



Department for
Communities and
Local Government

Dominic Waugh MRTPI
Fairhurst
1 Arngrove Road
Newcastle NE4 6DB

Our Ref: APP/P2935/A/13/2193153

Your Ref: DW/97166/044

29 July 2014

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MR ROBIN LATHANGIE
THE ERECTION OF 2 no. ENDURANCE E-3120, 50kw WIND TURBINES
MOUNTED ON 24.6M MASTS AT EAST MONEYLAWS FARM AND THE
FORMATION OF A NEW HARDCORE ACCESS TRACK FROM AN EXISTING
FARM TRACK TO THE PROPOSED DEVELOPMENT SITE
EAST MONEYLAWS FARM, CORNHILL-ON-TWEED TD12 4QD
(APPLICATION REF: 11/03207/RENE)**

1. Following a request by Mr Andrew Joicey in an email dated 27 July to correct errors in the decision letter of 17 July 2014 relating to the above appeal, the decision has been made, by the Secretary of State under section 56 of the Planning and Compulsory Purchase Act 2004, to correct that decision letter.

2. I enclose a copy of the corrected decision letter.

3. The corrections to the decision letter are as follows:

- (a) At paragraph 12, the first sentence is amended by the deletion of the word 'to', and its replacement with the word 'the', so as to read; 'Against this, he sets the contribution of the development to cutting greenhouse gas emissions.'
- (b) The final sentence is amended by the addition of the word 'not' between the words 'would' and 'be', so as to read; 'However, he sees no reason to disagree with the Inspector that the contribution of the proposed development as set out at IR 36 would not be sufficient to outweigh the significant environmental harm described at paragraphs 9 and 10 above.'

4. Please accept my apologies for these errors and for any confusion or inconvenience they may have caused.

5. I refer you to section 58 of the Planning and Compulsory Purchase Act 2004 which makes provisions about the effect of correcting the decision letter and in relation to connected legal challenges. The effect of section 58, amongst other things, is that the decision in the corrected decision letter is challengeable by making an application to the High Court within six weeks from the date of issue of this notice.

6. Copies of this notice and the corrected decision letter have been sent to Northumberland County Council and to all other parties who received a copy of the original decision letter of 17 July.

Yours faithfully,

Philip Barber

Authorised by the Secretary of State to sign in that behalf



Department for
Communities and
Local Government

Dominic Waugh MRTPI
Fairhurst
1 Arngrove Road
Newcastle NE4 6DB

Our Ref: APP/P2935/A/13/2193153

Your Ref: DW/97166/044

17 July 2014

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MR ROBIN LATHANGIE
THE ERECTION OF 2 no. ENDURANCE E-3120, 50kw WIND TURBINES
MOUNTED ON 24.6M MASTS AT EAST MONEYLAW'S FARM AND THE
FORMATION OF A NEW HARDCORE ACCESS TRACK FROM AN EXISTING
FARM TRACK TO THE PROPOSED DEVELOPMENT SITE
EAST MONEYLAW'S FARM, CORNHILL-ON-TWEED TD12 4QD
(APPLICATION REF: 11/03207/RENE)**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Andrew Hammond MSc MA CEng MIET MRTPI, who held a site visit on 21 January 2014 to inform his consideration of your client's appeal against the refusal of Northumberland County Council ("the Council") to grant planning permission for a wind energy development comprising the erection of two no. Endurance E-3120, 50kw wind turbines mounted on 24.6m masts at East Moneylaws Farm and the formation of a new hardcore access track from an existing farm track to the proposed development site.
2. On 1 April 2014 the 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 on the grounds that it involves a renewable energy development.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation, dismisses the appeal and refuses planning permission. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

Procedural matters

4. The Secretary of State has taken into account the submitted Heritage Statement and the Landscape Statement.
5. The Secretary of State has taken into account the Written Ministerial Statements on renewable energy published in June 2013 by the Secretaries of State for Energy and Climate Change and for Communities and Local Government; the Written Ministerial Statement on renewable energy published by the Secretary of State for Communities and Local Government in April 2014; and the Planning Practice Guidance for Renewable and Low Carbon Energy (2013). As these were all issued after the Council's consideration of the application, the consultation and the Council's Officer's Report to Committee, the Planning Inspectorate gave the parties the opportunity to comment on them.

Policy Considerations

6. In deciding the appeal, 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. In this case, he agrees with the Inspector (IR1) that the development plan comprises the saved policies of the Berwick upon Tweed Local Plan 1999 (LP).
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ("the Framework") and the planning practice guidance; the National Policy Statements (NPS) for Energy (EN-1) and Renewable Energy (EN-3); the Community Infrastructure Levy (CIL) Regulations 2010 as amended; Planning Practice Guidance for Renewable and Low Carbon Energy (2013); and Planning Policy Statement (PPS) 5 Planning for the Historic Environment Practice Guide. The Secretary of State has also taken into account the Written Ministerial Statements on renewable energy published in June 2013 by the Secretaries of State for Energy and Climate Change and for Communities and Local Government and the Written Ministerial Statement on renewable energy published by the Secretary of State for Communities and Local Government in April 2014.

Main Considerations

8. The Secretary of State agrees with the Inspector that the main issues in this case are those set out at IR28.

Effect of the Development on the Landscape and visual amenity

9. The Secretary of State agrees with the Inspector that the proposed development would be detrimental to the landscape character in an Area of High Landscape Value, introducing harm in conflict with Saved Policy D26, for the reasons set out by the Inspector in IR29. He further agrees that the development would be visually detrimental to local views, but accepts that this harm would be restricted due to the limited number of local receptors (IR30).

Effect of the Development on a Registered Battlefield

10. For the reasons given at IR31-33 the Secretary of State concludes that the proposed development would detract from the appreciation of a Registered Battlefield site in its wider context. While there are a number of electricity transmission towers in the vicinity of the site, he agrees with the Inspector that their impact on the appreciation of the setting of the Battlefield is limited due to their lattice construction (IR32).

Balancing Exercise

11. The Secretary of State agrees with the Inspector that in this case the Flodden Battlefield and Monument are heritage assets of considerable importance, and that, in line with paragraph 132 of the Framework, he gives great weight to its conservation (IR34-35). The Secretary of State agrees that the proposed development would introduce harm to the setting of these heritage assets. To this he adds the more limited harm to the inherent landscape in an area of High Landscape Value. While he accepts that this harm is less than substantial, it is nevertheless significant, and he therefore attaches significant weight to this.
12. Against this, he sets the contribution of the development to cutting greenhouse gas emissions. He agrees that even small scale projects can make a valuable contribution to cutting greenhouse gas emissions and that applications should be approved providing that the impacts are (or can be made) acceptable. However, he sees no reason to disagree with the Inspector that the contribution of the proposed development as set out at IR 36 would not be sufficient to outweigh the significant environmental harm described at paragraphs 9 and 10 above.
13. On balance therefore he concludes that the proposed development would be contrary to the saved LP policies and the national policy as set out in the Framework.

Conclusion

14. Having weighed up all relevant considerations, the Secretary of State concludes that the factors which weigh in favour of the proposed development do not outweigh its shortcomings and the conflict identified with the development plan and national policy. He considers that there are no material considerations of sufficient weight which would justify allowing the appeal.

Conditions

15. The Secretary of State has had regard to the schedule of conditions at Annex 1 of the IR. He is satisfied that the Inspector's proposed conditions are reasonable and necessary and would meet the tests of the paragraph 206 of the Framework. However, he does not consider that they would overcome his reasons for dismissing this appeal.

Formal Decision

16. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for a wind energy development comprising the erection of two no. Endurance E-3120, 50kw wind turbines mounted on 24.6m masts at East Moneylaws Farm and the formation of a new hardcore access track from an existing farm track to the proposed development site, in accordance with application Ref 11/03207/RENE.

Right to challenge the decision

17. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
18. A copy of this letter has been sent to the Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by the Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Andrew Hammond MSc MA CEng MIET MRTPI

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

Date: 28 May 2014

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY Mr ROBIN LATHANGIE

against

NORTHUMBERLAND COUNTY COUNCIL

in respect of

**THE ERECTION OF 2 no. ENDURANCE E-3120, 50kw WIND TURBINES
MOUNTED ON 24.6m MASTS AT EAST MONEYLAW'S FARM AND THE
FORMATION OF A NEW HARDCORE ACCESS TRACK FROM AN EXISTING
FARM TRACK TO THE PROPOSED DEVELOPMENT SITE**

Site visit made on 21 January 2014

East Moneylaws Farm, Cornhill-on-Tweed TD12 4QD

File Ref: APP/P2935/A/13/2193153

File Ref: APP/P2935/A/13/2193153

East Moneylaws Farm, Cornhill-on-Tweed TD12 4QD

- 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 Robin Lathangie against the decision of Northumberland County Council.
- The application Ref 11/03207/RENE, dated 29 November 2011, was refused by notice dated 17 August 2012.
- The appeal was recovered for decision by the Secretary of State on 1 April 2014 on the grounds that it involves a renewable energy development.
- The development proposed is the erection of 2 no. Endurance E-3120, 50kw wind turbines mounted on 24.6m masts at East Moneylaws Farm and the formation of a new hardcore access track from an existing farm track to the proposed development site.

Summary of Recommendation: The appeal be dismissed.

Planning Policy

1. For the purposes of this appeal the development plan consists of the saved policies of the Berwick upon Tweed Local Plan 1999 (LP).
2. Saved LP Policy F3 states that within the boundaries identified on the Proposals Map, the Tweed Valley and Kyloe Hills and Glendale are designated as Areas of High Landscape Value within which special policies to protect the countryside will apply. Development will be permitted where it is compatible with the principal objective of conserving or enhancing the natural beauty of these areas, and, in particular:
 - i)(a) it is located within or immediately adjoining an existing settlement; and/or,
 - i)(b) it will expand the Borough's infrastructure for tourism, compatible with the area's existing tourism role and its primary attractions of the natural and built environments;
 - i)(c) it relates to and accords with Policies C12, C14, C23, C24, C26 or C27 and provided that the developer can satisfy the Borough Council of the need for such a development to be located outwith an existing settlement,
 - ii) it accords with its surroundings by virtue of its scale, density, height, massing, layout, materials, hard and soft landscaping including indigenous species, means of enclosure and access;
 - iii) it relates to and accords with Policies S4, W2, W4, W8 or C5, associated with agricultural developments, or Policies R7 or R9; and
 - iv) it accords with Policies elsewhere in the Plan.
3. Saved LP Policy C26 states that within the Kyloe Hills and Glendale Area of High Landscape Value, proposals for the development of windfarms designed to connect into the regional or national electricity supply network will be considered. Particular regard will be given to the following issues:
 - i) the requirement for an Environmental Statement under any current Regulations;
 - ii) the local wider and cumulative impacts on the landscape;

- iii) the need to protect features and areas of heritage and nature conservation interest;
- iv) levels and effects of noise, shadow flicker and electromagnetic interference;
- v) the measures that would be taken, both during and after construction, to minimise the impact of the development on adjoining land uses and residential amenity; and,
- vi) the local and wider impacts of the development, including safety, employment, tourism, education and levels of pollution.

All proposals will be balanced against Policies elsewhere in the Plan. In doing so it will be acknowledged that wind energy can only be harnessed commercially where the annual mean wind speed is sufficiently high.

4. The saved policies of the Local Plan have been appraised by the Council in order to ensure their consistency with the National Planning Policy Framework.

The Site and Surroundings

5. The appeal site lies within an Area of High Landscape Value as defined in the Berwick upon Tweed Local Plan (LP). The immediate surrounding area is an agricultural landscape of arable fields, with the nearest properties being East Moneylaws Farm Cottages, some 400m to the north of the appeal site.
6. The proposed development is located some 1km south west of the edge of Flodden Battlefield, a Registered Battlefield, and some 1.8km from the Flodden Monument, which is grade II listed and forms the focus for visitors to the historic site.
7. The North East of England Renewable Energy Strategy, Landscape Appraisal for Onshore Wind Development (2003) (Benson Report) identifies landscape character types. It is noted that there were inaccuracies in the Officer's Report to Committee in that reference was made to an incorrect landscape character assessment area and incorrect LP Policy. The Planning Inspectorate and the appellant's agent were informed of this by email dated 15 April 2013 and the appellant's agent confirmed that they did not propose to amend their appeal statement as the correct LP Policy (Saved Policy C26) was identical to the stated LP Saved Policy C23.
8. The appeal site is located in Landscape Character Area No.5 (Outcrop Hills and Escarpment) and within the Kyloe Hills and Glendale Area of High Landscape Value to which Saved LP Policy C26 applies.
9. This report has been prepared in accordance with the correct landscape character area and policy. The Northumberland Landscape Character Assessment (2010) (NLCA) forms part of the LDF Core Strategy and is a material consideration in the determination of the appeal. The appeal site is identified as being in an area of medium to high sensitivity for wind development in the Benson Report and in an area of high sensitivity for small scale wind in the NLCA.

The Proposal

10. The proposed development comprises two 50kw wind turbines mounted on 24.6m high masts at East Moneylaws Farm and the formation of a new hardcore access track from an existing farm track to the proposed development site.

The Case for the Appellant

11. There will be no significant impacts on landscape character and no significant impact on views from Flodden Battlefield, as confirmed through detailed consideration of national, regional and local Landscape Character Areas, site visits and professional judgement.
12. Paragraph 129 of the National Planning Policy Framework (the Framework) states that *Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise*. The Council's own Historic Buildings Officer concluded that "the proposed development would not result in significant harm to heritage assets" and the County Archaeologist responded "the proposed development would not cause substantial harm to the significance or setting of heritage assets in the area. In addition, the proposed development would not harm the setting of, or the ability of visitors to appreciate the significance of the registered battlefield at Flodden."
13. Despite the above, and in response to comments received from English Heritage, the appellant commissioned a Heritage Statement submitted with the appeal. The statement, produced in consultation with English Heritage North East, concluded that "In the case of the registered battlefield site and its memorial, the overall significance of the predicted impact is assessed as 'low', largely because of the relatively small scale of the proposed turbines and the line of site through existing power pylons and cables, makes them poorly visible, and from large parts of the site the pylons are obscure from view by topographical features.....Whilst the introduction of the proposed turbines would constitute a visible element in the present landscape the impact of this is considered not to substantially affect the ability to understand or appreciate either the setting or structure of the assets. Therefore it is concluded that the construction of the proposed turbines at East Moneylaws would not significantly compromise the character of the historic environment or of any individual asset and would not conflict with the aims of national, regional or local planning policies.
14. Paragraph 134 of the Framework states that *where a development proposal would will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal*. Paragraph 98 of the Framework states that *local planning authorities should...recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions*. Paragraph 93 of the Framework states that *Planning plays a key role in shaping places to secure radical reductions in reducing greenhouse gas emissions, reducing vulnerability, and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and supporting infrastructure. This is central to the economic, social and environmental dimensions of sustainable development*.
15. Based on the Framework and the low predicted impact on the Flodden Battlefield, it is considered that the public benefits of the proposed development involve its valuable contribution to cutting greenhouse gas emissions.
16. Nevertheless, based on the professional judgements and opinions contained in the submitted Heritage Statement, it is concluded that the proposed development

would not result in a significant and unacceptable impact on the setting of Flodden Battlefield. Neither the Council nor any party with the necessary expertise has criticised the methodology followed in the heritage statement or provided an alternative methodology to justify that the proposed development would result in a significant and unacceptable impact on the setting of Flodden Battlefield. The sustainability benefits of the proposed turbines do not, therefore, need to outweigh the impact upon heritage assets as there is not a significant or unacceptable impact on landscape character.

The Case for the Council

17. Whilst the Committee Report concluded that the proposed wind turbines would not have a significant impact in terms of landscape and visual impact, this was based on an incorrect landscape assessment area, as notified to the appellant and the Planning Inspectorate on 13 April 2013.
18. The correct Landscape Character Area No.5 (Outcrop Hills and Escarpment) has a medium to high sensitivity and the key components of the outcrop hills comprise *"'stand-alone' gently undulating, flat topped elongated ridges or rounded dome shaped low hills rising above farmland in Northumberland forming distinctive skyline features."* and *"Steep 'scarp' like slopes with a series of rounded spurs often occur in some areas and mark an abrupt change from the low-lying farmland or valleys surrounding the hills."*
19. The Benson Report affirms that turbines would impinge on the visual prominence of distinctive peaks and rocky outcrop features, the escarpment and the steeper 'scarp' slopes associated with some of the hills. In further appraising the sensitivity of wind turbine development in the Outcrop Hills and Escarpment the Benson Report states *"Development may diminish the apparent height and dramatic scarp slopes of the Outcrop Hills and Escarpment by introducing a vertical reference in the landscape"* and *"Turbines should be sited to avoid rocky outcrop features which often form foci on hilltops."*
20. The Northumberland Landscape Character Assessment (2010) mirrors the landscape assessment provided by the Benson Report. The appeal site is located within the Landscape Character Area 14a Moneylaws and Coldside, and this area has a high sensitivity to both small-scale and large-scale wind turbine development.
21. The Council consider that the proposed development would result in a significant and unacceptable impact on the character of the landscape sufficient to outweigh the wider benefits in terms of renewable energy provision.
22. Whilst neither the Council's Historic Buildings Officer nor English Heritage raised any objection, the Flodden Monument and Flodden Battlefield have an intrinsic relationship as heritage assets and this is amplified by their tandem roles in the conservation, education and commemoration of the Battle of Flodden. The intrinsic functions of the monument and the battlefield allow both commemoration and also an educational overview of the battlefield, together with the dynamics of the battlefield, from an elevated position.
23. In terms of the role and function of the battlefield the conservation of this heritage asset allows for the battlefield to be observed from key viewpoints around the site with information boards providing both an annotated and informative description of the battlefield and how the battle progressed. The

battlefield can be further experienced by using the Battlefield Trail which follows a route accessed onto the battlefield and providing a greater experience in terms of understanding the battlefield site, topography of the landscape and the dynamics of the battle that occurred at the site.

24. Both the monument and the battlefield gain their character from both their local setting but also within the broader historic area and landscape forming the setting of these heritage assets. Both individually and in terms of their relationship to the Battle of Flodden it is considered that their setting is not limited to the curtilage of their designation but includes the broader landscape in terms of both the direct and contextual setting of the heritage assets.
25. The turbines would introduce vertical elements into the landscape at an elevated position when viewed from the monument and battlefield and would adversely affect the setting of the heritage assets. It is noted that the landscape in the foreground to the proposed turbines includes large pylons in a linear north/south route, but these have a lattice style construction and are static structures within the landscape. The visibility of the proposed turbines would be increased by the rotation of the blades and would result in vertical elements and foci within the landscape with consequent impacts on the heritage assets.

Written Representations

26. A number of representations were received by the Planning Inspectorate and by the Council, both in support and opposing the proposed development. Those in support stressed the environmental benefits. Those opposing, including the "Remembering Flodden Project", a registered charity working to promote Flodden as a heritage site as "one of only three sites in these islands where a reigning monarch either met his end or was killed in battle", stressed the significance of the heritage assets, both in themselves and within the broader landscape.

Suggested Conditions

27. The Council put forward a number of without prejudice conditions aimed at reducing the short and long term effects on visual amenity, protecting residential amenity and in the interest of highway safety.

Inspector's Conclusions

28. The main issues in this appeal are the effect of the proposed wind turbines on the landscape, including the setting of Flodden Battlefield and the Flodden Monument and the effect on visual amenity.
29. The proposed wind turbines would be located on a ridge, forming the foreground of Moneylaws Hill, within a large scale landscape with few man-made structures. The turbines would introduce vertical features into the sensitive landscape of characteristic peaks and outcrops. As such they would be detrimental to the landscape character, introducing harm in conflict with Saved Policy C26 which states that particular regard will be had to the local, wider and cumulative impacts on the landscape.
30. The proposed wind turbines would also be visually detrimental in local views. However, the level of harm would be restricted due to the limited number of local receptors, such as East Moneylaws Farm Cottages, a nearby right of way and points on the local road network.

31. The Flodden Battlefield and the Flodden Monument, which commemorate the battle and acts as a focus for visitors respectively, lie to the north-east of the appeal site. The designated battlefield is some 1km from the appeal site at its closest but the precise location and confines of the battle are not known. The Battlefield Trail, with interpretation boards, gives a greater understanding of the battlefield site and the role of the topography of the wider landscape in the conduct and outcome of the battle.
32. It is clear that the Battlefield and Monument are experienced as heritage assets within a much wider landscape than the confines of the designated battlefield alone. Views over the designated battle site from vantage points on the trail are not restricted to the designated site but are appreciated in the context of the open landscape beyond.
33. The proposed wind turbines would be seen in numerous views across the Flodden Battlefield from the Monument and elsewhere. Whilst it is appreciated that there are a number of electricity transmission towers in the vicinity of the appeal site, these are of lattice construction and, to a degree, their impact on the appreciation of the setting of the Battlefield is thus limited. The proposed wind turbines, however, would draw the attention and would appear as incongruous vertical features with rotating blades in the open and generally uninterrupted landscape, detracting from the appreciation of the battlefield site in its wider context.
34. At paragraph 132 the Framework states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting."
35. The Flodden Battlefield and Monument are heritage assets of considerable importance given the historical significance of the battle. Substantial weight should, therefore, be given to the conservation of their setting, including the wider landscape setting which itself is historically significant and which characterises the nature of the terrain over which the battle was fought.
36. The Framework does state that even small scale projects can make a valuable contribution to cutting greenhouse gas emissions and that applications should be approved provided that impacts are (or can be made) acceptable. It is stated that each of the two proposed wind turbines would generate around 206,000 kwh per annum with an annual saving each of some 51te of CO₂. However, such a contribution to cutting greenhouse gasses would not outweigh significant environmental harm.
37. The proposed development would introduce harm to the setting of heritage assets of considerable importance to which must be added the more limited harm to the inherent landscape. Whilst the harm may be less than substantial it is, nevertheless significant. In this instance it is considered that the environmental benefits of a reduction in the emission of greenhouse gasses would not outweigh the harm which has been identified.
38. The proposed development would therefore be contrary to saved LP policies and to National policy as expressed in the Framework.

39. In reaching this conclusion account has been taken of the Written Statement to Parliament by the Rt. Hon. Eric Pickles on 6 June 2013 and the Planning Practice Guidance for Renewable and Low Carbon Energy (2013) and the Planning Practice Guidance, all of which post date the consideration of the application, the consultations and the Council's Officer's Report to Committee and upon which the views of the parties have had the opportunity to comment.

Recommendation

40. I recommend that the appeal be dismissed.
41. In the event that the Secretary of State disagrees and decides to grant planning permission he should apply relevant planning conditions. The Council put forward a number of suggested conditions should the appeal be allowed.
42. Conditions limiting the duration of the planning permission, requiring the decommissioning of the wind turbine should it fail to generate electricity continuously for a period of 12 months and requiring decommissioning and removal to be carried out in accordance with a scheme to be agreed would be necessary in the interests of long term visual amenity. A condition requiring the operator to log wind speed and direction and electricity generation would also be necessary.
43. The Council recommended overlapping conditions regarding decommissioning and site restoration. A single composite condition would suffice.
44. Conditions requiring approval of surface materials and colour and prohibiting the display of advertisements, lettering or logos on any structure would be necessary in the interests of visual amenity, as would be a condition requiring electrical connections between the turbines and site connection building to be underground.
45. Conditions restricting hours of operation during construction and requiring a survey of existing television reception and the investigation and mitigation of any impairment to television reception would be necessary in the interest of residential amenity.
46. A condition requiring the provision of on-site parking and storage during construction would be necessary in the interest of highway safety and a condition requiring a programme of archaeological work would be necessary given the archaeological importance of the appeal site.
47. A condition requiring confirmation that any proposed alternative wind turbine could meet the simplified noise assessment levels, as recommended by the Council, is not necessary as the planning permission would be specific to two Endurance E-3120 50kw wind turbines in accordance with approved drawings.
48. A condition requiring the installation of aviation lighting, as requested by the Ministry of Defence, is necessary in the interest of aviation safety.
49. A list of final recommended conditions is included as Annex 1.

Andrew Hammond

Inspector

Annex 1. Schedule of final recommended conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The turbines hereby approved shall be removed on or before 25 years from the date which each turbine is first used for electricity generation purposes. The operator shall notify the Local Planning Authority in writing no later than one month of the dates of such first electricity generation.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - i) E-3120 50kw Monopole Rev A
 - ii) PL001
 - iii) PL002
- 4) Construction works and any related traffic movements to or from the site shall not take place outside 08:00hours to 18:00hours Mondays to Fridays and 08:00hours to 13:00hours on Saturdays or at any time on Sundays or Bank Holidays.
- 5) Prior to the erection of the wind turbines, details of the colour and finish of the towers, nacelles and blades shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details and the colour and finishes shall not be changed without the prior approval in writing of the Local Planning Authority.
- 6) No part of any structure shall carry an advertisement, lettering or logo other than any necessary for health and safety reasons.
- 7) All electrical cabling between the turbines and the on-site connection building shall be installed underground.
- 8) A site compound for the storage of materials, machinery and operative parking shall be provided within the site clear of the highway and shall be maintained and reserved for that purpose throughout the entire construction period.
- 9) The operator shall continually log wind speed and wind direction data and power generation data and shall provide it to the Local Planning Authority within 28 days of receipt in writing of a request to do so. The data shall include wind speed in m/s and the wind direction in degrees from north for each 10 minute period relating to a minimum height of 10m above ground level. Data shall be provided as comma separated text in an electronic format, commencing on the hour and in 10 minute intervals thereafter. Details of calculation methods shall also be provided.
- 10) In accordance with Condition 2, no later than 12 months before the expiry of 25 years a scheme for the restoration of the site including the decommissioning of all elements above ground level and the turbine bases shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out and completed within 12 months of expiry of the planning permission hereby granted. The scheme shall include the removal of all compound areas, buildings, tracks,

paths, areas of hardstanding and turbine bases to a depth of 1200mm. Voids shall then be filled with subsoil and 300mm of topsoil.

- 11) If either wind turbine hereby permitted fails to operate for a continuous period of 12 months then, unless otherwise permitted in writing by the Local Planning Authority, a scheme for the decommissioning and removal of the wind turbine generator and any ancillary equipment and structures shall be submitted to and approved in writing by the Local Planning Authority within 2 months of the end of the 12 month period. The scheme shall be submitted as approved within 6 months of approval.
- 12) No development shall begin until a survey of existing television reception has been undertaken and submitted to the Local Planning Authority for approval. The survey shall cover any property identified as being vulnerable in the Environmental Report. Any claim made to the Local Planning Authority within 12 months of the commissioning of the turbines that the operation of the turbines hereby approved has caused interference with television reception at those properties shall be investigated and the results of the investigation shall be submitted to the Local Planning Authority within 2 months of the claim being made. The survey and the investigation shall be carried out by a qualified television engineer. If the engineer determines that impairment to the television reception has been caused by the turbines, such impairment shall be mitigated within 3 months of the engineer's report being submitted to the Local Planning Authority.
- 13) A programme of archaeological work shall be carried out in accordance with the brief provided by Northumberland Conservation (NC Ref. B10/12: 13652, dated 16 July 2012). The archaeological scheme shall comprise 3 stages of work. Each stage shall be completed and approved in writing by the Local Planning Authority.
 - a) No development or archaeological mitigation shall commence on site until a written scheme of investigation based on the brief has been submitted to and approved in writing by the Local Planning Authority.
 - b) The archaeological recording scheme required by the brief shall be completed in accordance with the approved written scheme of investigation.
 - c) The programme of analysis, reporting, publication and archiving if required by the brief shall be completed in accordance with the approved scheme of investigation.
- 14) Each wind turbine hereby approved shall be fitted with 25 candela omni-directional red lighting or infra-red lighting with an optimised flash pattern of 60 flashes per minute of 200 ms to 500ms, at the highest practicable point.

End of schedule of final recommended conditions



Department for Communities and Local Government

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 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

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. 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 under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: 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 report of the Inspector's report of the inquiry or hearing within 6 weeks of 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.