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# Appeal Decision

Site visit made on 17 April 2013

**by R P E Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI**

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

**Decision date: 14 May 2013**

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## **Appeal Ref: APP/G0908/A/12/2187194**

### **Land to the East of Pennygill Road, Ewanrigg Hall Farm, Maryport CA15**

- 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 Empirica Investments Ltd against the decision of Allerdale Borough Council.
  - The application Ref 2/2012/0293, dated 26 March 2012, was refused by notice dated 12 October 2012.
  - The development proposed is the erection of a 67m single wind turbine.
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## **Decision**

1. The appeal is dismissed.

## **Application for costs**

2. An application for costs was made by Empirica Investments Ltd against Allerdale Borough Council. This application is the subject of a separate Decision.

## **Procedural Matters**

3. The proposed turbine would have: a hub height of 47.62m; an overall height to blade tip of 67m; 3 blades with a diameter of 44m; and an output capacity of 900kw. The turbine would fall within the description at paragraph 3(i) of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (the 2011 Regulations). However the Council has issued a screening opinion dated 13 July 2012 in which it was concluded that the proposal would not constitute EIA development and I do not disagree with that conclusion. I also agree with the Council that there is sufficient submitted information to determine the proposal.

## **Main Issues**

4. The main issues are considered to be: the individual and cumulative impact with other existing or permitted turbines on the visual amenity and landscape character of the site and its surroundings; and whether any identified harm in that regard may be outweighed in the public interest by any benefits of the proposal.

## **Policy Context**

5. One of the core planning principles of the National Planning Policy Framework (2012) (the Framework) at paragraph 17 is that planning should support the transition to a low carbon future by, amongst other things, encouraging the use of renewable resources, for example by the development of renewable energy. Other core principles include to contribute to conserving and enhancing the natural environment

and reducing pollution. The Framework also provides amongst other things at paragraph 97 that to address climate change local planning authorities should design policies to maximise renewable and low carbon energy development whilst ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts. Paragraph 98 includes that even small scale projects provide a valuable contribution to cutting greenhouse gases and that applications should be approved if their impacts are (or can be made) acceptable. Paragraph 28 seeks a positive approach to sustainable new development in rural areas and supports the development and diversification of agricultural and other rural based business.

6. At the date of writing the development plan includes the saved policies of the Allerdale Local Plan (1999) (the LP) and the Cumbria and Lake District Joint Structure Plan 2001-2016 (2006)(the JSP) together with the North West of England Plan Regional Spatial Strategy to 2021 (the RSS). The RSS and JSP include policies which are supportive of renewable energy and include regional targets for installation but which also require that such benefits are weighed with any significant adverse landscape and visual impacts of wind turbine development. However an order to revoke the RSS was laid in Parliament on 24 April 2013 and will come into effect on 20 May 2013 when the RSS and JSP policies would cease to be part of the development plan. That is an important material consideration.
7. There are no saved policies for renewable energy development in the LP but Policy EN19 seeks in summary to conserve and enhance the landscape and to retain local distinctiveness. LP Policy EN25 seeks to strictly control development in open countryside. However it does specifically allow for essential development, or that for which there is a locational need, including those required for local infrastructure needs, subject to criteria.
8. Whilst the RSS policies on renewable energy and the indicative targets for electricity production are on the point of revocation, there remain unmet national targets. These depend upon the implementation of schemes at the local level and would have been taken into account in the setting of the regional targets. In the absence of any more up-to-date assessment of renewable energy needs at the local level the evidence-based RSS assessment remains a material consideration as does evidence on the amount of renewable energy production that has been consented.
9. The Cumbria Wind Energy Supplementary Planning Document (2007) (the SPD) is not part of the statutory development plan but it has been adopted by the Council as part of the local development framework and is an important material consideration. Amongst other things it considers the area's Landscape Character types and provides guidance on their capacity for wind turbine development. The SPD includes advice on assessing cumulative impacts but advises that these can only be done on a case by case basis.

## **Reasons**

### *Landscape Character and Visual Impact*

10. The site is located in open countryside on low but rising ground within Landscape Character Type 5a Ridge and Valley. It is also close to Type 2d Coastal Urban Fringe which occupies a narrow strip along the coast. Whereas the address is given as Maryport, which is about 1.07km to the north<sup>1</sup>, the site is closer to the smaller coastal settlement of Flimby about 0.95 km<sup>2</sup> to the south west. It is even closer to

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<sup>1</sup> Not 1.8km as suggested in the Appellant's statement.

<sup>2</sup> Not 1.3km as suggested in the Appellant's statement.

Flimby Great Wood which covers the adjacent hillside to the south. Elsewhere in the Type 5 areas there are extensive views across the countryside. However the appeal site lies within a landscape that is contained by urban development to the north, south and west and by rising land to the east. Thus views are relatively limited.

11. The coastal strip between Maryport and Workington includes significant urban development and industry. The area has a history of mining including in the vicinity of the appeal site. However former mining facilities have been cleared and the appeal site now appears as part of a scarce pocket of open rural landscape of fields, hedgerows and woodland between the urban settlements of Maryport and Flimby. Views into this area are available mainly from the north and west including from dwellings on the edges of the settlements, from the busy A596 coast road with its scattered frontage dwellings and possibly from parts of the coastal railway. The area is also criss-crossed by a dense network of public bridleways and footways. These pass close to the appeal site on three sides and they make the countryside readily accessible to those in the nearby urban areas. 6 public footpaths or bridleways radiate from the vicinity of the proposed turbine. There is an industrial estate to the south west of the site which is unsightly when it can be seen. However that estate comprises mainly low structures and open storage which are significantly screened by topography and hedgerows that prevent it from intruding significantly into most views of the adjacent rural landscape.
12. The SPD describes Type 5 areas as having a moderate landscape capacity for wind turbine development of 'up to a small group, exceptionally a large group.' Type 2 areas are described as having a low/moderate capacity for similar development but with larger groups only suitable exceptionally in the most extensive parts where unconstrained by settlements. From the SPD text and the representations I interpret that to mean that either landscape type could potentially absorb individual groups of 3-5 turbines of between 95-120m in height or, exceptionally, larger groups of that height. However I do not interpret this to mean that only one such group may be erected in a type 5 landscape that is extensive in Allerdale and which already accommodates a number of other turbine groups and individual turbines. Neither does the SPD guidance preclude from this landscape type the erection of single turbines of lesser height. Nevertheless it does not imply that a group or single turbine will be acceptable in any part of the landscape type. Case by case assessments are still required.
13. In this case I consider that the individual turbine would on its own result in only a local adverse impact on landscape character that would diminish with distance, as is usually the case with single turbines. However the proposed turbine is larger than many of the single turbine developments that are typically found on farms in the countryside and will accordingly have a proportionally wider individual impact. The submitted Landscape and Visual Impact Assessment (LVIA) acknowledges that the turbine has the potential not only to dominate views from footpaths within 335m, but to also to have a defining influence along footpaths at distances of between 335m and 1.35km where there are clear uninterrupted views. That influence could consequently extend to the whole gap between the two settlements and reach as far as the A596 and the nearest dwellings. I therefore consider that the introduction of a turbine of the proposed scale into this relatively small scale landscape in the gap between the two settlements would harm the rural landscape character of the whole gap. That landscape is of particular value because the footpath network provides ready access to appreciate the open green surroundings.

14. The Framework also requires that regard be had to the potential cumulative impact of multiple developments. These may be single turbines or groups, or a combination of both. Cumulative effects may arise firstly when two or more turbine developments are seen in the same view, or secondly when turning one's head without moving from the same viewpoint, or thirdly in sequence when travelling through an area. Cumulative effects may also require consideration of adjacent landscape areas. In relation to cumulative impacts the SPD includes advice at paragraph 1.42 of Part 2 that: '... a consistent and coherent approach to the siting, design, spacing and scale of schemes in relation to the receiving landscape type will be required to ensure that they make a positive contribution to the overall image. A succession of schemes with different designs and relationships to the landscape can appear confusing as well as raise questions about the visual rationale and suitability of each development.'
15. To the south of Flimby towards Seaton the A596 enters a landscape characterised by industry including the Eastman chemical works (formerly Voridian) and numerous wind turbines. There is a line of 16 x 61m turbines stretching down the coast on the west side of the A596 at Siddick/Oldside together with 2 x 108m turbines at the Eastman works on the east side of the road. These are expected to be joined by a third (92.5m tall) on land at Wythegill Syke which has recently been allowed on appeal (Appeal ref APP/G0908/A/12/2172771).
16. The current appeal turbine would be seen in some of the same views as these existing and proposed turbines when looking north and south along the coast and especially from the transport routes. Consequently it would extend the defining characteristic of wind farm development further north and into the open gap between the settlements.
17. The turbine would also be only about 950m from the newly-constructed Flimby Brow windfarm to the south east. This comprises 3 x 115m turbines on higher ground to the south of Flimby Great Wood. The number, siting and spacing of those turbines will have been carefully considered, including at a public inquiry. At present the elevation and the trees visually isolate the windfarm from the contained rural landscape between Maryport and Flimby. However the proposed turbine would appear in the foreground of important views towards the Flimby Brow windfarm as LVIA Viewpoint 6 demonstrates. This is a view from the A596 that would be seen by very many people. The Flimby Brow turbines can also be seen from some public footpaths close to the appeal site, where not shielded by the woodland. As the appeal turbine would be of similar form to those existing turbines there would be an inevitable visual association between the two developments when seen from such viewpoints. However as the appeal turbine would be smaller and closer to the viewer it would probably confuse the viewer into thinking that it is part of the same development as Flimby Brow but oddly detached and at a lower level. This would risk extending the influence of the Flimby Brow turbines in the landscape including by creating stronger visual links with other existing and permitted turbines on the coast. In some views this would risk the consolidation and extension of the windfarm landscape that currently borders the A596 at Seaton. I consider that this would be harmful to the landscape character of this part of Landscape Type 5a and also to the landscape character of the adjacent Type 2d through which the A596 passes.
18. The Appellant points out that neither the Council nor the Inspector concluded that the Wythegill Syke turbine would greatly alter the character of the landscape or result in an unacceptable cumulative impact. However that development would be

more closely associated with other existing turbines in the Seaton area and would not materially expand the area where wind turbines are a defining characteristic of the landscape. The main issue in the Wythegill Syke turbine appeal was one of local residential amenity.

19. In relation to other visual amenity considerations in this present appeal, the nearest dwellings 600m to the south are oriented away from the turbine which would also be partially shielded by intervening trees. The dwellings on the edge of Maryport are further away and some views from there are also partially shielded by vegetation. The turbine would not dominate views from any of these dwellings or make them unpleasant places to live. However the Appellant acknowledges that the turbine would dominate local footpaths and bridleways within 335m, particularly as it would stand on raised ground. That could detract from the enjoyment of those routes for recreation and adds to the harm to the landscape although it would not of itself warrant the dismissal of the appeal.
20. It is concluded on this issue that the turbine would result in significant individual and cumulative harm to the landscape and also some visual harm to users of the public rights of way. Whilst the impacts would be reversible if the turbines were removed after 25 years, as the Appellant suggests, that would remain an unacceptably long period.
21. The proposal would accordingly conflict with the objectives of LP Policy EN19 to conserve and enhance the landscape and to retain local distinctiveness.

#### *Benefits*

22. Whilst the development would be financially beneficial to the landowner, it is not closely associated with any farm processes and there is no evidence that it forms part of a farm diversification scheme. It is probable that most or even all of the electricity generated would be exported to the grid. However in that regard the 900kW capacity is much greater than many single farm turbines and it would make a significant contribution towards extant national targets for renewable energy to reduce carbon emissions and contribute to energy security. These will still need to be met by local schemes notwithstanding the imminent revocation of the RSS regional targets.
23. It is acknowledged that Allerdale has already made a very substantial contribution to renewable energy generation in Cumbria. This reflects its relative suitability for wind generation and the constraints that exist in many other parts of Cumbria such as landscape sensitivity within the national park. However it does not follow that all schemes including the appeal scheme will be found acceptable or that any identified harm must be outweighed by the benefits in terms of renewable energy production. There remain numerous other proposals for renewable energy developments in Allerdale and elsewhere. A proportion of these are likely to be considered to be suitably designed and located and otherwise in accordance with local and national policies and thus able to contribute to the continuing need for renewable energy.

#### **Conclusions**

24. In this case there would be clear significant benefits in terms of renewable energy generation which would accord with some Framework objectives. Whilst the decision is finely balanced, I do not consider that these benefits are sufficient to outweigh the significant adverse impact on the landscape of introducing a wind turbine into this accessible small scale rural landscape where it would become a defining characteristic and where it would significantly extend the cumulative impact on the

landscape of other existing and permitted wind turbines in adjacent areas. The scheme does not satisfactorily address its adverse impacts as required by the Framework. There are no other material considerations sufficient to outweigh the conflict with the development plan. That conflict applies whether or not the development plan only includes the LP or also includes the RSS and JSP. Account has been taken of all other matters raised by interested persons but they do not outweigh my conclusions on the main issues or my overall conclusion that the appeal should be dismissed.

*RPE Mellor*

INSPECTOR