



Appeal Decisions

Site visits made on 4 December 2012

by **Robin Brooks BA(Hons) MRTPI**

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

Decision date: 12 March 2013

Appeal A: Ref: APP/W9500/A/12/2182546

Grange Farm, Staintondale, Scarborough, North Yorkshire YO13 0EN

- 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 Mathew Else against the decision of North York Moors National Park Authority.
- The application Ref NYM/2011/0099/FL, dated 11 February 2011, was refused by notice dated 27 February 2012.
- The development proposed is a rotary milking parlour.

Appeal B: Ref: APP/W9500/A/12/2177312

Grange Farm, Staintondale, Scarborough, North Yorkshire YO13 0EN

- 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 Robert Dixon, ES Renewables Ltd, against the decision of North York Moors National Park Authority.
- The application Ref NYM/2011/0865/FL, dated 23 December 2011, was refused by notice dated 27 February 2012.
- The development proposed is erection of an Endurance wind turbine, tower height 24m, blade tip height 34.2m.

Appeal C: Ref: APP/W9500/A/12/2174683

Grange Farm, Staintondale, Scarborough, North Yorkshire YO13 0EN

- 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 Robert Dixon, ES Renewables Ltd, against the decision of North York Moors National Park Authority.
- The application Ref NYM/2011/0566/FL, dated 19 August 2011, was refused by notice dated 21 October 2011.
- The development proposed is installation of an Endurance E3120 50kw wind turbine mounted on a 24m tower.

Decisions

1. Appeals A and C are dismissed.
2. Appeal B is allowed and planning permission is granted for erection of an Endurance wind turbine, tower height 24m, blade tip height 34.2m, at Grange Farm, Staintondale, Scarborough, North Yorkshire YO13 0EN in accordance with the terms of the application, Ref NYM/2011/0865/FL, dated 23 December 2011, subject to the following conditions:

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- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved elevation plan Ref. E-1320 - 50kW Monopole, Rev. A; and the annotated aerial photograph showing location of the proposal titled Aerial Picture 1.
- 3) No development shall take place until details of the surface colour and finish of the turbine and any ancillary equipment have been submitted to, and approved in writing by, the Local Planning Authority. The turbine and any ancillary equipment shall be erected in the approved colour and finish and so retained thereafter.
- 4) No development shall take place until a scheme has been submitted to, and approved in writing by, the Local Planning Authority setting out action to be taken if the turbine ceases to generate electricity. That scheme shall include the criteria to be used to establish that generation has ceased; the timescale for removal of the turbine and any associated equipment, and reinstatement of the site; and the manner in which that reinstatement is to be carried out. If the turbine ceases to operate in the terms set out in that scheme it shall be removed and the site reinstated in accordance with the approved details.

Procedural matters

3. Although the planning applications to which Appeals B and C relate were made by Mr Robert Dixon, ES Renewables Ltd, as noted above, the appeals are being carried forward by Mr Mathew Else, the Appellant for Appeal A.

Policy context and main issues

4. Three policies from the North York Moors Core Strategy and Development Policies Development Plan Document (DPD) are relevant. Core Policy A aims to encourage a more sustainable future for the Park whilst conserving and enhancing its special qualities. Priority will be given to development that would not have an unacceptable impact on the landscape; that would conserve and enhance that landscape; that would embrace the principles of sustainable design and energy use; and that would strengthen and diversify the rural economy. Core Policy D seeks to address the causes of climate change by reducing energy use; and generating energy from renewable sources where proposals are of appropriate location, scale and design and would contribute to meeting energy needs within the Park. Non-residential uses of 200sq m or more are required to generate energy on-site from renewable sources to displace at least 10% of predicted CO₂ emissions. Development Policy 12 permits new agricultural buildings where there is a functional need for them and their scale is commensurate with such need; where the site is physically and functionally related to existing buildings; and where there are appropriate proposals for landscaping to reduce their visual impact on the wider landscape.
5. The National Park Authority have also referred to their Supplementary Planning Document (SPD) on Renewable Energy and their Design Guide on New Agricultural Buildings. The former sets out a number of key design considerations for wind turbines, including that they should be close to and visually related to existing buildings and appropriate to the height of such buildings (defined as not more than 50% higher). As the latter is at consultative draft stage it carries only limited weight but I have taken into account the general principles that it sets out such as respecting landscape

context and seeking to moderate the impact of new buildings through sensitive siting and reducing their overall apparent scale and bulk.

6. The National Planning Policy Framework (NPPF) accords great weight to conserving landscape and scenic beauty in National Parks. The Framework also stresses the role of planning in addressing climate change and that all communities have a responsibility to contribute to energy generation from renewable resources; such development should be maximised whilst ensuring that adverse impacts are addressed satisfactorily. Applicants should not be required to demonstrate the overall need for renewable energy; and it should be recognised that even small-scale projects make a valuable contribution to cutting greenhouse gas emissions. Local planning authorities should expect new development to comply with adopted Local Plan policies on local requirements for decentralised energy supplies unless this is demonstrably not feasible or viable. In more general terms the Framework advises that a positive approach should be taken to sustainable new development in rural areas, including development of agricultural businesses.
7. Bearing in mind the aims of these Policies, the determining issues in the appeal are:
 - (i) the effects of the three proposals upon the character and appearance of the National Park landscape;
 - (ii) whether appropriate and adequate provision has been made for addressing the energy use of the proposed milking parlour (Appeal A); and
 - (iii) whether any harm caused by the proposed turbines (Appeals B and C) in respect of Issue (i) in would be outweighed by the benefits of generation of renewable energy;

Reasons

Issue (i): Character and appearance

8. Grange Farm steading comprises an extensive range of portal frame buildings, sheds and outside storage areas which, together with houses immediately to the south-east, and two further dwellings along the access road to the west, form an extensive area of built-up and associated development. The surrounding landscape is one of large hedged and fenced fields with woods and tree belts, some of them in shallow valleys. A short distance to the east is the former Whitby-Scarborough railway line, now a popular permissive bridleway.
9. The proposed milking parlour would be constructed of concrete blocks and timber boarding; would measure 30m x 24m x 4m high to the eaves (and about 8m to the ridge of the roof); and would abut the eastern corner of the complex of buildings on an existing embankment. The National Park Authority say that the large building immediately adjacent to the site, which is some 8.5m high to the ridge of the roof, is unauthorised. The proposed turbine which is the subject of Appeal B¹ would stand a short distance to the south-east of the steading and the corner of the proposed milking parlour, on lower

¹ For convenience I refer to this from now on as Turbine B and that to the north-west as Turbine C to accord with the designations I have given the Appeals.

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ground below the embankment. Turbine C would stand a similar distance north-west of the steading on somewhat higher ground.

10. Grange Farm lies in a shallow valley, the land rising gently to the west, north and east, so that the area immediately around it is visually fairly self-contained. This context, in which the proposals would not be seen against an extensive or particularly dramatic landscape backdrop, tends to limit somewhat the visual impact they would have, particularly in more distant views. In addition, local landform and trees would screen them from certain directions and from others they would be seen against a background of the existing buildings or would be concealed, at least in part, by those buildings.
11. Thus from the public footpath west of the farm steading (FP 42) the proposed milking parlour would be effectively concealed by the existing buildings and the lower part of Turbine B would be similarly screened; and its upper parts would be seen against a background of rising ground and mature trees a short distance to the south-east. Turbine C would to some extent be seen in the context of the steading, and also of an existing, smaller wind turbine nearby, but it would be dominant in the foreground and, as it would stand some 60m from the nearest building, it would appear as a significant extension of development into the surrounding fields.
12. The proposals would not be readily seen from the bridleway to the south (BW 36) because of intervening landform and trees. They would be similarly screened from the railway path northwards by dense trees along the trackside. However, closer to the steading views open up; the milking parlour would then be prominent and seen as a significant extension southwards and eastwards of the existing building complex and adding substantially to the presence of that complex in the landscape. Its overall size and single span roof would contribute directly to its adverse impact. The impact of Turbine B would be very much ameliorated by its siting on a ground level significantly below the floor level of the farm buildings and by the way those buildings would provide a background. The difference in ground levels would go a considerable way to addressing the Park Authority's criticism of the height of the turbine relative to existing farm buildings. Turbine C, at a higher level, would be prominent in the view from the railway path though it would be seen in part against rising ground to the west.
13. The visual impact of the proposals, and their effects on landscape character, would reduce with increasing distance. Grange Farm is concealed from view from significant stretches of Scarborough Road and Raven Hall Lane by landform, trees and the alignment of the highway. Where it would be visible, the proposed milking parlour would be effectively concealed by the existing buildings and, at distances of upwards of 1-1.5 kms, the proposed turbines would be quite minor elements in the view. Even though the view south-eastwards from around Beacon Windmill is panoramic towards the sea, and characteristic of the Park, the turbines would have limited overall impact on landscape character, especially bearing in mind that they would be seen as only quite minor additions to what is, even at this distance, a large complex of farm buildings. They would also appear well down in a wide overall field of view towards the sea.
14. From Bent Rigg Road to the north and north-east, the three proposals would again often be concealed from view by intervening landform and where they

would be visible It would be in the distance, below the skyline, and against a background of rising ground to the west. Also, from these vantage points it tends to be seaward views towards the south-east that principally attract the eye. From Rudda Road to the south-west the proposed milking parlour would be effectively concealed by the existing buildings and Turbine B would be well down in the field of view though Turbine C, on higher ground, would be significantly more prominent.

15. Drawing together my conclusions on visual impact, I deal first with the turbines and then the milking parlour. The advice on siting of turbines in the SPD on Renewable Energy is relevant though it needs to be interpreted in the light of the particular circumstances of the proposals. Although the Park Authority point out that, relative to the existing buildings, the height of the proposed turbines to blade tip would be more than three times the figure recommended in the SPD, this does not give the full picture for Turbine B for reasons set out in para. 12 above. However, for Turbine C, where the visual connection with existing buildings would be more tenuous, its height would be much more apparent. Similarly, on the question of proximity to existing buildings, although both turbines would be roughly the same distance from the main buildings of the steading, from most viewpoints Turbine B would appear significantly better related to those buildings than would Turbine C.
16. From most vantage points I consider the visual impact and effects on landscape character of Turbine B to be limited and generally acceptable. Turbine C is more problematical in that it would be on higher ground than B and significantly more prominent seen from viewpoints to the west. As such it would be perceived as extending the footprint of the existing steading and contributing to an overall quantum of development that would be unacceptable in landscape terms.
17. Turning to the milking parlour, this would be effectively concealed from view from a good number of viewpoints, as noted above, or where visible from afar would be seen in the context of the steading as a whole. However, it would bulk very large in views from the railway path. From there it would be seen as extending built development significantly towards the south-east and its impact would be exacerbated by the scale of the embankment on which it would stand. Nor would its impact be satisfactorily ameliorated by the tree planting carried out to date on and around the embankment. Although Turbine B would also feature in this view, visually it would be a much more lightweight structure more readily assimilated into the landscape. Given the number of visitors who use the railway path, the adverse impact of the milking parlour is a matter of considerable importance.
18. Also of concern are the relationships of that building to the adjacent single span building and to the embankment around the edge of the steading, both of which have a complex and contested planning history. As at the time of writing the status of the building in particular remains unresolved, with discussions continuing between the National Park Authority and the Appellant, I have not regarded it as in itself justifying or supporting addition of a further large structure. It seems to me that the form and siting of any further extensions to the steading would be best considered in the context of an overall plan on which there was some clarity and consensus between the parties, taking into account the thrust of DPD Development Policy 12.

19. I conclude on the first main issue that Turbine C and the milking parlour would seriously harm the character and appearance of the National Park landscape, contrary to DPD Policy A but that Turbine B would not cause such harm.

Issue (ii): Energy use

20. The Appellant argues that as the new milking parlour would replace the existing one there would be no net increase in CO₂ emissions; and that as the new building would be more energy efficient and would operate over shorter periods of time, there would in fact be a reduction greater than the 10% figure set out in Core Policy D. However, no evidence has been advanced in support of this argument; and, although it appears that the Appellant is seeking to meet the energy needs of the whole farm from renewable sources, there is a lack of clarity about the precise part that the proposed milking parlour would play in that scenario. Neither the predicted emissions attributable to the new building nor the relevant 10% figure has been quantified; nor has it been shown what contribution one or both of the turbines might make to offset such emissions. And whilst the Appellant has suggested that approval of the milking parlour could carry a condition requiring the offset to be met within a specified time, such a condition in my view would be neither reasonable nor enforceable.

21. Core Policy D is couched in unequivocal terms and forms part of a DPD adopted only some three years ago. I have not seen any evidence to support the Appellant's contention that it is unfairly weighted against agricultural development or is being employed to stymie such development. The NPPF, referred to in para. 6 above, makes clear that new development should be expected to comply with such policies unless that would be demonstrably not feasible or viable. It has not been contended that the proposal could not comply but neither has it been shown that it would. I conclude on the second main issue that it has not been demonstrated that appropriate and adequate provision has been made for addressing the energy use of the proposed milking parlour in terms of DPD Core Policy D.

Issue (iii): Benefits of renewable energy and balance

22. As noted in para. 4, above, both the National Park Authority's Core Policies A and D lend support in principle to addressing climate change, reducing energy use and producing more sustainable development. The NPPF, as similarly noted, emphasizes the central role that planning plays in these respects; and the Appellant sets out in some detail the Government's targets for renewable energy generation and accompanying policy imperatives. All these matters weigh in the balance in favour of the proposed wind turbines. So too does the contribution they would make to meeting Grange Farm's electricity requirements. The business is clearly a major power consumer, incurring costs of over £18,000 for that purpose in 2011; and, although estimates of the contribution from the appeal proposals are somewhat contradictory, it appears that one turbine would be capable of supplying at least half the needs of the business. Importantly, even if the contribution was less than this, national policy makes clear that small projects that help reduce greenhouse gas emissions should not be discounted on grounds of size alone. The savings in electricity costs would help support what is clearly a large and expanding business, and enhance its viability to the benefit of the rural economy and in line with national planning policy.

23. However, it is not unusual for planning policies to pull in different directions and in this case the tension between encouraging development of renewable energy and conserving the character and quality of the landscape is increased by the location of the site within a National Park where such conservation carries particular weight. Drawing together my conclusions on the first main issue, I consider that, mainly because of screening by buildings and landform, and the level of the site relative to the farm steading, the landscape impact of Turbine B would be modest and acceptable, even in a National Park setting. Any significant harm would be limited and essentially confined to views from a short section of the railway path; users of that route, even if antipathetic to wind turbines, would be quickly past and there would be little real impact on their enjoyment of the National Park. I conclude in the terms of the third main issue that the benefits of generation of renewable energy, as outlined above, would outweigh any residual harm. The adverse visual impact of Turbine C would be more severe, principally because seen from the west it would not appear well related to the buildings of the steading and would appear as an essentially "detached" and prominent feature in the landscape. My conclusion on this proposal is the opposite of that for Turbine B, namely that the harm to the National Park landscape would outweigh the benefits of renewable energy generation.

Other matters and overall conclusion

24. I have taken fully into account the undoubted merits of the proposed milking parlour in terms of animal welfare and the efficient running of the farm, as well as the economic benefits it could bring to the farming enterprise and by extension, to the local area. However, although the NPPF supports a prosperous rural economy, it also stresses the importance of conserving the landscape and scenic beauty in National Parks. In this case I consider that the latter must take precedence.
25. I have had regard to all the other matters raised including the absence of objections to the proposals other than from the National Park Authority, the expressions of support for those proposals, the proposals elsewhere to which the Appellant has referred and the National Park Authority's concerns over precedent. On the first two matters, although views expressed for and against development proposals must be taken into account (as I have done), neither can be determinative in themselves but must be seen in the context of relevant local and national planning policies. I have insufficient information on the third matter, proposals elsewhere, to judge whether they present any clear parallels with what is before me. On the final matter, precedent, I have considered the appeal proposals on their particular merits as decision makers would need to do on any similar proposals elsewhere in future; I do not see my decision to permit one of the proposed turbines as setting any precedent for similar further development within the National Park or raising issues of cumulative impact. None of these matters, or any others raised, bring me to different conclusions on the main issues or on the appeals as a whole.
26. Overall, the harm that the proposed milking parlour would cause to the character and appearance of the landscape under the first main issue, and the lack of clear evidence of adequate measures to address CO₂ emissions, lead me to dismiss Appeal A. I allow Appeal B because the harm to landscape character under the first main issue would be limited and outweighed by the benefits of

renewable energy generation in terms of the third issue. I dismiss Appeal C because the landscape harm in that case would be significantly greater and would not be outweighed by the energy benefits.

Conditions

27. The National Park Authority have suggested a condition to require the removal of the turbine should it cease operation and the reinstatement of the site. I agree that this is reasonable and necessary and I apply it accordingly though I have varied the suggested wording for better clarity and precision. I also apply, for the avoidance of doubt as to the precise nature of the proposal, a condition requiring compliance with the submitted plans. Finally, to help minimize the visibility of the turbine in the landscape I consider that it would be prudent to require the Authority's approval for the precise colour and finish to be applied.

Robin Brooks

INSPECTOR

