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## Appeal Decision

Site visit made on 16 May 2013

**by Richard McCoy BSc MSc DipTP MRTPI IHBC**

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

**Decision date: 10 January 2014**

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**Appeal Ref: APP/G0908/A/13/2189520**  
**Brayton Park, Brayton, Wigton CA7 3SX**

- 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 Malcolm Ashworth against the decision of Allerdale Borough Council.
  - The application Ref 2/2011/0973, dated 9 December 2011, was refused by notice dated 18 October 2012.
  - The development proposed is the installation of a single 500KW wind turbine together with associated control equipment and connection to the National Grid electrical energy supply.
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### Decision

1. The appeal is allowed and planning permission is granted for the installation of a single 500KW wind turbine together with associated control equipment and connection to the National Grid electrical energy supply at Brayton Park, Brayton, Wigton CA7 3SX in accordance with the terms of the application, Ref 2/2011/0973, dated 9 December 2011, subject to the following 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 plans: Site Location Plan and DGBlockplan04DEC2011B.
  - 3) This permission shall remain valid for a period of 25 years from the date that electricity from the development is first generated. Within 12 months of the cessation of electricity production at the site, or the expiration of this permission, whichever is the sooner, all development comprised in the scheme hereby permitted shall be removed and the land restored in accordance with a scheme that shall have been submitted to and approved in writing by the local planning authority prior to the commencement of the development.
  - 4) If the turbine ceases to be operational for a continuous period of 6 months, it shall be dismantled and removed from the site and the land shall be restored in accordance with the scheme referred to in condition 3 above.
  - 5) The development shall not commence until details of the colour and finish of the wind turbine have been submitted to and approved in writing by the local planning authority. Development shall be carried out in

accordance with the approved details and shall be maintained in the approved colour.

- 6) Development shall not commence until a scheme has been submitted to and approved in writing by the local planning authority setting out a protocol for the assessment of electromagnetic interference in the event of any complaint, including remedial measures. The turbine shall be operated in accordance with the agreed protocol.
- 7) No development shall take place until a scheme of aviation obstruction lighting has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.
- 8) The LA90 (10 minutes) specific noise levels due to the operation of the turbine shall not exceed 35 dB(A) up to wind speeds of 10 m/sec at 10 metre height, as measured 3.5 metres from the façade of the nearest noise-sensitive development in existence at the date of this permission.
- 9) The date of the 1<sup>st</sup> production of electricity shall be notified in writing to the local planning authority within 28 days of the event occurring.
- 10) No development shall take place until full details of soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation. No trees approved and implemented under this condition shall be topped, lopped, felled or uprooted without the written approval of the local planning authority.

### **Main Issues**

2. The main issues are the effect of the proposed wind turbine on the character and appearance of the landscape, its effect on the nearby tourism development at Brayton Park, and whether any harmful impacts of the proposal are outweighed by any benefits.

### **Reasons**

#### *Background*

3. The appeal site contains a modern industrial building and several silos. The proposal would provide power to the building which operates as an animal feed mill. Planning permission was granted at appeal in July 2011 (ref. APP/G0908/A/ 10/2142680) for a single, 2 blade, 300KW wind turbine with a hub height of 50 metres and a 24 metre diameter rotor.
4. The appellant now wishes to install a 3 blade turbine which would have the same blade tip height as the approved scheme of around 62 metres. It would differ insofar as it would produce more electricity, its hub height and rotor diameter would both be around 40 metres and the tower would have a greater

girth. It would also be a quieter turbine than the approved scheme. The appellant pointed out that the increased electricity output is required to cater for expansion plans at the mill.

### *Policy*

5. 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.
6. The NPPF also states that even comparatively small scale projects can make a significant contribution to meeting national need. This is reflected in the Planning Practice Guidance for Renewable and Low Carbon Energy (July 2013) 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. The Guidance 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.
7. Saved policy R44 of the adopted Cumbria and Lake District Joint Structure Plan 2001-2016 (SP) is supportive of proposals for renewable energy outside the National Park and designated Areas of Outstanding Natural Beauty if there is no significant adverse effect on landscape character, biodiversity, natural heritage or local amenity and if all practicable measures are taken to reduce such impacts. This policy is in line with paragraph 98 of the NPPF. This proposal for a single turbine falls to be considered against this policy background.

### *Character and appearance*

8. The appeal site is located in the countryside around 1km from the nearest settlement. It stands in an area of rough scrub with an earth bund on its western flank and a large concrete hard-standing to the east. Cumbria County Council's Landscape Classification describes the wider area as "5a – Ridge and Valley". This is characterised by a series of ridges and valleys that rise gently towards the limestone fringes of the Lakeland Fells, and well managed regular shaped medium to large pasture fields.
9. I observed that the area around the appeal site is dominated by undulating, generally open agricultural land interspersed with hedgerows, small plantations of woodland and occasional specimen trees. There are no special landscape designations applicable to the area and while there are no hard and fast rules about how suitable areas for renewable energy should be identified, I note that the adopted *Cumbria Wind Energy* Supplementary Planning Document (SPD) identifies the area within which the appeal site is situated as of moderate landscape capacity, suggesting that small scale wind farm groups may be acceptable.
10. I agree with the previous Inspector, who in assessing that turbine, opined that the approval of the appeal site industrial building and the nearby tourism

development at Brayton Park demonstrates that this is a landscape that can accommodate some development without causing undue harm. Given the industrial nature of the appeal site, I am satisfied that the proposed medium sized turbine would successfully blend into its immediate surroundings with negligible impact.

11. Nevertheless, as a tall feature it would be a noticeable feature in the wider landscape. In this regard, a series of photomontages were submitted showing how the turbine would appear from various viewpoints. I note that in some views the turbine would be partly obscured by vegetation and landform. I further note that the surrounding landscape contains other man made features, such as overhead cables and agricultural buildings.
12. In my judgement, the proposal would have a low to moderate visual impact from nearby vantage points and an insignificant impact from further afield, including the surrounding road network. Moreover, at around the same overall height as the previously approved scheme, I consider that when seen across these same distances, above the same intervening undulating landscape and vegetation, the differences between the 2 turbines, in terms of visual impact, would be minor.
13. While this proposal would have an increased rotor diameter and an additional blade, this would be offset by the reduced height of the tower to the rotor. Furthermore, the tower could be colour finished and further landscaping provided to minimise its visual appearance (both of which could be made conditions were planning permission to be granted). Against this background and in common with the previous Inspector's conclusion, I find that this turbine when seen in longer views, would occupy only a small portion of any views towards it and in more distant views, the observer would have to be looking for the turbine in order to pick it out.
14. With regard to cumulative impact with other schemes within the area, I observed an array of turbines at Wharrels Hill. However, the separation distance (around 5.5km) is such that the effect of those turbines and this proposal on the landscape would remain distinct. There are other proposed or existing single wind turbines in a number of locations within a few kilometres of the appeal site, and there may be some locations within the surrounding area from where two or more of these turbines may be seen in particular views or in a sequence of views. However, in view of the scale of the turbines and the separation distances between them, I consider that the proposed and existing turbines would not collectively become a significant or defining characteristic of the area such that they would have a harmful effect on the overall experience of the landscape.
15. Consequently, the effect of this proposal on the character and appearance of the landscape would be no greater, both individually and cumulatively, than that of the approved scheme at the appeal site. In this regard the proposal would not conflict with saved SP policy R44 and saved policies EN19 and EN25 of the adopted Allerdale Local Plan.

#### *Brayton Park Tourism Development*

16. Concern was expressed regarding the effect of the proposal on the approved golf course and holiday chalet development at Brayton Park. Presently there are 9 holiday cottages at this development with permission to build a further

200 chalets which will be marketing by Hoseasons. The development also includes a golf course, fishing lake and a restaurant.

17. I viewed the proposal from the fairway of the 2<sup>nd</sup> hole at the golf course, from the elevated position of the new golf course, and from The Garth and The Old Smithy at Home Farm which contain a mix of dwellings and holiday cottages. The Council estimates that the turbine would stand around 550m from the approved golf course and holiday chalet complex. In my judgement, this would be a sufficient distance to prevent any loss of outlook and noise disturbance at the chalets. Furthermore, the intervening distance, planting and land form would mean that the proposed turbine would be unlikely to cause shadow flicker, noise disturbance or have a significant visual impact on those using the proposed golf course.
18. It was claimed that the proposal would restrict the marketing capabilities of Hoseasons, reduce the rental potential of the project, affect the prestigious branding for the site, restrict the expansion of the park and its activities, and affect the viability of the luxurious chalet development, although no evidence has been submitted to substantiate these claims. Nonetheless, I note the correspondence from Cumbria Tourism (CT) which states that Hoseasons has indicated that it will either reduce rental charges or no longer feature the holiday rental property if the turbine is erected. However, the letter from Hoseasons does not appear to have been submitted as part of the appeal and would seem to relate to the existing holiday lets rather than the chalets.
19. The CT correspondence goes on to express concerns regarding the impact of the turbine on the overall tourism development at Home Farm, Brayton Park. However, in doing so they refer to a 2005 survey relating to a wind farm development at Whinash and admit that it is notoriously difficult to get an accurate understanding of people's true reaction to a proposed development. Nevertheless, CT states that it is reasonable to conclude from the survey that poorly and insensitively sited wind turbines can be damaging to the Cumbria visitor economy and recommend that the proposal should be resisted until it is demonstrated that there will be no harmful impacts to the area's visitor economy.
20. Be that as it may, I have not been able to conclude from the evidence before me that this proposal would be poorly and insensitively sited and CT has submitted no evidence to substantiate its claim that this proposal would clearly have a negative economic impact. Moreover, this matter was considered by the previous Inspector who could see no reason to suppose that the turbine would put people off visiting the area. Against this background, I consider that the proposal under this scheme would not be materially different to the extent that it would be likely to have such a negative effect on the tourism development that visitors would be dissuaded from staying at the chalets or using the golf course.

#### *Other matters*

21. I note from the officer report that it was considered that the distance to the nearest dwellings at Home Farm was such that the proposal would not harmfully change the living conditions of the occupiers in respect of noise and shadow flicker. An assessment of potential noise impacts was submitted at the application stage and the Council's Environmental Health Officer raised no objections, subject to a noise condition being attached to any grant of planning

- permission. As for any shadow flicker, the nearest dwellings would be outwith the turbine's zone of influence which would be around 400 metres. On this basis, I find that the proposal is unlikely to cause significant noise or shadow flicker nuisance to any nearby residents. In addition, there were no objections to the proposal on highway safety and from my assessment I have no reason to disagree.
22. In terms of effects on ecology, surveys have been carried out to assess the impacts of the proposal. I note that Natural England are satisfied that the proposal would not affect any statutorily protected species or landscapes and accept the findings of the submitted report in respect of bats. From my assessment I have no reason to disagree.
23. My attention was drawn to alleged breaches of planning conditions regarding trees at the appeal site. However, that is a matter for the Council and I must deal with the planning merits of the proposal before me. It was also claimed that the performance of the turbine would be reduced by wind turbulence which could lead to blade failure, hub motor fire and the toppling of the turbine. Nevertheless, I do not consider that the generalised nature of the evidence submitted in this regard substantiates this claim having regard to the site specific circumstances at the appeal site. Against this background, I have no substantive evidence before me to justify withholding planning permission on turbulence grounds.
24. With regard to wind resource, the appellant states that no wind measurements have been taken but I note that meteorological data (submitted to and accepted by the Council) for this location shows that an average wind speed of around 7m/s is available and adequate for this design of turbine. The appellant states that connection to the national grid would be possible as a public highway passes the front entrance to the mill, and the Council's uncontested evidence states that the turbine would not require a sub station and would connect to the national grid by way of low level poles.

#### *Conditions*

25. Several conditions have been suggested and I have assessed and, where necessary, amended these in the light of Circular 11/95 *The Use of Conditions in Planning Permissions*. Standard conditions are imposed relating to commencement time and to ensure that the development is constructed in accordance with the submitted plans, for the avoidance of doubt and in the interests of proper planning. Further conditions are required to ensure the site is restored within 12 months of the 25 year approval period ending or the turbine ceasing operation, in the interest of amenity.
26. In addition, I shall attach conditions in respect of noise emissions to safeguard residential amenity and details of the finish of the turbine as this is not specified, along with the date electricity production commences to determine the commencement of the 25 year period. I shall also attach conditions to respond the possibility of electromagnetic interference and to detail a scheme of aviation obstruction lighting to safeguard aviation safety. Finally, in the interests of the character and appearance of the area, I shall attach conditions requiring details of a soft landscaping scheme and retention of trees planted as part of that scheme.

## **Conclusion**

27. 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 proposal would contribute to the generation of renewable energy which would assist in meeting national targets that seek to reduce carbon emissions in order to tackle climate change. It would also make a contribution to supporting a rural enterprise and economic activity by safeguarding/creating jobs and would improve energy security at the mill, reducing reliance on diesel fuelled generators.
28. The overall conclusion is that the effect of this proposal would be very similar to that of the previously approved turbine at the appeal site. As with that case, the low to moderate harm to the character and appearance of the landscape attributable to the visual impact of the turbine would be outweighed by the substantial environmental and economic benefits.
29. In coming to this decision, I have had regard to the Written Ministerial Statement to Parliament on Local Planning and Onshore Wind and the DCLG Planning Practice Guidance for *Renewable and Low Carbon Energy* which followed in July 2013. I have also had regard to the effect of the revocation of the Regional Strategy but in the light of the facts in this case the revocation does not alter my conclusion, which for the reasons given above, are that the appeal should be allowed.

*Richard McCoy*

INSPECTOR