
Appeal Decision

Site visit made on 17 June 2015

by **B.Hellier BA(Hons) MRTPI**

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

Decision date: 28 September 2015

Appeal Ref: APP/T2350/W/15/3005258

Bent House, Tosside, Skipton, North Yorkshire, BD23 4SU

- 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 DC21 Ltd against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2014/0887, dated 30 September 2014, was refused by notice dated 3 December 2014.
 - The development proposed is the installation of one 50kW wind turbine.
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Decision

1. I dismiss the appeal.

Main Issues

2. I consider the main issues are
 - The effect of the proposed turbine on the character and appearance of the surrounding countryside and the setting of the Forest of Bowland Area of Outstanding Natural Beauty (AONB).
 - The effect of noise on the living conditions of occupiers of nearby residential property.
 - The effect on birds.
 - Whether any harm identified would be outweighed by the benefits of the proposal including those associated with renewable energy production and support for the local economy.

Procedural matter

3. During the currency of this appeal the Government issued a Written Ministerial Statement (WMS) which introduced new policy guidelines¹ on dealing with wind turbine applications. The views of the Council and the appellant were sought and their responses have been taken into account in this decision.

Reasons

Planning policy

4. Policy DME5 of the Core Strategy² (CS) provides support for renewable energy schemes so long as there would not be unacceptable harm to the local

¹ Written Statement made by Secretary of State for Communities and Local Government (Greg Clark) 18 June 2015 *Local Planning*

² Core Strategy 2008-2028 A Local Plan for Ribble Valley Ribble Valley Borough Council. Adopted December 2014

environment or to residential amenity. Development proposals within or close to the designated AONB will not be allowed unless it can be demonstrated that the objectives of the designation would not be compromised.

5. Policy DME2 states that development proposals will be refused which significantly harm important landscape or landscape features. Policy DME3 supports biodiversity, including wildlife species protected by law.
6. There is a national imperative to develop renewable energy. Underlying this is EU Directive 2009/28/EC which requires the UK to achieve a legally binding target of 15% of all energy to be generated from renewable resources by 2020. One of the core planning principles set out in the National Planning Policy Framework (NPPF) is to encourage the use of renewable resources. Paragraph 98 of the NPPF advises that an application for renewable energy should normally be approved if its impacts are acceptable or can be made acceptable. However current national planning practice guidance makes it clear that the need for renewable energy does not automatically override environmental protections or the planning concerns of local communities³.
7. Another of the core planning principles in the NPPF recognises the intrinsic character and beauty of the countryside. Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in AONBs. The PPG says that wind turbines in AONBs and in areas close to them, where there could be an impact on the protected area, will need careful consideration.
8. The recent WMS states that planning permission for wind turbines should only be granted if: the site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing. Transitional arrangements apply where the application was submitted prior to the WMS, as is the case with this appeal. In these cases only the second of these two criteria is relevant.

Character and appearance

Landscape effects

9. The wind turbine would be of a monopole design, 24.6m to the hub, with three blades with a sweep of 24m, giving an overall height of 36.6 to the blade tip. It would be situated on a locally prominent spur of land between two streams at a height of just over 270m AOD. The land rises gently to the west, initially open pasture and then the strong geometric line of the coniferous plantations of the Gisburn Forest. In other directions there are panoramic views of upper Ribblesdale with the main Pennine range to the north and east. A minor road between Tosside and Settle, which serves the scattered agricultural community, runs north-south just to the west of the site and marks the boundary of the AONB at this point.
10. The site lies within a landscape character type (LCT) described as *rolling upland farmland* which is assessed as having a generic moderate to high sensitivity to wind turbine development⁴. The LCT encompasses the surrounding land, both

³ Planning Practice Guidance: Paragraph: 007 Reference ID: 5-007-20140306

⁴ *Landscape Sensitivity to Wind Energy Development in Lancashire*. Lovejoy Assoc. for Lancashire County Council. February 2005. Also shown as moderate/high sensitivity on the MARIO on-line mapping system.

within and outside the AONB boundary. Guidelines for considering the effects of change for this LCT⁵ recommend maintaining the predominantly open landscape and minimising vertical elements such as communications masts and wind turbines so as to protect views into and out of the area. Micro or small scale wind turbine development may be appropriate within the AONB but it should have regard to the landscape and visual characteristics of the location, be of an appropriate scale and not be sited on the skyline⁶.

11. In the vicinity of the appeal site key attributes are a sense of remoteness and tranquillity, long established clusters of development around farms and expansive views. There is a radio mast in the distance and a wind turbine at Boostagill about 2km away. There are a handful of other turbines within a 5km radius but these are of a domestic scale and less obvious. Otherwise there are few noticeable vertical features. Taking into account its location adjacent to the AONB boundary I consider the surrounding landscape is of moderate to high sensitivity.
12. Bent House and its associated farm buildings nestle into the landscape some way below road level. The turbine would be about 240m away and at a higher level. Because of this and because of its scale it would not relate well to the farm complex and would be seen as an isolated development intruding into the tranquil and relatively unspoilt countryside. It is submitted that this scale of turbine is routinely specified for farm based and small commercial generation projects. However in this case its elevated position close to the road would result in it dominating the farm buildings. I find that the impact on landscape character would be significant.

Visual effects

13. The submitted application shows that the turbine would be readily seen from close quarters and, apart from within Gisburn Forest, from further afield. The application was also accompanied by a landscape and visual impact assessment (LVIA) which includes photographs and wireframe drawings of the site from eight viewpoints with the proposed turbine superimposed.
14. Potentially the most sensitive visual receptors are nearby residents and walkers. The nearest properties at Studford Gill and Longtons do not look out directly onto the site so that the effect on outlook would not be serious. For recreational walkers on the surrounding rights of way, however, the impact would be considerable. For instance, from the old road, now a bridleway, that follows the access road to Studford Gill the turbine would be seen across an incised stream valley and I agree with the LVIA assessment that the magnitude of the change here would be large and striking.
15. There would also be a considerable impact from within the AONB. The LVIA has only one, long distance view, from within the AONB but there are also important medium and near distance views. The gentle climb up to Whelp Stone Crag past the Brayshore farms goes from the road just north of the appeal site up to 370m AOD over a distance of some 2km. One path then traverses round on the edge of the forest to Heath Farm and returns to the road near the appeal site. Most of the time the turbine would be in view but

⁵ *Forest of Bowland AONB Landscape Character Assessment* September 2009 Chris Blandford Associates. This forms part of the AONB Management Plan and is adopted by the AONB Joint Advisory Committee

⁶ *Forest of Bowland AONB Renewable Energy Position Statement* April 2011

very often as a partial view. It would form an incongruous visual intrusion into the outlook towards Ribblesdale which is particularly fine from Whelp Stone Crag. The existing Boostagill turbine is visible but this is set down at about 225m AOD and is viewed against the lower land.

16. Drivers are only moderately sensitive receptors. Nevertheless on the minor road coming from Tosside the turbine would detract from the view across Ribblesdale to the distinctive mass of Ingleborough in the background. In the opposite direction it would appear on the skyline. From the B6478 to the south there would also be skyline views over a distance of several kilometres between Tosside and Wigglesworth. I consider the overall visual impact would be significant.

Cumulative effects

17. There are four other turbines within 2.5km of the site. Apart from that at Boostagill they are smaller than the appeal proposal. They are all situated below the 230m contour and consequently generally less intrusive. I do not find that there is at present a significant cumulative effect on the landscape or on views. None are much closer than 2km to the appeal proposal which would add little to cumulative effects.

Conclusion on character and appearance

18. I conclude that the proposed turbine would have a significant adverse effect of on the character and appearance of the surrounding countryside and the setting of the Forest of Bowland Area of Outstanding Natural Beauty (AONB).

Noise

19. The application was accompanied by a noise assessment. This shows that at no non-financially involved property would noise levels from the turbine be above the recommended limit of 35dB(A)_{L90,10mins} set out in the technical guidance in ETSU-R-97⁷. A resident refers to research that recommends a minimum distance of 1.6km to noise sensitive properties. However national policy is that the ETSU-R-97 recommendations should be accepted as best practice⁸. A limit of 45dB(A)_{L90,10mins} for a financially involved property, in this case Bent House, would also be achieved.
20. The Council has not challenged the assessment. Whilst the setting is undoubtedly quiet the ETSU-R-97 recommendations apply to all background noise situations. Subject to a condition to secure adherence to these limits then noise levels would be acceptable.

Ecology

21. The ecology report submitted with the application was not undertaken during the nesting season. It identifies the appeal site habitat as being potentially suitable for meadow pipit and skylark and concludes that either work should be undertaken outside the nesting season or a pre-construction check for nesting birds is carried out. It also suggests post-construction monitoring of possible bird and bat deaths. These recommendations could be secured by condition.

⁷ *The assessment and rating of noise from wind farms* Working Group on Noise from Wind Turbines. Sept 96

⁸ PPG Paragraph:015 Reference ID: 5-015-20140306

22. The assessment notes that the fields on the other side of the road are being managed under a Higher Level Stewardship agreement and would be attractive as a nesting habitat for curlew and lapwing. The best curlew territory is 600m away and the nearest for lapwing is 200m away. It goes on to conclude that at these distances from the turbine potential displacement impact is very low. The Council would like evidence of where birds actually nest but has not backed up its stance with expert advice. I find the assessment to be properly reasoned and proportionate to the scale of possible impacts. I do not consider it likely that there would be any material detriment to birds.

Benefits of the proposal and the planning balance

23. The wind speed at the site is excellent. The turbine has the potential to produce over 300,000kWh of secure, sustainable low carbon electricity each year. It is calculated that there would be an associated annual reduction in atmospheric emissions each year of 74 tonnes of CO². Some of the electricity produced would be used on the farm and would assist in maintaining the viability of the farm business. It would also help to fund good management of the farm estate. Surplus output would be exported to the national grid and so help to support the local distribution network and give improved energy security for the local area. The appellant company also contracts out construction and maintenance work to local people. Overall there would be a positive effect on the local economy.
24. Whilst the output to the national grid would be modest the NPPF emphasises that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. I give significant weight to these benefits.
25. There were objections to the application from the Parish Council and from a nearby affected resident. However at the pre-application consultation stage there was no response from those consulted. Subsequently the proposal also received a degree of support from the local community because of its contribution both to climate change and to supporting the farming business. The WMS places importance on the concerns of local people and I consider this local support provides some further weight in favour of the proposal.
26. However in this instance I find that the benefits are outweighed by the substantial harm arising from the effect of the proposal on the landscape character and visual appearance of the setting of the AONB and on the surrounding area. Wind is a sustainable form of energy production but sustainability has to be considered in the round. The protection of designated landscapes contributes to the social and environmental strand of sustainability. I conclude that the balance is against the proposal and as such it would be contrary to CS Policies DME2 and DME5, paragraph and 115 of the NPPF and the advice in the PPG.

Conclusion

27. In considering the test set out in paragraph 98 of the NPPF I conclude that the impacts of the proposed development would not be acceptable and that the appeal should be dismissed.

Bern Hellier

INSPECTOR

Appeal Decisions

Site visit made on 21 September 2015

by Anthony J Wharton BArch RIBA RIAS MRTPI

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

Decision date: 24 September 2015

Appeal A - Ref: APP/T2350/Y/15/3035895

35 King Street, Whalley, Clitheroe, Lancashire BB7 9SP

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mrs K Hughes against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2015/0108 dated 11 February 2015 was refused by notice dated 8 April 2015.
 - The works proposed are: a car park to the rear and removal of part of boundary wall.
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Appeal B - Ref: APP/T2350/W/15/3035898

35 King Street, Whalley, Clitheroe, Lancashire BB7 9SP

- 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 Mrs K Hughes against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2014/1122, dated 12 December 2014, was refused by notice dated 6 February 2015.
 - The development proposed is: the formation of a car park at the rear of 35 King Street to include new opening on to back street.
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Decisions

1. Both Appeal A and Appeal B are dismissed (see formal decisions below).

Background information

2. The proposed works/development are the same for both appeals, although the planning application was submitted and determined prior to that for listed building consent. It is proposed to remove the rear lawn and landscaping as well as a 4.5m section of stone garden boundary wall. The intention is then to provide a 9-space car park with shale gravel surfacing and open access during shop (currently a hairdressing salon) opening hours. These were set out in permission 3/2011/0096 and are: Monday to Friday 09.00hrs to 21.00hrs; Saturday 09.00hrs to 18.00hrs and Sundays and Bank Holidays 11.00hrs to 17.00hrs.

3. The properties at Nos 33 and 35 King Street were listed in Grade II on 13 March 1986 as a single joint entry and are located within the Whalley Conservation Area (WCA). They form a pair of townhouses (now partly in commercial use) dating back to the mid-18th Century. They were formerly known as 'The Friars' and were built for the early industrialists, Solomon Longworth and Roger Green. The Council indicates that No 35 has retained its garden from at least the 1840s but that

comparisons of 1912 and 1932 OS maps indicate that some sections of the boundary wall have been rebuilt.

4. The houses are still distinctly recognisable from the list description with their brick and sandstone dressed walls; windows with keystones; slate roofs and chimneys on gables. There are some references to the interior of No 35 but no references to the rear of the properties. The curving, stone wall is a distinctive feature to the rear.

The main issues

5. The main issues in both Appeals are the effects that the proposals would have firstly on the listed buildings; their setting and their special features of architectural and historic interest and, secondly, the effect on the character or appearance of the Whalley Conservation Area.

Reasons

6. In reaching my decisions I have had special regard to the requirements of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (PLBCAA) and have also paid special attention to section 72 of the same Act. The relevant development plan policies are DMG1 (General Considerations) and DME4 (Protecting Heritage Assets) of the Ribble Valley Borough Council Core Strategy 2008 – 2028 (RVBCCS).

7. The National Planning Policy Framework (NPPF) is relevant and specifically where it refers to achieving sustainable development (introduction); its core principles (introduction); requiring good design (section 7); conserving and enhancing the historic environment (section 12); plan-making and decision-taking and the historic environment. I have also taken into account Planning Practice Guidance (PPG) where it refers to the historic environment.

8. The Whalley Conservation Area Appraisal (WCAA) refers to Nos 33 and 35 King Street and indicates that they were prestigious buildings of their time. Although the rear parts of the buildings are not specifically referred to it is evident that No 35 has retained its garden area from at least the 1840s as well as the line of its boundary wall although parts of the wall have been rebuilt over the years.

9. There are many other references to this part of King Street in the WCA and it is clear that the immediate area around the appeal building contributes most positively towards the character and appearance of the WCA. The stone wall around the property is a dominant and impressive feature of the rear streetscape and having seen the garden area to No 35 it is clear that this area also is a prominent and almost unique feature in this part of Whalley. Unlike other nearby properties No 35 has retained its garden and wall for many years.

10. Having walked around this part of WCA and having noted the wall and the rear area to No 35, I share the Council's concerns about this particular proposal to open up the wall and to use the area for car parking. I acknowledge and appreciate the commercial need for parking but this economic factor needs to be balanced against the impact that it would have on the setting of the listed building(s) and the effect on the character and appearance of the WCA. The NPPF is quite clear that in assessing 'sustainable development', the three strands of economic, social and environmental must be taken into account together.

11. During my visit I noted that properties immediately to the north of No 35 had had stone walls partly removed to provide parking. The remaining walls were untidy and had clearly affected the historic layout of this part of the town. In my

view the loss of a significant section of wall to the garden of No 35, coupled with the loss of landscaping and greenery would neither preserve the integrity of Nos 33 and 35 nor their current setting. The loss of such a large section of walling would also detrimentally affect the remaining section of wall which is a most important architectural and historic feature. It follows, in my view, that the loss of the section of wall along with the loss of the garden would neither preserve nor enhance this part of the WCA.

12. During business hours the large gate would be likely to be left open rendering the car park open to view. This would exacerbate the detrimental visual impact which already exists due to half demolished walls and the various alterations carried out to nearby properties in the WCA. I do not consider, therefore, that planning permission or listed building consent should be granted for the works/development proposed in this part of the conservation area.

13. Because the works would be harmful to the listed buildings; their settings; the special architectural and historical feature (the wall and the garden) and to the character and appearance of the WCA they are contrary to policies DMG1 (General Considerations) and DME4 (Protecting Heritage Assets) of the RVBCCS. They are also contrary to design, sustainability and conservation principles set out in the NPPF. Although the harm would be less than substantial (see paragraph 134 of the NPPF) there are no public benefits which would outweigh the harm caused. Both appeals, therefore, fail.

Other Matters

14. In reaching my decisions I have taken into account all of the other matters raised by and on behalf of the appellant. These include the full statement of case; the issues around car parking in Whalley; the fact that the wall was built later than the buildings; the fact that there are no highways objections; the details set out in the Design and Access statement and the references to trees and landscaping. However, none of these factors outweigh my concerns set out above.

15. I acknowledge that there is a need for both the appellant's customers and staff to park in close proximity to the premises. However, in this case any commercial or other benefits cannot outweigh the harm that would be caused to the historic asset and the environment if the works/development were allowed to proceed.

Formal Decisions

16. Appeal A is dismissed and Listed Building Consent is refused for a car park to the rear and removal of part of boundary wall at 35 King Street, Whalley, Clitheroe, Lancashire BB7 9SP.

17. Appeal B is dismissed.

Anthony J Wharton

Inspector

