

Appeal Decision

Site visit made on 24 November 2015

by Neil Pope BA (Hons) MRTPI

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

Decision date: 01 April 2016

Appeal Ref: APP/D0840/W/15/3051147

Cocks Roost, St. Just, Penzance, Cornwall, TR19 7RX.

- 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 L Chenery and Mrs S Watts against the decision of Cornwall Council (the LPA).
 - The application Ref.PA14/01377, dated 13/2/14, was refused by notice dated 29/10/14.
 - The development proposed is the erection of a wind turbine 18.5m to tip and associated access.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. It would appear that one of the appellants is Mrs S Watts rather than Ms S Watt, as stated on the planning application form.
3. The appeal site lies within the Cornwall Area of Outstanding Natural Beauty (AONB), the Heritage Coast (HC) and the Penwith Moors Area of Great Historic Value (AGHV).

Main Issue

4. The main issue is whether the benefits of the appeal 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 AONB, HC and the significance of heritage assets.

Reasons

Planning Policy

5. The development plan includes the 'saved' policies of the Penwith Local Plan (LP) which was adopted in 2004. The most relevant policies to the determination of this appeal are: CC-1 (landscape); CC-4 (Heritage Coast); CC-15 (settings of Scheduled Ancient Monuments [SAM]; CS-9 (renewable energy) and; CS-10 (wind turbines). These policies are broadly consistent with the provisions of the National Planning Policy Framework (the Framework).
6. My attention has been drawn to the emerging Cornwall Local Plan (eLP). A Proposed Submission Document was published in 2014 and an Examination commenced in 2015. However the Examination process has been suspended. The eLP has yet to reach the stage where it can be given significant weight. It is not relied upon by the LPA.

7. The AONB Management Plan (2011-2016) [MP] does not form part of the development plan but it is an important material consideration. Amongst other things, it identifies the special qualities of the AONB. For the West Penwith part of the AONB the special qualities include: a wealth of ancient features such as tombs, fortifications and ancient settlements and; long range views. Policies CCE1 (renewable energy) and LS2 (conservation and enhancement) are of relevance to this appeal. The MP has moderate weight.
8. In determining this appeal I have also taken into account 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 'very small turbine' as defined in the ALS. It lies within the Penwith Central Hills Landscape Character Area¹ (LCA) where there is a high overall landscape sensitivity to wind energy development. The landscape strategy is for a landscape without wind energy development, except for very small scale single turbines linked to existing buildings. The ALS has yet to be adopted by the LPA and can only be given limited weight.
9. 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.
10. I have also taken into account the Government's 'Planning practice guidance for renewable and low carbon energy' (PPG), as well as various Written Ministerial Statements (WMS) on renewable energy.

Other Documents

11. In determining this appeal 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 also 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

12. The proposed wind turbine is rated at 10kW. It is intended to provide a supply of electricity to the appellants' dwelling, a barn which they intend converting for holiday use and for use in association with future farm activity on their 12.6

¹ As defined in the Cornwall and Isles of Scilly Landscape Character Study (2007).

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).

ha holding. Surplus electricity would be supplied to the National Grid. The proposal would provide a source of renewable energy and with other renewable and low carbon energy schemes it would assist in reducing CO₂ emissions and tackle climate change. The development would help meet Government targets and ambitions for renewable energy and would add to the security of supply. These matters can be given considerable weight in the planning balance.

Character and Appearance

13. The appeal site comprises part of a field. It lies within an attractive, exposed and windswept coastal area that is also rich in archaeology⁷. This part of the AONB and HC includes some old mine chimneys, telegraph / electricity poles, a radio mast and a few wind turbines⁸. Pasture and rough ground dominate and from the gently rounded hills, such as Bartine Hill / Bartinney Downs to the south, there are extensive views across the landscape / seascape. The unspoilt open qualities of the site make a small but pleasing contribution to the character and appearance of the area.
14. Numerous public rights of way cross the surrounding countryside and there are areas of Open Access Land. Like much of Cornwall, this area is popular with visitors. The site is part of a sensitive landscape where even small-scale changes need to be very carefully considered⁹.
15. The proposed development would have a small 'footprint' and would not involve any harmful disturbance to any important landscape fabric. The 'very small' size of the wind turbine would also restrict its landscape impact. However, the turbine would be a considerable distance¹⁰ from the group of buildings on the appellant's holding. I concur with the AONB Partnership that the proposal would be at odds with the landscape strategy in the ALS.
16. The proposal would have little, if anything, in common with the natural qualities of the field. This tall man-made addition to the landscape would contrast sharply with the unspoilt qualities of the site and the surrounding countryside. Moreover, the motion of the turbine blades would result in more movement at height in the landscape further eroding the attractive and largely unspoilt open character of this part of the AONB and HC. The development would significantly harm the landscape character of the area.
17. The proposal would be seen from numerous sections of public roads and rights of way that traverse the surrounding countryside. These include minor roads, the summit of Bartine Hill and the paths that run down the northern slopes of Bartinney Downs. From these parts of the public realm the turbine would be seen by high sensitivity receptors who would be spending time enjoying the scenic beauty of the landscape.
18. Within about 1km of the site the proposed wind turbine, by virtue of its height, distance from the nearest building and the movement of its blades, would be a very conspicuous feature within the landscape. It would markedly detract from

⁷ This includes many Scheduled Monuments. The Cornwall and West Devon Mining Area World Heritage Site is also about 300m west and 500m north.

⁸ These include the 34.2m tip height turbine at Leswidden Blockworks approximately 470m to the north west, a 14m turbine at The Barn, Leswidden approximately 185m to the north east and a 12.75m high turbine at Cryor Farm approximately 180m to the north west.

⁹ Under section 85 of the Countryside and Rights of Way Act 2000, I must also have regard to the purposes of AONB designation and the need to conserve and enhance the natural beauty of the AONB.

¹⁰ The LPA has calculated that it would be approximately 115m from the appellant's dwelling.

the largely unspoilt qualities of the countryside. Whilst the proposal would be less prominent than the taller turbine at Leswidden Blockworks it would further erode the pleasing rural scene.

19. With increasing distance from the site, landform and topography would diminish the visual impact of the proposed wind turbine. Nevertheless, parts of the turbine would still be seen from further afield. This includes Carnyorth Common¹¹ and some of the north facing slopes of Chapel Carn Brea¹². From these parts of the public realm the turbine would appear as a minor element in the wider landscape. Nevertheless, the motion of the blades would draw the eye of the viewer. With the nearby Loswidden turbine and the radio mast it would increase visual clutter and detract from the appearance of the AONB. The proposal would not maintain the visual amenity of the area.
20. The above noted adverse effects upon the AONB and HC would be temporary and reversible. There is no preclusion on wind turbines in the countryside and some adverse effects are an almost inevitable consequence of accommodating wind energy developments. However, the proposal would result in harm to the character and appearance of a nationally important landscape for a considerable period of time. The development would conflict with the provisions of LP policies CC-1 and CC-4 and MP policies CCE1 and LS2. This carries considerable weight in the planning balance.

Heritage Assets

21. One of the Core Principles of the Framework is to conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. In determining planning applications, paragraph 131 of the Framework includes a requirement for local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets.
22. Furthermore, paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be.
23. The LPA has expressed concerns that insufficient information has been submitted to demonstrate that adverse effects upon heritage assets would not be substantial. I have some sympathy for the appellants as it would appear that no 'Historic Assets Assessment' was ever requested by the LPA. However, the site lies within an AGHV and within its reasons for refusal, Statement of Case and e-mail of 26 November 2015 the LPA has identified a number of SAMs (designated heritage assets). The asset most likely to be affected would be Bartine Castle. This is an enclosure containing eight round cairns¹³ on the summit of Bartine Hill.
24. As I noted during my site visit, the appeal site forms part of the surroundings in which Bartine Castle is experienced. The significance of this SAM lies primarily in its inherent archaeological interest relating to the construction and funerary practices of early prehistoric communities. However, the surrounding landscape, including the appeal site, sets the overall context for this asset.

¹¹ Approximately 3km to the north.

¹² Approximately 2.5km to the south.

¹³ Prehistoric funerary monuments dating to the Bronze Age.

25. Notwithstanding the appellants' remarks that most SAMs in the area are "crumbling remains" that "are only to be found under gorse bushes and other growth" Bartine Castle can be discerned / appreciated. The unspoilt open qualities of the appeal site make a small, but positive, contribution to the historic interest of this SAM. It allows an appreciation and understanding of the territorial significance and landscape context of this important designated heritage asset.
26. The Leswidden wind turbine and the neighbouring radio mast are tall structures which detract from the historic interest of Bartine Castle. However, that is not to say that other development which would also have an adverse effect upon the significance of this SAM should be permitted. The proposed wind turbine would be readily apparent from this SAM. Its engineered form, height and movement of the turbine blades would be a discordant and distracting element in appreciating / understanding the historic landscape context / significance of this designated heritage asset. This adverse effect upon the setting of this SAM would be contrary to LP policy CC-15. In the context of the Framework this would amount to less than substantial harm. Nevertheless, this does not equate to a less than substantial planning objection and carries considerable weight in the planning balance.

Other Matters

27. I note the appellants' argument that appeal decisions elsewhere¹⁴ set a precedent for granting planning permission. However, each case must be determined on its own planning merits. Furthermore, the extracts from the other decisions drawn to my attention do not involve sites within an AONB or HC and details of the respective planning balance have not been supplied. There are important material differences with the case before me. Elsewhere, other appeals have also been dismissed for wind energy schemes in the AONB and / or affecting the settings of heritage assets. These other decisions do not set a precedent that I am bound to follow.

Planning Balance / Overall Conclusion

28. Notwithstanding the general policy support for renewable energy schemes and the benefits of the proposed development, in this instance, this would be outweighed by the harm to the AONB, HC and the significance of the above noted SAM. As a consequence, the proposal would also conflict with LP policies CS-9 and CS-10. The appeal scheme would not satisfy the environmental dimension of sustainable development.
29. Given all of the above, I conclude that the appeal should not therefore succeed.

Neil Pope

Inspector

¹⁴ I have been provided with extracts from decision refs. APP/A3010/A/14/2213392 and 2216434.