



Appeal Decision

Site visit made on 7 November 2011

by David M H Rose BA (Hons) MRTPI

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

Decision date: 23 December 2011

Appeal Ref: APP/G0908/A/11/2156118

Former Broughton Lodge surface coal mine, Allerdale, Cumbria

- 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 Peel Energy Ltd against the decision of Allerdale Borough Council.
 - The application Ref 2/2009/0880, dated 2 December 2009, was refused by notice dated 24 February 2011.
 - The development proposed is described as the erection of a three wind turbine cluster together with associated ancillary infrastructure comprising access tracks, crane hard standing, control building and temporary construction compound; wind turbines are to have a maximum hub height of 80m agl and a maximum height to blade of 125m agl.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was accompanied by an Environmental Statement (December 2009). Supplementary Environmental Information, including a revised Landscape and Visual Impact Assessment, was submitted in July 2010. The adequacy of the Environmental Information as a whole is not in dispute. I have taken its contents, and responses to it, into account in my consideration of the proposal.

Main Issues

3. The main issues are:-
 - (i) the cumulative effects of the development on the character and appearance of the landscape;
 - (ii) the visual impact of the proposal on the living conditions of Glen Cottage, Rose Cottage and Stockmoor Hall; and
 - (iii) whether any harm to these and any other identified matters would, in the light of the development plan, be outweighed by the national objective of promoting renewable energy generation.

Reasons

- (i) *The cumulative effects of the development on the character and appearance of the landscape*
4. The wider area of Allerdale contains a number of commercial wind farm developments with fourteen operational and approved wind farms¹ within 30 kilometres of the appeal site. There is a notable focus in the coastal and lowland landscape which includes the built-up areas of Workington, Whitehaven and Maryport.
 5. According to the Environmental Statement, at a distance of 10 kilometres from the site, large areas to the north-east and south-west have theoretical visibility of between four and seven wind farms; and to the south and south-west of the site there are a number of areas where up to eleven wind farms, are, in theory, inter-visible. However, in assessing cumulative impacts arising from Broughton Lodge, the nearby proposed increased height three-turbine wind farm at Flimby to the west,² and the approved six-turbine wind farm at Tallentire to the east, generally, provide the focus for my consideration.
 6. In terms of landscape character, wind farms are already a distinctive feature of the landscape type in which the appeal site is located with wind farms at Winscales I, Winscales II, Winscales Moor³ and Flimby totalling some twenty-one turbines. The Environmental Statement identifies the addition of the proposed turbines at Broughton Lodge as having a moderate-slight cumulative effect which would not be 'significant' in terms of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.⁴
 7. However, within the vicinity of Great Broughton, and further to the east, the landscape contains few vertical features and it contrasts markedly with the area generally to the west where wind turbines and pylons, often in adjacent landscape character types, are a more notable element of the Lowland: Ridge and Valley landscape. As a consequence the proposal would result in a marked expansion of wind farm development across part of the landscape character type in which the appeal site is located. In addition, it would, with the presence of Tallentire, which straddles the Lowland: Ridge and Valley and the Higher Limestone: Rolling Fringe landscape character types, create the impression of a swathe of turbines across this segment of the landscape character type.
 8. The generally undeveloped skyline ridge, on which the proposal would be sited, forms a characteristic element of the landscape type; and, notwithstanding the presence of turbines at Flimby and Tallentire, the proposed wind farm would represent a marked change to the apparent unbroken skyline. The effect would be compounded by the height and blade sweep of the proposed turbines and the manner in which they would be regarded as being out of scale with, and a dominant component of, the host landscape. These factors add significantly to the overall impact on the landscape type.

¹ Thirteen identified in the Environmental Statement plus the later approval at Tallentire

² Planning permission has been granted to erect taller turbines than those existing

³ Hereafter referred to in combination as 'Winscales'

⁴ The application was submitted before the commencement of the 2011 Regulations and falls to be determined against the 1999 Regulations

9. Whilst clustering of wind farms is acknowledged to be a means of reducing cumulative effects, the addition of Broughton Lodge to Flimby, Tallentire and Winscales, despite the physical distances between each of the clusters and the topographical separation between Broughton Lodge and Winscales, would combine to form a dominant element spread across this part of the landscape. The overall effect would be a landscape characterised by a succession of wind farms.
10. The Cumbria Wind Energy Supplementary Planning Document contains a landscape capacity assessment for each of Cumbria's landscape types with the Lowland: Ridge and Valley assessed as having potential capacity for up to a small group⁵ of three to five turbines to a height between 95 metres and 120 metres. Whilst this provides a useful indication it is notable that the proposed turbines would be taller than those envisaged (albeit marginally) and site specific consideration, in the context of nearby schemes, shows that the cumulative effect of adding Broughton Lodge would result in a damaging change to the character of the landscape type.
11. Turning to cumulative visual effects, the Environmental Statement indicates that only two locations, other than some areas within the former Broughton Lodge colliery site, would experience 'significant cumulative effects'.⁶
12. Starting with the Allerdale Ramble long distance walking route (viewpoint 16), the northern part of the trail provides views and inter-visibility of up to ten wind farms. For the northbound walker Broughton Lodge would add to cumulative effects in views some 4 kilometres to the east of the site. In this regard, the nearer presence of the proposed turbines would be the foremost feature in the landscape and they would draw together the influence of Flimby and the large, more distant, group of Winscales.
13. Moving round to the north, in the vicinity of Crosby (viewpoint 25), two of the proposed turbines would have a strong landscape backdrop and the turbines at Flimby would stand partially behind a tree-clad ridge against the sky. The characteristics of the landscape would serve to distinguish the two wind farms and to effectively minimise cumulative impacts.
14. Looking next at viewpoints and routes from where 'significant cumulative effects' are not predicted, the sector from east to south provides the starting point. Beginning at Watch Hill (viewpoint 29) the proposed turbines would become the most prominent of all those visible, as a result of their height and comparative proximity. They would draw the eye and make the presence of Flimby the more apparent as the two wind farms would be seen one against the other.
15. Moving out to Whin Fell (viewpoint 30) the Broughton Lodge turbines would stand in a large gap which currently provides extensive separation between Flimby and Tallentire. Given that Flimby can, from time to time, be seen in conjunction with other wind farms in the coastal plain, notably those at Winscales, and that Tallentire appears as a comparative isolated 'inland' site, Broughton Lodge would draw together these disparate locations.

⁵ Exceptionally a large group

⁶ In terms of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999

16. The southern side of the Derwent valley provides the next, closer, vantage. From the elevated settlement of Brigham (viewpoint 15), and to a lesser extent from Greysouthern (viewpoint 7), the proposed turbines would occupy a focal point in the outlook from a number of residential properties in combination with the more peripheral turbines at Flimby and Tallentire. Given that the entire vista has a generally consistent skyline, the three wind farms, albeit remaining clearly distinct from each other, would combine to form a very strong influence in the broad, predominantly rural, landscape.
17. Next, from Workington (viewpoint 10) the proposed turbines would be seen in the foreground of Tallentire; and at Seacroft Farm (viewpoint 11) only the blade tips would be visible. At Prospect (viewpoint 26) Tallentire would dominate with Broughton Lodge set against the backdrop of Flimby and Wharrels Hill. From The Howe (viewpoint 27) Broughton Lodge would stand central to the view with more apparent clusters of turbines on the coast and at Winscales a good distance either side.
18. Finally, from Mawbray Banks (viewpoint 28) a significant part of the turbines would be shielded by topography; and at Dearham (viewpoint 5) the proposed cluster would have a singular presence with other wind farms more distant and in a wider field of the view. In all of these instances cumulative effects would not be material.
19. Travelling along local roads, the Broughton Lodge cluster would be apparent for much of the route between Workington and Brigham (A66) which provides a succession of views of various wind farm developments. Crucially, the proposal would be perceived as adding to the sequence of clusters and it would have particular prominence from parts of the route.
20. Between Maryport and Cockermouth (A594) cumulative effects would be limited to a short stretch each side of Dovenby where both the proposal and Flimby would be seen close at hand and in quick succession.
21. Combined impacts between Whitehaven and Thursby (A595) would be most apparent for the north-bound driver where the close proximity of the Winscales wind farms and the prominence of Broughton Lodge and Tallentire would dominate the route.
22. For south-bound drivers on the A596 between Thursby and Workington, the 10 kilometre stretch of road to the south of Aspatria provides inter-visibility of between eight and eleven wind farms; and the 6 kilometre length between Crosby and Maryport offers inter-visibility of between four and five wind farms. Given the lengths of road affected, the number of wind farms involved and the proximity of the appeal proposal to part of the route, a further incremental impact would arise.
23. Drawing together my findings on the visual impacts, the wider locality is host to a notable number of commercial wind farms. Many of these are focused broadly to the west of the site with those to the east being dispersed to a greater degree. The effect of developing the appeal site would be to increase and intensify the impact of wind farm development in a prominent manner and to erode the important separation between Flimby and Tallentire. This would have an adverse cumulative effect on the appearance of the landscape.

24. Whilst many of the viewpoints show the effects of Broughton Lodge to be minimal, there would be notable impacts from several representative locations and from along four major transport routes. The appearance of the landscape would change significantly for those people viewing it from the south-east and south with Broughton Lodge becoming a dominant and defining addition to the rural landscape between Flimby and Tallentire. For motorists, the proposal would add to the effects of existing wind farm developments in the wider locality and from several locations it would be perceived as a new focus with added emphasis to the presence of wind energy installations.
 25. Against this background the proposal would be in conflict with the general landscape protection policies of the Allerdale Local Plan (Saved Policies EN19 and EN25). Saved Policy E37 of the Cumbria and Lake District Joint Structure Plan also seeks to ensure that development is compatible with the distinctive characteristics and features of Cumbria's landscape.
 26. However, these have to be considered in the context of Policy DP 9 of The North West of England Plan: Regional Spatial Strategy which makes clear that the reduction of emissions and adaptation to climate change is an urgent regional priority. Policy EM 17, in identifying the need to consider the cumulative impact of development on the character and sensitivity of the landscape, requires local planning authorities to give significant weight to the benefits of renewable energy schemes and their contribution to indicative targets for the region.
 27. In addition, Saved Policy R44 of the Cumbria and Lake District Joint Structure Plan offers favourable consideration to renewable energy proposals outside the Lake District National Park and Areas of Outstanding Natural Beauty subject to criteria and also in the knowledge that significant weight is to be given to the benefits of renewable energy projects.
- (ii) *The visual impact of the proposal on the living conditions of Glen Cottage, Rose Cottage and Stockmoor Hall*
28. Glen Cottage and Rose Cottage are the nearest occupied residential properties.⁷ Both have principal aspect to the east and west and the proposed turbines would be located in the quadrant north-west to north-east. From the front, east facing windows, Turbine 3 would stand prominently on rising ground. However, it would not be in direct line of sight and, like the aspect from the small front gardens, the outlook directly east extending towards the south-east and the peak of Skiddaw would be the more likely focus.
 29. From west facing windows, and the rear gardens, Turbine 1 would also be viewed obliquely; and established garden screening would limit and filter views where they exist. Although the garden of Glen Cottage extends around the northern side of the house, from which all three turbines would be visible, part of this area is used for car parking and the impact of the structures on the use of the garden as a whole would be limited.
 30. Approaching the two dwellings along the access road, Turbines 2 and 3 would stand aloft, albeit Turbine 2 would have partial foreground screening. However, the occupants of both dwellings would have a constant reminder of the wind farm when approaching their homes.

⁷ There is a discrepancy in the stated distances involved but it appears to be accepted that Viewpoints 1A and 2 provide the correct distances (451 metres and 447 metres, respectively, to the nearest turbine)

31. The consideration of residential amenity must be judged in the round having regard to the layout, orientation and use of each dwelling and its garden and to other physical features including the approach to the property. In this regard the underlying test is whether either dwelling would become an unattractive and unacceptable place to live such that permission for the development should be refused in the wider public interest.
32. Whilst I have no doubt that the proposed turbines would be perceived as prominent and uncharacteristic structures, they would be offset from principal rooms and garden areas. Even though they would be readily apparent when approaching either property they would not be dominant or overbearing in relation to the living environment of these dwellings as a whole.
33. Looking next at Stockmoor Hall, this dwelling has principal aspect to the south and east with the east elevation containing windows serving a first floor living room and several bedrooms. These would face in the direction of the proposed wind farm with the nearest turbine (Turbine 1) some 650 metres away.⁸
34. Turbines 2 and 3 would form a more distant backdrop with the three turbines occupying a limited field of view. Taking account of the layout of the proposed wind farm and the dual aspect of the house, the effects of the development would not be overbearing or pervasive. In addition, an area of young woodland in this general field of vision will, in time, provide some intervening low level screening.
35. On this basis, I find no material adverse effects on the living environments of Glen Cottage, Rose Cottage and Stockmoor Hall. It follows that there would be no conflict with Saved Policy R44 of the Cumbria and Lake District Joint Structure Plan in terms of the proposal's effect on local amenity.

Other considerations

36. It is said that the application, and hence the appeal, is invalid as the planning application fee was not calculated according to the guidance in Circular 04/2008: Planning-Related Fees. However, it is a matter for the local planning authority to make certain it has received the correct fee before registering the application; it is not for me to re-visit that process.
37. Concerns are expressed about the accuracy of supporting data, with particular reference to measurements of distance. Although the appellant acknowledges certain inaccuracies I am satisfied that I have the necessary information, reinforced by site visits, to gauge likely impacts.
38. In terms of noise, it is industry practice to assess a 'candidate turbine' to establish maximum noise levels to be secured by planning condition. The subsequent choice of turbines, and their operation, would be constrained by the noise levels set at relevant residential properties. The condition would also provide the necessary safeguard in the event that the discrepancies in measured distances had a bearing on the noise imissions.
39. With regard to the claim that up to 2,323 homes might suffer degradation of terrestrial digital television signals, it is common practice to impose a condition on any grant of planning permission for wind energy development, where such effects are predicted to occur, to provide appropriate mitigation. Similarly, concerns about shadow flicker can be mitigated by condition.

⁸ There is a discrepancy in the stated distances involved but it appears to be accepted that the distance to the nearest turbine would be approximately 650 metres.

40. Moving on to the distance of the proposed turbines from routes used by walkers, riders and cyclists, neither Planning Policy Statement 22: Renewable Energy nor the related Companion Guide provides prescriptive guidance. Wind turbines are recognised as a safe technology and whilst it is said that it may be advisable to achieve a set back from roads and railways of at least fall over distance there is no comparable statement for other public routes.
41. Similarly, although the guidance indicates that an exclusion zone of 200 metres around bridle paths could be deemed to be desirable, and the British Horse Society seeks greater separation where justified, it is not matched by statutory requirement. The actual distance needs to be assessed on a site by site basis and much depends on the level and nature of usage and the potential for horses to be surprised by moving blades. That level of detail is not before me and there is no compelling evidence to demonstrate that greater separation than that proposed would be necessary.
42. The site is acknowledged to provide good bat foraging and/or commuting habitats. Natural England advises that the micro-siting of any turbine should maintain a 50 metre buffer around any habitat identified as 'good (or with the potential to develop into) bat foraging and community habitat'. The micro-siting plan, with micro-siting zones of 40 metres, shows that Turbine 3 could encroach into the hedgerow alongside the public access, Alice Lonnin', by up to 5 metres. However, this would be resolved by imposing a condition, as set out by the local planning authority, to limit micro-siting to 30 metres.
43. Concerns about the impact of the proposal on the operation of primary surveillance radar and air traffic control operations could be fully met by draft conditions 21 and 22. These would delay the erection of any turbine until the approved mitigation scheme had been implemented.
44. Looking next at rural cricket, it is apparent that Turbine 2 would be immediately behind the arm of a bowler running in from the north with a clear risk of the facing batsman being distracted by the movement of the turbine blades. Although it is claimed that the enjoyment of the facility would be compromised, or at worst it would be lost, the statements are of a generalised nature and are unsupported by tangible evidence of club membership, frequency of matches and other details that would enable me to assess the importance of the pitch to the community. Indeed, the letter from the Cricket Club places emphasis on the character of playing cricket in a countryside setting; and it is notable that it does not suggest that village cricket would cease.
45. Whilst two decisions have been drawn to my attention where Inspectors have found that proposed turbines would have a harmful effect on cricket facilities,⁹ I have insufficient details to draw a useful parallel.
46. The proposed development also appears as an absurdity to the local population in that the site has been painstakingly restored from an opencast coal site to a valued recreational facility with natural habitats supporting wildlife. However, there is nothing fundamentally inconsistent with the siting of wind turbines and public recreation.

⁹ APP/A4710/A/10/2127453 – Harper Barn, Bradshaw Lane, Bradshaw, Halifax, HX2 9XB
APP/D0840/A/10/2131156 – Truthan Barton Farm, St. Erme, Truro, Cornwall, TR4 9BB

47. A large area of derelict land to the west of the site, extending to approximately 422 hectares, is earmarked for regeneration with a mix of housing and recreational uses consistent with Saved Policy REN2 of the Allerdale Local Plan. In this regard it is said that the proposed wind farm may render the financial model to restore the site unworkable, given that a key component of the development is the early release of land for housing which would be within 700 metres of the nearest proposed turbine. However, there is no demonstrable evidence to support the claim.
48. The suggestion that the appellant should explore every reasonable alternative misunderstands the guidance in Circular 02/99: Environmental Impact Assessment as this, in short, requires details to be set out of any alternatives considered as opposed to advocating the consideration of all potential alternatives.

(iii) The planning balance

49. The national planning statements on energy and renewable energy infrastructure indicate a strong commitment to the development of renewable energy sources as a means of meeting the target of producing 15% of all of the UK's electricity from renewable sources by 2020. The Electricity Reform White Paper 2011 also confirms the importance of new onshore wind in meeting the 2020 target. These publications, which have to be considered in light of the suite of earlier documents,¹⁰ set out the ongoing and growing commitment to the imperatives of renewable energy generation.
50. At the regional level, Policy EM 17 of The North West of England Plan requires, by 2020, at least 20% of the electricity which is supplied within the Region to be provided from renewable energy sources.¹¹ It is apparent that in Cumbria wind energy is anticipated to provide some 85% of renewable energy by that date; and that the current installed and approved capacity is well short of the 2010 target.
51. It also has to be acknowledged that significant areas of Cumbria are constrained by landscape designations and that the general vicinity of the appeal site, as is evidenced by the schemes constructed or approved, will play a very major part in accommodating wind farm development. Accordingly, significant weight is to be given to the wider environmental, community and economic benefits of proposals for renewable energy.
52. The Cumbria and Lake District Joint Structure Plan, in Policy R44, indicates that outside the Lake District National Park and Areas of Outstanding Natural Beauty proposals for renewable energy will be favourably considered, unless there are factors which would outweigh the significant weight to be given to the benefits of renewable energy generation.
53. The benefits of the proposed scheme are without question; any permission could be time-limited; and the identified adverse effects could, in time, be reversed. Set against that is a single matter of the cumulative damage to the character and appearance of the landscape and the conflict with specific policies designed to safeguard the landscape.

¹⁰ The most notable are identified in Section 5 of the Environmental Statement Volume 1 – Written Text

¹¹ This policy has to be read with the related energy policies, in particular DP 9, EM 18 and EM 15.

54. In this regard Broughton Lodge occupies a location where the proposed wind turbines would combine with others in the locality and tip the balance from a landscape with wind farms to a landscape with wind turbines as a defining and dominant element. This would be compounded by the height and prominence of the proposed turbines and the manner in which they would become a pre-eminent local focus making the cumulative effects of wind farm development the more pronounced.
55. Against this background I conclude that the identified drawbacks are sufficiently serious so as to outweigh the significant weight to be applied to wind farm projects. The proposal would therefore conflict with Key Principle 1(i) of Planning Policy Statement 22: Renewable Energy in that the environmental effects have not been addressed satisfactorily. Similarly, Policy EM 17 of The North West of England Plan requires consideration of the impact of the proposal on the character and sensitivity of the surrounding landscape, including cumulative impact.
56. Saved Policy E37 of the Cumbria and Lake District Joint Structure Plan, a landscape protection policy, sets out criteria for the consideration of all development proposals and requires development to be compatible with the distinctive characteristics and features of Cumbria's types and sub types with reference, in this case, to visual intrusion or impact. In turn, Saved Policy R44 offers significant weight to, and favourable consideration of, renewable energy proposals if, on balance and in light of other policies in the Plan, there is no significant adverse effect on landscape character either individually or cumulatively through their relationship with other utility infrastructure.
57. Finally, although the Council cite Saved Policies EN19 and EN25 from the Allerdale Local Plan, these are of little relevance in the overall planning balance as they do not make provision for the consideration of the inherent benefits of renewable energy generation.
58. In summary, the weight to be given to the advantages of the project is outweighed by the cumulative harm to the character and appearance of the landscape. This would conflict with Policy EM 17 of The North West Regional Plan and with Saved Policy R44 of the Cumbria and Lake District Joint Structure Plan. The scheme would thus be in conflict with the development plan when read as a whole.
59. I have had regard to other appeal decisions in the locality, with particular reference to the schemes allowed at Tallentire and Westnewton, where cumulative landscape effects were at issue. In both instances the Inspector came to the conclusion that *'despite the intensification of the line (of turbines) between Workington and Carlisle the landscape remains the dominant feature and still would be described as a landscape with wind farms rather than a wind farm landscape'*. However, each case falls to be considered on merit and each approval adds to the cumulative baseline. The site specific considerations that I have identified demonstrate that there would be adverse cumulative effects on landscape character and appearance in this particular location.
60. I have also taken account of the officer recommendation of approval and the support for the proposal expressed by the landscape consultants commissioned to review the planning application but these do not change my conclusions.

61. Having considered these and all other matters raised the appeal is dismissed for the reasons given above.

David MH Rose

Inspector