

PLANNING APPEAL

FULL STATEMENT

ON BEHALF OF THE APPELLANT

27th June 2017

Appeal Reference:

Planning Reference: **2015/0960**

Proposal: **Installation of 1 no. 50Kw wind turbine on a 24m monopole mast (34.2m to blade tip)**

Site address: **on land at Westfield Farm, Royd Moor Road, Thurlstone, Sheffield S36 7RD**

Applicant: **Mr R Barraclough**

Agent: **T J Coates Limited**

1 INTRODUCTION

- 1.1 This is an appeal against an application by Mr R Barraclough for a small wind turbine that was refused by Barnsley MBC in March 2017. A copy of the decision notice dated 23rd March 2017 is attached in Appendix A.
- 1.2 It comprises a single wind turbine with a 3-bladed rotor on a monopole mast. It stands 24m to hub and 34.2m to blade tip. It is proposed to be finished in a grey colour and connected to the grid by an underground cable.
- 1.3 The turbine will provide electricity to help power Westfield farm and reduce its reliance on fossil fuels. It will help the farm diversify, reduce energy costs and generate an income to support the farm in the long term. In addition, the energy generated will

allow the farm to expand its corn grinding activities it undertakes for other farms in the district.

2 BACKGROUND

- 2.1 A proposal for a similar sized wind turbine was dismissed at appeal on 21st July 2014 (Reference APP/R4408/A/14/2212199). A copy of the Appeal Decision Letter is attached in appendix B. This wind turbine was located closer to the village and a nearer to Royd Moor Road.
- 2.2 In the decision letter the Inspector concluded in paragraph 12 that the cumulative impact of the proposal on the fabric, character and quality of the wider landscape would not be significant. However, in paragraphs 15 & 16 he concluded that the proposal would harm the visual amenity of the local landscape because of its prominence when viewed at near distance from Royd Moor Road (from Westfield Farm to Location 2 in the submitted LVIA), from a section of the bridleway immediately to the south of the farm and from the rising footpath that connects Royd Moor Road with a small housing estate to the north-east. He described that the turbine would be highly prominent when viewed against a backdrop of open fields. However, he did accept that its presence would progressively diminish as you travel north-west away from the site.
- 2.3 It is considered that the perceived visual impact of the wind turbine at near distance from these three views (particularly those from the bridleway and Royd Moor Road) was the crucial factor that tipped the balance of the decision against the proposal.
- 2.4 Following the dismissal of the earlier appeal a site meeting was held with a Laura Bibby (Planning Officer) at Barnsley Council to discuss possible modifications to the proposal to make it acceptable. It was agreed to relocate the turbine so it was further away from the public bridleway and further from Royd Moor Road and residential properties to the north-east; but at the same time still maintaining a viable connection to the grid. In

addition, the client offered to carry out tree and shrub planting to provide enclosure and screening to block or partially obscure the turbine from view as the planting matures.

- 2.5 Consideration was given to a reduction in the size of the turbine. However, this would have meant installing a 5Kw or 10Kw turbine (i.e. the next category down being a very small turbine and more domestic in scale) but this proved not to be viable given the relatively low wind speed at 10m above the ground (5 m/s) and the fact that it would not produce sufficient electricity to meet the applicant's own energy needs let alone produce a surplus capable of being exported to the grid to generate an income to support and diversify the farm.
- 2.6 An application was submitted and validated by Barnsley MBC for the modified proposal on 29th September 2015. As well as a revised block plan the application was accompanied by a revised Planning Support Statement and a letter outlining changes to the application. This included an offer from the applicant to reduce the number of Heavy Goods Vehicles operating from his farm yard from 25 to 3 in order to alleviate traffic in the village and improve highway safety for local residents in particular children travelling to and from school. This was supported by a letter from the Head Teacher of the local school. The applicant was hoping to prepare and submit a Unilateral Agreement to this effect and use this to demonstrate very special circumstances. However, against the wishes of local people, Barnsley Council decided that the Established Use Certificate in its own right was not sufficient to confirm the continuing use of the site by HGV's, even though contractor's vehicles can be seen using the yard on a regular basis, and local residents, local councillors and the Police are acutely aware of the problem. The Council therefore declined to include this matter in the decision-making and a Unilateral Undertaking was not prepared. Nevertheless, the appellant is still willing to significantly reduce his haulage yard's operations for the greater public good/benefit if he is successful in obtaining planning consent for his turbine as this will

give him an alternative source of income. This could be secured through condition or by a s106 Agreement.

2.7 Despite initial support and encouragement from Planning Officers for the modified proposal the application was refused at Planning Committee on 21st March by a narrow majority.

2.8 Reasons for refusal were given as follows:

“The site is within Green Belt on the adopted Barnsley Unitary Development Plan. In the opinion of the Local Planning Authority, the proposed wind turbine would appear as an incongruous and visually intrusive feature, divorced from the farm and in a location which would adversely affect the openness and visual amenities of the Green Belt. Furthermore, the development, due to its scale and siting would not retain and enhance the character of the Landscape Character Area in which it would be located. The Council considers that no very special circumstances have been demonstrated in this case which clearly outweighs identified harm and harm by reason of inappropriateness. Accordingly, the proposal conflicts with policies CSP6, CSP29, CSP34 and CSP37 and the National Planning Policy Framework”

3 MATERIAL CHANGES TO THE PROPOSAL AT APPEAL

3.1 Although the appellant offered to undertake shrub and tree planting to enclose and help screen the wind turbine; the exact details of the planting (other than a google map) where never formally requested by Barnsley Council or neither submitted by the appellant as part of the application process. These proposals (which were discussed on site with Laura Bibby (Planning Officer)) have now been added to the proposed block

plan (drawing ref: 121/P01A) and formally submitted as an amendment as part of our appeal. This is contained in Appendix C.

- 3.2 In addition to this, as explained in our presentation to Barnsley Planning Committee, we propose to formally amend the colour finish of the turbine from 'off-white' (RAL7035) to grey (RAL 7000) – see Appendix D. This will provide a better contrast with the background landscape and along with the proposed tree and shrub planting make the turbine less conspicuous.
- 3.3 These changes have now been incorporated into the photomontages for viewpoint locations 1 & 2 (Royd Moor Road) 7 (the Bridleway) and 8 (top of the public footpath connecting Royd Moor Road to a housing estate to the north-east) i.e. the positions at close distance where the Inspector in his decision letter for the previous appeal expressed his concerns over visual impact. The proposed planting in the photomontages is indicative of what screening effect it would have but is not a true image of what it will be like when the planting matures and the shrub layer thickens. The photomontages assume a tree height of 12m. For ease, the photomontages have been presented as comparisons for each location showing the proposed turbine as it is now proposed (i.e. under this appeal) and how it looked under our previous proposal (i.e. an off-white colour with no screen planting without being set back) which was dismissed earlier at appeal. These revised photomontages are contained in Appendix E.
- 3.4 In preparation of our appeal we have also re-assessed the current & future energy needs of the farm. These were not fully reflected in the figures quoted in the Planning Support Statement dated 17th August 2015 (PSS) obtained from the turbine installer which are slightly miss-leading. It states in Appendix A paragraph A4 of the PSS that 95% of the electricity generated by the turbine will be fed into the Grid leaving only 5% to power the farm. However, this assumption only includes the electricity used by the farmhouse and does not factor in the conversion from diesel generators for heating the

barns and powering the corn grinding machines to electric, a switch from gas heating for the farmhouse to electric and future increases in demand. It is now estimated that as much as 52% of the electricity generated by the wind turbine will be used directly on the farm and this will grow to 96.5% when the farm expands its corn grinding activities by under-taking contract work on behalf of other farms in the district and the appellant adds heat lamps and lighting to his other livestock buildings. Furthermore, Farmers will be required by legislation to convert all their farm vehicles and machinery over to electric over the next 20 years further increasing the need for clean energy. The calculations and explanations behind the new energy consumption figures are contained in Appendix F.

- 3.5 The electricity fed into the Grid (48% initially) will generate income from both a feed in tariff and export receipts for selling the electricity to the grid. This is estimated to be £10,500 per year and will provide the farm with much needed revenue to help re-employ a family member (the appellant's son) or part-time farm-hands to expand stock levels and maintain and manage the farm estate. The farm has survived both the BSE crisis and foot and mouth but has new challenges ahead. The move away from the European Union will see a reduction in farm subsidies and this along with rising overheads (such as animal feed due to the continued weakening of Sterling) combined with rising energy prices (which have been almost three times above inflation) has pushed financial viability to breaking point. There is also a shortage and a continual drain of skilled labour from the farming sector as young farmers leave the industry to seek alternative employment in order to make a living. The pressure from supermarkets and wholesale conglomerates to control and squeeze prices has exacerbated the problem meaning that farms have no option but to diversify and explore other ways of generating income. The appellant currently generates income from his haulage yard to support the farm. However, there is mounting pressure to reduce the number of vehicles using it because of concerns from local residents over highway safety, in particular close to the village school. The appellant is sympathetic to these concerns and

has promised to significantly reduce the number of vehicles registered to the yard if his proposed wind turbine is approved, as the replacement income is essential to the survival of the farm.

The appellant's account has expressed his concern in a letter which is enclosed in Appendix G in support of his client's appeal.

4 MATERIAL CHANGES TO PLANNING POLICY & GUIDANCE SINCE THE PREVIOUS APPEAL

4.1 A Written Ministerial Statement was issued by the Secretary of State for Communities and Local Government, Mr. Greg Clark, on 18 Jun 2015. The Statement sets out "considerations" to be taken into account when considering applications for wind turbines. It goes on to state that there will be changes to 'planning guidance' but it does not state that this will be regarded as a policy change that will override the National Planning Policy Framework. As such, the NPPF remains intact and unaltered. The Ministerial Statement is a material consideration when determining applications of this nature, however, it could never serve to disqualify a decision-maker from exercising its own legitimate discretion pursuant to S38(6) of the Planning and Compulsory Purchase Act 2004. Determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. The policy in the WMS should not be applied in a blanket fashion or countermand or frustrate the effective operation of the basic planning principles¹ The Written Ministerial Statement is just one of many material considerations, of which, the National Planning Policy Framework should take precedence when taking decisions and apportioning weight in the balancing exercise.

4.2 Notwithstanding this, in addressing the matters raised by the Ministerial Statement, the

¹ See *Secretary of State for Communities and Local Government v West Berkshire District Council and others* [2016] 1 WLR 3923

statement identifies that: -

4.3 *When determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if:*

(a) the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and

(b) 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.

4.4 It is entirely in the discretion of the decision-maker whether the terms of the WMS are addressed. It is acknowledged by the Courts that its language is not susceptible to easy interpretation. The WMS cannot endorse a principle that a vocal minority could exert decisive or dominant influence.²

In this case, the proposed wind turbine does not fall in an area identified in a Local or Neighbourhood Plan; thus point (b) above is therefore relevant.

4.4 With regards to Local Development Plan, this remains unchanged since the previous appeal.

5 PUBLIC OPINION

5.1 The proposal has generally received the backing of the local community. When the pre-application consultation took place 2 letters of objection were received from local residents and 24 letters of support. A letter of support was also received from the Head Teacher of the local primary school and the manager of the pre-school nursery.

² Holder v Gedling Borough Council [2016] EWHC 3095

- 5.2 When the application was formally advertised 59 residents were notified by post that the application had been submitted as well as public notices being placed adjacent to the site. 3 letters of support were received, a support petition with 18 signatories and a letter from a local councillor. Only 2 objections were received. The occupier of Folly Barn that overlooks the site and who previously objected to the scheme decided not to object when the scheme was re-submitted.
- 5.3 In a recent appeal that was called in by the Secretary of State at Greenholes Farm, Soyland (APP/A4710/W/15/3134617) for a similar wind turbine; the Secretary of State upheld the appeal and accepted the Inspector's recommendation (see paragraph 20 in his decision notice attached in Appendix H) because more letters of support than objections were received from local residents showing that the majority of the community supported the scheme. An almost identical situation exists with this appeal.

6 SUMMARY & BALANCING EXERCISE

- 6.1 The Council has previously approved other wind turbines of a similar size in Green Belt. The appellant's turbine will only have a minor addition to cumulative effects but it is argued other turbines – particularly those adjacent to the recreation and wildlife area at Scout Dyke Reservoir (1.6km to the north) and at Westfield Farm, Brockholes Lane, Cumbley, Penistone (2km to the south-west) have an equal or greater impact upon landscape character and local amenity. Therefore, there is no over-riding reason why the proposal at Westfield Farm should be treated differently.
- 6.2 We accept that the proposal is regarded as inappropriate development in Green Belt and will lead to some modest loss of openness to which significant weight should be attached in the balancing exercise. We also accept that there will be some moderate harm to the character and appearance of the area but this impact is limited to a small localised area close to the turbine and this has been mitigated in part by setting the

turbine further back from Royd Moor Road, changing its colour and introducing tree and shrub planting to make the turbine less conspicuous.

- 6.3 The proposed turbine broadly complies with Barnsley Core Policy CPS6 (Renewable Energy) and CPS21 (Supporting the Rural Economy). We consider that the generation of renewable energy carries significant weight in the balancing exercise. In addition, moderate weight should be attached to economic benefits (in particular financial support and diversification of the farm) and moderate weight to environmental benefits (helping to reduce greenhouse gas emissions and address climate change, helping the farm to maintain the fabric and managed landscape comprising the farm and improving the amenity for local residents by reducing HGV traffic in the village). Together these weigh heavily in favour of our scheme.
- 6.4 The local community are in support of our proposal and their concerns have been satisfactorily addressed. As such we respectfully ask the Inspector to grant approval for our scheme.

APPENDICES

- A LPA Refusal Notice (15/0960)**
- B Previous Appeal Decision Letter (APP/R4408/A/14/2212199)**
- C Location & Site Layout Plan (MJC-121-P01A)**
- D RAL Colours**
- E Revised & Comparison Photomontages (viewpoints 1, 2, 7 & 8)**
- F Energy Consumption Figures**
- G Support letter from the appellant's accountant**
- H Greenholes Farm, Soyland Appeal Decision (APP/A4710/W/15/3134617)**