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# Appeal Decision

Site visit made on 4 April 2012

**by John Woolcock BNatRes(Hons) MURP DipLaw MPIA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 4 July 2012**

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**Appeal Ref: APP/D0840/A/11/2162570**

**Treworgans, Cubert, near Newquay, Cornwall**

- 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 Allen against the decision of Cornwall Council.
  - The application No:NR/10/00063/WIND, dated 2 March 2010, was refused by notice dated 19 August 2011.
  - The development proposed is the erection of a single wind turbine, standing not more than 53.7 m to tip, ancillary infrastructure and grid connection work near Cubert, Cornwall.
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## Decision

1. I dismiss the appeal.

## Preliminary matters

2. The scheme proposes a 200 kW to 350 kW turbine.<sup>1</sup> The make and model is not specified, but it would have a tower height of up to 37 m and a rotor diameter of up to 33.4 m, giving a maximum height of 53.7 m to blade tip. Grid connection is proposed via an underground link to an existing 11 kV electrical pole located towards the western end of the land edged blue on the application plans, which is in the control of the appellant.
3. A unilateral planning obligation, dated 24 January 2012, provides for a financial contribution to a community beneficiary for twenty years following commencement of the development that is the subject of this appeal. I consider the weight to be given to the obligation later in this decision.
4. The Council received approximately 85 letters and emails of objection to the application from local residents or members of the public. A petition, signed by 74 people, objecting to the proposal, was also received by the Council. In addition, I have taken into account the 91 written representations submitted at the appeal stage, which expressed objection to the proposal. These included representations from both Crantock and Cubert Parish Councils. I note that one of the aims of national planning policy is to strengthen local decision making.<sup>2</sup> However, it remains a general principle of the planning system that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons.<sup>3</sup>

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<sup>1</sup> Design and Access Statement.

<sup>2</sup> *National Planning Policy Framework* Annex 1: Implementation. [I deal with the *Framework* in more detail below].

<sup>3</sup> *The Planning System: General Principles*, ODPM, 2005.

I have had regard to the volume of local opinion against the proposal, but have determined the appeal on its planning merits.

5. The Cornwall Area of Outstanding Natural Beauty (AONB) lies some 7 km to the south of the appeal site. Submission received about the proposal include that the scheme should have been the subject of Environmental Impact Assessment. However, having seen the evidence and the site, I concur with the Council's screening opinion.

### **Main issues**

6. The main issues in this appeal are:

- (a) The effects of the proposed development on the character and appearance of the area.
- (b) The effects of the proposed development on tourism.
- (c) The compatibility of the proposed development with national and local policy in respect of the generation of energy from renewable sources.

I have also considered whether the benefits of the scheme would be sufficient to outweigh any harm that might be caused, and whether there are any other considerations which would justify allowing the appeal.

### **Planning policy**

7. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. The development plan for the area includes saved policies of the Cornwall Structure Plan 2004 (SP), and saved Policies of the Carrick District Wide Local Plan 1998 (LP). The *National Planning Policy Framework* (hereinafter the *Framework*) was published after the Council determined the application. I have taken the comments submitted about the *Framework* into account in determining this appeal.
8. LP Policy 13B sets out criteria for renewable energy schemes. However, this does not provide for the balancing exercise that is implicit within the *Framework*. The core planning principles set out in the *Framework* encourage the use of renewable resources, for example, by the development of renewable energy, whilst taking account of the different roles and character of areas and recognising the intrinsic character and beauty of the countryside.<sup>4</sup>
9. The Council has commissioned a study entitled *An Assessment of the Landscape Sensitivity to On Shore Wind Energy and Large Scale Photovoltaic Development*. This is technical evidence, which both the Council and the appellant claim in support of their respective cases. However, the *Assessment* is currently going through a process of Council Member scrutiny before full public consultation and formal adoption. It can be given limited weight at this stage.
10. The site is located in the Perranporth and Holywell Area of Great Landscape Value (AGLV), and a defined Coastal Zone. However, the relevant LP policy concerning the Coastal Zone has not been saved. SP Policy 2 requires development, amongst other things, to respect the interests of the AGLV. The supporting text in the LP provides that the conservation of natural beauty and

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<sup>4</sup> *Framework* paragraph 17.

amenity is to be given particular emphasis in the AGLV. However, the *Framework* states that criteria based policies should be set, against which any development on, or affecting, protected landscape areas, would be judged. I note the AGLV and Coastal Zone designations, but I have relied upon evidence concerning landscape character assessment and visual effects in determining this appeal. The Council cited guidance published by the Landscape Institute in this regard. In assessing possible adverse landscape and visual impacts a degree of subjectivity is inevitable. In coming to my own judgements on these matters, I have considered whether sensitivity and impact magnitude would be either very low, low, medium, high or very high; and so have assessed whether the proposal would have a negligible, minor, moderate, substantial or major effect.

## Reasons

### *Character and appearance*

11. The appeal site lies within open countryside some 500 m to the south of dwellings on the outskirts of the village of Crantock. The site is accessed via a farm track from the hamlet of Treworgans to the south. The nearest part of the village of Cubert lies about 1.5 kms to the south of the proposed turbine. The appeal site and its immediate surrounds are agricultural and equestrian fields, with associated paraphernalia. Cubert Common lies to the west. The 11 kV electrical pole intended to provide a grid connection lies close to the eastern boundary of the Common.
12. The appeal site lies within Landscape Character Area No.15 – Newquay and Perranporth Coast, of the *Cornwall and Isles of Scilly Landscape Character Study, 2007* (LCA15). This area is characterised by a gently undulating north-west facing shelf dissected by small streams with narrow valleys to the sea. It is open and exposed with large settlements based on tourism, and includes other clustered settlements and farms, along with scattered caravan and campsites with associated tourist signage. The appeal site is surrounded on three sides by Landscape Character Area No.14 Newlyn Downs (LCA14). This is an extensive, open and gently undulating plateau. It contains wind farms at Carland Cross and Four Burrows on an inland ridge near to the A30. These turbines are visible in the distance from vantage points in the vicinity of the appeal site.<sup>5</sup> Given the intervening topography, along with the separation distance, the proposed turbine would not have an adverse effect on the landscape and scenic beauty of the AONB.
13. The proposed turbine would be sited in a mid-slope location within one of LCA15's narrow valleys. It would be located close to the eastern boundary of Cubert Common, which is open access land crossed by footpaths that link into a network that includes the South West Coast Path. The Common is set back from the dramatic coastal cliffs and beaches, but as coastal hinterland it forms an integral part of the wild and exposed wider coastal landscape. There is vehicular access to the Common and a small area is used for car parking. It was evident from my site inspection that a circular walk around the Common is well used. The eastern section of this walk overlooks the appeal site. The *Landscape Character Study* under a sub-heading of "Aesthetic and sensory" refers to quiet rural parts of the area providing a sense of escape and tranquillity away from the honey-pots of people and activity during the summer months, and that it is the contrast with areas altered by tourism that helps to

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<sup>5</sup> The Council states that the turbines at Carland Cross are approximately 10 kms from the appeal site.

highlight the value of this landscape.

14. I have taken into account the distribution of visual receptors and the sensitivity for those who use the local footpaths. I consider that the vicinity of the appeal site within LCA15 has high landscape sensitivity to the change that would result from the construction of the proposed wind turbine. The magnitude of landscape effects concerns the degree of change to the landscape resource and the nature of the effect. The proposed turbine would be a large utilitarian structure in this coastal setting. It would introduce a built form, with moving blades, into an area that, because of its undeveloped nature, locally provides an important contrast to areas altered by tourism. The landscape in LCA14, which is set back from the coast, would be less affected. Nevertheless, such a significant alteration to this coastal hinterland would detract from the landscape resource. I consider that an impact magnitude of high for LCA15 would be appropriate here.
15. The proposed turbine would not undermine the landscape fabric of the area, nor would it obliterate any of its key characteristics. However, it would impair the character, quality and value of LCA15. I find that the overall significance of the impact of the proposed development on the landscape resource would be substantial and adverse. I turn next to visual effects, and do so by assessing views from three broad areas, again considering sensitivity of receptors and magnitude of visual change, so as to assess significance.
16. The more distant areas to the north and west of the appeal site are shown on the wire frames for View Points (VP) 6, 7, 8, 9 and 10. This area includes the South West Coastal Path and routes to and from it. Receptor sensitivity here is high to very high. However, the Zone of Theoretical Visibility (ZTV) indicates that there would be limited vantage points where the proposed turbine would be visible, and where it was evident in most cases only part of the turbine or its blades would be apparent. Those vantage points which would expose most of the turbine would be some 2 kms from the appeal site, and this would limit any adverse visual impact. This is apparent from VP9, where the turbine would not project above the skyline. Vegetation in the immediate vicinity of the Porth Joke Car Park (VP7) would also limit views of the turbine where it did appear over the skyline. I consider that the proposed turbine would have a low to very low magnitude of effect on views from this area to the north and west of the appeal site. From this area, I find that the proposal would have minor/moderate visual impact significance.
17. Views from the south and east of the appeal site are shown on photomontages 1, 2 and 3, and wire frame 11. This area includes recreation and tourist facilities, along with community infrastructure and dwellings. I consider receptors here to have medium/high sensitivity. From more distance vantage points such as Holywell Golf Club (VP1), Cubert School (VP2) and Carines Farm (VP11) the local topography and structures/vegetation in the immediate vicinity of the viewer would be likely to limit the impact of the proposed turbine in the wider appreciation of views across this rural landscape. In closer views, such as that from VP3 Treworgans, the turbine would be more prominent. Nonetheless, it would often be seen in the context of other built form, such as electricity poles. From my unaccompanied visit to this area, I consider that the proposed turbine would have a low/very low magnitude of change. Accordingly, I find minor/moderate visual impact significance from the area to the south and east of the appeal site.

18. I deal next with the area closer to the appeal site; in the vicinity of Crantock village and Cubert Common. This area is depicted in photomontages N1, N2, N3, 4 and 5. The ZTV shows that the proposed turbine would be visible from the approach roads to Crantock, including the central part of West Pentire Road, most of Halwyn Road and the northern part of Trevowah Road, along with the eastern part of the Common. Receptors in the Crantock village and Cubert Common area include residential properties on the southern outskirts of the village, residents and visitors to the Traego Farm area, along with those using Cubert Common, which is a National Trust property. Receptor sensitivity here is high/very high. In views from the north, such as N3 End of Pentire Green and VP4 Crantock West, the turbine would, by reason of its siting and height, dominate the narrow valley. The valley is a characteristic feature of the local landscape. The turbine height would exceed the depth of the valley. This, along with its mid-slope position, would alter the perception of scale in this landscape. The attractive narrow valley that dissects this part of the north-west facing shelf would, as a result, appear as a less significant feature in the local landscape. From VP5 Traego Farm the turbine would be seen, across an open and low-lying part of the Common, as a dominating feature on the skyline. The turbine would be seen as a prominent feature from the eastern parts of the Common (N1 and N2). Part of the tower and the blades would appear above the skyline. The dominating effect of the turbine on the narrow valley would be particularly apparent from the circular walk around the eastern part of the Common. The proposal would, therefore, have a high magnitude of visual effect. I find that the overall significance of the impact of the proposed turbine on visual effects in the Crantock village and Cubert Common area, with high/very high receptor sensitivity, would be substantial/major and adverse.
19. Taking into account all the information available from the submitted documents, and from my site visit, concerning the likely effects of the proposed turbine on the three areas outlined above, I find that the proposal would have an adverse visual impact ranging from minor/moderate to substantial/major significance. In my judgement, the appellant's assessment, understates the likely harm.
20. On the first main issue, I find that the proposal would have significant adverse landscape and visual effects, and would harm the character and appearance of the area. The development proposed would be temporary.<sup>6</sup> But the harm to a valued landscape would last for 25 years, and so would be significant. The proposed development would conflict with SP Policy 2, which aims to protect and enhance the quality, character, diversity and local distinctiveness of the natural and built environment, and requires that development must respect local character. It would also be at odds with LP Policy 3A, which aims to enhance and protect the countryside by refusing permission for development which would have a significant adverse impact upon, amongst other things, landscape, natural resources and recreational value. The harm and policy conflict I have identified weigh heavily against allowing the appeal.

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<sup>6</sup> The appellant does not object to the Council's suggested condition, were the appeal to succeed, for a 25 year permission.

### *Tourism*

21. The area attracts large numbers of tourists and tourism is crucial to the local economy. The SP stresses that the existing facilities for tourism and recreation, which include informal enjoyment of the coast, represent a major resource for the economy of Cornwall. I understand that the operators of local tourist facilities are apprehensive about the possible impact of the turbine on their businesses. Some tourists' enjoyment of the area might be diminished by reason of the harm I have identified to the character and appearance of the area. However, there is nothing to indicate that this would materially affect tourist use of the area, or that it would adversely affect the tourist economy.
22. On the second main issue, there is no compelling evidence that the proposed wind turbine would have a significant adverse impact on tourism. I find no conflict with SP Policy 13, which concerns tourism and recreation and, amongst other things, provides that development should not harm features that contribute to Cornwall's attraction.

### *Renewable energy*

23. Local submissions raise concerns about the efficiency of, and need for, the proposed wind turbine, especially given the development of solar farms in the area. However, the *Framework* provides that applicants do not need to demonstrate the overall need for renewable energy development and notes that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions (GHG). The Council also points out the advantages of renewable energy resources set out in the Energy Act and the companion guide to PPS22.<sup>7</sup> The proposed turbine would, cumulatively, make a significant contribution to meeting local and national targets for renewable energy. The proposal gains support from national and local policies which promote renewable energy generation. It would also contribute to the rural economy. The contribution of the appeal scheme to renewable energy and the reduction of GHG is a consideration which should properly be given significant weight in determining this appeal.

### *Other matters*

24. I have also considered the effects of the proposed development on the living conditions of nearby residents, with particular reference to visual amenity, noise and disturbance. Eight residential properties lies within 500 m of the appeal site. The nearest dwellings are Wheel Gates (410 m), which includes a small nursery school, and Ruzza (415 m). These lie towards the bottom of the valley and the local topography and nearby vegetation would screen or limit views of the proposed turbine. I saw at my site visit that the proposed turbine would alter the outlook from dwellings on the south-western side of Crantock. However, the separation distance would mean that the proposal would not have an overbearing or dominating impact on the views from these properties. For similar reasons, shadow flicker from the turbine blades would not be likely to affect dwellings in the area.
25. In terms of noise, the *Framework* states that in determining applications for wind energy development the approach set out in National Policy Statements should be followed. EN-3 states that the assessment of noise from the operation of wind turbines should use ETSU-R-97, taking into account the latest

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<sup>7</sup> PPS22 has been cancelled, but the companion guide remains extant. I have also had regard to NPS EN-1.

- industry good practice.<sup>8</sup> ETSU provides that if the developer can demonstrate that noise conditions [the lower absolute limits suggested in ETSU are  $L_{A90,10min}$  35-40 dB day-time and 43 dB night-time] would be met even if there was no increase in background noise with wind speed until quite high wind speeds, then a simplified approach can be adopted that if the noise is limited to an  $L_{A90,10min}$  of 35 dB(A) up to wind speeds of 10 m/s at 10 m high then this condition alone would offer sufficient protection of amenity, and background noise surveys would be unnecessary. Calculations from sound power levels for an Enercon E33 turbine, which is considered to be the largest and loudest turbine that would comply with the application parameters, modelled noise levels at the nearest dwelling at Wheel Gates at approximately 3 dB below the 35 dB(A) limit set out in ETSU. The predicted noise levels would be unlikely to adversely affect nearby residents' enjoyment of their outdoor amenity space, or unduly affect those camping in the wider area. Subject to the imposition of appropriate planning conditions, the proposed development would be unlikely to have an unacceptable adverse effect on those living nearby because of noise and disturbance. I find no grounds to dismiss the appeal by reason of its likely impact on the living conditions of nearby residents.
26. The setting of listed buildings in the area, including the Grade II\* listed Carines Farm, relate to their immediate context or streetscape in built areas. The proposed turbine, because of the separation distance, would not affect the setting of any listed buildings. Neither would the proposal affect the setting of the tumulus on Cubert Common, which is a Scheduled Ancient Monument (SAM). This bowl barrow is about 524 m from the proposed turbine, and the small car park is located close by. Other SAMs in the wider area are more distant and would be unaffected by the proposed development. The turbine would not have an unacceptable adverse effect on the cultural heritage of the area.
27. Cubert Common is part of the Kelsey Head Site of Special Scientific Interest (SSSI), which was designated for its unimproved calcareous grassland. There is nothing to indicate that the proposal would harm the SSSI. I have noted the proximity of low hedges and the results of the bat survey. Subject to the suggested conditions agreed by the appellant and the Council, I am satisfied that the proposal would not harm protected species or have an unacceptable adverse effect on nature conservation. There is local concern about the effects of the turbine on equestrians, but there is no compelling evidence that a turbine of this height in this location would unduly affect those riding in the area.
28. The Council considers that the obligation is fundamentally flawed because it is signed by the owners of the land as developers. I concur with the Council that the covenants given by Messrs Allen, Samuel and Evans in their capacity as developers might not bind the land. The Council is also critical of the provisions for index linking, and that the contribution would be effectively linked to the Feed in Tariff. However, the applicant is willing to revise the wording of the obligation. These matters might be able to be resolved, but I consider that the obligation before me cannot be relied upon, and cannot be given much weight in determining this appeal.

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<sup>8</sup> *National Policy Statement for Renewable Energy Infrastructure (EN-3)*, July 2011, DECC.

29. I have taken into account all the other matters raised in the evidence, including local concerns that allowing the appeal would establish a precedent for further turbines, and a potential cumulative impact. However, any other proposals for wind energy development would have to be considered on merit, having regard to relevant policy considerations.

#### *Planning balance*

30. The economic, social and environmental roles for the planning system, which derive from the three dimensions to sustainable development in the *Framework*, requires in this case that a balancing exercise be performed to weigh the benefits of the proposed turbine against its disadvantages. The proposed development would make a significant contribution to renewable energy targets and towards the reduction of GHG. This, along with policy support for renewable energy, should be given significant weight. However, in my judgement, the harm to the character and appearance of the area would be substantial, and would outweigh the economic, renewable energy and GHG benefits of the appeal scheme. SP Policy 7 provides for renewable energy generation which maximises environmental and economic benefits whilst minimising any adverse local impacts. However, this wind energy scheme would not respect the landscape character and distinctiveness of the area, and would be a significant intrusion into a coastal landscape. It would, therefore, conflict with the underlying aims of SP Policy 7.

#### **Conclusions**

31. Notwithstanding my favourable finding for the appellant on the second main issue, I consider that the harm I have identified to the character and appearance of the area represents a compelling objection to the proposal. I note that the *Framework* provides that development should be permitted if its impacts are, or can be made, acceptable. However, in this case the proposal would not respond to local character, and its impact could not be made acceptable. Having regard to the core principles of the *Framework*, I find that the proposal does not represent sustainable development to which the presumption in favour set out in the *Framework* would apply. It would be at odds with SP Policy 1, which sets out principles for sustainable development that broadly are comparable with those set out in the *Framework*. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*John Woolcock*  
Inspector