The Planning Inspectorate

Appeal Decision

Site visit made on 20 December 2023

by Elaine Moulton BA (Hons) BPl MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2024

Appeal Ref: APP/B3438/D/23/3330729
2 Parkway, Forsbrook, Staffordshire ST11 9DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Simon Wareham against the decision of Staffordshire Moorlands District Council.
- The application Ref SMD/2023/0118, dated 1 March 2023, was refused by notice dated 11 May 2023.
- The development proposed is described as 'retrospective planning application for a wind turbine'.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my visit, the wind turbine was in situ and I have dealt with the appeal on the basis that planning permission is being sought retrospectively.

3. The Government published a revised National Planning Policy Framework (the Framework) on 20 December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comment. Where reference is made in this decision to paragraph numbers, they are taken from the latest version of the Framework.

Main Issues

4. The main issues are:

    - Whether the appeal site is appropriate for wind energy development having regard to local and national policy;
    - The effect of the development on the living conditions of nearby residents with particular regard to shadow flicker and noise;
    - The effect of the proposal on public safety; and
    - The effect of the development on the character and appearance of the area.

Reasons

Appropriateness of site

5. The Framework indicates that the planning system should support the transition to a low carbon future and is supportive of the need to provide

renewable energy. It highlights that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. However, with regard to wind turbines, footnote 58 to paragraph 163b) indicates that applications for one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan or a supplementary planning document and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and that the proposal has community support.

6. Policy SD2 of the Staffordshire Moorlands Local Plan (LP) is supportive of renewable or low-carbon energy sources to meet part of the district's future energy demand. It indicates that wind turbine schemes will be assessed in line with the Government's specific policy on wind turbines.

7. The appeal site is not located in an area identified as suitable for wind energy as the LP does not identify any such areas. In addition, consultation on the planning applications resulted in several letters of objection. It is therefore clear that the development does not have the support of the local community.

8. Accordingly, the appeal site is not appropriate for wind energy development as it is contrary to LP Policy SD2 and footnote 58 to paragraph 163b) of the Framework.

Living conditions

9. The wind turbine is sited close to the front boundary of 2 Parkway (No 2). A pair of two storey semi-detached dwellings, 1 and 3 Parkway (No 1 and No 3) are sited opposite at a lower ground level. Such properties are separated from the wind turbine by the carriageway and modest front gardens.

10. Given the orientation and proximity of the wind turbine relative to the front windows of No 1 and No 3, it is reasonable to consider that the rotation of the wind turbine blades could cast shadows in the rooms served by the front facing windows. I acknowledge that the occupiers of the nearest property, No 1, have not objected. Nonetheless, an occupant of No 3 has indicated that the rotation of the turbine reflects in the lounge of that property.

11. Consequently, in the absence of technical evidence that demonstrates otherwise, I cannot be certain that acceptable living conditions for neighbouring occupants could be maintained with the wind turbine in situ.

12. A Noise Impact Assessment Report (the Report) was provided with the planning application documents which concludes that the wind turbine has a low impact at the nearest and worst affected noise sensitive receptors. I acknowledge that the Council's Environmental Health Officer (EHO) has raised no objection to the conclusion of the Report and recommends that the noise levels and advice set out in it are secured by condition. In the absence of any substantive evidence to the contrary, I find no reason to dispute the findings of the Report or disagree with the EHO.

13. I therefore conclude that the development has an unacceptable effect on the living conditions of nearby residents with regard to shadow flicker. Consequently, as it has not been demonstrated that this planning impact as identified by the affected community has been appropriately addressed, it is

contrary to LP Policy SD2 and footnote 58 to paragraph 163b) of the Framework.

Public safety

14. As part of the appeal documents, the appellant has provided information about the wind turbine and pole. This includes warranty details for the turbine, confirmation that it was installed by an appropriately qualified person, and that the turbine has a cut-out mechanism that takes it out of excessive winds. It is indicated that the turbine would be inspected regularly by an engineer. Furthermore, the appellant has suggested guy wires could be attached to the pole as an extra precautionary measure and on my visit, I noted that had already been done. If I were minded to allow the appeal, conditions could be imposed to require regular inspection and the retention of the guy wires.

15. I acknowledge the concerns of the Council, shared by interested parties, that the wind turbine poses an unquantified safety risk given its proximity to the public highway and pavement. However, in the absence of any substantive evidence to the contrary, I find no reason to dispute the operational and safety information that has been provided or conclude that the installation is unsafe.

16. Consequently, the appeal scheme does not harm public safety and accords with LP Policy DC1 which requires new development to create a safe public environment. Insofar as it is relevant to this main issue, the proposal also accords with LP Policy SD2 and footnote 58 to paragraph 163b) of the Framework as the planning impact that has been identified by the affected community has been appropriately addressed.

Character and appearance

17. The wind turbine is in a prominent position on the corner of Parkway and Beverley Crescent in a residential area. Lampposts are regularly spaced along the two highways creating a rhythm and verticality within the street scene.

18. The column on which the wind turbine is mounted is comparable in scale and appearance to the nearby lampposts. Whilst the turbine and blades are bulkier than the lighting units on top of the lampposts it has a relatively linear and compact design overall. Notwithstanding its elevated and exposed position, I find that it is typical of the infrastructure often experienced in built up areas and, accordingly, is not an alien and unexpected feature in the street scene.

19. Therefore, the development does not harm the character and appearance of the surrounding area. As such it accords with LP Policies SS1, SS8, DC1, DC3 and SD2 which, amongst other things, seek to ensure that developments respect the site and its surroundings. In addition, it accords with the design aims of the Framework set out at paragraph 135.

Other Matters

20. I acknowledge the appellant's concerns regarding the Council's handling of the planning application, including the significant financial burden of commissioning a Noise Impact Assessment. However, these are matters that fall outside of the remit of this decision.

21. I note that there is some public support for the wind turbine, however this does not justify development that I have found to be harmful.

Planning Balance

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

23. The Framework gives strong support to the delivery of renewable energy schemes. In addition, in declaring a climate emergency the Council is seeking to reduce carbon emissions, and as part of this they wish to enable people to reduce their own carbon footprint by supporting small standalone renewable energy schemes. The benefits of this domestic scale turbine are small but the reduction in carbon emissions arising from it add moderate weight in favour of the development.

24. I have, however, concluded that the proposal would not be located in an area identified as suitable for wind turbines. Furthermore, I have found that the development causes harm to the living conditions of nearby residents and, consequently, all the planning impacts identified by affected local communities have not been appropriately addressed. It is therefore contrary to the development plan, which carries substantial weight in this decision.

25. I have not found harm with regard to public safety or in respect of the character and appearance of the area. However, the absence of harm in these matters are neutral factors in the balance.

26. Accordingly, in this instance, I consider that the benefits of the proposal do not present a material consideration that is sufficient to outweigh the identified conflict with the development plan and the Framework.

Conclusion

27. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR