
Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 23/07/14
Ymweliad â safle a wnaed ar 23/07/14

**gan Clive Nield BSc(Hon), CEng,
MICE, MCIWEM, C.WEM**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 12 Awst 2014

Appeal Decision

Hearing held on 23/07/14
Site visit made on 23/07/14

**by Clive Nield BSc(Hon), CEng, MICE,
MCIWEM, C.WEM**

an Inspector appointed by the Welsh Ministers

Date: 12 August 2014

Appeal Ref: APP/U6925/A/13/2209535

Site address: Bedlinog Farm, Bedlinog, Merthyr Tydfil, CF46 6SN

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 Keith Bellis of Bedlinogwynt against the decision of Merthyr Tydfil County Borough Council.
 - The application Ref P/11/0250, dated 30 August 2011, was refused by notice dated 31 May 2013.
 - The development proposed is the construction of 3 No. wind turbine generators up to 126.5 m in overall height, c/w associated access roads, crane pads, electrical and communication cables, electrical switchroom and ancillary works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the effects of the proposed wind turbines on the landscape, especially the setting of the Gelligaer Common Landscape of Special Historic Interest, the visual impact on the users of the Gelligaer Common and nearby public footpaths, the benefits in terms of generation of renewable energy, and the involvement of the local community.

Reasons

Effects on Historic Landscape and Landscape Setting

3. The appeal site is within the Gelligaer Common Historic Landscape Area, which is in the Register of Landscapes of Historic Interest in Wales, and is thus subject to the national policy that, where a development is of such a scale that it would have more than a local impact on the area, the planning authority may give weight to that designation. In this case, although the footprint of the proposed development would be quite small and there would be little direct effect on the landscape, the nature and substantial height of the wind turbines would lead to a significant indirect effect on the landscape.

4. The Appellant has carried out an Assessment of Significance of the Impacts of the Development on the Historic Landscape (ASIDOHL) in accordance with the latest established procedure, and it is common ground that the 3 wind turbines would be dominant features in their immediate area. That impact would gradually become reduced further away from the site and where the topography partially screened their full height. However, wind turbines of the height proposed can still be prominent features several kilometres away.
5. Gelligaer Common is divided into 6 Historic Landscape Character Areas (HLCA), and the ASIDOHL has considered the effects on each one. Three are worth particular note. The site lies within the Western Enclosed Common HLCA, and the ASIDOHL concludes that the indirect impact of the turbines would be moderate. However, I consider that to be underestimated. The turbines would be visible from much of the area and would appear dominant at key points, as indicated by the Appellant's visual impact assessments at positions within this HLCA. I consider the wind turbines would have a considerable impact on this HLCA.
6. The Central Common HLCA and the Garnbugail/Mynydd Fochriw Open Common HLCA are close to the site, and both would be subject to the dominant appearance of the 3 turbines over parts within several kilometres of the site and their prominence in views from most other parts. Furthermore, the Garnbugail/Mynydd Fochriw Open Common HLCA contains a large group of Bronze Age cairns, which seem to have been underestimated in the Appellant's assessment and yet have been scheduled as ancient monuments as a group. Cadw advises that "the cairns are likely to have been originally located to take advantage of the upland location, from which they could be viewed from afar, command extensive views and be inter-visible with cairns within the group and other cairns beyond the group".
7. Some of the cairns would be only a few hundred metres from the proposed wind turbines, and I consider the turbines would have a significantly detrimental effect on the setting of the cairns, particularly on account of the importance of their visibility and inter-visibility. Cadw also advises that the turbines would have a visually dominant effect that is damaging to the setting of this scheduled ancient monument.
8. The Gelligaer Common as a whole is described in the Register as "an increasingly rare survival in South East Wales of an area of high upland moor, rich in a diverse archaeological resource" and "represents a continuity of land use and activity from the prehistoric period to the recent past". Its archaeological value is further illustrated by the explanation in the Appellant's Environmental Statement that there are 35 ancient monuments within 1 km of the site, including 20 Bronze Age, 11 medieval and one Roman road. This is an exceptional density of sites of national importance and a measure of the importance of the Common.
9. The ASIDOHL carried out for the Appellant concluded that the significance of effects on the 3 Historic Landscape Character Areas referred to above would be "slight adverse" or "moderate adverse". I consider this to be a significant under-appreciation, particularly bearing in mind the advice provided by Natural Resources Wales and Cadw. The wind turbines would introduce very large modern moving structures into the heart of a landscape not significantly changed since the pre-industrial age. The development would have an impact over a wide area (much more than local) and cause significant harm to the setting of an extensive area of the Registered Gelligaer Common Historic Landscape Area and an important network of scheduled ancient monuments. As such it would conflict with Local Development Plan policies AS4 and TB7.

10. The Appellant has argued that, although Natural Resources Wales has objected to the development, Cadw's comments do not amount to an objection, and the Glamorgan Gwent Archaeological Trust and the Council's Heritage Officer have accepted the results of the Appellant's assessment. That may be so but I find the advice of Natural Resources Wales and Cadw (which is quite clearly critical, even though not described as an objection) preferable to the other assessments. The Appellant has also drawn my attention to other appeal decisions for wind turbines where scheduled ancient monuments would be affected. However, these are not directly comparable with the appeal site's location within a Registered Historic Landscape Area with such a high density of scheduled ancient monuments, many of which place such an emphasis on inter-visibility.

Visual Impact

11. Turning to the second main issue, it is not in dispute that the Common is popular with walkers and that the wind turbines would be visible from several local public footpaths and more distant paths along the ridge and elsewhere, as well as from several public roads and from some of the houses in Bedlinog. As described above, the 3 wind turbines would be dominant visual features in their immediate area and prominent features in many views from up to several kilometres away. They would be tall, alien, moving structures within an otherwise simple upland landscape.
12. The Appellant has carried out a structured Landscape and Visual Impact Assessment, which includes assessments from a series of important viewpoints. There is little dispute between the main parties as to the assessment of the degree of visual impact but the Appellant submits that the impacts are largely neutral whilst the Council says they are detrimental. To a large extent this depends on the viewers' perceptions of the landscape.
13. Due to their substantial scale, the proposed turbines would have a major effect on many of the views assessed. Views from the immediate vicinity would generally be from locations frequented mainly by local people and, although some local residents have objected to the scheme, many have indicated support. Thus, although the turbines would be quite dominant in these local views and some see this as unacceptably harmful, the majority seem to be (at worst) neutral in their perception. Thus, I attribute only limited weight to this, reflecting the opinions of only a few local residents that the visual impacts would be harmful.
14. Over a wider area the turbines would be prominent in many important views, including from the Ridgeway footpath network, the main road over the Common and the road from that down into Bedlinog (to the north and west of the site). These viewpoints are frequented by a much wider range of people, including many who visit the Common from further afield for recreational purposes and on a daily basis in travelling to and from work.
15. The prevailing nature of the landscape of the Common is of an extensive simple, uncluttered, open area of land. The turbines would introduce tall moving structures which would be prominent in many views and alien to the relatively tranquil upland landscape. The turbines would tend to be the focus of attention in place of the wider rolling landscape. These impacts would be significant and harmful to the visual amenity of the Common and the wider area. They would detract from the enjoyment of visitors to the Common.

16. Due to these harmful effects on the visual amenity of the area, I conclude that the scheme would conflict with Local Development Plan policies BW5 (which aims to protect the natural heritage, including avoiding harm to the landscape character of the countryside) and TB5 (which supports renewable energy initiatives provided they do not have an unacceptable impact on biodiversity and landscape).
17. The Appellant has submitted arguments about the capacity limits referred to in Policy TB7, particularly 5 MW in rural areas. However, the Council confirmed that the capacity of the appeal proposal was not seen as materially different from this "limit" and so was not a factor in its refusal of the scheme. I share that interpretation.

Renewable Energy Benefits

18. I now consider the benefits of the proposed scheme, which are not generally in dispute. Extensive national and local policy supports the need for more renewable energy to combat climate change. The UK and Welsh Governments have set demanding targets for this, in response to the 2009 European Directive, but progress so far has fallen short. The UK Renewable Energy Road Map Update 2013 identified that a substantial scaling up of all types of renewable technologies was needed if the 2020 targets were to be achieved, and onshore wind has a vital role to play.
19. Planning Policy Wales says that "The planning system will play an important role in tackling climate change and reducing greenhouse gas emissions", that "tackling climate change is a fundamental part of delivering sustainable development", and that "the introduction of new, large structures for onshore wind needs careful consideration to avoid and where possible minimise impact but that the importance of wind energy and future renewable energy production should be taken into account by decision makers when determining applications". Technical Advice Note 8: Planning for Renewable Energy (TAN8) provides further advice and support for the development of renewable energy schemes.
20. In this case the scheme would have a capacity of approximately 6 MW and would make a useful, albeit quite modest, contribution towards targets for the generation of renewable energy in Wales. This is a benefit of considerable weight in favour of the grant of planning permission.

Community Involvement

21. Finally, it is appropriate to consider the importance of community involvement in the proposed scheme. TAN8 states that small community based wind farm schemes should be encouraged, and the Minister's letter to Local Authority Cabinet Members of 18 December 2013 further reinforced the Welsh Government's policies in Planning Policy Wales and its determination to promote community renewable energy projects. It urged local planning authorities to provide practical assistance to community groups and organisations who may be unfamiliar with the requirements of the planning system. Whilst acknowledging that planning decisions should be based on assessment of the impacts of the proposed development irrespective of who the applicant is, the letter stressed the Welsh Government's ambitions to see community owned renewable energy projects flourishing across Wales.
22. In this case the Community Council has been involved in the development of the scheme from the beginning and has set up Bedlinog Community, a company limited by guarantee, to enable it to participate in the scheme. Bedlinog Community has entered into an Option Agreement that would allow it to purchase up to 15% of the developer company, Bedlinogwynt Limited, and a parallel Shareholders Agreement relating to

Bedlinogwynt Limited would ensure it shared the full rights and responsibilities of a shareholder in the company. It would cost some £400,000 to purchase 15% of the developer company, and there seems little doubt this money would be available through the Ynni'r Fro community grant initiative supported by Welsh Government.

23. It was explained at the hearing that the Ynni'r Fro Programme was set up within the Energy Saving Trust in 2010 to support community renewable energy initiatives throughout Wales, and it has already provided funding to the Community Council for professional fees to help it formalise its involvement in the project. It is well funded to provide the £400,000 referred to above.
24. The local community (through Bedlinog Community) would receive 2 financial benefits from the development: a lump sum of £25,000 per year (inflation linked) payable by the developer; and further money from dividends payable in respect of its 15% shareholding, which may be a similar amount. These would be useful benefits for the local community. Nevertheless, they are not benefits that remedy genuine planning problems or mitigate the effects of the development, and so they cannot be taken into account in the determination of the planning application. They do not meet the tests set out in Circular 13/97 (Welsh Office) on Planning Obligations.
25. Nevertheless, this does not mean that the involvement of the local community is not material. Paragraph 12.8.19 of Planning Policy Wales makes it clear that it is Welsh Government policy to support community driven renewable energy projects where benefits from the projects are returned to the host community, and the same paragraph includes a footnote referring to Ynni'r Fro, who have been involved in helping the community council. In this case, a proportion of the benefits would be returned to the host community and, although the financial benefits themselves are not a material consideration, it is appropriate to attribute some weight to the involvement of the local community in the project.

Overall Conclusion

26. Overall I conclude that the proposed development would be significantly harmful to the setting of an extensive part of the Registered Gelligaer Common Historic Landscape Area and an important network of scheduled ancient monuments and to the visual amenity of users of the Common and the wider area. However, it would also provide important benefits in terms of the generation of renewable energy and the involvement of the local community to whom some of the benefits of the scheme would be returned. These are useful benefits but I consider them to be substantially outweighed by the significant harm that would be caused to the historic landscape and visual amenity of the Common.
27. I have taken into account the Environmental Statement, legal agreements and all other matters raised, and I have considered whether the harm might be adequately mitigated by applying planning conditions. However, I have concluded that nothing would outweigh the considerations that have led me to my main conclusion. For the reasons given above I conclude that the appeal should be dismissed.

Clive Nield

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr David Stewart, MA, DipTP, MRTPI	David Stewart Associates – Agent.
Mr H Smallwood	Director, Appellant Company.
Mr Phillip Roden, CMLI	Axis PED – consultant (LVIA)
Dr Jonathan Edis, BA, MA, PhD, MIFA, IHBC	Director, Heritage Collective - consultant
Mr Mick Green, CEnv, FCIEnvMan	Ecology Matters - consultant.
Mr Marcus Trinick QC	Instructed by Eversheds LLP.

FOR THE LOCAL PLANNING AUTHORITY:

Mr Huw Roberts, BSc, DipTP, MRTPI	Group Leader Development Control, Merthyr Tydfil CBC.
Mr Simon White, MA, CLA, DipLA, CMLI	Director, White Consultants (LVIA).

INTERESTED PERSONS:

Mr Richard Kelly, MA, FSA, MIFA	Govannon Consultancy – acting for Natural Resources Wales re Historic Landscape.
Ms Karen Maddock-Jones	Natural Resources Wales (re Conditions).
Mr Scott Hand	Natural Resources Wales (re Conditions).
Cllr Mrs Helen Thomas	Chair of Bedlinog Community Council.
Mrs Yvonne Wood	Local resident.
Ms Jenny Carlisle, BSc, MSc	Development Officer, Ynni'r Fro Programme, Energy Saving Trust.
Ms Sherelle Jago	Local resident, Director Bedlinog Community, former Taff Bargoed Communities First Coordinator.

Mr Roger Tanner	Retired planner, Cardiff.
Mr Jim Davies	Local resident & member of Bedlinog and Trelewis Environment Group.
Mr Rob Smart	Ditto.
Mr Peter Collins	Local resident.

DOCUMENTS RECEIVED AT HEARING

- 1 Letter of Notification of the hearing sent to interested third parties by Council.
- 2 Copy of Shareholders Agreement relating to Bedlinogwynt Limited, provided by Appellant. (Additional Core Document 62)
- 3 Copy of Option Agreement for the subscription of securities in Bedlinogwynt Limited. (Additional Core Document 63)
- 4 Copy of Minister's letter of 18 December 2013 promoting community renewable energy projects.
- 5 Set of Draft Planning Conditions provisionally agreed between Appellant and Council.

PLANS

A1-A12 Application Plans:

- 032 2004 – Site Location Plan
- 032 2005 – General Arrangement & Planning Application Boundary
- 032 2006 – Site Entrance Details
- 032 2007 – Access Track Construction Detail
- 032 2008 – Wet Area/Ditch Crossing Detail
- 032 2009 – Turbine Foundation Typical Detail
- 032 2010 – Turbine General Arrangement Typical Detail
- 032 2011 – Crane Pad Typical Detail
- 032 2012 – Power & Communication Trench Typical Detail

032 2014 – Construction Compound Typical Detail

032 2015 – Switchroom Plan & Elevations

032 2017 – General Arrangement A3

B1-B2 Supplementary plans received at hearing: 032 2018 Additional Access Track Cross Section; and 032 2019 Crane Pad Sections.