

|                            |  |                                   |   |
|----------------------------|--|-----------------------------------|---|
| <b>Application Number:</b> | 2012/526   | <b>Application Type:</b>          | Full  |
| <b>Proposal:</b>           | Construction of 5no Wind Turbines of 125m to blade-tip (maximum) and associated infrastructure, including 85m high meteorological mast, switch gear/control building, crane hardstandings and access tracks extending from Bacup Road, Todmorden | <b>Location:</b>                  | Land south west of Gorpley Reservoir, Off Bacup Road, Todmorden |
| <b>Report of:</b>          | Planning Unit Manager  | <b>Status:</b>                    | For Publication   |
| <b>Report to:</b>          | Development Control Committee  | <b>Date:</b>                      | 19 March 2013   |
| <b>Applicant:</b>          | Kelda Water Services   | <b>Determination Expiry Date:</b> | 11 March 2013   |
| <b>Agent:</b>              | Arcus Renewable Energy Consulting  |                                   |   |

|                         |                                 |                   |              |
|-------------------------|---------------------------------|-------------------|--------------|
| <b>Contact Officer:</b> | Neil Birtles                    | <b>Telephone:</b> | 01706-238645 |
| <b>Email:</b>           | neilbirtles@rossendalebc.gov.uk |                   |              |

| REASON FOR REPORTING  | Tick Box                 |
|---|--------------------------|
| <b>Outside Officer Scheme of Delegation</b>                     | <input type="checkbox"/> |
| <b>Member Call-In</b><br>Name of Member:<br>Reason for Call-In: | <input type="checkbox"/> |
| <b>3 or more objections received</b>                            | <input type="checkbox"/> |
| <b>Other (please state):</b>                                    | <b>MAJOR</b>             |

### HUMAN RIGHTS

The relevant provisions of the Human Rights Act 1998 and the European Convention on Human Rights have been taken into account in the preparation of this report, particularly the implications arising from the following rights:-

#### Article 8

The right to respect for private and family life, home and correspondence.

#### Article 1 of Protocol 1

The right of peaceful enjoyment of possessions and protection of property.

### 1. RECOMMENDATION

**That Committee grant Permission subject to the Conditions set out in Section 10.**

## 2. INTRODUCTION

Members of Committee will recall that Planning Permission was granted to Coronation Power by the Secretary of State in October 2009 for construction of the Reaps Moss Wind Farm, to entail erection in Rossendale of 3 turbines of 125m in height to blade-tip on land between Tooter Hill and Hogshead Law Hill, with associated infrastructure including an 80m high met mast and switch gear/control building, crane hardstandings and access tracks (2007/125). The scheme permitted provided for access to the Reaps Moss Wind Farm to be from Bacup Road, in Todmorden, entailing improvement/alteration of an existing access to the A681 and a length of Limers Gate within the administrative area of Calderdale MBC.

In August 2012 I reported to Committee that applications had been submitted to Calderdale MBC and ourselves seeking modifications to the infrastructure for the consented Wind Farm at Reaps Moss. Calderdale MBC approved the new site entrance arrangements and a re-arranged construction compound proposed within its area. In accordance with the Officer recommendation, this Council approved the proposed alterations to the previously-permitted cutting to accommodate the access road to rise from Limers Gate towards the moor-top and other alterations to access roads & hardstandings (2012/165).

Construction of Reaps Moss Wind Farm has not yet begun.

## 3. THE PROPOSAL

Kelda Water Services has submitted to Calderdale MBC and this Council applications proposing construction within the administrative area of Calderdale of 5no Wind Turbines of 125m to blade-tip and associated infrastructure (including an 85m high meteorological mast, switch gear/control building, crane hardstandings) on land to the east side of Limers Gate which slopes down towards Gorpley Reservoir.

For the purpose of construction and subsequent maintenance of this Wind Farm the applicant proposes to form / utilise the permitted access arrangements for the Reaps Moss Wind Farm, including its new site entrance from Bacup Road in Todmorden, a 400m long length of up-graded Limers Gate and a 1.7km length of the new track leading from it towards the most southerly of the Reaps Moss turbines. At a point stopping approximately 50m short of this turbine (which forms the Borough boundary) a new track would be formed that extends eastwards down to the first of Kelda's proposed turbines, having first crossed over Limers Gate.

## 4. POLICY CONTEXT

### National

#### National Planning Policy Framework (2012)

- Section 1 - Building a Strong, competitive Economy
- Section 3 - Supporting a Prosperous Rural Economy
- Section 4 - Promoting Sustainable Transport
- Section 7 - Requiring Good Design
- Section 9 - Protecting Green Belt land
- Section 10 - Meeting the challenges of climate change, flooding & coastal change
- Section 11 - Conserving & enhancing the Natural Environment
- Section 12 - Conserving & enhancing the Historic Environment

### Development Plan

#### Regional Spatial Strategy for the NW of England (2008)

- DP1-9 Spatial Principles
- RDF1 Spatial Priorities

|      |  |
|------|--|
| RDF2 | Rural Areas  |
| RDF4 | Green Belts  |
| W1   | Strengthening the Regional Economy                                 |
| W7   | Tourism & Visitor Economy  |
| L1   | Health, Sport, Recreation, Cultural & Education Services Provision |
| RT2  | Managing Travel Demand   |
| RT4  | Managing the Highway Network                                       |
| RT9  | Walking and Cycling  |
| EM1  | Environmental Assets   |
| EM3  | Green Infrastructure   |
| EM5  | Integrated Water Management  |
| EM17 | Renewable Energy   |

#### Rossendale Core Strategy DPD (2011)

|           |   |
|-----------|---|
| AVP2      | Area Vision for Bacup, Stacksteads, Britannia & Weir        |
| Policy 1  | General Development Locations and Principles                |
| Policy 8  | Transport   |
| Policy 9  | Accessibility   |
| Policy 14 | Tourism   |
| Policy 16 | Preserving & Enhancing the Built Environment                |
| Policy 17 | Rossendale's Green Infrastructure                           |
| Policy 18 | Biodiversity, Geodiversity & Landscape Conservation         |
| Policy 19 | Climate Change & Low Carbon & Zero Carbon Sources of Energy |
| Policy 20 | Wind Energy   |
| Policy 23 | Promoting High Quality Designed Spaces                      |
| Policy 24 | Planning Application Requirements                           |

#### **Other Material Planning Considerations**

PPS22 Companion Guide  
 Calderdale UDP  
 Rochdale UDP

## **6. CONSULTATION RESPONSES**

### **RBC Environmental Health**

All 5 turbines lie wholly within the Metropolitan Borough of Calderdale. Having looked at the Environmental Statements it is not anticipated that there would be any nuisance from either noise or shadow-flicker affecting properties lying within Rossendale including Shackleton Farm, which is the nearest.

### **LCC Highways**

Do not object to the application on highway grounds subject to the following conditions :

1. Prior to construction works or the booking of any abnormal loads it will be necessary to agree a plan with Lancashire County Council and the Police regarding :-
  - Breakdown of traffic movements
  - Visual route inspection report
  - Proposed temporary highway alterations
2. A wheel wash should be installed on site to ensure that no mud and debris are deposited onto the adjacent highways.

### Points to highlight with the applicant

Two proposed routes for abnormal loads (large vehicles) are identified :

Route 1 - M66 / A56 / A681 from Rawtenstall through Bacup & Sharneyford - was identified during the assessment for the consented Reaps Moss wind farm. There are bridges on Bacup Road at Waterfoot that will need careful management. It will be necessary to bring the abnormal loads through on weekend days and have a Police escort.

Route 2 - M65 / A671 from Burnley to Bacup / A681 through Sharneyford - has not been assessed before and has not been agreed with LCC.

### Environment Agency

No objection subject to implementation of the measures detailed in the submitted Flood Risk Assessment to limit surface-water run-off.

### United Utilities

No objection

## **7. REPRESENTATIONS**

To accord with the General Development Procedure Order a press notice was published on 18/1/13, 10 site notices were posted on 11/1/13 and neighbours were notified by letter on 10/12/12.

The resident of Shackleton Farm (within Rossendale) objects to the proposal, stating that their property is situated 850m from the nearest turbine and a similar distance from the nearest turbine at Reaps Moss. They express concern about noise and cumulative visual/overbearing impacts for a small number of properties & users of the Rossendale Way.

Eleven other objections have been received, all of which are from residents of properties in Calderdale. They appear to be copies of submissions to Calderdale MBC, the points they make relating to the implications from all elements of the proposal, including :

- Light flicker
- Noise
- Loss of outlook/overbearing as too close to houses
- Hazard as on shallow mine workings
- Site access hazardous as A681 is narrow/steep/bending
- Hydrology - affect for watercourses & private water supplies of residents
- Wildlife - affect habitat / nesting birds / bats
- Loss/harm to peat bog and carbon release
- Harm to area designated as Special Landscape
- Diminishes recreational value of public footpaths & bridleways / common land
- Loss of tourists
- Cumulative visual impacts with other Wind Farms
- Inefficiency of Wind Farms
- Financing
- Lack of publicity by Kelda

## **8. ASSESSMENT**

If the Reaps Moss Permission is first implemented Kelda's proposal would entail no works within Rossendale other than at the point on the Borough boundary where Kelda's new track would join the permitted track. If the Reaps Moss Permission is not first implemented Kelda's proposal would entail more extensive works within Rossendale, but no different from those

already permitted other than at the point on the Borough boundary where its new track would join the already permitted track.

This being the case I do not consider the works to be undertaken within Rossendale will have materially different or more adverse implications than would result from implementation of the extant permission for the Reaps Moss Wind Farm. Accordingly, it is recommended that permission be granted to Application 2012/526, subject to those Conditions of Permission 2012/165 for the Reaps Moss Wind Farm related to formation of its access.

The works within Calderdale are more extensive, including all five of the intended 125m high turbines, a met mast of 85m in height and over 2km of access track for which there has been no previous permission. Consequently, Calderdale MBC has had to consult more extensively upon the elements of the proposal intended within its area. It has Refused to permission, amongst other things, having received an objection from National Air Traffic Safeguarding and critical advice from Julia Martin Associates, the consultant they commissioned to assess the landscape and visual (including cumulative) impacts of the proposed wind farm.

Attached is a copy of Calderdale MBC's Decision Notice and the Julie Martin Report.

The Julie Martin Report is critical of the 'fit' with landscape character of the proposed turbines arising from the significant variations in turbine height. It identifies the visual impacts/implications for designated landscapes to be most particularly from/to the NE / E / SE, likewise with the cumulative impacts. Concern is expressed about the impact for recreational users of the site and surrounding area, most particularly for visitors to Gorpley Reservoir and for walkers/riders on long-distance N-S routes (including the Rossendale Way) who will have Reaps Moss turbines to one side of them and the proposed turbines to their other side.

## **9. SUMMARY REASON FOR APPROVAL**

The proposed development will make a valuable contribution to cutting greenhouse gas emissions and, subject to the conditions, the works within Rossendale Borough will not detract to a materially greater extent from visual and neighbour amenity, biodiversity, recreation, public safety or in respect of any other matter than would result from implementation of the extant Planning Permission for Reaps Moss Wind Farm. The development has been considered most particularly in relation to the National Planning Policy Framework (2012), PPS22 Companion Guide, Policy EM17 of the Regional Spatial Strategy and Policy 20 of the Rossendale Core Strategy DPD (2011).

## **10. RECOMMENDATION**

That Permission be granted to Application 2012/526 subject to the following Conditions :

### Conditions

- 1 The development hereby permitted shall be commenced within five years of the date of this decision.  
Reason : To accord with Section 51 of the Planning & Compulsory Purchase Act 2004.
- 2 The Local Planning Authority shall be provided with not less than 28 days written notice of the date upon which it is proposed to commence the development hereby permitted.

Reason : To allow the Local Planning Authority to verify that all conditions precedent have been complied with before the beginning of development and to allow the Local Planning Authority to monitor the implementation of the permission in accordance with Policy 24 of the RBC Core Strategy DPD (2011).

- 3 The local planning authority shall be notified in writing of the date when electricity from the development is first supplied to the grid and, other than any temporary construction compound(s), the development hereby permitted shall be removed from the site following the expiry of 25 years from that date or after a 12 month period in which electricity from the site has not been supplied to the grid, whichever is the sooner. Following the removal of the turbines and above-ground structures, the land shall be re-instated in accordance with a Decommissioning Method Statement that shall first be submitted for the approval of the local planning authority at least 6 months before the date of the decommissioning of the wind farm, unless any variation has first been agreed in writing by the local planning authority. That method statement shall include details of the manner, management and timing of the reinstatement works to be undertaken. The removal works and the reinstatement of the site shall be carried out in accordance with the approved scheme unless any variation has first been agreed in writing by the local planning authority.

Reason : This permission is for a 25 year period and the condition is required to ensure that the land is reinstated in an acceptable manner in the interests of visual amenity and ecology, in accordance with Policies EM1 of the Regional Spatial Strategy and Policies 1/18/20/24 of the Rosendale Core Strategy DPD (2011).

- 4 No development shall begin until a Construction Method Statement, describing works, including temporary works, to be undertaken and pollution prevention measures to be implemented during the construction phase, has been submitted to and approved in writing by the local planning authority. The Construction Method Statement shall provide for :

- (a) a scheme for a detailed geotechnical investigation to fully determine the nature of the subsoil and bedrock geology in the locality of proposed infrastructure;
- (b) details of the design and construction methods of the access tracks and pollution prevention measures to be implemented, to ensure that there are no polluting discharges from tracks and disturbed areas, including provision to ensure that no polluting discharge from haul roads and disturbed areas enter any watercourse; the construction period and the sequence of development;
- (c) the excavation, handling, storage, management and replacement of excavated soils and peat;
- (d) details of any stone excavation, storage and crushing arising from the construction;
- (e) details of the nature, type and quantity of materials to be imported on site for backfilling operations or construction of access tracks together with details of where and how such materials are to be stored on site;
- (f) mitigation measures to protect wildlife (including vegetation and nesting birds), habitats and hydrology including a Sediment Control Plan;
- (g) the management of groundwater and surface water (to be designed in accordance with the Sustainable Drainage Systems principle where possible);

- (h) a risk assessment of peat de-watering and works of mitigation;
- (i) measures for the protection of any boundary stones on or adjacent to the site.

The development shall be carried out in accordance with the approved Construction Method Statement.

Reason: In the interests of highway safety in accordance with Policies RT4 of the Regional Spatial Strategy and Policies 1/20/24 of the Rosendale Core Strategy DPD (2011).

- 5 Where access tracks cross existing public rights of way, appropriate warning signs, details of which shall first be submitted to and approved in writing by the local planning authority and shall be erected along the relevant public rights of way close to those crossing points. The signs shall be retained in place and maintained throughout the construction period and then removed in accordance with a timetable agreed in writing with the local planning authority;

Reason : In the interests of highway safety in accordance with Policies RT4/RT9/EM17 of the Regional Spatial Strategy and Policies 1/20/24 of the Rosendale Core Strategy DPD (2011).

- 6 Any lighting associated with the construction and operation of the wind farm shall only be installed and used in accordance with a scheme that has first been submitted to and approved in writing with the local planning authority before the commencement of development.

Reason: In the interests of visual amenity and to ensure protection of species and to ensure accordance with Policies EM1/EM17 of the Regional Spatial Strategy and Policies 1/18/20/24 of the Rosendale Core Strategy DPD (2011).

7. All cabling shall be located underground, in a scheme to be approved by in writing with the local planning authority.

Reason : In the interests of visual amenity and ecology and to ensure compliance with Policies EM1/EM17 of the Regional Spatial Strategy and Policies 1/18/20/24 of the Rosendale Core Strategy DPD (2011).

- 8 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 as amended (or any order amending, revoking and re-enacting that Order with or without modification), the access tracks shall remain unfenced/ungated once they have been constructed, other than where this may be required by the local planning authority under any other requirement or condition of this permission. Access for members of the public shall be maintained thereafter along the access tracks and over the area, unless the local planning authority agrees to the contrary in writing.

Reason: In the interests of visual amenity, ecology and recreation and to ensure compliance with Policies RT9/EM1 of the Regional Spatial Strategy and Policies 1/18/20/24 of the Rosendale Core Strategy DPD (2011).

9. No development shall take place until a Pollution Incident Response Plan has been submitted to and approved in writing by the local planning authority. The approved plan shall be implemented when required during the construction and the subsequent lifetime of the wind farm.

Reason : In the interests of ecological and hydrological protection and to ensure compliance with Policies EM1 of the Regional Spatial Strategy and Policies 1/18/20/24 of the Rosendale Core Strategy DPD (2011).

10 No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. In the event of any previously unidentified or disclosed archaeological remains being found during the course of the development, any works that may affect those said remains shall cease until an archaeological recording/preserving programme has been approved in writing with the local planning authority. The development shall then only proceed in accordance with the details of that approved recording/preserving programme.

Reason : To record/protect any archaeological interest uncovered across the site and to ensure compliance with Policy EM1/EM17 of the Regional Spatial Strategy and Policies 1/20/24 of the Rosendale Core Strategy DPD (2011).

11. Engineering operations or construction works, which are audible from the boundary of any noise sensitive receptor, shall only take place between the hours of 0800 to 1830 on Monday to Friday inclusive, 0800 hours to 1300 hours on Saturdays with no such working on a Sunday or Public Holiday. Outwith these hours, development at the site shall be limited to, maintenance, emergency works, dust suppression and the testing of plant and equipment, engineering or construction work that is not audible from the boundary of any noise-sensitive property outside the site. The receipt of any materials or equipment for the construction of the site is not permitted outwith the said hours, unless otherwise approved in writing by the local planning authority having been given a minimum of two working days notice of the occurrence of the proposed event. Fixed and mobile plant used within the site during the construction period shall not incorporate warning devices that are audible at the boundary of any noise sensitive property.

Reason : In the interests of visual amenity and to ensure compliance with Policies EM1/EM17 of the Regional Spatial Strategy and Policies 1/18/20/24 of the Rosendale Core Strategy DPD (2011).

12. No development shall take place until a Habitat Reinstatement Plan, to include monitoring, for the site is submitted to and approved in writing by the local planning authority. The Habitat Reinstatement Plan shall include:

(a) detailed methods and a timetable for reinstating disturbed ground so as to re-establish appropriate vegetation on the site. Disturbed ground shall include land at turbine bases, crane hard standing, cable trenches, access tracks and the construction compound.

(b) detailed methods for the maintenance and support of the reinstated areas for a period of 5 years on non-peat soils and 10 years on peat soils after the works of reinstatement.

The works of reinstatement, enhancement and maintenance shall be carried out in accordance with the approved Plan.

Reason : In the interests of ecology and to ensure compliance with Policies EM1/EM17 of the Regional Spatial Strategy and Policies 1/18/20/24 of the Rosendale Core Strategy DPD (2011).

13. No development shall take place until a scheme for ecological mitigation, to be called the Habitat Management Scheme, has been submitted to and approved in writing by the local planning authority. The scheme shall remain in place until the



wind turbines have been decommissioned and the land restored in accordance with Condition 3. The objective of the scheme shall be the management and, where possible, the enhancement of the ecological and wildlife habitats of the site. The Habitat Management Scheme shall provide for:

- (a) provision for restoring the peat habitats under the control of the operator or owner(s) of the land, the maintenance and monitoring of the hydrology of the habitats on the site;
- (b) monitoring of habitats, plant, bird and mammal species the year preceding the commencement of development and at yearly intervals for the subsequent 5 years and at 5-yearly intervals thereafter, in order to inform an ongoing management programme;
- (c) a review of the scheme at 5 yearly intervals by the local planning authority and provision for the scheme to be modified to achieve its objectives.

Reason : In the interests of ecology and to ensure compliance with Policies EM1/EM17 of the Regional Spatial Strategy and Policies 1/18/20/24 of the Rosendale Core Strategy DPD (2011).

14. No development shall take place until a survey to determine the presence of any of the protected species under the Wildlife & Countryside Act (as amended), and species of Principal Importance (as referred to in s40 of the Natural Environment and Rural Communities Act 2006), in the areas to be affected by construction activities has been undertaken. If any of these species are found, the Construction Method Statement required to be approved and implemented under Condition 6 shall include mitigation measures to avoid any damaging effects in respect of those species during the construction, the operation and the ultimate decommissioning of the wind farm.

Reason : In the interests of ecology and to ensure compliance with Policies EM1/EM17 of the Regional Spatial Strategy and Policies 1/18/20/24 of the Rosendale Core Strategy DPD (2011).

15. Development shall not be begun until a Private Water Supply Protection Plan has been submitted to and approved in writing by the local planning authority. This shall include details relating to:-

- (a) the establishment of baseline data to adequately characterise the quality and quantity of water provided by any private water supply that may be affected by the development;
- (b) the mitigation measures for the protection of private water supplies where a risk is identified;
- (c) the facility to notify the developer of a concern about a possible deterioration in water quality or quantity arising from the development;
- (d) the provision of alternative suitable and sufficient water supplies on a temporary and/or permanent basis in the event of any interruption or adverse change caused by the development in the quantity or quality of water previously enjoyed;
- (e) the arrangements for undertaking sampling, measurement and analysis of private water supplies before and during construction, up to 6 months after construction has been completed, during and after any

water pollution or interruption incident that may arise during construction works and subsequently, and at other times at the request of the local planning authority.

The Private Water Supply Protection Plan, as approved, shall thereafter be implemented and maintained at the developers/operators own expense.

Reason : In the interests of residential amenity and to accord with Policies EM5/EM17 of the Regional Spatial Strategy and Policies 1/20/24 of the Rosendale Core Strategy DPD (2011).