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**2017/0383**

**Applicant:** Ged Parker, C/o Neo Environmental

**Description:** Relocation and erection of 1 no. wind turbine (measuring 15m hub and 18.5m to blade tip).

**Site Address:** Upper Maythorn Farm, Upper Maythorn Lane, Whitley Common, Barnsley, HD9 7TF

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### **Background**

An application was approved in 2011 for the erection of a single turbine with a height of 19.8m to blade tip, and a hub height of 15m under planning reference 2010/1468. A further application was then submitted under application reference 2012/1323 to change the turbine model to that which is currently in situ on site.

The 2012 permission contained the following condition:

“The noise level from the turbine shall not exceed the following:

A day time (7am to 11pm) level of 35 dB LA90, 10 mins, or the background, expressed as LA90, 10 mins, plus 5dB, whichever is the higher, measured at no less than 3.5 metre from the façade of any residential property not owned by the applicant or a member of their family (but ignoring the effect of that façade).

A night time (11pm to 7am) level of 43dB LA90, 10 mins, or the background, expressed as LA90, 10 mins, plus 5dB whichever is the higher, at 3.5 metre from the window of a habitable room in the façade of any residential property.

In the event of a complaint being received in writing by the LPA, and verified, alleging noise nuisance due to the wind turbine on the development hereby approved, the wind turbine operator shall, at its expense, employ a consultant approved by the LPA to measure the level of noise emissions from the wind turbine at the location of, and external to, the complainant's property (or, in the event that access is not possible, at the nearest publicly accessible location acceptable to the LPA). The results of the consultant's assessment shall be provided to the LPA within 2 months of the date of notification of the complaint. The operator shall cooperate with the LPA to ensure that the development is compliant with the above defined limits for the site.

Reason - In the interests of residential amenity and in order to accord with policy CSP40 of the Core Strategy.”

Complaints were received and verified by the Council indicating that the noise levels were exceeding the aforementioned levels. The applicant attempted to resolve this through repair works and modifications to the existing turbine. However, this ultimately failed to resolve the issue. The applicant has therefore sought a different solution which is to move the turbine further away from the neighbouring properties thereby utilising the distance as the mitigating measure for ensuring compliance with the condition. This application has therefore been submitted to seek planning permission for that.

## **Site Location and Description**

The existing turbine is located in an open landscape, characterised by its windswept, remote and upland farming nature. To the north the land rolls out into open countryside which sits on a slightly lower level where there are extensive views of the countryside including scattered farmsteads off quiet country lanes. To the east the view is framed by Royd Moor wind farm. Views to the south include open countryside with the open moorland of the Peak Park visible well in the distance. Approximately 90m to the west are a collection of farm buildings and a farmhouse which the turbine powers. The nearest dwellings are approximately 80m to the south of the existing turbine

## **Proposed Development**

It is proposed to move the existing turbine approximately 160m to the north-east. It would remain within the same field but would be approximately 240m away from the nearest house rather than the current 80m. The turbine would remain the same in dimensions and appearance as existing but would just be relocated to a different position.

## **Policy Context**

Planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise and the National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making. The development plan consists of the Core Strategy, the Joint Waste Plan, and saved Unitary Development Plan policies. The RSS continues to form part of the development plan but the Government's intention to abolish regional spatial strategies is a material consideration.

The Council has submitted our emerging Local Plan to the Secretary of State but we are at an early stage in the examination process. It establishes policies and proposals for the development and use of land up to the year 2033. The document is a material consideration and represents a further stage forward in the progression towards adoption of the Local Plan. As such increasing weight can be given to the policies contained within the document although, in accordance with paragraph 216 of the NPPF, the extent of this will depend on:

- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given) and;
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

## Core Strategy

CSP1 – Climate Change – seeks the opportunities to harness the opportunities for the use of renewable energy

CSP6 - Development that Produces Renewable Energy - we will allow development that produces renewable energy as long as there is no significantly harmful effect on;

- The character of the landscape and appearance of the area;
- Living conditions;
- Biodiversity, geodiversity and water quality;
- Heritage assets, their settings and cultural features and areas;
- Highway safety; and
- Infrastructure including radar.

Proposals must be accompanied by information that shows how the local environment will be protected, and that the site will be restored when production ends.

The Core Strategy recognises that undulating landscapes, such as those in the west of the borough, can increase the prominence of turbines. Careful consideration will need to be given to the capacity of the landscape to accommodate turbines, the ability to mitigate visual intrusion and cumulative impacts of individual sites when they are grouped rather than dispersed. We will use the Character Assessment and Policy CSP37 to assess the effect of development proposals.

We will carefully weigh up the environmental, social and economic benefits of the proposals against effects on the local area. We will also refuse planning applications for proposals that are not accompanied by enough supporting information.

CSP29 - Design - states that high quality development will be expected, that respects, takes advantage of and enhances the distinctive features of Barnsley, including (amongst other things):

- Topography, important habitats, woodlands and other natural features;
- Views and vistas to key buildings, landmarks, skylines and gateways; and
- Heritage, townscape and landscape character including the scale, layout, building styles and materials of the built form particularly in and around (amongst other areas), Penistone and the rural villages in the west of the Borough.

CSP30 – The Historic Environment – states that we will positively encourage the management, conservation and enjoyment of Barnsley's historic environment and make the most of the heritage assets.

CSP40 – Pollution Control and Protection – states that development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution.

#### National Planning Policy Framework

The NPPF sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development.

Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

In respect of this application, relevant policies include:

#### Protecting Green Belt Land.

- The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
- Green Belt serves five purposes; to check the unrestricted sprawl of large built-up areas, to prevent neighbouring towns merging into one another, to assist in safeguarding the countryside from encroachment, to preserve the setting and special

character of historic towns, and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

- Local planning authorities should plan to enhance the beneficial use of the Green Belt such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.
- 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, local planning authorities should 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.
- When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

Supporting a prosperous rural economy.

- A positive approach should be taken to sustainable new development.

Conserving and enhancing the natural environment.

- The planning system should contribute to and enhance the natural and local environment by (amongst other things), protecting and enhancing valued landscapes.

Conserving and enhancing the historic environment.

- Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal
- In determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets.
- 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.
- Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

Requiring good design.

- Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- Planning policies and decisions should aim to ensure that developments (amongst other things) will function well and add to the overall quality of the area, respond to local character and history and are visually attractive.
- Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

### Ministerial Statement

The Ministerial Statement (House of Commons: Written Statement (HCWS42), 18 June 2015) states that when determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if:

- the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and
- following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.

## **Consultations**

Regulatory Services – fully support the movement of the new turbine to the new suggested location subject to the imposition of suitable conditions

Highways – no objections

Biodiversity Officer – requested further information and an updated ecology assessment has now been submitted.

Dunford Parish Council – no comments received

Conservation Officer – no comments received

Drainage – no objection

NATS – no objections

MoD – no objections

## **Representations**

The application was advertised on site, in the local press and neighbour letters were sent to numerous properties. One representation has been received which states that they are pleased to see the application has been submitted and raise no objections subject to appropriate noise conditions being added.

## **Assessment**

### Principle of Development

The proposed turbine is located within Green Belt. As such it is considered that the proposed development would affect openness and that it constitutes inappropriate development. As previously stated, inappropriate development is, by definition, harmful to the Green Belt and such development should not be approved, except in very special circumstances. Such very special circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

In this case the principle of a turbine has been accepted in this field, albeit in a different position. The principle of renewable energy created by the wind turbine supporting the farm has therefore already been accepted as a justification for a turbine of the size proposed in this location within the Green Belt.

In terms of the Ministerial Statement referred to above, the emerging Local Plan includes a proposal for Wind Turbine Areas of Search and Policy RE AC1 Wind Turbine Areas of Search. The proposal site is within an area that is considered is in general only suited to very small single turbines (up to 24 m to blade tip). The proposed wind turbine would be under this limit.

### Green Belt, Landscape and Visual Impact

The existing turbine is located in an agricultural field in the Green Belt. Due to the elevated nature of the site, the turbine is a noticeable feature within the local landscape. When viewed from the A616, which is located approximately 1km to the west, the turbine is set back from the ridgeline and does not therefore appear as a skyline feature. From the immediate west the turbine is hidden by the intervening buildings and topography and, therefore, does not have a significant visual impact.

The movement of the turbine to the north-east is not considered to have any significant effect from long distance views to those described above. Locally, the view will change from the nearest residential property, Lower Maythorne, but this will be to a positive effect as the turbine will be moved further away from them. Furthermore the position it will be moved to is at a slightly lower land level than the current position therefore making it less prominent when viewed from these near neighbours. The turbine will be more prominent to the property at Martin's Nest as the current intervening farm buildings will no longer partially screen the turbine. However, there will still be a distance of over 400m to Martin's Nest and, given the maximum height of the turbine is only 18.5m it would not be considered an overly-prominent feature.

In terms of cumulative impact, there is currently one wind turbine located approximately 500m to the north west close to Martins Nest Farm. There are a number of other small scale wind turbines also within the locality falling within both Barnsley and Kirklees. Royd Moor is an existing wind farm which is a noticeable feature of the landscape when viewed from the site and this is located approximately 2.0 km to the south east. However, due to the distances in-between, it is not considered that the proposal would result in any significant detrimental cumulative impact.

Overall, neither the visual amenities of the Green Belt or the landscape character are considered to be significantly harmed by the proposal either in isolation or in accumulation.

### Impact on Listed Buildings

Buildings at Lower Maythorn to the south of the site are Grade II listed buildings. The proposal would see the turbine relocated to a position further away from these buildings than it currently stands. As such there would be a reduced impact on these listed buildings compared to the existing situation.

### Residential Amenity

This application has been submitted to resolve a current issue of noise disturbance affecting the nearest property at Lower Maythorn. Moving the turbine further away from this property would result in an increased distance and a reduction in the likelihood of noise issues affecting this property. The Council's Regulatory Services Section has inspected the plans and fully support the application. The movement of the turbine would reduce the noise impact on this near dwelling and would enable the turbine to comply with the relevant noise condition.

### Ecology

An extended phase 1 habitat survey was carried out at the site. The survey concludes that, subject to appropriate measures during the construction period, that the development would not have a detrimental impact on wildlife at the site. These measures can be appropriately conditioned.

## Shadow Flicker

The turbine is considered to be far enough away from nearby properties so that shadow flicker would not be an issue.

## Conclusion

It is considered that the proposed relocation of the turbine would not result in any significantly greater impact on the character and openness of the Green Belt compared to the existing turbine. Very special circumstances were previously demonstrated for the existing turbine based on its renewable energy creation and these are still considered relevant to this application. The scheme would however improve the situation with regards to the impact on neighboring amenities. Overall therefore, the scheme is considered to be acceptable and permission should be granted.

## **Recommendation**

Grant subject to conditions:-

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.  
**Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.**
- 2 The development hereby approved shall be carried out strictly in accordance with the plans (Nos NEO00436/012/B and BGY\_15M\_10kW\_P\_001 Revision C) and specifications as approved unless required by any other conditions in this permission.  
**Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP 29, Design.**
- 3 The local planning authority shall be notified in writing of the date of commencement at least 7 day, but not more than 14 days, prior to the commencement of the development hereby permitted.  
**Reason: In the interests of the visual amenity of the locality in accordance with CSP29 and CSP34.**
- 4 All cables from the turbine shall be underground. All excavated ground in connection with cable laying shall be reinstated to its former condition within 1 month of the date of the wind turbine hereby permitted commencing to operate.  
**Reason: In the interests of the visual amenities of the Green Belt in accordance with CSP34.**
- 5 If the wind turbine hereby permitted ceases to be operational for a continuous period of 6 months, then the turbine shall be dismantled and removed from the site and the site shall be restored to a condition suitable for agriculture.  
**Reason: In the interests of the visual amenities of the Green Belt in accordance with CSP34.**

6 The noise level from the turbine shall not exceed the following;

(a) A day time (7am to 11pm) level of 35 dB LA90, 10 mins, or the background, expressed as LA90, 10 mins, plus 5dB, whichever is the higher, measured at no less than 3.5 metre from the façade of any residential property not owned by the applicant or a member of their family (but ignoring the effect of that façade).

(b) A night time (11pm to 7am) level of 43dB LA90, 10 mins, or the background, expressed as LA90, 10 mins, plus 5dB whichever is the higher, at 3.5 metre from the window of a habitable room in the façade of any residential property not owned by the applicant or a member of their family (but ignoring the effect of that façade).

In the event of a complaint being received in writing by BMBC alleging noise nuisance due to the wind turbine on the development hereby approved, the wind turbine operator shall, at their expense, employ a consultant approved by BMBC to measure the level of noise emissions from the wind turbine at the location of, and external to, the complainant's property (or, in the event that access is not possible, at the nearest publicly accessible location acceptable to BMBC). The results of the consultant's assessment shall be provided to BMBC within 2 months of the date of notification of complaint unless otherwise agreed in writing by BMBC.

In the event that the noise level from the turbines is above the stated levels and noise measurements have been carried out in accordance with the details above, then the applicant shall submit a mitigation scheme for the written approval of BMBC in order to identify measures to reduce the noise of the turbines to acceptable levels. The approved scheme shall then be implemented. In the event that the noise level from the turbine cannot be brought within acceptable levels, as defined above, the turbine shall not continue to operate.

**Reason: In the interests of residential amenity in accordance with policy CSP40.**

7 The scheme shall be carried out in accordance with the recommendations outlined in Section 6 of the submitted Ecological Appraisal dated 1st June 2017.

**Reason: In the interests of biodiversity in accordance with CSP36.**

8 This scheme is for the relocation of the existing turbine to a different position within the same field only. The implementation of this permission does not allow for a new turbine to be erected in the position of the former turbine location as shown on approved drawing no: NEO00436/012/B.

**Reason: For the avoidance of doubt and to protect the visual amenities of the Green Belt.**



PA Reference:-


2017/0383

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