

Application Number:	2014/0149 & 2014/0150	Application Type:	Full
Proposal:	Installation of a wind turbine (47m high to blade tip) on each site	Location:	West of Brex Heights & Brex Farm, Off Coal Pit Lane, Whitewell Bottom
Report of:	Planning Unit Manager	Status:	For Publication
Report to:	Development Control Committee	Date:	22 July 2014
Applicant:	DC21 Group	Determination Expiry Date:	23 July 2014
Agent:			

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REASON FOR REPORTING	Tick Box
Outside Officer Scheme of Delegation	
Member Call-In Name of Member: Reason for Call-In:	
3 or more objections received	Yes
Other (please state):	

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 Permission be granted subject to the Conditions set out in Section 10.

2. SITE

This report relates to two applications submitted by the same applicant for sites located approximately 35m apart and upon which a turbine of 47m to blade-tip is proposed.

The applications relate to land in the Countryside 1km west of the ribbon of built-development that extends up Burnley Road between the settlements of Weir & Bacup and

2km east of the Urban Boundary of Whitewell Bottoms. The land is accessed from Burnley Road East via Shawclough Road/Coal Pit Lane and - once beyond the complex of buildings at Brex Farm - farm tracks of approximately 500m in length that climb up to the moor top. The site of Application 2014/0150 is more obviously improved grazing than the site of Application 2014/0149 which lies beyond. Several Public Footpaths run in the vicinity of the sites, but not through or between them; the farm tracks to be used for construction purposes are for a short length public footpath and cross other public footpaths.

A turbine 20m high to blade tip is to be seen 450m west of the sites of the current applications.

3. **RELEVANT PLANNING HISTORY**

2011/0014 Erection of 15kw wind turbine (20m high to blade tip)
Far Bank End Farm, off Coal Pit Lane, Whitewell Bottom
Approved 4/4/11

4. **PROPOSAL**

Each application seeks permission for a 225Kw wind turbine (which equates to electricity usage by 149 homes), the 30m high mono-poles to be topped by 3-bladed rotors giving a height at blade-tip of 47m, all to be coloured off-white. The Applicant believes that, due to careful siting, landscaping will not be required.

In the Supporting Statement accompanying the application the Applicant advises that :

- The NPPF provides a presumption in favour of sustainable development and, having regard to prevailing wind speeds in the area and the site constraints, turbines of the size proposed can be accommodated without undue harm to neighbor amenity, landscape, ecology, highway safety, other infrastructure/transportation routes, etc.
- The aim is to generate renewable electricity that will be fed into the national grid, requiring provision of a power cable which will be underground, the income helping to improve and maintain the agricultural estate.
- The immediate surrounding land is agricultural. The closest non-associated property to the proposals is 515m to the SW. Consequently, no properties will experience unacceptable loss of outlook, shadow-flicker or noise exceeding the acceptable noise level limits indicated in ETSU-R-97 guidelines.
- There are no highways or public footpaths within the fall-over distance of 47m from the turbines.
- Construction will take 4 weeks in the case of each turbine and involve 4 deliveries with the main turbine components, the longest loads of 16.5m and the heaviest loads of 12T. Temporary track will be created across the fields in which the turbines are to be erected.
- The turbines are a long way from any site designated for its ecological importance and mitigation measures will be put in place during the construction phase to prevent any possible harm to roaming or foraging land-based species.
- The turbines will have a life of 30 years and upon decommissioning the turbine and ancillary equipment will be removed and the land re-instated to its former use / original condition.
- In accordance with the pre-application consultation requirements introduced in December 2013 residents within 1,000m of the turbines were informed of the proposals and invited to comment upon them, without response.

Separate Reports have been submitted in respect of Noise, Landscape & Visual Impact & Badgers. The application is also accompanied by a Coal Mining Authority Report which states that :

- the application sites are *“in the likely zone of influence from workings in two seams of coal from shallow to 70m, and last worked in 1954”*
- *“The Authority is not aware of any evidence of damage arising due to geological faults or other lines of weakness that have been affected by coal mining.....Within, or within 20m of, the boundary of the property there is 1 mine entry.....There is no record of a mine gas emission requiring action by the Coal Authority within the boundary of the property”*
- *“No development should be undertaken that intersects or disturbs or interferes with any coal or mines of coal without the permission of the Coal Authority. Developers should be aware that the investigation of coal seams/former mines may have the potential to generate and/or displace underground gases and these risks both under and adjacent the development should be fully considered”.*

5. **POLICY CONTEXT**

National

National Planning Policy Framework (2012)

Section 7 Requiring Good Design

Section 10 Climate Change, Flooding and Coastal Change

Section 11 Conserving and Enhancing the Natural Environment

Rossendale Core Strategy DPD (2011)

AVP2/3 Area Vision Policies

Policy 1 General Development Locations and Principles

Policy 18 Biodiversity, Geodiversity and Landscape Conservation

Policy 19 Climate Change and Low and Zero Carbon Sources of Energy

Policy 20 Wind Energy

Policy 24 Planning Application Requirements

Other Material Planning Considerations

DCLG ‘Planning practice guidance for renewable and low carbon energy’ (2013)

6. **CONSULTATION RESPONSES**

RBC Forward Planning

NPPF Paragraph 17 sets out 12 “Core Planning Principles” which include encouraging the use of previously developed land; high quality design and enhancement of the natural environment. Paragraphs 96-98 encourage the development of renewable energy proposals provided their impacts can be made acceptable. The Renewable and Low Carbon section of National Planning Policy Guidance is also directly relevant.

Core Strategy Policy 19 indicates that new wind energy development will be given positive consideration provided that it does not have significant visual and other impacts. Bullet c) states that it should not have a significant impact on the character and value of the natural landscape.

Core Strategy Policy 20 again takes a positive response to wind energy proposals. Among the key points are that the impact on the landscape character and value should not be

“unacceptable”, either alone or cumulatively. The visual impact on local residents and sensitive users should also be considered.

Other issues that require consideration include the integrity of deep peat; impacts on water quality; shadow flicker; noise and ecology.

Paragraph 203 of NPPF sets out that Local Planning Authorities should consider whether otherwise unacceptable development can be made acceptable through planning obligations while paragraph 204 states that Obligations should only be sought where they are necessary; directly related to the development and fairly and reasonably related in scale and kind.

Policy 20 of the Core Strategy includes reference to community benefits being a consideration where this would contribute to alleviating any residual harm resulting from a proposal.

The application should be considered against the guidance in the “Landscape Capacity Study for Wind Energy Developments in the South Pennines” (2010) which forms part of the Evidence Base for the Core Strategy and “Landscape Guidance for Wind Turbines up to 60m high in the South and West Pennines” (2013).

The issues raised by objectors with respect to the access road indicate that improvements to the road are desirable. It appears that the turbines can be delivered to the site in a satisfactory manner with only minor improvements and the Highways Agency have not raised any objections. Taking into account government guidance on Section 106 agreements that they should be necessary, directly related to the development and related in kind I consider that it would be difficult to prove that a section 106 agreement is necessary for this proposal.

There is a protocol for community benefits between the Government and Renewables UK. This is £5 000 per MW per year for schemes of 5MW or more and therefore does not apply directly to this application for a 225kw scheme. However this does not mean that a Community Benefit contribution cannot be sought.

RBC Environmental Health

No objection.

Due to the long distance to the nearest residential property neither noise nor shadow flicker will be an issue.

LCC (Highways)

No objection, subject to the following conditions :

1. Before commencement of the development hereby permitted facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site.
Reason : To avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials, thus creating a potential hazard to road users.
2. Temporary warning signage should be erected prior to the commencement of the works, maintained throughout and removed following completion of the works along the route to warn pedestrians, cyclists and horse riders using bridleway 212 and

footpaths 116, 121 and 141 of the increased HGV and traffic movements. The information should include the planned dates of the vehicle movements.

Reason : To avoid a potential hazard to rights of way users.

NATS

No objection

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

Lancashire Badger Group

No objection.

"The submitted badger report is very good and has identified some possible problem areas. They have made some recommendations regarding the haul road having spoken with the ecologist we believe this is the best possible solution for all parties."

7. NOTIFICATION RESPONSES

To accord with the General Development Procedure Order site notices were erected on 18/6/14 and 18 letters were sent to neighbours in relation to each application.

In relation to Application 2014/0149 seven objections have been received and in relation to Application 2014/0150 eleven objections, making the following points:

Contrary to what is stated in the submitted Supporting Statement about having complied with the pre-application consultation requirements introduced in December 2013 by consulting all residents within 1,000m of the proposed turbines few of these properties received any communication from the Applicant.

Whilst there is no objection in principle to wind technology, the scale of the proposed turbines will have a horrific visual impact on the beauty of rural Rossendale, unlike the smaller turbines that farms need for their own use and fit in the landscape fairly well. The proposals are to the detriment of the people who use Rossendale's hills for recreation. There is a grade II listed building 0.59km from the proposals.

There will be unacceptable noise disturbance - this area is extremely quiet and every small sound ricochets in this valley area.

One objector has said they have concerns about noise as the submitted Noise Report assumes them to be the owners/financial beneficiaries of the existing turbine near the applications sites when this is not the case.

Construction traffic will use Coal Pit Lane, a narrow un-adopted lane, the responsibility/ cost of maintenance for which falls on 2 dozen residents/2 farms. In its present condition it is neither suitable for such lorry traffic, nor should they have to meet the costs for further maintenance; one objector suggests a contribution from the Developer of £5,000 per turbine each year towards road up-keep would be reasonable.

The submitted Coal Mining Authority Report states that the application sites are within the likely zone of influence from workings in two seams of coal from shallow to 70m and that *"No development should be undertaken that intersects or disturbs or interferes with any coal or mines of coal without the permission of the Coal Authority. Developers should be aware*

that the investigation of coal seams/former mines may have the potential to generate and/or displace underground gases and these risks both under and adjacent the development should be fully considered”.

The proposal will have a devastating effect on flora and fauna, disrupt badger setts and other small mammals.

Electricity from wind turbines is unreliable and cannot be stored. There is no evidence that increasing the number of wind turbines is reducing national COO2 emissions and would not be built without subsidies. There is no evidence that they bring significant local employment, but can adversely impact on traditional industry and tourism and on property values.

8. ASSESSMENT

In December 2013 new requirements were placed on Applicants to undertake pre-application community consultation on their proposals. In this instance the Applicant's Supporting Statement stated that residents within 1,000m of the turbines were informed of the proposals and invited to comment upon them. I considered this consultation zone to be of appropriate size having regard to the scale of the proposed turbines. However, as a result of the Council's notification letters/site notices upon receipt of the application, it became apparent that the Applicant had not notified all residents within 1,000m of the turbines. Accordingly, I have ensured that all properties within this distance of the application sites not initially notified of the applications by letter by the Council, or having commented on the applications already, were sent a notification letter.

Whilst each application proposes a 47m high turbine, in practice the proposal would read as a two turbine cluster.

The main considerations of the application are :

1) Principle; 2) Neighbour Amenity; 3) Landscape & Visual Impact; 4) Access/Parking; & 5) Other Matters.

Principle

Government guidance and Core Strategy policies are supportive of proposals for energy generation from renewable sources. However, policy recognises the need to balance the need for development with the need to protect the landscape, ecology and neighbour amenity. Government guidance states : *“..all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities.”*

Neighbour Amenity

I concur with the view of the Council's Environmental Health Unit that the proposed turbines are sufficiently far from occupied neighbouring buildings that unacceptable noise disturbance or shadow flicker are not likely to result. A condition is proposed to ensure that each of the turbines individually and cumulatively are operated at all times in a manner compliant with the 'Assessment & Rating of Noise from Wind Farms' (ETSU-R-97).

Visual impact for local residents is addressed below.

Landscape & Visual Impact

My main concern regarding these proposals relate to the potential visual impacts. The 2013 Julie Martin Study would define the proposals as for “small commercial” turbines. The

landscape character type in which the turbines are located is “enclosed uplands” within the broader “Forest of Rossendale” character area.

The 2010 Julie Martin Study identified the “Forest of Rossendale” capacity area as capable of accommodating a medium size wind farm of medium/large turbines; “Medium” is defined as 60m+. The best location is defined in that report as in the open, domed area such as Small Shaw Heights, just NNE of the proposed development sites.

Paragraph 4.3.2 of the 2013 Study indicates that small commercial turbines are less suited to the open tops of moorland plateaux and are best placed on lower moorland slopes just above the enclosed uplands. Paragraph 4.2.2 indicates that special attention should be given to the relationship with other existing turbines to avoid inconsistencies of size and design. There are three smaller existing/permitted turbines in the vicinity of this site; as they are of smaller size, and 2 are quite distant and on lower ground, only one has potential for cumulative impact.

However, the 2013 Study notes that one of the most significant features of the South Pennines (para 3.1.4) is the relationship between settlements and the skylines above them. The ZVIA and the photomontages indicate that the proposed turbines would form a significant new element in the view from Water (ie from the NW). As they are to be SSW of Small Shaw Heights and of less than 60+m in height, they will not impact on views from the built-up area of Weir and north Bacup or bounding the length of Burnley Road between them to the extent the 2010 Study identified the “Forest of Rossendale” as having capacity to accommodate .

Although the proposed turbines will have a visual impact for users of nearby rights of way (not least because of the difference in their height and the height of the existing turbine 450m to the west), the impact would only be significant over a limited area. Nor does this ‘scaling’ issue give me cause to think the proposed turbines will appear ‘threatening’ as viewed from any nearby residential properties.

Access / Parking

I am satisfied that the scheme would not have an unduly detrimental effect on users of the main road given its distance away from the road and the amount of screening for the most part existing between the site and the road, nor would the turbine unduly affect horses/riders.

The Highway Authority has not objected to the proposed turbines, subject to conditions to ensure mud/loose material is not carried onto the highway and measures are put in place to mitigate the likely of danger from construction vehicles for users of rights of way.

I do not have reason to doubt that the local highway network can accommodate the construction traffic likely to be generated by these proposals, which will be of limited duration. Objectors have expressed concern at the damage that will be done to Coal Pit Lane by vehicles associated with the turbines as it is an un-adopted road for which they have responsibility for maintenance. However, this is a private matter. However, payment towards upkeep of the road as requested by local residents could be considered a material consideration within Policy 20 - a Community Benefit reducing harm.

The turbines would also be outside of fall-over distances from the nearby footpaths and bridleways.

The scheme is considered acceptable in highway/public safety terms.

Other Matters

Ground Conditions :

The Coal Authority has indicated past coal working to have been undertaken under/in the immediate vicinity of the application sites. In accordance with its advice, a Condition is recommended to ensure that prior to the commencement of development further investigations of coal & former coal mines and their treatment are undertaken in an agreed form.

Biodiversity :

Neither of the application sites are underlain by deep peat. Whilst the site of Application 2014/0150 is more obviously improved grazing than the site of Application 2014/0149 which lies in the field just to its north, neither is designated for the importance of its fauna or flora.

At my request the Applicant commissioned a Badger Report and Lancashire Badger Group is satisfied that it is appropriate for permission to be granted on the basis of its findings/recommendations. Additionally, it is considered appropriate to attach conditions to minimise the area disturbed by any works/temporary construction tracks and to ensure construction avoids impacts on nesting birds.

Conclusion

Having two turbines in close proximity does deliver an appreciable amount of renewable energy and the proposal would have little ecological impact. With respect to noise and shadow-flicker the scheme appears to be satisfactory. Although concerned about the skyline impact of the proposed turbines on Water (ie as viewed from the NW), in principle the enclosed uplands are a suitable location for turbines of this scale. Also, there would inevitably be some harm to views from nearby rights of way, when viewed together with the existing 20m high turbine to the west.

Given the considerations in the preceding paragraph, in my view this is a finely balanced proposal. However, on balance, I would recommend permission be granted for both turbines, given the benefits that will accrue and that the visual harm is to a degree limited.

9. SUMMARY REASON FOR APPROVAL

The proposed turbine is acceptable in principle. It is considered that, subject to the conditions, the wider environmental benefits associated with increased production of energy from the turbine will outweigh the limited harm it will cause to the landscape and visual amenity, and the scheme is considered acceptable in terms of neighbour amenity, highway safety and ecology. The proposal has been considered with particular regard the National Planning Policy Framework (March 2012), and Policies AVP2/3 / 1 / 18 / 19 / 20 / 24 of the Council's adopted Core Strategy DPD (2011).

10. RECOMMENDATION

That Permission be granted, subject to the Conditions below.

CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required by Section 51 of the Planning and Compulsory Purchase 2004 Act.

2. The development hereby permitted shall be carried out contiguously with that proposed in Application 2014/0149 [or 2014/150] and in accordance with the submitted drawings and supporting information, and shall be to a height of no greater than 47m from ground level, unless otherwise required by the conditions below or otherwise first agreed in writing by the Local Planning Authority.

Reason : For the avoidance of doubt and to ensure the wider environmental benefits associated with increased production of energy from the turbines will outweigh the visual and other harms, in accordance with Policy 20 of the Council's adopted Core Strategy.

3. The turbine hereby permitted itself and cumulatively with that with that proposed in Application 2014/0149 [or 2014/150] and existing at Far Bank End Farm shall operate at all times with the level of noise emissions, with correction for any tonal components, that accords with the 'Assessment & Rating of Noise from Wind Farms' (ETSU-R-97).

Reason : In the interests of protecting neighbour amenity and the rural character of the Countryside, in accordance with Policies 1 / 18 / 20 / 24 of the Council's adopted Core Strategy.

4. The Local Planning Authority shall be notified of the date at which the turbine first generates electricity within 28 days of this event. The turbine shall be removed from the site and the land reinstated to its former condition no later than 30 years from the date of first electricity generation or 9 months without electricity generation, whichever date is the earlier.

Reason: In the interests of protecting the essentially open and rural character of the Countryside, in accordance with Policies 1 / 18 / 20 / 24 of the Council's adopted Core Strategy.

5. 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) the construction compound;
- (b) the excavation, storage, management and replacement of excavated soils;
- (c) the siting and form of temporary access tracks;
- (d) the construction of wind turbine foundations (including the findings of the additional ground stability investigations and stabilisation works required by reason of coal & past coal working)
- (e) the management of groundwater and surface water (the surface water drainage arrangements to accordance with SuDS principles);
- (f) mitigation measures to protect wildlife (including vegetation and nesting birds), habitats and hydrology and for sediment control;
- (g) the protection/reinstatement of any boundary walls on or adjacent to the site; &
- (h) the construction period and the sequence of development;

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

Reason : In the interests of visual & neighbor amenity, highway & pedestrian safety, prevention of pollution and safeguarding of wildlife interest, in accordance with Policies 1 / 18 / 20 / 24 of the Council's adopted Core Strategy.

6. Before commencement of the development hereby permitted facilities shall be provided within the site by which means the wheels of vehicles may be cleaned before leaving the site, in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason : To avoid the possibility of the public highway being affected by the deposit of mud and/or loose materials, thus creating a potential hazard to road users, in accordance with Policies 1 / 20 / 24 of the Council's adopted Core Strategy.

7. Temporary warning signage (to include the dates of vehicle movements) shall be erected prior to the commencement of the works, maintained throughout and removed following completion of the works along the route to warn pedestrians, cyclists and horse riders using bridleway 212 and footpaths 116, 121 and 141 of the increased HGV and traffic movements, in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority.

Reason : To avoid a potential hazard to rights of way users, in accordance with Policies 1 / 20 / 24 of the Council's adopted Core Strategy.

8. All cabling shall be located underground, in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority. All cabling works shall be carried out in accordance with the approved scheme and retained as such thereafter.

Reason : In the interests of visual & neighbor amenity, highway & pedestrian safety, prevention of pollution and safeguarding of wildlife interest, in accordance with Policies 1 / 18 / 20 / 24 of the Council's adopted Core Strategy.

9. Any works associated with the construction of the turbine hereby permitted shall not take place except between the hours of 8:00 am and 7:00 pm Monday to Friday and 8:00 am and 1:00 pm on Saturdays, with no works to take place on Sundays, Good Friday, Christmas Day or Bank Holidays.

Reason: To safeguard the amenities of neighbours and pedestrian/highway safety, in accordance with Policies 1 / 20 / 24 of the Council's adopted Core Strategy.

10. No development shall begin until a baseline television reception study in the area has been undertaken by a qualified television engineer and submitted to the local planning authority. A mitigation scheme setting out details of works necessary to mitigate any adverse effects to domestic television signals in the area caused by the development shall also be submitted to and approved in writing by the local planning authority before development begins. The mitigation scheme shall include provision for investigating and dealing with any claim by any person for domestic loss or interference at their household within 24 months of the final commissioning of the wind farm, and any mitigation works must be carried out in accordance with the approved mitigation scheme.

Reason: In order to protect the terrestrial TV and radio reception in the local area, in accordance with Policies 1 / 20 / 24 of the Council's adopted Core Strategy.

11. Vegetation clearance works or other works that may affect nesting birds, including ground nesting birds, shall be avoided between March and August inclusive, unless the absence of nesting birds has been confirmed by further surveys or inspections, the results of which have been agreed in writing by the Local Planning Authority.

Reason : To protect ecological interests in accordance with Policy 18 of the Council's adopted Core Strategy.

12. 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 4. The objective of the scheme shall be the management and, where possible, the enhancement of the ecological and wildlife habitats of the site and its surrounds. The Habitat Management Scheme shall provide for:

- (a) provision for restoring the habitats under the control of the operator or owner(s) of the land, and the maintenance and monitoring of the hydrology of the habitats;
- (b) monitoring of habitats, plant, bird and mammal species the year preceding the commencement of development and at yearly intervals for the subsequent 3 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 biodiversity and to safeguard protected species, in accordance with Policies 1 / 18 / 20 / 24 of the Council's adopted Core Strategy.