the development plan is the UDP and the relevant policies are set out above in paragraph 5.
67. The matters weighing against the proposal are, first, the fact that it constitutes inappropriate development in the Green Belt. This is harmful by definition and carries substantial weight. There would be further harm as a result of the loss of openness and conflict with one of the purposes of the Green Belt, which carries moderate weight in this case. In addition there would be some harm as described in relation to the impact on the character and appearance of the area, but this would be of a modest order, and the weight attaching to this impact is minor to moderate at worst. The harm results in conflict with saved UDP Policy GNE1, though as noted earlier this policy has limited weight.
68. In favour of the proposal are the benefits as set out above in paragraph 60 and the Appellant's case. The NPPF policy support has not been changed by the WMS I refer to earlier, and it is supportive of renewable energy where the impacts are, or can be made, acceptable. Saved UDP Policy EP28 is also permissive of renewable energy subject to criteria, including that environmental benefits outweigh adverse impacts, and no significant harm to the character or visual quality of the landscape results. Policy EP30 has similar aims, and in addition (amongst other things) seeks to avoid harm to the amenity of local residents, and minimisation of the visual impact of turbines. These policies reflect the balancing exercise which is implicit in the NPPF and can be afforded maximum weight. Policy BE1 is more general and requires high design standards. It follows similar principles to the NPPF but seems to me to be somewhat less useful in the context of wind turbine proposals.
69. Taking these policies in turn, I find that the proposal would not result in significant harm to character or visual quality, and that the environmental benefits outweigh any adverse impact (the balance required by Policy EP28). In particular I consider that the environmental stewardship which is likely to be enabled by this development is of significant weight. It seems unlikely that any such benefit would flow if the Appellant received only the modest income from Natural England suggested by the Council. Hence I do not find conflict with Policy EP28. With regard to Policy EP30 I am satisfied that there would be no adverse impact on the amenity of local residents, and that the siting and design of the turbine has minimised visual impact. I therefore find no conflict with that policy. For similar reasons I find no conflict with Policy BE1.
70. The matters advanced in favour of the proposal are described by the Council as considerable in the representations sent to me. I agree with that assessment.

They are matters of substantial weight and it is worth noting in particular the likelihood of income from energy generation adding full time job(s) to the area. Whilst the number of jobs created may be open to debate I am satisfied that there would be significant economic benefit flowing from this proposal.

71. This is a case where the proposal accords with the development plan in some respects, but is at odds with it in others. Similarly, it is supported by the renewable energy section of the NPPF, but is in conflict with the Green Belt policy as expressed there. However, the NPPF also indicates that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.
72. Dealing next with the WMS I have set out earlier the transitional arrangements which apply here. It is reasonable, in my judgement, to treat the local community as those living within a 1km radius. I understand that this approach was endorsed by the Council for pre application consultation purposes. Consultation with those residents did not produce any adverse comments. As such it is also reasonable to conclude that the local community gives its backing to the scheme. I have already noted that others who use the area for recreational purposes have separately offered support. There have been objections, including from Ripponden Parish Council. However, whilst acknowledging that objection, it seems that Ripponden Parish Council does not reflect the views of the community closest to the appeal site. The views expressed by the Parish Council, along with other objections received, are material considerations which play a part in the balancing exercise, but it would be unreasonable to place too much weight on them in relation to the provisions of the WMS. Taking the clear support given by the residents within 1km of the site I am therefore satisfied that the local community here has indicated its backing for this development. The Secretary of State has made it clear that substantial weight attaches to the WMS as the latest expression of government planning policy for onshore wind development. With that in mind the fact that the local community has given backing to this proposal is important in the balancing exercise.
73. Taking all of the relevant matters into account it is my judgement that the great weight of the considerations advanced in favour of the proposed development are sufficient, in this case, to outweigh the substantial harm by reason of inappropriateness, and the moderate harm in other respects. I therefore find that very special circumstances have been demonstrated which justify the development. Hence in my judgement the proposed development is acceptable. This proposal differs from others brought to my attention, in particular by having the benefit of local community backing to add to the considerable weight of benefits of the scheme itself.

Overall Conclusion and Recommendation

74. For the reasons given above I recommend that the appeal be allowed and planning permission be granted subject to conditions as set out in the schedule below.

Philip Major

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) All cables from the turbine shall be underground. All excavated ground in connection with cable laying shall be reinstated to its former condition in accordance with details to be submitted to and approved in writing by the local planning authority prior to development commencing.
 - 3) If the wind turbine hereby permitted ceases to be operational for a continuous period of six months, the turbine shall be permanently removed and the site restored to its former condition in accordance with a scheme submitted to and approved in writing by the local planning authority within 3 months of the cessation of use of the turbine and the approved scheme shall be implemented within 3 months of its approval.
 - 4) No construction works shall take place between March and August inclusive unless a pre construction check for bird nesting activity has been carried out by a suitably qualified ornithologist which indicates that no nesting is present. The pre construction check shall be reported in writing and a copy provided for the local planning authority within 7 days of its completion.
 - 5) Prior to the commencement of development a programme of ecological enhancements shall be submitted to and approved in writing by the local planning authority. The enhancements shall be carried out in accordance with the approved details and shall be implemented over a period of 10 years from the first operation of the turbine. On completion the enhancements shall be retained thereafter.
 - 6) Prior to the commencement of development a programme of post construction bird monitoring shall be submitted to and approved in writing by the local planning authority. The bird monitoring shall be carried out in accordance with the approved details for a period of 2 years from first operation of the turbine.
 - 7) The development hereby permitted shall be carried out in accordance with the following approved plans: 169-PO1 (Location Plan and Block Plan), E-4660 Elevation, 24m Tower, Class II.
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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.