The Planning Inspectorate

Appeal Decision

Site visit made on 2 July 2015

by Brian Cook BA (Hons) DipTP MRTPI

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

Decision date: 28/09/2015

Appeal Ref: APP/R4408/W/15/3005187
Dyson Cote Farm, Dyson Cote Lane, Snowden Hill, South Yorkshire S36 8YR

- 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 Charles Ashton (DC21 Group) against the decision of Barnsley Metropolitan Borough Council.
- The application Ref 2014/1017, dated 22 August 2014, was refused by notice dated 12 December 2014.
- The development proposed is the installation of 1 No. wind turbine.

Decision

1. The appeal is dismissed.

Procedural matter

2. On 18 June 2015 the 'Local Planning' Written Ministerial Statement (WMS) was published along with associated changes to the Planning Practice Guidance. I have had regard to the changes to policy from the WMS which, in the light of the facts in this case, do not alter my conclusion and decision that the appeal should be dismissed.

Main Issues

3. The appeal site lies within the Green Belt. The parties are agreed that the development would amount to inappropriate development in Green Belt. The proposed wind turbine would fall within the definition of a building given in s336(1) of the principal Act. Having regard to the longstanding national planning policy regarding the construction of new buildings in Green Belt, most recently reaffirmed in paragraph 89 of the National Planning Policy Framework (the Framework), the parties' position is clearly correct.

4. As a matter of national planning policy (Framework paragraph 87) inappropriate development is by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application for development in Green Belt local planning authorities, and by extension the Secretary of State on appeal, are required by Framework paragraph 88 to ensure that substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

5. In assessing whether or not there would be any other harm to add to that by reason of inappropriateness, the main issues are:

   (a) The effect of the development proposed on the openness of the Green Belt; and

   (b) The effect on the landscape character and visual appearance of the area.

Reasons

The effect on openness

6. Although the essential characteristics of Green Belts are their openness and their permanence (Framework paragraph 79), 'openness' is not defined in statute or Guidance. Generally, the courts have held that it means an absence of development. While the extent to which the proposed development may be seen and thus its visual impact appreciated may go to the weight to be attributed in carrying out the Green Belt balance, it does not influence the principle that the openness of the Green Belt would be affected by built development. The effect on openness is therefore determined not only by the footprint of the structure and the loss of open land to development but by the nature of the building erected.

7. In this case, the footprint of the development would be relatively modest. There would be what the appellant describes as an underground concrete foundation and a small control cabinet at the base of the turbine tower. However, the turbine would stand some 49m to the blade tip. The Council puts the difference between the hub and the blade tip height at around 12.5m. The three blades proposed would therefore sweep an area some 24m in diameter. That would be considerably larger than the ground coverage of the base.

8. Given the prominence of what would be a tall structure with a sizable moving element that would be situated in an elevated position my judgement is that the proposed structure would therefore have a moderate harmful effect on the openness of the Green Belt.

The effect on the landscape character and visual appearance of the area

Landscape character

9. There is no dispute between the parties that the appeal site lies within the Penistone Upland Farmland landscape character area (LCA) identified in the Barnsley Borough Landscape Character Assessment dated December 2002. The LCA is described as being a rural agricultural landscape that remains almost entirely grazed sheep pasture. The network of intact stone walls is a dominant and unifying feature of the landscape and gives a strong and distinctive geometric field pattern. Woodland cover is relatively low although there are some large deciduous woodlands in the shelter of the slopes that descend into the Little Don River valley and some isolated stands of beech are silhouetted on the skyline. Power lines and pylons are also prominent elements of the skyline. The overall strength of character is considered strong, the landscape condition moderate, the sensitivity to built development high and the landscape capacity low.

10. However, neither party has provided in evidence a map showing the extent of this LCA and thus the relationship of the appeal site to its boundaries. From

the written description given in the LCA of the extent of the area it appears to me that the very prominent wind farms at Royd Moor and along the Whitley Common ridgeline referred to by both parties are in a different LCA. It was difficult to judge therefore when moving around the area which LCA I was in or looking across.

11. I travelled extensively around the area between Denby Dale in the north and Stocksbridge in the south. The views across open moorland to the Peak District National Park are striking and the landscape character described above is very evident. However, energy infrastructure in the form of both power lines and their supporting pylons and wind turbines is also visible. A number of single turbines of varying size were present in addition to the two wind farms referred to above. While not characteristic, they have nevertheless become part of the landscape that is appreciated when moving around the area.

12. The appeal site is on the side of a valley. The field itself is bordered by stone walls and is situated below a stand of trees. It is therefore characteristic of the wider LCA. It is however very close to another, smaller, wind turbine, an overhead power line and its associated pylons and a relatively short distance from a significant electricity sub-station from where a number of other power lines radiate outwards. None of these features is characteristic of the wider LCA. They do however contribute to the character of the immediate landscape within which the appeal site lies and the appeal proposal must be seen in that landscape context.

13. The appellant has assessed the impact on landscape character as 'medium'. On the evidence before me I consider that to be a reasonable assessment but one which nevertheless recognises that the introduction of a further wind turbine into the area would cause some harm to the landscape character.

Visual appearance

14. Wind turbines are for the most part significant structures and, depending on the local topography, are usually visible over quite a wide area. Whether they are visually harmful is a matter of judgement in the particular circumstances. A visual impact assessment carried out in accordance with recognised professional guidelines can inform that judgement. A critical element of that assessment is the selection of the representative viewpoints used to illustrate the likely visual effects of the development proposed. In this case, I note that the viewpoints used by the appellant were not agreed with the Council. I concur with the Council that some are not representative of views from that location even to the extent of being positively unrepresentative in isolated cases. I note too that there has been no assessment of the cumulative impact of the appeal proposal and the existing turbine nearby. Since the latter actually provides a useful landmark when viewing where the appeal proposal would be sited, this is a surprising omission.

15. The wind turbine would stand just off a locally important ridge line. It would therefore be visually apparent from three broad areas; the predominantly open land generally in an arc to the north; the more enclosed valley to the south; and the more immediate vicinity of the appeal site where there are a number of public rights of way and other highways. These are now considered in turn.

16. As already noted, there are a number of wind turbines in view from the land generally to the north of the appeal site. The nearby turbine is noticeable on

the ridgeline. However, in many views from this area the appeal proposal would be below the ridgeline and screened to a degree by the stand of trees. Despite this, I would expect the turning blades to be visible although distance would be a mitigating factor. On balance, while the appeal development would be visible in this view I do not consider that the visual appearance of the area would be materially harmed.

17. In contrast, from the land to the south which includes the settlement of Stocksbridge, the wind turbine would be a very prominent feature in the view. It would appear against the stand of trees which might screen it in other views and the blades and part at least of the tower would appear on and above the skyline. The village is built largely in the valley and on the opposing valley side to that which the turbine would be sited upon. As I saw during my tour of the area, it would thus be seen from numerous residential properties.

18. I acknowledge that there are overhead power lines and their supporting pylons in this view also, some of which are in the foreground. There is however a qualitative difference in my view between those and the wind turbine proposed. First, both the pylons and the tower are merely supports for the functional element of both structures. These are the power lines and the blades respectively. The pylons are open structures whereas the turbine tower would be solid. The latter would therefore be far more prominent than the former. Second, turning to the functional elements, the power cables are thin features that are barely visible from distance. Apart from swaying slightly in the wind, they do not generally move. In contrast, the blades are intended to turn (the structure would not perform its intended function when they do not) and, given the diameter of the sweep, would be prominent when they do so since the movement draws the eye to the structure and, in my opinion, away from static elements in the view such as the pylons.

19. In my judgement, the appeal proposal would therefore represent a significant and intrusive new element in this view and would significantly harm the visual appearance of the area as a result.

20. In the immediate vicinity of the appeal site there is the other turbine and the significant electricity sub-station from where a number of other power lines radiate outwards. Some of the public rights of way in the area pass next to and/or beneath some of these features. From others, one or more is prominent in the view depending on the local contours and relative positions. In my judgement there is already a significant degree of visual clutter in this immediate landscape. While the appeal proposal would add to it, there would not be any material harm to the visual appearance of the area as a result.

Conclusion on this issue

21. I have found that there would be some harm to the landscape character of the area. There would therefore be a conflict with policy CSP 37 of the Barnsley Local Development Framework Core Strategy (CS) adopted in September 2011 which expects development to retain and enhance the character and distinctiveness of the individual LCA in which it is located. I have also found that there would be significant harm to the visual appearance of the area when viewed from the south of the appeal site. The appeal proposal would therefore conflict with CS policy CSP 6 which is the policy addressing development that produces renewable energy and requires, among other things, there to be no <u>significantly</u> harmful effect (my emphasis) on the character of the landscape

(which there would not be) and the appearance of the area (which there would be). Insofar as the development would not respect views and vistas to the skyline, the proposal would also conflict with CS policy CSP 29.

Other matters

22. Before turning to the Green Belt balance, there are a number of other matters that have been raised in the representations. These include the noise that would be generated by the operation of the turbine, shadow flicker effects, impact on ecology and the adequacy of the survey work, decommissioning and highway safety.

23. All of these matters were addressed by the Council in the officer's report following expert advice from consultees and/or internal officers as appropriate. The report sets out the conclusions which are, in summary, that the matter has been adequately addressed by the (then) applicant and, where necessary, can be subject to a condition giving the necessary control in the event of an unexpected event arising. On the evidence before me I see no reason to disagree with the Council's assessment on any of these matters.

Green Belt Balance

24. The Green Belt balance requires an assessment of whether the harm by reason of inappropriateness and any other harm would be clearly outweighed by other considerations to amount to the very special circumstances required to justify the proposal.

25. In this case, to the harm by reason of inappropriateness must be added the moderate harm to openness, the harm to landscape character and the significant harm to the appearance of the area that I have found would be caused by the development proposed. In accordance with national policy I therefore attribute very substantial weight to the totality of the harm to the Green Belt.

26. The appellant puts forward a number of other considerations to weigh in the Green Belt balance. These can be grouped into two broad categories, namely those associated with the enterprise and those flowing from national policy.

27. In the first group the farm business is a small-scale dairy farm employing eight full time staff. Its annual demand for electricity is about 145,000 kWh. The appeal proposal would provide about 217,700 kWh per annum thus allowing the enterprise to be self sufficient in electricity while also exporting to the national grid and thus generating additional income. A number of generalised statements are also made about the effect that this would have on the business such as allowing it to grow and support future generations of the family and be more competitive on price, creating opportunity for business growth and diversification and providing energy security for the business and the local area through power feed to the grid. However, no further evidence is provided to substantiate any of these statements. Nevertheless, some are likely to result and I attribute some weight to these points.

28. Turning now to the second group, both national energy policy and national planning policy as set out in the Framework are supportive of the delivery of renewable and low carbon energy and associated infrastructure. Neither the new policy set out in the WMS nor the consequent changes to the Planning Practice Guidance explicitly alter that policy stance. Framework paragraph 98

makes it clear that applicants for energy development are not required to show an overall need for renewable or low carbon energy. Decision makers should also recognise that even small-scale projects provide a valuable contribution to cutting green house gas emissions. The appellant confirms that the appeal proposal would save around 130 tonnes of CO_2 each year. These are therefore considerations to which I attach significant weight.

29. The appellant also contends that there would be both economic and social benefits from the appeal proposal. While it is claimed that employment opportunities would be created in the renewable energy sector, no evidence is put forward to explain how this assertion would flow directly from the appeal development. Nor is there any evidence to suggest any local employment opportunities would be created in constructing or decommissioning the proposed turbine. Any that would be are likely to be very short term. The social benefits claimed are related to education and awareness raising of climate change issues in the local community. However, this would appear to derive from the fact that the turbine would be visible rather than, say, any proactive provision of educational resources to local schools. I therefore give very little weight to these economic and social benefits.

30. Framework paragraph 91 says that '…very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources' (my emphasis). I have set out above that I consider significant weight should be given to this aspect of the appeal proposal in the Green Belt balance. It is however a misrepresentation of national planning policy to assert as the appellant does in the policy review section of the Design and Access Statement that '….although turbines are deemed an inappropriate development in principle in the Green Belt, the benefits of this type of renewable energy provision and the government's direction on such matters can and does override Green Belt planning policy.'

31. Applying the clear and longstanding national Green Belt planning policy reaffirmed in Framework paragraphs 87 and 88, I find that the other considerations in this case do not clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Conclusion

32. For the reasons given above I conclude that the appeal should be dismissed.

Brian Cook

Inspector