
Appeal Decision

Site visits made on 12 and 17 May 2015

by Neil Pope BA (Hons) MRTPI

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

Decision date: 10 December 2015

Appeal Ref: APP/D0840/A/14/2226683

Polshea Farm, St. Tudy, Bodmin, Cornwall, PL30 3PA.

- 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 C P Button Ltd against the decision of Cornwall Council.
 - The application Ref.PA13/09867, dated 25/10/13, was refused by notice dated 22/4/14.
 - The development proposed is described as the siting of a single 500kW three bladed wind turbine for renewable energy self-sufficiency at the 900 cow dairy unit.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 18 June 2015, the Written Ministerial Statement (WMS) 'Local Planning' was issued. The views of both main parties have been sought regarding this WMS.

Main Issue

3. Whether the benefits of the scheme, including the production of electricity from a renewable source, outweigh any harmful impacts, having particular regard to the effects upon the character and appearance of the area, including the Bodmin Moor area of the Cornwall Area of Outstanding Natural Beauty (AONB) and the settings of various designated heritage assets and, if so, whether permission should be granted having regard to the above WMS.

Reasons

Planning Policy

4. The development plan includes the 'saved' policies of the North Cornwall Local Plan (LP) which was adopted in 1999. The most relevant policies to the determination of this appeal are TRU4, ENV1 and ENV12.
5. TRU4 requires schemes for wind turbines to be assessed having regard, amongst other things, to policy ENV1 and the benefits of renewable energy. Policy ENV1 is aimed at protecting the countryside and landscape character. Policy ENV12 includes a requirement to safeguard the setting of listed buildings. These policies are broadly consistent with the provisions of the National Planning Policy Framework (the Framework), although ENV12 lacks the 'cost-benefit' assessment provided for in section 12 of the Framework.
6. I have also taken into account the provisions of policies 15 (renewable energy), 23 (protection of the natural environment) and 24 (historic environment) of the

emerging Cornwall Local Plan (eLP). These are also broadly consistent with the Framework. The eLP has been submitted to the Secretary of State for Examination. Hearing sessions to assess the soundness of this plan are scheduled for 2015. At this stage, the provisions of the eLP can be given limited weight.

7. Whilst not part of the development plan, the Cornwall AONB Management Plan 2011-2016 (MP) is a material consideration. Amongst other things, this identifies the special qualities of the AONB and sets out policies which are aimed at conserving and enhancing this designated landscape. It can be given moderate weight in determining this appeal.
8. The significance or special qualities of the Bodmin Moor area of the AONB include: a gently undulating elevated moorland plateau; imposing summits with ragged crests of dramatically eroded granite creating a distinctive horizon recognisable from afar; bleak sweeping landforms which create an impression of endless empty vastness and huge scale in contrast to the intimacy of the surrounding lower valleys; intermingling pockets of commons and enclosures; isolated modern conifer plantations; occasional nucleated villages around the fringes of the moor with medieval churchtown origins.
9. Amongst other things, policy PD8 of the MP requires particular care to be taken to ensure that no development is permitted outside the AONB which would damage its natural beauty, character and special qualities or otherwise prejudice the achievement of AONB purposes.
10. The Council has drawn my attention to its Renewable Energy Planning Guidance Note 3 'The development of onshore wind turbines' (2013). It is intended to adopt this as a Supplementary Planning Document after the adoption of the emerging LP. However, this appears to be an 'engagement tool' for those making applications. It is not determinative to this appeal.
11. I have taken into account the provisions of the Council's 2012 Technical Paper 'An Assessment of the Landscape Sensitivity to Onshore Wind and Large Scale Solar Photovoltaic Development in Cornwall' (ALS). The proposal would comprise a 'medium-sized' turbine as defined in the ALS. This document has yet to be adopted by the Council and can only be given limited weight.
12. In determining planning applications for wind energy development, Footnote 17 of the Framework states that planning authorities should follow the approach set out in the National Policy Statement for Renewable Energy Infrastructure (EN-3), which should be read with the relevant sections of the Overarching National Policy Statement for Energy (EN-1). Amongst other things, EN-1 states that the Government is committed to increasing dramatically the amount of renewable generation capacity and EN-3 states that onshore wind farms will continue to play an important role in meeting renewable energy targets. In addition, the Framework, amongst other things, seeks to increase the use and supply of renewable and low carbon energy.
13. I have also taken into account the WMS¹ of 6 June 2013 and 23 March 2011. Whilst not planning policy, I have had regard to the Government's Planning Practice Guidance (PPG) for renewable and low carbon energy.

¹ Secretary of State for Department for Communities and Local Government and the Secretary of State for the Department of Energy & Climate Change.

Other Documents

14. I have taken into account the provisions of various Acts², Directives³, Strategies⁴ and statements⁵ relating to renewable energy, including the 2007 energy white paper⁶. Amongst other things, these set out and identify progress towards achieving the legally binding target of reducing UK emissions by at least 34% by 2020 and 80% by 2050, as well as achieving the UK's obligation of 15% of energy consumption from renewable energy resources by 2020. They reflect the Government's commitment to renewable energy. These are important matters to weigh in the planning balance. However, amongst other things, the PPG advises that the need for renewable energy does not automatically override environmental protection or the planning concerns of local communities.

Benefits

15. On behalf of the appellant, it has been calculated that the proposed wind turbine would have a capacity factor of about 30%, yielding 150 kW on average throughout the year. About 60% of the electricity generated would be used in the appellant's 554 ha dairy enterprise⁷ with surplus electricity available for use elsewhere in the grid. This would avoid the appellant having to use a substantial quantity⁸ of electricity generated by fossil-fuel power stations and would offset many tonnes of carbon dioxide emissions a year. The proposal would assist in tackling climate change⁹ and help meet national targets and ambitions for reducing greenhouse gas emissions.
16. The above calculations are disputed by some interested parties and it has been argued that the proposed wind turbine is intended to attract the maximum subsidy. However, matters of policy/subsidy are not for my consideration. Whatever the actual figures for electricity production the Framework states that even small-scale renewable or low carbon energy projects provide a valuable contribution to cutting greenhouse gas emissions.
17. I note from the planning officer's report that it was not until 2011 that the Council met its previously adopted (2010) target for installed electrical capacity. I also note the arguments made by interested parties that the Council's 2020 target for renewable energy has already been exceeded. However, there is no guarantee that schemes which have been approved or consented elsewhere will proceed. Moreover, there is nothing within Government policy to suggest that targets are an end in themselves, or that they should not be exceeded if acceptable schemes come forward. I also note from the ALS that the Council recognises that Cornwall has some of the best conditions to produce wind electricity in the UK and it understands the need to maximise renewable energy generation.
18. The proposed development would increase the security of electricity supply and contribute towards replacing the UK's dated fossil-fuel based energy

² The Climate Change Act 2008.

³ Renewable Energy Directive 2009/28/EC.

⁴ Including the UK Renewable Energy Strategy (2009) and the UK Renewable Energy Roadmap and its updates.

⁵ Department of Energy & Climate Change Annual Energy Statement (2013).

⁶ 'Meeting the Energy Challenge' DTI (May 2007).

⁷ A sizeable part of the holding is in arable production.

⁸ The appellant's business uses approximately 400,000 kWhrs/annum.

⁹ Including 'in combination' effects with other renewable and low carbon energy schemes in combating the impacts of climate change on the landscape.

infrastructure. It would result in a considerable cost saving to an established rural business which, in addition to three full-time directors, provides employment to 11 full-time and 3 part-time members of staff. The sale of the surplus electricity would help diversify/strengthen this local business and the employment it provides.

19. The above package of economic, social and environmental benefits is an important consideration to weigh in the planning balance and can be given substantial weight in determining this appeal.

Character and Appearance

20. The appeal site comprises parts of two sizeable fields (improved grassland) on the northern side of a hillcrest (141m AOD). The village of St Tudy is approximately 0.75 km to the south west and the edge of the AONB is about 2.6 km to the east. The Camel and Allen Valley Area of Great Landscape Value (AGLV) is 308m to the west. The base of the proposed turbine would be about 134m AOD.
21. The site lies within the Camel and Allen Valleys Landscape Character Area (LCA) 33 as defined in the Cornwall and Isles of Scilly Landscape Character Study (2007). The key landscape characteristics of this area include: undulating plateau with valleys; exposed higher land with medium scale fields with few trees; landmark churches on the higher ground; scatter of substantial prehistoric hillforts and; the main urban settlement of Bodmin. LCA 32 (Bodmin Moor) lies to the east. I have noted above some of the special qualities of this area of landscape. As I saw during my visits, this part of the countryside also includes rows of tall electricity pylons, wind turbines of various heights¹⁰, telecommunications masts, sizeable farm buildings and a variety of holiday accommodation. The wider surroundings include other wind turbines such as those at Delabole¹¹.
22. The ALS identifies this part of LCA 33 as having a moderate sensitivity to wind energy developments and LCA 32 as having a high sensitivity. For LCA 33 the Landscape Strategy is for a landscape with occasional small or medium clusters of turbines (or single turbines) on the hills between the valleys, comprising turbines that may be up to the smaller end of the large category.
23. The appeal site lies within an area of pleasant open countryside. Nevertheless, it forms part of a working agricultural landscape that contains a number of tall vertical structures and modern agricultural buildings/plant. During my visits I also heard motor vehicles and farm machinery and observed traffic moving through the landscape and the movement of wind turbine blades. The appeal site is not within an especially tranquil part of the countryside nor is it identified for special protection within the development plan.
24. All landscapes have some value and whilst not unattractive, there is no cogent evidence to demonstrate that the site forms part of a "valued landscape" to which paragraph 109 of the Framework applies. Whilst I note the proximity of the AGLV, it has not been demonstrated that the proposal would harm the character of this locally designated area of countryside. I note that the Council was unconcerned by the impact upon the AGLV. Nevertheless, national and

¹⁰ These include a 45m tip height turbine at Woodland Farm approx. 1 km to the north east and two 34m tip height turbines at Tregawn Farm approx. 1 km to the west.

¹¹ 4 x 99.5m tip height turbines.

local planning policies recognise the importance of protecting the intrinsic qualities of the countryside.

25. The proposal includes the construction/upgrading of a long length of access track through the two fields. A very small part of one of these fields would be occupied by the base of the turbine tower and a small transformer building would be provided alongside. The new section of access track would follow the line of the existing hedges. Along with the transformer building it would have no material impact upon the character or appearance of the landscape.
26. The proposed wind turbine would be a very tall addition to the landscape. This man-made structure would be out of scale with the hedgerows and the motion of the turbine blades would result in movement at an elevated level in this part of the countryside. Within about 0.5 km of the site the turbine would become a defining feature of the local landscape. This prominent structure would have a high magnitude of effect on the character of the local landscape. However, as I have noted above, this is a landscape that already contains some tall structures. Whilst it would be taller than the nearby pylons and wind turbines it would add to the existing vertical elements in this part of the landscape. Its significance/effect upon the character of this landscape would be moderate but adverse. This weighs against granting permission.
27. Due to landform and vegetation the landscape effects of the proposed wind turbine would reduce with distance from the site. Up to about 1.5 km away the turbine would remain a prominent addition to the landscape. It would dilute the rural character of the area. Whilst it would be another tall element within the setting of the 'Bodmin Moor' LCA, the tip of the turbine blades would be below the ridge of land where the Church of St. Brueredus sits and below the tip height of the turbine blades at Woodland Farm which is very much closer to the Church of St. Michael at Michaelstow to the north east.
28. Between 1.5 -2.5 km the effect of the wind turbine upon the character of the landscape would reduce to low but the significance/effect would remain adverse. This adverse effect also weighs against an approval. Beyond 2.5 km the magnitude of effect would be negligible with many existing tall structures forming part of the character of the landscape. The proposal would not be so tall or prominent as to erode the scale and sense of emptiness experienced within the AONB or materially impact upon the character of the fringes of Bodmin Moor. It would not adversely affect the special landscape character of this nationally important landscape.
29. During my visits I viewed the appeal site from many parts of the public realm. This included sections of various public footpaths and parts of the AONB, such as Treswallock Downs. I also climbed the roadside steps to access Helsbury Castle and noted the relationship with other designated heritage assets.
30. The proposal would be visible from many parts of the public realm. This is an area that is popular with visitors. Those using the minor local road network and public footpaths, including the Moorland Way, Cornwall Way and National Cycle Route 3, would be 'high sensitivity' receptors. Whilst seeing a wind turbine does not, by itself, equate to a harmful visual impact, within about 2.5 km of the site and where topography and/or vegetation failed to filter public views, there would be a considerable visual impact.

31. Within 2.5 km of the site the proposed wind turbine would appear conspicuous. Its height, the engineered form of the turbine tower and the rotating motion of the blades would be an intrusive element in the rural scene. Although the turbine would be unlikely to spoil the overall enjoyment of the above noted paths/routes it would detract from the appearance of this part of the countryside. This weighs against an approval.
32. However, this new detracting element would be seen in the context of nearby turbines and the row of tall pylons alongside. It would not be an unusual addition to this part of Cornwall. The rugged scene of Bodmin Moor and views of the valley sides to the west would remain for users of these paths/routes. There would be no disruption to any important views of the AONB or the AGLV. Moreover, the difference in ground levels and the siting of the turbine away from notable features in this part of the countryside would ensure that the proposal did not usurp the Church of St. Brueredus as a historic local landmark or displace the prominence of Helsbury Castle in the landscape.
33. Beyond 2.5 km the proposal would, on clear days, be readily apparent within the landscape, including from Treswallock Downs. From these areas it would occupy a very small part of the wide views that exist across the landscape and which contain numerous wind turbines and masts of various heights. It would not 'draw the viewer's eye' any more than the existing turbines. There would be no erosion of the special qualities of Bodmin Moor or disruption to important views looking out of or towards the AONB.
34. As required by LP policy ENV1(1) the proposed development would not adversely affect the character or amenity of the AONB. There would be no damage to the natural beauty of Bodmin Moor and there is nothing of substance to show that the proposal would prejudice the achievement of AONB purposes. There would be no conflict with MP policy PD8.
35. The development would add to the number of wind turbines within this part of Cornwall. However, it would be adequately separated from other permitted turbines. The proposal would not give rise to any pronounced simultaneous or sequential cumulative landscape or visual impacts. I note that the Council did not identify any harmful cumulative impact. The proposal would accord with the Landscape Strategy in the ALS.
36. The adverse impact upon the character and appearance of the area that I have identified above would be at odds with the provisions of LP policy ENV1(2).

Settings of Designated Heritage Assets

37. I have had regard to the duty¹² regarding the setting of listed buildings and the provisions of paragraph 132 of the Framework.
38. Helsbury Castle is a late Bronze Age-Early Iron Age hillfort and a Scheduled Ancient Monument on the summit of Michaelstow Beacon. Its significance is derived primarily from its historical remains and its former role as a place of refuge and settlement. It occupies a commanding position within the landscape and, as I saw during my visits, there are extensive views across the surrounding countryside. The appeal site forms part of the surroundings in which this designated heritage asset can be experienced and, as consequence, is part of its setting.

¹² Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

39. The unspoilt open qualities of the appeal site add to the landscape setting of the hillfort and the ability to appreciate the significance of this asset, not least the importance of the views (albeit now very different) to those who once occupied this local high point. When viewing the hillfort from the Moorland Way to the north east, the proposal would be seen in the context of buildings, masts, pylons and some other wind turbines.
40. The proposed wind turbine would be seen in some views from Helsbury Castle. Whilst the height and form of the turbine would, on clear days, be unmistakable it would be a minor element in the panoramic views. It would be set well apart from this heritage asset and the tips of the turbine blades would be well below the height of the rampart and enclosures. It would be a minor distraction in views and have a minor adverse effect (less than substantial harm) upon the ability to appreciate the significance of this asset. Whilst this weighs against an approval, the Council is unconcerned by this matter. I also note that it approved the wind turbine at Woodland Farm which is much closer to this designated heritage asset.
41. The Grade I listed parish Church of St. Michael has 13th century origins, was enlarged in the 15th century and restored in 1826. The significance of this asset lies primarily in its inherent architectural qualities and historic associations with the parish. Although this building occupies part of the south west facing hillside beneath Helsbury Castle, as I saw during my visits, it is largely screened in the landscape by trees. The proposed wind turbine would be set apart from this designated heritage asset and would be heavily filtered in views from the Church. It would not disrupt any important views towards the Church. The proposal would preserve the setting of this asset.
42. The Grade I listed parish Church of St. Brueredus has Norman origins with later 13th century works and was restored in 1863-64. The significance of this asset lies primarily in its inherent architectural and historic qualities, including its associations with the parish. This asset can be experienced from the surrounding area, including the countryside to the north and west and the AONB to the east. The ridge of land upon which it sits assists in revealing its significance as a place of worship within this rural area. Whilst originally it would have acted as a beacon for worship, surrounding vegetation and buildings combine to diminish the prominence of this building within the landscape. The proposed wind turbine would be set apart from this designated heritage asset and would be filtered in views from the Church. It would be seen in some views of the church from the north and east, but would not displace the significance of the church tower or mar any important views towards this designated heritage asset.
43. The Grade I listed parish Church of St. Uda is situated in the middle of the village of St. Tudy. This building has Norman origins, 15th century works and was restored in the late 19th century. The significance of this asset lies primarily in its inherent architectural and historic qualities, including its associations with the parish. Whilst it is a landmark within the village it is not particularly prominent within the wider landscape. Intervening buildings and trees largely screen the church from the appeal site. There is no cogent evidence before me to demonstrate that the appeal site forms part of the surroundings in which this asset is experienced and adds to its significance. The proposal would preserve the setting of this asset.

44. Hengar is a Grade II listed country house (granite walls and slate roof) which was rebuilt in 1905 and now forms part of a holiday complex. Whilst the surrounding countryside, including the land to the west where the appeal site is located, is likely to have once formed part of the setting to this heritage asset, the trees and considerable number of holiday lodges that surround this property curtail the ability to experience this asset from beyond its curtilage. The upper parts of the proposed wind turbine could possibly be seen from this listed building. However, these are likely to be only glimpsed views and would not harm the significance of this asset.
45. Lamellen is a Grade II registered Historic Park and Garden¹³. The significance of this 7 ha woodland garden lies primarily in its 19th century specimen trees and early 20th century rhododendrons that were developed by E J P Magor. These gardens are not publicly accessible and I was only able to view the relationship with the appeal site from the public domain. In all likelihood, the proposed wind turbine would be visible from part of these gardens.
46. The assessment undertaken on behalf of the appellant found that the proposal could have a negative impact upon the appreciation of these gardens as a feature within the local landscape. Having viewed the appeal site and the surrounding countryside it is unclear to me how the proposal would impact upon the significance of this asset. However, as I was unable to access these gardens I shall adopt the stance set out in the appellant's assessment. The harm to the setting of Lamellen would be less than substantial. This weighs against an approval. The turbine would be an adequate distance from these gardens so as to avoid any significant noise disturbance.
47. My attention has been drawn to numerous other heritage assets. However, there is no cogent evidence to demonstrate that the site forms part of the settings of any of these and would harm their significance. Whilst English Heritage (now Historic England) objected to the application and raised concerns over the adequacy of information regarding heritage assets, it is unclear to me if they were provided with a copy of the appellant's Archaeological Assessment. This includes an assessment of the likely impact upon various heritage assets. The Council did not raise any concerns regarding heritage assets and there would be no conflict with LP policy ENV12.

Other Matters

48. The proposal would alter the outlook from some neighbouring properties. However, the wind turbine would not be so close or so tall as to appear overbearing or dominant. The occupiers of these properties would continue to enjoy pleasing rural outlooks. The Council was unconcerned by this matter.
49. Noise from the proposed wind turbine could be audible above existing background noise at some neighbouring properties. However, the appellant's noise assessment indicates that emissions would be within acceptable limits¹⁴. This matter was examined by the Council's environmental health officer and no concerns were raised regarding the noise impact of the turbine. There is no cogent evidence to support the fears of some interested parties that the proposal would harm the health of neighbouring residents.

¹³ I understand that the Lamellen House is a Grade II* listed building.

¹⁴ 'The Assessment & Rating of Noise from Wind Farms' ETSU-R-97

50. Wind turbines exist in many areas that are popular with visitors, including this part of Cornwall. There is no convincing evidence before me to demonstrate that the proposal would harm tourism interests.
51. The appellant's ecological assessment reveals that the site is of low ecological interest. It also notes that the proposed wind turbine would be positioned away from hedgerows which are likely to be of interest to birds and bats. This assessment indicates that the proposal would be unlikely to have any significant effect upon protected species or other nature conservation interests. There is no cogent evidence to support the arguments of some interested parties that the development could pose a significant risk to wildlife interests.
52. I note the findings of the Inspector who dismissed an appeal for a wind turbine at Tregarrick Farm in July 2014 (Ref. APP/D0840/A/13/2210306). However, there are important material differences with the scheme before me. That appeal related to a taller (77m) wind turbine and would have been closer to the AONB, the Church of St. Brueredus and Hengar. The proposal before me would not have the same impact and the package of benefits to be weighed in the planning balance is different. In this current appeal the appellant has given thoughtful consideration to the height and location of the proposed wind turbine. The 2014 appeal decision does not set a precedent that I must follow.
53. There are also material differences with the other proposals that were the subject to the appeal decisions in other parts of the country that have been drawn to my attention. In particular, the turbines were different heights to the scheme before me, the landscape impact/package of benefits were different and in the case I dealt with in Northamptonshire¹⁵ there was much evidence to substantiate the concerns raised regarding the impact upon bats. Each case must be determined on its own planning merits and on the basis of the evidence before the decision-maker.

The June 2015 WMS

54. This is an important material consideration. It sets out new considerations to be applied when considering wind energy development so that local people can have the final say on proposals. In this instance, the appeal scheme is to be assessed under the transitional provisions of the WMS. In effect, this allows local planning authorities to find a proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing.
55. There were numerous objections to the proposal at application and appeal stage from some members of the local community, including the Trevenning Action Group. There was also some support for the proposal.
56. Whilst I note the arguments made on behalf of the appellant regarding an interpretation of the WMS, I am unable to reasonably conclude that the appeal scheme has addressed and / or would satisfy local concerns and has the backing of the affected local community. Notwithstanding my findings above, it is clear to me that a substantial body of local opinion remains strongly opposed to the scheme. An approval would be at odds with the objective of the WMS.

¹⁵ Ref. APP/Y2810/A/12/2186969

Planning Balance/Overall Conclusion

57. I have found that the proposal would result in some harm to the character and appearance of the area. This is perhaps unsurprising given the nature of wind turbines. I have also found that the proposal would result in less than substantial harm to the setting of a Scheduled Ancient Monument and a registered Park and Garden. In this regard, less than substantial harm does not equate to a less than substantial planning objection. I attach considerable importance and weight to this harm. However, the harmful impacts of the proposal would be limited to 25 year period and would be reversible. When weighed with the benefits of the scheme, including the wider public benefits of tackling climate change, matters are very finely balanced. The proposal would accord with LP policy TRU4 and, when the Framework is read as a whole, it would comprise sustainable development.
58. The 2015 WMS must also be weighed in the planning balance. As the latest expression of government policy regarding wind energy development this is undoubtedly a matter which the Secretary of State would expect to be given substantial weight. When the conflict with this WMS is weighed with all other matters the balance tips against an approval. This other material consideration leads me to find that the appeal should not be determined in accordance with the development plan. In this instance, the conflict with the objective of the WMS outweighs the presumption in favour of sustainable development. Permission should therefore be withheld.
59. My attention has been drawn to the decision in West Berkshire District Council and another v DCLG [2015] EWHC 2222 (Admin). It is a matter of law as to whether or not that decision has a bearing on the WMS issued in June 2015. Whilst I am not a lawyer, having considered that decision it does not tip the planning balance back in favour of the appellant.
60. Given all of the above, I conclude that the appeal should not succeed.

Neil Pope

Inspector