

	REPORT TO PLANNING & DEVELOPMENT COMMITTEE TO BE HELD ON THURSDAY,	
APPLICATION REFERENCE NO: 15/01082/FL	TARGET DATE: 24 August 2015	GRID REF: 508528-480755

REPORT OF THE PLANNING SERVICES MANAGER – PSM/15/230

SUBJECT: Erection of 1 no. wind turbine with a tip height of 36.6m for JP, MJ & MJ Hutchinson (Mr Mark Hutchinson) Magdalen Grange Farm Carr Lane Gristhorpe Filey North Yorkshire YO14 9PD

1.0 THE PROPOSAL

1.1 This application seeks planning permission for the erection of a wind turbine with a maximum height of 36.6 metres on land approximately 1.3km to the south of Gristhorpe village and 200m to the west of Magdalen Grange Farm, Carr Lane, Gristhorpe.

1.2 The proposed turbine would constitute a conical white painted steel tower with a hub centred at a height of 24.8 metres. Three blades each with a length of approximately 10.5 would rotate about the hub.

1.3 With respect to the site's context, the proposed turbine would be located in the open countryside to the south-west of Magdalen Grange Farm group of buildings (including the farmhouse and three holiday cottages) which are not within the control and ownership of the applicant. There are two existing wind turbines close to Magdalen Grange Farm: a 'Gaia' turbine with a maximum height of 24.6 metres immediately to the north east of the farmstead; and, an 'Endurance' turbine with a maximum height of 34.2 metres to blade tip approximately 250 metres to the west of the farmstead. Apart from the residences on Magdalen Grange Farm, the next closest dwelling is that on Mushroom Farm approximately 600 metres to the north of the application site. A public bridleway runs north to south through Magdalen Grange Farm.

1.4 Access to Muston Grange Farm and the application site (for construction purposes) is via Carr Lane. An additional length of temporary track is proposed to link the application site to the existing road network. This is required to provide access to the site during the construction phase and the applicant proposes to remove this once the turbine is operational.

1.5 It is suggested (by way of the applicant's own letter of representation) that the revenue generated from the turbine will be used to subsidise farming operations, although it is not clear from the submission as to whether or not the electricity will be used to power Magdalen Grange Farm itself. The farm buildings are shown (on the

submitted site plan) to be outside the control and ownership of the applicant. It is not contended that the electricity generated will be used for a particular farming purpose.

1.6 Members will note that the application form specifies a turbine with blade tip height of 48.5 metres. All of the other application material (technical reports, drawings and emails from the applicant's agent) specify a turbine with a maximum tip height of 36.6 metres and as such the application has been assessed on this basis.

1.7 At this point, it should be noted by the Committee that on 18 June 2015 a Ministerial Statement was made by the Secretary of State of Communities and Local Government which states:

"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."

1.8 In addition to the application form and plans, the applicant's submission includes the following documents (which are available to view on the Council's website):

- Design and Access Statement;
- Noise report;
- Statement of Community Involvement;
- Landscape and Visual Impact Assessment;
- A landscape designations plan;
- A cultural and heritage assets plan.

1.9 The applicant has also submitted a legal opinion relating to the Ministerial Statement. This asserts that overriding weight should not be given to the statement, and that the Council's adopted policies and the National Planning Policy Framework should form the basis of the Council's decision.

1.10 The applicant has submitted a letter in support of his application, which raises the following points:

- The energy from the turbine will help offset the carbon footprint of the business;
- The development should not cause nuisance to horses using the bridleway;
- The closest residences to the development are the holiday cottages on Magdalen Grange Farm (belonging to me), and the existing turbines have not caused noise and flicker problems for these properties;
- I am a proud supporter of renewable energy and I am concerned about the impact of climate change on the future of farming.

2.0 SCREENING OPINION REQUIRED

Yes.

3.0 PRE-APPLICATION COMMUNITY ENGAGEMENT

3.1 In accordance with the requirements of the Procedure Order, the applicant undertook a process of community consultation prior to submitting the application.

4.0 CONSULTATIONS AND COMMENTS

4.1 The following is a summary of the key and relevant comments received from consultees and interested parties. Their full comments and any accompanying documentation are available to view on the Council's website.

4.2 Muston Parish Council: The Parish Council feels the application should be refused;

- The turbine is close to the bridleway and will harm an area of natural beauty;
- The two existing turbines harm the character of the landscape and cause problems with noise and flicker;
- The amount of energy produced appears to be in excess of that required for farm usage;
- There are strong concerns raised at the creeping wind farm development in the Hertford Ward area;
- Far too many turbines are collectively destroying the natural beauty of the area.

4.3 Southern Parish Cluster: In light of recent reforms to the planning system it is hoped that Scarborough Borough Council will only grant permission for wind turbines in area designated in the Local Plan and when the concerns of local communities have been addressed and proposals have their backing.

4.4 Highway Authority: No objections.

4.5 SBC Environmental Health: No objection to granting this application on Environmental Regulation grounds.

4.5 Defence Infrastructure Organisation: No objection.

4.7 Civil Aviation Authority: The CAA has no responsibilities for safeguarding sites other than its own property.

4.8 National Air Traffic Services: The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria.

4.8 Joint Radio Company: Awaited.

4.10 Arquiva: Awaited.

4.11 Countryside and Ecology Officer (SBC): Awaited.

4.12 North Yorkshire Moors National Park Authority: The development will not have an impact on the National Park.

4.13 East Riding of Yorkshire Council: Awaited.

4.14 Network Rail: Awaited.

4.15 Skydive GB: No objection

4.16 County Archaeologist: The development has no known archaeological constraint.

Publicity - consultation period expired on 06 August 2015

4.17 Twelve letters of objection to the proposals have been received by the Council. These are from local residents and raise the following points:

- The existing turbines cause significant visual harm and this additional turbine will make matters worse;
- The proximity of the turbine to the bridle path is of concern to horse riders;
- It needs to be ensured that this is not the start of a wind farm in the locality;
- The information submitted with respect to power usage is suggestive of this being a purely economic venture;
- The proposal is contrary to the Local Plan policies.

4.18 One neutral letter has been received from the occupiers of Magdalen Grange Farm. This raises the following points:

- We are not against wind development as such and have no objections on the aesthetic grounds, but this particular turbine will cause problems and will risk the health of the occupiers of Magdalen Grange Farm;
- If the turbine was to fail structurally it could risk the overhead power supply to Magdalen Grange Farm.

4.19 One letter of support has been received by the Council. This is from the occupier of Map Mushrooms, Carr Lane. This letter states:

- We support the application.

5.0 RELEVANT SITE HISTORY

5.1 2008 - Change of use of redundant foldyard outbuildings to form 3 holiday letting units - application approved

5.2 2009 - Wind Turbine - application approved

5.3 2012 - Replacement Wind Turbine - application approved

5.4 2012 - Wind Turbine - application withdrawn due to MOD objection

5.5 2012 - Wind turbine - application approved

6.0 PLANNING POLICY

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of The Town and Country Planning Act 1990 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. Attention is drawn to the following Development Plan

and other planning policies and guidance which are considered to be particularly relevant to the consideration of this application:-

Scarborough Borough Local Plan (Saved Policies)

E1 - Protection of Open Countryside
E35 - Renewable Energy Production
E36 - Wind Turbine Development
H10 - Protection of Residential Amenity

National Planning Policy Framework

NPPF10 - Meeting the challenge of climate change, flooding and coastal change
NPPF11 - Conserving and enhancing the natural environment

Scarborough Borough Supplementary Planning Documents

None relevant

Local Planning Policy Guidance

None relevant

7.0 PLANNING ASSESSMENT

7.1 Taking into account the relevant planning policy, consultation responses, the representations made by interested parties and all other material considerations (including the Ministerial Statement), Officers consider the following factors are the key considerations in the determination of this application:

- Principle of the development;
- Impact on visual amenity;
- Impact on residential amenity;
- Highways and parking;
- Ecology;
- The views of the community.

Principle of the development

7.2 In general terms, the policies of the Local Plan (particularly policy E1) seek to protect the countryside for its own sake, and as such there is a presumption against development in the open countryside. Exceptions are made for where there is a genuine demonstrated need. To avoid doubt, it has not been suggested by the applicants in this case that the energy from the turbine is needed for a particular farming or other land based operation.

7.3 Whilst this is the case, policies E35 and E36 of the Local Plan together with Section 10 of the NPPF are supportive of renewable energy development including wind turbines, provided it will not harm the character or appearance of the landscape, features of acknowledged environmental importance or otherwise have an adverse

effect on the environment or neighbouring property. These issues will be considered in the following sections of this report.

Impact on visual amenity

7.4 The Scarborough Borough Landscape Study provides a detailed assessment of the landscapes within the Borough and their development sensitivities. The application site is located in the 'Star and Flixton Carrs' character area (area L3) and is close to the Yorkshire Wolds escarpment to the south. By reason of its flat nature and the proximity of raised ground to the south, the Star and Flixton Carrs character area is recognised in the Study as being visually sensitive to development.

7.5 Notwithstanding the detailed description of the character of the area as set out in the Landscape Study or the applicant's own Visual Impact Assessment, in simple terms the proposed turbine will sit on the flat land at the 'tail' of the Vale of Pickering.

7.6 It would be clear to anyone viewing the contour lines, roads and paths on an Ordnance Survey map of the area that a wind turbine of the scale proposed in this location would be prominently visible in open, expansive views across the flatland at the bottom of the Vale of Pickering.

7.7 Furthermore, although it is smaller than the turbine proposed in this case, the existing E3120 turbine is a good measure of how prominent the proposed turbine will be. That particular turbine is prominently visible at close range from the bridleway passing through the site and in longer distance views from the A1039 (to the south) which 'skirts' the bottom of the Wolds Escarpment, the A165 (to the north east) and from the Filey-Scarborough Railway line.

7.8 Whilst the turbine will be clearly and evidentially prominently visible in important and expansive view of an attractive agricultural landscape, whether or not the proposed turbine will cause visual harm is ultimately a matter for the Committee's judgement.

7.9 On this point, it is the view of your Officers that one or two smaller scale turbines in close proximity to a group of farm buildings may appear 'visually logical'; they read as being part and parcel of the farm operation. However, in this case granting consent would result in three turbines in close proximity to the Magdalen Grange Farm group of buildings. Two of these would be taller than 25 metres (to blade tip) and thus might reasonably be described as being 'large scale'. The turbine in question will certainly be the tallest structure for many miles. With this in mind, taking into account the cumulative impact of all of the turbines on the land, the view of your Officers is that the proposal will add a level of 'industrial disturbance' and will cause material harm to an attractive and expansive agricultural landscape. For this reason, Officers consider the proposed development to be unacceptable on its planning merits.

Impact on residential amenity

7.10 The properties closest to the application site are the holiday cottages on Muston Grange Farm. These are approximately 250 metres from the application site.

7.11 The applicant has submitted a detailed noise appraisal with the application, and has also considered the impact of flicker (moving shadows caused by the rotation of the turbine blade). The Council's Environmental Health Officers have been consulted on the application and have not raised objections on issues relating to flicker or noise. With this in mind, Officers do not consider that it would be reasonable to withhold consent on neighbour amenity related grounds.

Highways and parking

7.12 The Highway Authority has considered the proposal and as not raised objections. Therefore, officers do not consider that the proposed development will create undue danger within the site or that it will detract from the safety and convenience of users of the public highway.

Ecology

7.13 There are no areas of designated ecological value within 2km of the application site. Taking into account the Natural England Standing Advice (decision tree and flow chart), Officers consider that there is a low probability that the construction of the turbine or its operation will harm species protected by law or their habitat.

The views of the community

7.14 Members will no doubt be aware of the Ministerial Statement relating to on-shore wind turbines issued by the Secretary of State on 18 June 2015. Officers consider the following to be the most pertinent section of the Statement in this case:

"Local planning authorities should only grant planning permission if.... 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."

7.15 In the view of Officers, the comments of the Parish Council should be taken as the view of the local community. They are the elected body responsible for conveying the views of the local community (as a whole) in the planning process.

7.16 Members will note that the Parish Council has objected to the proposal, and it is reasonable to conclude from their comments that visual harm is their primary concern.

7.17 Setting aside the issue of the Ministerial Statement, it is the view of Officers that this application is unacceptable on its merits in any event. However, the Ministerial Statement is nonetheless an important material planning consideration when combined with the Parish Council's objection. Your Officers advise that a further reason for refusal is added to the Decision Notice to reflect the views of the local community.

Additional considerations

7.18 Both civil and defence infrastructure bodies have been consulted on the application and no concerns have been raised.

7.19 Officers note the concerns raised in the representations with respect to the potential risk to users of the bridleway which runs in excess of 100 metres to the east of the proposed turbine. In particular the concerns relate to those on horseback. Bridleways are for use by cyclists, walkers (including dog walkers) and horse riders, and this particular bridleway passes through a farm where machinery is in frequent operation. It might reasonably be suggested that if a horse is unpredictable to the extent that it would not be able to safely pass within 100 metres of a wind turbine then it may not be suitable for the public realm.

POSITIVE AND PROACTIVE STATEMENT

The proposed development was deemed to be unacceptable for reasons set out in this Notice. The Secretary of State's statement of 18 June 2015 puts the onus on the developer to act positively and proactively to overcome the concerns of the local community to win support for the application. The developer has failed to win the support of the local community in this case.

RECOMMENDATION

PERMISSION BE REFUSED, for the following reasons(s)

1 Policy E1 of Scarborough Local Plan 1999 seeks to protect the countryside for its own sake and sets a presumption against development except where there is a genuine and demonstrated need. It has not been suggested by the applicants in this case that the energy from the turbine is needed for a particular farming or other land based operation.

Policies E35 and E36 of the Local Plan together with section 10 of the National Planning Policy Framework are supportive of renewable energy development including wind turbines, provided it will not harm the character or appearance of the landscape, features of acknowledged environmental importance or otherwise have an adverse effect on the environment or neighbouring property.

By reason of its prominent position in sensitive and attractive close and long range views of low lying, open and expansive Carr land, and the proliferation of wind turbines in this locality, the proposed development will cause unacceptable and unjustified harm to the character of the landscape contrary to policies E1, E35 and E36 of the Local Plan and section 10 of the NPPF.

2 The Statement of the Secretary of State for Communities and Local Government issued on 18 June 2015 confirms the views of the local community to be a material planning consideration in its own right for on-shore wind development. The views of the local community are taken to be those of the Parish Council because they are the elected body responsible for conveying local community views in the planning process.

The Ministerial Statement states that planning permission for on-shore wind turbine development should only be granted if 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.

The local community raise the visual impact of the development as their primary concern. This is a material planning consideration (i.e. a planning impact). At the time of determination, the objection of the local community on visual impact grounds is still in place. With this in mind, the proposal does not have the backing of the local community, and in accordance with the Ministerial Statement the application is refused.

David Walker

Background Papers:

Those documents referred to in this report.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS, PLEASE CONTACT MR DANIEL METCALFE ON 01723 383538 email daniel.metcalfe@scarborough.gov.uk

