



Department for
Communities and
Local Government

Mr Jim Harley
Sternwind Ltd
1 Melmount Park
Strabane, Tyrone,
Northern Ireland
BT82 9SU

Our Ref: APP/MO933/A/14/2221985

30 September 2015

:

Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MR DENNISON
GLEASTON PARK FARM, GLEASTON, ULVERSTON, CUMBRIA, LA12 0QT
APPLICATION REF: SL/2014/0302

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Richard McCoy, BSc MSc DipTP MRTPI IHBC, who carried out an appeal by written representation into your client's appeal against a decision of South Lakeland District Council ("the Council") to refuse planning permission for the erection of a single turbine with a blade tip height of 79.6m, 2 no. associated metering units, access track, assembly and crane areas in accordance with application number SL/2014/0302, dated 17 March 2014.
2. The appeal was recovered for the Secretary of State's determination on 13 November 2014, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a renewable energy development.

Inspector's recommendation

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. Following the Secretary of State's Written Ministerial Statement (WMS) of 18 June 2015 on Local Planning, the Inspector provided the opportunity for parties to comment on any relevant implications of the WMS and amended guidance on their case but no responses were received.

Policy and Statutory considerations

5. 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, the development plan comprises the adopted South Lakeland Local Development Framework Core Strategy published in October 2010 (CS), the saved policies of the adopted South Lakeland Local Plan 2006 and Alterations (LP) and Cumbria Joint Wind Energy Supplementary Planning Document adopted in July 2007 (SPD). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR9 and IR10.
6. The Secretary of State has had regard to his WMS of 18 June 2015. The Statement explained that the Secretary of State was setting out new considerations to be applied to proposed wind energy development. Subject to a transitional provision, the Statement explained that the new considerations had immediate effect. Given its relevance to this case, the Secretary of State attaches substantial weight to the Statement as the most recent expression of government planning policy for onshore wind development.
7. The Statement includes a transitional provision for where a valid planning application for wind energy development had already been submitted to a local planning authority at the date on which the statement was made and the development plan does not identify suitable sites. In such instances, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing. In applying the transitional provision to this appeal proposal the Secretary of State has considered the representations reported at IR30.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ("the Framework") and the planning guidance published in March 2014; the National Policy Statements (NPS) for Energy (EN-1) and Renewable Energy (EN-3); the Community Infrastructure Levy (CIL) Regulations 2010 as amended and Planning Practice Guidance for Renewable and Low Carbon Energy (2013). The Secretary of State has also taken into account the WMSs on renewable energy published in June 2013 by the Secretaries of State for Energy and Climate Change and for Communities and Local Government; the WMS on renewable energy published by the Secretary of State for Communities and Local Government in April 2014; and the English Heritage/Historic England guidance entitled "*The setting of Heritage Assets*" as updated in July 2015.

9. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), the Secretary of State has paid special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess.

Main issues

10. The Secretary of State agrees that the main material considerations in this case are those set out by the Inspector at IR31.

Landscape character and visual impact

11. The Secretary of State agrees with the Inspector's observations set out at IR34 that the landscape in the vicinity of the appeal site is characterised by gently undulating fields separated by hedgerows and is notable for an absence of both tree cover (with the exception of isolated specimen trees within some hedgerows) and tall man-made structures. He shares the Inspector's view at IR36 that at around 79m the proposal would be of a sufficient height to be a prominent feature within the local landscape and that over longer distances of between 5 and 10km, views of the proposal would tend to be intermittent due to the screening effects of landform, vegetation and buildings. He also considers that within these views the proposal would not have an overbearing presence such that the harm in terms of the effect on landscape character and visual impact would be minor.
12. The Secretary of State considers that the siting of the wind turbine within a large open field would place the proposal in a prominent position which, together with the movement of the blades, would make it a dominant feature in the local landscape. He also shares the Inspector's opinion that the scale of the proposal would stand in stark contrast to the gently undulating nature of the surrounding landscape (IR37) and agrees with the Inspector at IR 38 that, from the closer range views, identified at IR37, the turbine would appear as a prominent, alien feature. He considers that it would be a visually jarring element in the landscape when seen from nearby surrounding settlements, roads and footpaths. He likewise agrees with the Inspector that the proposal would have an overbearing presence such that the harm in terms of the local effect on landscape character and visual impact would be moderate (IR38).
13. For the reasons outlined at IR39, the Secretary of State agrees that the proposal would be out of scale with the local landscape types identified in the Cumbria Landscape Character Guidance and Toolkit and shares the Inspector's view that, accordingly, as a proposal that would cause minor landscape character and visual impact harm in longer range views, moderate landscape character and visual impact harm from nearby vantage points, it would conflict with CS Policy CS8.2 and the landscape protection objectives of the SPD as supported by CS Policy CS7.7.

Setting of Heritage Assets

14. The Secretary of State has carefully considered the Inspector's comments at IR40-42. He notes that the intervening distance and topography would be such that the proposal would be a peripheral presence in the limited views which

take in Gleaston Castle and the proposed turbine, and that there would be limited inter visibility between the proposal and Gleaston Water Mill. He agrees that in both instances only the top of the turbine would be seen with the majority of the structure shielded from view by topography and vegetation (IR41).

15. Like the Inspector, the Secretary of State considers that the position and scale of both the castle and the mill make them notable features in the landscape and that they derive some of their significance from their settings, which would have a high sensitivity to change (IR42). He also agrees with the Inspector's opinion that the overall height and the movement of the blades would render the proposal a minor element within these settings, exerting a slight visual presence over the heritage assets and he considers this would equate to less than substantial harm as considered in paragraph 134 of the NPPF (IR 42). The Secretary of State therefore applies the approach set out in NPPF 134, weighing the harm against the public benefits of the proposal.

Noise

16. The Secretary of State agrees with the Inspector that there is no reason to conclude that, subject to the condition suggested being attached to any grant of planning permission, the proposal would lead to a harmful change in the living conditions of the occupiers of nearby dwellings in respect of noise (IR43).

Other matters

17. The Secretary of State agrees with the Inspector's reasoning and conclusions in respect of living conditions, outlook from dwellings and ecology (IR45-47).

Benefits

18. The Secretary of State agrees with the Inspector's reasoning and conclusion set out at IR48 with regard to the benefits associated with the appeal proposal. He agrees that the benefits arising from the generation of renewable energy include the reduction in carbon dioxide emissions and the economic benefits implicit in supporting rural enterprise and economic activity.

Planning balance and conclusions

19. Having had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, the Secretary of State, agreeing with the Inspector at IR50, finds there is a clear conflict with policies CS7.7 and CS8.2, as set out above in paragraphs 10 to 12, and to which non-compliance he gives significant weight. The Secretary of State, in this regard, agrees with the Inspector that there would be minor landscape character and visual impact harm over longer range views (IR49). The Secretary of State further concludes that, in his planning judgment, the proposal therefore does not accord with the development plan taken as a whole.

20. The Secretary of State, like the Inspector, gives considerable weight to the desirability of preserving the settings of the listed buildings as set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Secretary of State agrees with the Inspector's conclusion at IR 49 that the proposal would result in less than substantial harm to the significance of two nearby heritage assets, as a development located within their settings. The Secretary of State considers that the harm, whilst less than substantial, is nonetheless a matter which weighs considerably against the proposal.
21. The Secretary of State has therefore gone on to consider whether there are any material considerations which might nevertheless justify allowing the appeal.
22. Like the Inspector, the Secretary of State considers that the benefits arising from the generation of renewable energy, reduction in carbon dioxide emissions and the economic benefits to the rural enterprise lend substantial weight in favour of the proposal (IR49). Whilst he notes that the proposal is time limited to a period of 25 years, he considers this period to be long term in that it is the equivalent of a generation.
23. The Secretary of State, having applied the transitional provision set out in the June 2015 WMS, is not satisfied that the planning impacts identified by affected local communities in their correspondence to the Inspector, set out at IR30, have been addressed. These include harm to the landscape, visual amenity and the setting of heritage assets. It is clear from the conclusions at IR 37 – 39 and IR 42, 49 and 50 that those planning impacts have not been addressed. As those planning impacts, identified by the affected communities, have not been addressed, the proposed scheme would not meet the transitional arrangements set out in the WMS of 18 June 2015; and the Secretary of State also gives significant weight to this non-compliance.
24. The Secretary of State has considered all the above factors in the balance, and considers that the adverse impacts of the proposed development, including the unaddressed planning impacts identified by affected local communities, would outweigh its environmental and economic benefits, both public and private.

Conditions

25. The Secretary of State has considered the Inspector's reasoning and conclusions on conditions, as set out at IR51. He is satisfied that, in the form recommended by the Inspector, they are reasonable and necessary and would meet the tests of paragraph 206 of the Framework and the guidance. However, he does not consider that they would overcome his reasons for dismissing the appeal.

Formal Decision

26. 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 the erection of a single turbine with a blade tip height of 79.6m, 2 no. associated metering units, access track, assembly and

crane areas in accordance with application number SL/2014/0302, dated 17 March 2014.

Right to challenge the decision

27. 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.
28. A copy of this letter has been sent to South Lakeland District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Lindsay Speed

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Richard McCoy BSc MSc DipTP MRTPI IHBC

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

Date 17 July 2015

Town and Country Planning Act 1990

South Lakeland District Council

Appeal by

Mr Dennison

Site visit made on 13 April 2015

File Ref(s): APP/M0933/A/14/2221985

File Ref: APP/M0933/A/14/2221985

Gleaston Park Farm, Gleaston, Ulverston, Cumbria LA12 0QT

- 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 Dennison against the decision of South Lakeland District Council.
- The application Ref SL/2014/0302, dated 17 March 2014, was refused by notice dated 2 June 2014.
- The development proposed is the erection of a single turbine with a blade tip height of 79.6m, 2 no. associated metering units, access track, assembly and crane areas.

Summary of Recommendation: That the appeal be dismissed.

Procedural Matters

1. The appeal was recovered for decision by the Secretary of State on 13 November 2014. The reason for the recovery was that the appeal involves a renewable energy development.
2. Planning permission was refused for the following reasons:
 1. *The proposed turbine would be an isolated and large prominent vertical structure which would appear incongruous in its surroundings. As a consequence, the turbine will have a significant harmful effect on the character and appearance of the landscape. The harm to the landscape would not be outweighed by the acknowledged environmental benefits. It is therefore contrary to the aims and objectives of Sections 10 and 11 of the National Planning Policy Framework, Policy CS8.2 of the adopted South Lakeland Core Strategy, saved Policy C26 of the South Lakeland Local Plan and the Cumbria Joint Wind Energy Supplementary Planning Document.*
 2. *The turbine would be in close proximity to Gleaston castle which is a Scheduled Ancient Monument and Grade I Listed Building. The introduction of a 79.6 metre high vertical feature into such a broad and open view, inserted prominently into the skyline, would have a visually damaging effect on the setting of Gleaston Castle due to the height, scale and severe vertical form of the proposed turbine. It would cause harm to the significance of the designated heritage asset due to the great visual distraction caused in views from the asset, and also in views towards and taking in the castle when seen in juxtaposition with the proposed turbine pole and its moveable blades. The public benefits of the proposal do not outweigh the harm that would occur to the cultural heritage asset and its setting. It is therefore contrary to the aims and objectives of Sections 10 and 13 of the National Planning Policy Framework, Policies CS7.7, CS8.2 and CS8.6 of the adopted South Lakeland Core Strategy, saved Policy C26 of the South Lakeland Local Plan and saved Policies C15 and C26 the adopted South Lakeland Local Plan.*
 3. *Insufficient evidence has been submitted to demonstrate that the proposed development would not have an adverse impact upon the amenity of nearby residential properties in terms of noise nuisance. The submitted Noise Report does not include any site specific background noise levels which are anticipated to be significantly below 35dB due to the location of the site. The proposal would therefore be contrary to the Planning Practice Guidance for*

3. The Written Ministerial Statement (WMS) on Local Planning by Greg Clark MP on 18 June 2015 (HCWS42) and the Department for Communities and Local Government's amended online guidance on renewable and low carbon energy, were made after the appeal was submitted. Although the parties were given the opportunity to comment on any relevant implications of the WMS and amended guidance to their cases, no responses were received within the prescribed timetable.
4. This report contains a description of the site and its surroundings, an explanation of the proposal, identification of relevant planning policies and the gist of the submissions made in writing, followed by my conclusions and recommendation. A list of suggested conditions is appended.

The Site and Surroundings

5. The appeal site forms part of a large open agricultural field bordered by hedgerows and stone walls. It is situated around 500m to the south of the village of Gleaston. The settlements of Newbiggin, Dendron and Leece are located around 1km, 1.25km and 1.5 km from the appeal site respectively. Riddings Lane, which links Gleaston to the A5087 Coast Road, passes nearby to the east of the field containing appeal site while public footpaths pass to the west.

Planning Policy

6. The National Planning Policy Framework (NPPF) states a presumption in favour of sustainable development at paragraph 14. This presumption requires that planning permission should be granted unless any adverse impacts of a proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. Paragraph 93 of the NPPF makes clear that the provision of renewable energy infrastructure is central to the economic, social and environmental dimensions of sustainable development.
7. This is reflected in the National Planning Policy Guidance (PPG) which states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. It goes on to state that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.
8. The PPG makes clear that there are no hard and fast rules about how suitable areas for renewable energy should be identified, but in considering locations, local planning authorities will need to ensure they take into account the requirements of the technology, and critically, the potential impacts on the local environment, including from cumulative impacts. The views of local communities likely to be affected should be listened to.
9. Policy CS7.7 of the adopted South Lakeland Local Development Framework Core Strategy (CS) supports appropriately located schemes for wind energy in line with the provisions of the Cumbria Joint Wind Energy Supplementary Planning Document (SPD) which was adopted by the Council in 2007. In addition, CS

Policy CS8.2 seeks to protect and enhance landscape character by being informed by, and sympathetic to, the distinctive character landscape types identified in, amongst other documents, the Cumbria Landscape Character Guidance and Toolkit (LCG). Saved Policy C26 of the adopted South Lakeland Local Plan 2006 and Alterations (LP) sets out different but generally complementary criteria.

10. These policies reflect those of the NPPF which in paragraph 98 states support for renewable energy development if its impacts are (or can be made) acceptable. Section 12 of the NPPF sets out the policy for determining applications for development within the setting of a designated heritage asset and is reflected in CS Policy CS8.6 and saved LP Policy C15. This proposal for a single turbine falls to be considered against this policy background.

The Proposal

11. Proposed is a single wind turbine standing around 79.6m to the blade tip with a hub diameter of around 48m. It would have an output capacity of around 500kW and would stand on a concrete foundation. Also proposed are a new access track and widened field access, a switch room and a HV Metering Unit.

The Case for Mr Dennison

12. A Landscape and Visual Assessment (LVA) was prepared by Galpin Landscape Architects which included 4 original viewpoint locations and 7 requested by the Council. The assessment of visual effects confirmed that the effects vary in magnitude and significance, and whilst there is a substantial visual impact for a limited number of receptors, for the majority, the effects are not particularly harmful. The LVA confirms that apart from Gleaston Park (viewpoint 6) and the footpath at Deep Meadow Beck (viewpoint 10) the significance of the effects of the proposal is not significantly harmful. The Council's assertion that the proposal would have a significant harmful effect on the landscape is unsubstantiated. The judgements of the LVA are more compelling.
13. The LVA established a baseline, identified the potential significance of effects and predicted the residual significance of effects. It followed the guidance in the Landscape Institute's Guidelines for Landscape and Visual Impact Assessment, including the 3rd edition, and drew the following conclusions: the proposal would not change the landscape character sub type 7b – Drumlins Field and adjacent landscape characters; the size and scale of the proposal would have a low magnitude of effect on the immediate landscape and an overall negligible effect on landscape character; the visual amenity impact would result in some medium magnitudes of change from a few viewpoints, notably within 0.5-1.5km of the turbine, with a resultant slight/moderate significance of effects; the views towards the proposal throughout the vicinity of the site within the study area shows the magnitude is much less beyond 1-2km and negligible beyond this; overall the magnitude of change to visual amenity is low; there would be a slight/low significance of effect for some viewpoints near to the proposed turbine and beyond this there would not be a significance of effect, and there would be no cumulative effect on landscape character and negligible visual amenity cumulative effect.

Effect on Gleaston Castle

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14. The proposal would be over 1.2km from the castle and within a different Landscape Character Sub-type, the castle being within Open Farmland and Pavements and the proposal within Drumlin Field. The former has steeper slopes and increased woodland cover which restricts the “character flow” across the boundary between the 2 sub-types. This restricts the perceptual setting of the castle to a relatively local scale. The castle is located in a shallow valley with no long, wide-angle views so the turbine would not be prominent.
 15. LVA (viewpoint 8) shows the start of the footpath near the castle. There is no public access to the castle and the land around it is enclosed pasture. The setting of the castle does not therefore include the appeal site and the Council’s alleged harm to setting is not substantiated. The GLA Report considered the effects of the proposal on the setting of the castle and concluded that the setting is constrained to the immediate surroundings due to the rolling topography and intervening features, none of the views have any historic or scenic significance, the primary view of the castle is from the unclassified road or footpath near the farm looking north which means that the appeal site is over 1.2km behind the viewer, there are no views encompassing both the appeal site and the castle, and the character of the landscape around the castle is distinct from adjacent areas including the appeal site.
 16. Accordingly, the visual connectivity between the castle and the appeal site is weak and the visual effects on the setting of the castle are judged to be low in magnitude and significance. Furthermore, the County Council’s Historic Environment Officer had no objections to the proposal and despite its concerns regarding harm to the setting, the Council did not consult English Heritage, the Agency at the time the planning application was made responsible for the designation and protection of Scheduled Ancient Monuments.
 17. The Council has exaggerated the harm to the setting which the LVA has demonstrated to be negligible. Moreover, the Council has failed to comprehensively balance the potential benefits of the proposal against this negligible harm. While there is a brief reference to a balancing exercise, it is considered that the Council made no serious attempt to balance the impact against the benefits of the proposal.

Noise impact

18. The ACIA Acoustic Engineering Report submitted with the planning application confirms that the proposal would meet a 35dB flat noise limit at all dwellings, established by ETSU-R-97 and the pre-conditions set by the Noise Working Group for the “simplified approach” are fulfilled. This could be secured by means of a suitably worded planning condition attached to any grant of planning permission. Noise from the operation of the turbine would not be detrimental to residential amenity. This has been accepted by the Council’s Environmental Protection Officer.
19. The Council states that insufficient noise evidence has been submitted on the basis that “given the rural nature of the locality, it is contended that background noise levels would be extremely low, particularly at night”. The Council offers no specific noise assessments of its own and appears to be considering the nationally accepted approach to a simplified noise assessment as insufficient. This unilateral approach to noise assessment flies in the face of nationally accepted procedures.

Other Matters

20. The planning application was accompanied by a Planning Statement and Environmental Report which demonstrated that the proposal would be consistent with national and local planning policy; an Extended Phase 1 Habitat Survey and Ornithological Appraisal which showed that the development would be unlikely to have an impact on protected species, including bats or birds, and a report on the community consultation carried out under the Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2013.

The Case for South Lakeland District Council

21. The photomontages and LVA demonstrate that the proposal would be visible from a wide area surrounding the site in all directions. The initial LVA viewpoints do not fully reflect the potential impact of the proposal. These viewpoints were taken from some considerable distance from the appeal site and utilised topography or trees to shield the views. The subsequent photomontages utilised key viewpoints which better reflect the likely impacts of the turbine on the surrounding landscape. The impacts from some of these viewpoints are considered to be substantial.
22. The site is located in an area where 2 classifications of landscape meet. The LCG sets out that for both, large scale energy infrastructure developments such as wind turbines could harm the character of the landscape. The introduction of this vertical structure in the landscape would dominate the drumlin features and uncluttered skyline. The open, undulating landscape has few trees and is unspoilt by man-made structures.
23. The proposal would be sited prominently in an elevated position close to Gleaston, Newbiggin and Dendron. It is likely to dominate these settlements and erode their character. The turbine will be highly visible from both low lying and elevated viewpoints and will appear as an alien structure in a mostly unspoilt landscape. It will have a significant detrimental impact on the character and appearance of the landscape.
24. A recent application for a 62 metre high wind turbine nearby was refused planning permission and the decision was upheld at appeal. The Inspector concluded that the proposal would have a significant impact on the character and appearance of the landscape. He stated that "a turbine of the proposed scale would have a significant visual impact and would feature prominently in viewpoints obtained from the local surrounding road network and from the footpaths which pass close to the appeal site". This proposal relates to a significantly larger structure within a very similar landscape context.
25. While the County Council's Historic Environment Officer has not raised any objections on archaeological grounds and there are no designated sites on or immediately adjacent to the appeal site, Gleaston Castle, a Scheduled Ancient Monument and Grade I listed building and Gleaston Water Mill, a Grade II listed building are located around 1.2 km and 760 metres to the north east of the proposal respectively. The photomontages demonstrate that the proposal would be clearly seen from Gleaston Castle with more partial views from Gleaston Water Mill.

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26. The introduction of this vertical feature into such a broad and open view, inserted prominently onto the skyline, would have a visually damaging effect on the setting of Gleaston Castle due to its height, scale and severe vertical form. Although over 1km from the castle and occupying a relatively small arc in the field of view from it, the proposal would have a very distracting presence in such views and would introduce kinetic movement into a landscape that is currently characterised by stasis and tranquillity. The historic ambience of the site would be impaired.
27. The Government's objective is that the historic environment and its heritage assets should be conserved and enjoyed for the quality of life they bring to this and future generations. The public benefits of the renewable energy generated do not outweigh the harm that would occur from the proposal.
28. With regard to residential impact, whilst the Environmental Health Officer has not raised any objections and agrees with the approach of attaching conditions to limit noise emissions, it is considered that there is insufficient information to demonstrate that there would not be unreasonable noise impacts arising from the development as the rural location would mean that background noise levels would be extremely low, particularly at night. There is not considered to be any adverse impacts in respect of shadow flicker.
29. As for ecological impact, there are no statutory designated sites on or immediately adjacent to the appeal site. Natural England did not raise any objections regarding wildlife although a report from a group of local ornithologists raised a number of comments and issues arising from the submitted Extended Phase 1 Habitat Survey and Ornithological Appraisal. The importance of the local Lapwing population is highlighted. The population breeds in open fields and could be disturbed by the proposal. It is considered that such impacts would need to be fully assessed and mitigated.

Written Representations

30. A number of representations were received by the Planning Inspectorate and by the Council, both in support and opposing the proposed development. In support it was stressed that the proposal would pave the way to introduce similar technology to small communities creating localised energy generation to combat profiteering by main energy suppliers and reduce demands on power stations. Those opposing, including from Aldingham Parish Council, raised concerns regarding the impact on landscape and visual amenity, tourism, ecology, horses, aircraft safety and heritage assets along with concerns regarding the impact on living conditions and highway safety.

Appraisal

(Numbers in brackets denote source paragraphs)

Main considerations

31. These are the effect of the proposal on the surrounding area in terms of landscape character and visual impact, the effect on the setting of nearby heritage assets, whether sufficient information has been submitted with regard to the effects of noise on the living conditions of nearby residents; and whether any harm, in the light of the development plan, would be outweighed by the national objective of promoting renewable energy generation.

32. The Landscape Character Assessment on which the SPD is based is contained in the LCG (8). This locates the appeal site in an area where 2 classifications of landscape meet. These are defined as "Open Farmland and Pavements" and "Drumlin Field" landscape sub types. The LCG advises that within these areas large scale energy infrastructure developments such as large scale wind turbines, pylons or telecommunication masts could harm the character of the landscape. The introduction of vertical structures into the landscape could dominate drumlin features and uncluttered skylines. The LCG goes on to advise that the siting of large scale wind energy developments should be avoided in open and prominent areas where they could degrade the rural character of the area.
33. The SPD gives general guidance on wind energy developments and the capacity of various county landscapes to accommodate wind turbines. The "Drumlin Field" landscape type is adjudged to have a low/moderate capacity to accommodate single turbine developments while areas of coastal limestone have a low capacity. The SPD states that turbine developments have the potential to compromise the picturesque coastal limestone scenery around Morecambe Bay, with little scope for visual linkage or association with comparable structures or regular land cover patterns.
34. There are no special landscape designations applicable to the area. I observed that the landscape in the vicinity of the appeal site is characterised by gently undulating fields separated by hedgerows. It is notable for an absence of both tree cover (with the exception of isolated specimen trees within some hedgerows) and tall man-made structures (21). Pylons and other turbines may be seen in the wider landscape but these are some distance from the appeal site. As such the immediate area is for the most part clutter free in terms of tall development features.
35. A Landscape and Visual Assessment (LVA) was submitted by the appellant which includes 11 representative views of the proposal (11). The LVA assessed the magnitude of impact using the document; *Guidelines for Landscape and Visual Impact Assessment* and considered the potential landscape character and visual effects within a 5km and 10km radius of the proposal respectively. The LVA concluded that the size and scale of the turbine would have a low magnitude of effect on the immediate landscape, and an overall negligible effect on landscape character. It further concludes that there would be slight/low significance of effect on visual amenity.
36. The LCG does not define 'large scale' in relation to wind turbines and while there are no hard and fast rules about how suitable areas for renewable energy should be identified I consider that at around 79m (10) the proposal would be of a sufficient height to be a prominent feature within the local landscape. From my observations, I consider that over longer distances of between 5 and 10km, views of the proposal would tend to be intermittent due to the screening effects of landform, vegetation and buildings. Within these views the proposal would not have an overbearing presence such that the harm in terms of the effect on landscape character and visual impact would be minor.
37. Nevertheless, its siting within a large open field (4) would place the proposal in a prominent position which together with the movement of the blades would make it a dominant feature in the local landscape. The scale of the proposal would

stand in stark contrast to the gently undulating nature of the surrounding landscape. The receptors within 5km include nearby settlements Gleaston (LVA viewpoints 1 and 9), Leece (LVA viewpoint 2), Newbiggin (LVA viewpoint 4), roads users (A5087 and Riddings Lane LVA viewpoints 6 and 11) and those travelling on local footpaths (public right of way at Deep Meadows Beck LVA viewpoint 10).

38. From these closer range views the turbine would appear as a prominent, alien feature. Consequently, it would be a visually jarring element in the landscape when seen from nearby surrounding settlements, roads and footpaths. It would have an overbearing presence such that the harm in terms of the local effect on landscape character and visual impact would be moderate.
39. The SPD and LCG which benefit from the support of the CS (8) identify the local landscape as particularly sensitive to wind turbine development in the Cumbrian context. Whilst they do not preclude all wind turbine development, I consider that the proposal would be out of scale with the local landscape types identified in the LCG and mentioned above. Accordingly, as a proposal that would cause minor landscape character and visual impact harm in longer range views and moderate landscape character and visual impact harm from nearby vantage points, it would conflict with CS Policy CS8.2 and the landscape protection objectives of the SPD as supported by CS Policy CS7.7.

Setting of Heritage Assets

40. Concerns were raised regarding the effect of the proposal on the setting of the Grade I listed Gleaston Castle which is also a Scheduled Ancient Monument, and the Grade II listed Gleaston Water Mill (24). The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or, may be neutral. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special regard should be paid to the desirability of preserving the settings of listed buildings, where those settings would be affected by proposed development.
41. In my judgement, the intervening distance and topography would be such that the proposal would have a peripheral presence in the limited views which take in Gleaston Castle and the proposed turbine (LVA viewpoint 8). For similar reasons there would be limited inter visibility between the proposal and Gleaston Water Mill (LVA viewpoint 5). In both instances, only the top of the turbine would be seen with the majority of the structure shielded from view by topography and vegetation.
42. Nevertheless, I consider that the position and scale of both the castle and the mill make them notable features in the landscape. This means they derive some of their significance from their settings which would have a high sensitivity to change. The overall height and the movement of the blades would render the proposal a minor element within these settings, exerting a slight visual presence over the heritage assets. This would equate to less than substantial harm for the purposes of paragraph 134 of the NPPF which requires to be weighed against any public benefits of the proposal, a matter to which I return below.

Noise

43. The nearest dwelling not associated with the proposal is around 500m distant. The appellant submitted an Assessment of Environmental Noise report prepared by ACIA Engineering Acoustics (17). This concludes that the proposal would meet the 35dB flat noise limit at all dwellings, fulfilling the simplified approach set out in ETSU-R-97. This was accepted by the Council's Environmental Health Officer who raised no objections to the proposal subject to a condition regarding the rating of noise emissions from the development.
44. Against this background, on the basis of the submitted evidence, I have no reason to conclude that subject to the suggested condition being attached to any grant of planning permission, the proposal would lead to a harmful change in the living conditions of the occupiers of nearby dwellings in respect of noise.

Other matters

45. I note from the officer's report that it was considered that the distance to the nearest dwellings was such that the proposal would not harmfully change the living conditions of the occupiers of nearby dwellings in respect of shadow flicker (27). An assessment of shadow flicker has also been submitted which demonstrates that nearby dwellings would be outwith the turbine's zone of influence which would be around 480m. On this basis, I find that the proposal is unlikely to harmfully change the living conditions of the occupiers of nearby dwellings with regard to shadow flicker.
46. In addition, from the evidence and what I observed in terms of the limited degree of the available panorama that would be occupied by the proposed turbine, I consider that views of the proposal from the nearest dwellings would be either filtered by vegetation, or separated by distance, angle, topography and other buildings, either in combination or separately, such that it would not dominate the outlook from these dwellings.
47. In terms of the effect on ecology, the appellant has submitted an Extended Phase 1 Habitat Survey and an Ornithological Appraisal ((19) which conclude that the proposal would not have any significant adverse effects on any protected species and birds. From my assessment of the evidence, I have no reason to disagree and consider the proposal would be acceptable in respect of ecology.

Benefits

48. The proposed turbine would have a power rating of around 500kW (10) and the appellant claims that it would reduce the financial overheads of the farm and contribute to a reduction in its carbon footprint. The development plan provides in-principle support for renewable energy and the NPPF at paragraph 98 recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The development would contribute to the generation of renewable energy which would assist in meeting national and regional targets that seek to reduce carbon emissions in order to tackle climate change. It would also make a contribution to supporting rural enterprise and economic activity and would improve energy security.

Conclusions

49. The benefits arising from the generation of renewable energy, reduction in CO² and the economic benefits to the rural enterprise lend substantial weight in favour of the proposal. Nevertheless, although it may be time limited to a period of 25 years, the proposal would result in less than substantial harm to the significance of 2no. heritage assets as a development within their settings, moderate landscape character and visual impact harm when seen from nearby vantage points and minor landscape character and visual impact harm over longer range views.
50. Consequently, giving considerable weight to the desirability of preserving the settings of the listed buildings as set out in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I consider that the acknowledged environmental and economic benefits, both public and private, would not outweigh the totality of the harm and the proposal would be contrary to CS Policies CS7.7 and CS8.2, and NPPF paragraph 134.

Conditions

51. The Council provided a list of conditions that it considers would be necessary if planning permission were to be granted (appended to this report). I have examined them in terms of the tests set out in the NPPF and the Planning Practice Guidance. Standard conditions are imposed relating to commencement time and to ensure that the development is carried out in accordance with the submitted plans, for the avoidance of doubt. Further conditions are required to confirm details of the turbine colour and finish, and to require the removal of the turbine and site restoration if the turbine ceases to operate, in the interests of safeguarding the character and appearance of the area. In addition, for the protection of the amenity of the nearest residents, conditions are necessary to limit noise, and to investigate any complaints submitted to the local planning authority regarding alleged noise disturbance.

Recommendation

52. Having taken account of all of the matters raised in the representations, I recommend for the reasons given above, that the appeal should be dismissed.

Richard McCoy

INSPECTOR

ANNEX

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos. T70-PLAN-LOC, T70-PLAN-LOC2, T70-PLAN-LAY, T-SPEC-DETAIL1 Rev A, T-SPEC-DETAIL2 Rev B and T-SPEC-DETAIL3 .
- 3) No development shall take place until details of the colour and finish of all external surfaces of the turbine and mast have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
- 4) If the wind turbine hereby permitted ceases to operate for a continuous period of 12 months (or such period as may be otherwise agreed in writing by the Local Planning Authority), a scheme for the removal of the turbine, mast and base, and restoration of the site shall be submitted to and approved in writing by the Local Planning Authority. Removal and restoration shall take place in accordance with the approved scheme not later than 6 months following the expiry of that period.
- 5) The rating level of noise emissions from the operation of the wind turbine hereby permitted (including the application of any tonal penalty) shall not exceed 35dB(A)_{LA 90 10min} at the nearest residential properties at wind speeds of 10m/s at 10m height, when determined in accordance with the methodology detailed in ETSU-R-97.
- 6) Within 21 days from receipt of a written request from the local planning authority (LPA) following a complaint to it alleging noise disturbance at a dwelling(s) arising from the operation of the wind turbine, the operator shall at its expense, employ an independent consultant approved by the LPA to measure and assess the level of noise emissions from the turbine at the relevant dwelling(s) in accordance with the methodology detailed in ETSU-R-97.



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.