The Planning Inspectorate

Appeal Decision

Site visit made on 3 July 2013

by Mr A Thickett BA(HONS) BTP MRTPI Dip RSA

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

Decision date: 12 August 2013

Appeal Ref: APP/H1033/A/13/2192967
Lower Eaves Farm, Chapel-en-le-Frith, Derbyshire, SK23 9UA

- 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 Warren Ash against the decision of High Peak Borough Council.
- The application Ref HPK/2012/0485, dated 18 August 2012, was refused by notice dated 6 November 2012.
- The development proposed is the installation of one 15m evance ro9000 5kW wind turbine.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the impact of the proposed wind turbine on the character and appearance of the area and the living conditions of nearby residents with regard to noise.

Reasons

Noise

3. The proposed turbine would be about 105m from the house at Lower Eaves. The appellant submits an Acoustic Data Summary which indicates that, to achieve a noise level of 35dB at Lower Eaves, the turbine should be 134m away from the house. At 107m distant the noise level is estimated at 37dB. The Acoustic Data Summary states *that 'ETSU-R-97 [1] recommends the use of thresholds between 35 and 40dB to decide how far wind turbines should be sited from occupied buildings/homes, where 35dB can be used for any site without considering background noise'*.

4. The exchange of e mails between the Planning and Environmental Health Officers included with the questionnaire indicates that the Environmental Health Officer has doubts regarding substantiating an objection on noise grounds. However, the appellant's Design and Access Statement recognises that on particularly sensitive sites it may be necessary to carry out a noise survey. I have seen nothing to indicate that such a survey has been carried out. Further, as pointed out by the Environmental Health Officer, the Acoustic Data Summary does not indicate whether a tonal penalty should be applied.

5. In light of the results contained in the Acoustic Data Summary and the absence of any detail relating to background noise levels, I cannot conclude that noise

generated by the proposed turbine would not have an adverse impact on the occupiers of Lower Eaves. Nor can I be certain that a condition limiting levels to 35dB could be complied with. Consequently, I do not consider that the proposed development complies with saved Policies GD5 and CF10 of the High Peak Local Plan 2005 (insofar as Policy CF10 relates to this issue).

Character and appearance

6. The proposed turbine would be 15m to hub with a blade diameter of 5.5m giving a total height to tip of blade of 17.75m. The Peak Sub-Region Climate Change Study 2009[1] classes the proposed turbine as medium scale. The Study asserts that for medium scale turbines the majority of High Peak Borough has high landscape sensitivity. However, medium scale as defined by the Study ranges from 15m to 65m and the impact of a 65m turbine is inevitably going to be significantly different to one of 15.1m or 17.75m in height.

7. The proposed turbine would be located high on a hillside to the south of Chapel-en-le-Frith. It would be set below the crest of the hill within an open field bounded by dry stone walls. A thick belt of trees lines the northern edge of the field and separates the field from Lower Eaves. Standing on the site one sees the town laid out on the valley floor and long distance views include the large telecommunications mast at Ladder Hill.

8. Looking back from the town, the turbine would in part be masked by the trees on the hillside and its visual impact lessened by distance and the hillside rising behind and above it. It would also be seen in the context of the large pylons marching across the landscape[2]. At the foot of the hill at Warmbrook Road and Lower Eaves View[3], the site was obscured by mature trees which even in winter would provide a good screen.

9. Ashbourne Lane is about 100m to the east of the site, running roughly north to south. The lane is lined by a dry stone wall on a grass bank that rises as the road falls towards Chapel. The wall and bank reach a height of around 1.8m close to the site. Consequently, those driving and walking by are only likely to catch glimpses as they travel towards the town. A public footpath runs through the bottom of the field but walkers would be passing through which would limit the impact of the turbine. Further, it would occupy only a small percentage of the countryside visible on a good day which, as indicated above, includes other large, modern man made structures.

10. Although referring to what it defines as small scale turbines, the Climate Change Study acknowledges that there may be opportunities to accommodate renewable energy development without changing landscape character. I am aware that the site lies in a Special Landscape Area as defined by the Local Plan. However, in my view, the intimate rural landscape close to the town with its small fields and thick woodland belts and already influenced by man made structures, could accommodate the turbine without unacceptable harm to its character and appearance. I conclude, therefore, that the proposal complies with Local Plan Policies CF10, OC1, OC3 and OC4 (insofar as Policy CF10 relates to this issue).

[1] That is the title on the frontispiece, the title on the header of each page is 'Peak Sub-Region Renewable Energy Study: Final Report'
[2] Appellant's Location 6.
[3] Locations 3 & 4

Other matters

11. According to the Design and Access Statement, the design of the turbine is based on a wind speed of 4.8 metres per second (m/s). The Council questions the viability of the proposal, pointing to the findings of the Climate Change Study which states that wind speeds of 7m/s are required for medium scale turbines to be viable. However, the figure of 7m/s is only an estimate and takes no account of local topography or meteorological conditions[4]. Further, technology has moved on since the publication of the Study in 2009. The National Planning Policy Framework (NPPF) states that developers should not be required to demonstrate the overall need for renewable energy and that decision makers should recognise that even small scale projects provide a valuable contribution to cutting green house emissions.

12. The government issued 'Planning practice guidance for renewable and low carbon energy' on 29 July 2013. I have had regard to this document but as I do not consider that it introduces any significant change in direction in national policy relevant to the issues in this case, I decided that there was no need to go back to the parties for their comments.

Conclusions

13. Notwithstanding my findings regarding the impact of the proposed development on the character and appearance of the area and the contribution the proposed turbine would make to tackling climate change, my concerns regarding the impact of the proposed development on the occupiers of Lower Eaves lead me conclude that planning permission should be withheld. For the reasons given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Anthony Thickett

Inspector

[4] The Peak Sub-Region Climate Change Study 2009, paragraph 4.78