

Report on	Recent Planning Appeals decision.
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Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

1.0	Purpose of Report
1.1	To inform members of a recent Planning Appeal decision.
2.0	Background
2.1	The PAC have dismissed the following proposal previously refused by the Planning Committee.
3.0	Main Report
3.1	<p>Appeal Reference: 2016/A0221 Appeal by: Mr Graham Bell Appeal against: Refusal of Full Planning Permission Proposed Development: A single wind turbine of up to 2.3mw power output with a maximum overall base blade to tip height of 92.5m to compliment approved planning I/2010/2011/F Location: Beltonanean Mountain, Beltonanean TD Cookstown.</p> <p>The main issues in this appeal were whether the proposed development would have a detrimental impact on the visual amenity and landscape character of the area and whether it would be detrimental to residential amenity. Other issues raised by the objectors were the impact of the proposed development on human and animal health; archaeology; residential amenity; habitat; and tourism.</p> <p>The Commissioner observed that the appeal site lies near the summit of Beltonanean Mountain some above the 300m above sea level contour. The landscape character of this part of the LCA and AONB is upland, wild and tranquil with panoramic views across the countryside. With the exception of two dwellings and a water tank facility there is little other built development nearby. It was also observed that The proposed wind turbine would introduce an unacceptable vertical and dominant feature into the relatively unspoilt landscape identified in viewpoints</p> <p>The decision concluded that it must therefore follow that the turbine would have an adverse visual impact upon the AONB, a designated natural asset and LCA 41 Slieve Gullion, and the cautious approach advocated by the SPPS is determining in this matter. Given that it would be contrary to the SPPS it would also be contrary to the requirements of criteria (b); (i); and (ii) of Policy RE 1 PPS 18 and Policy NH 6 of PPS 2.</p>

	<p>The outlook from No 8 Beltonanean Lane was supported by the Commissioner in that it was also found that the full totality of the moving blades and dominant nature of the wind turbine would be seen and effectively fill this gap, and be an over dominant and ever present feature on main views from the rear of this dwelling. This would be detrimental to residential amenity and the proposed wind turbine would offend criterion (a) of Policy RE 1 of PPS 18.</p> <p>In relation to archaeological heritage, it was noted that the appeal site lies some 3.5km east of Beaghmore Stone Circle a monument in state care. A photomontage was submitted to demonstrate the impact of the proposed development on the setting of the monument. Having visited the monument and taking account of the illustrative evidence the Commissioner was satisfied that at a distance of 3.5km away with a height of 92.5m the proposed wind turbine would not have a significant adverse impact on the setting of Beaghmore Stone Circle and therefore the objectors' concerns were not upheld.</p> <p>Concerns were raised by objectors regarding the impact of the proposed development on tourism and in particular the use of Davagh Forest. Davagh Forest and its facilities provide for recreation in the form of forest trails, a play area and other visitor amenities which are all attractive in their own right. The Commissioner ruled that it is therefore likely that persons visiting Davagh Forest will do so for the purposes of using those amenities and the presence of this single wind turbine in the landscape is unlikely to result in any significant reduction in visitor numbers.</p> <p>It was recognised that the appeal proposal offers environmental, social and economic benefits to which considerable weight should be attached. However, those benefits were not seen as outweighing the detrimental and unacceptable impact that the proposed development would have on the visual amenity and landscape character of the AONB and LCA 41 or the detrimental impact it would have on residential amenity. The Planning Authority has sustained it three reasons for refusal grounded in the SPPS; Policy RE 1 of PPS 18 and Policy NH 6 of PPS 2. The objectors' concerns in respect of those matters were also upheld.</p> <p>The appeal was subsequently dismissed.</p>
4.0	Other Considerations n/a
4.1	<p><u>Financial & Human Resources Implications</u></p> <p>N/A</p>
4.2	<p><u>Equality and Good Relations Implications</u></p> <p><u>None</u></p>
4.3	<p><u>Risk Management Implications</u></p> <p>None</p>

5.0	Recommendation(s)
5.1	That members note the decision.
6.0	Documents Attached & References
6.1	PAC decision attached.

Appeal Decision

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Appeal Reference:	2016/A0221
Appeal by:	Mr Graham Bell
Appeal against:	Refusal of Full Planning Permission
Proposed Development:	A single wind turbine of up to 2.3mw power output with a maximum overall base blade to tip height of 92.5m to compliment approved planning I/2010/2011/F
Location:	Beltonanean Mountain, Beltonanean TD Cookstown.
Planning Authority:	Mid Ulster District Council
Application Reference:	I/2014/0399/F
Procedure:	Written Representations with Commissioner's site visit on 22 nd February 2018.
Decision by:	Commissioner Helen Fitzsimons on 5 th March 2018

Decision

1. The appeal is dismissed.
2. A determination under the Planning (Environmental Impact Assessment) Regulations (NI) 2012 was carried out on the proposed development and it was deemed that an Environmental Statement was not required.

Reasoning

3. The main issues in this appeal are whether the proposed development would have a detrimental impact on the visual amenity and landscape character of the area and whether it would be detrimental to residential amenity. Other issues raised by the objectors are the impact of the proposed development on human and animal health; archaeology; residential amenity; habitat; and tourism.
4. The appeal site is located in the countryside as defined in the Cookstown Area Plan 2010 (CAP). An objector referred to Policy CON4 in CAP entitled 'Area of Significant Archaeological Interest' which relates to a designation at Beaghmore identified in Map No.27 that incorporates the most extensive stone circle complex in Northern Ireland. The appeal site however lies outside this defined area and Policy CON4 therefore does not apply in this case. The plan is silent on wind turbine development.
5. The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining the appeal. The SPPS states that a transitional period will operate until such times as a Plan Strategy for

the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

6. Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context for this appeal. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is renewable energy projects in accordance with Planning Policy Statement 18: Renewable Energy (PPS18). PPS18 is supported by a Best Practice Guide (BPG) and other supplementary planning guidance (SPG).
7. The appeal site lies within the Sperrins Area of Outstanding Natural Beauty (AONB). Paragraph 6.223 of the SPPS states that a cautious approach for renewable energy development proposals will apply within designated landscapes which are of significant value, such as AONBs and their wider settings. No definition of the term 'cautious approach' is provided in the SPPS although specific reference is made to the potential difficulty in accommodating wind energy proposals in such sensitive landscapes without detriment to the regions cultural and natural heritage. Policy NH 6 'Areas of Outstanding Natural Beauty' of Planning Policy Statement 2 'Natural Heritage' states that 'Planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality'
8. Paragraph 6.225 of the SPPS states that the wider environmental, economic and social benefits of all proposals for renewable energy projects are material considerations that will be given appropriate weight in determining whether planning permission should be granted.
9. Policy RE1 of PPS18 indicates that renewable energy development will be permitted provided it will not result in an unacceptable adverse impact on five criteria. Criterion (a) relates to public safety, human health and residential amenity whilst criterion (b) relates to visual amenity and landscape character. The policy goes on to indicate that compliance with an additional seven criteria is required for wind energy development proposals. Criterion (i) requires demonstration that the development will not have an unacceptable impact on visual amenity or landscape character through: the number, scale, size and siting of turbines and criterion (ii) requires that the development has taken into consideration the cumulative impact of existing wind turbines, those which have permissions and those that are currently the subject of valid but undetermined applications.
10. Criterion (vi) of Policy RE1 states that the development will not cause significant harm to the safety or amenity of any sensitive receptors arising from noise; shadow flicker; ice throw; and reflected light. The policy states that for a wind farm development a separation distance of 10 times the rotor diameter to occupied property, with a minimum distance of not less than 500m, will generally apply.
11. 'Wind Energy Development in Northern Ireland's Landscapes' is SPG that supports PPS 18. It provides a description of the sensitivity of Northern Ireland's landscape

to wind energy development in terms of the extent to which the inherent character and visual amenity of each Landscape Character Area (LCA) is vulnerable to change due to such development.

12. The appeal site is located within LCA 41: Slieve Gallion in the SPG and is indicated to have a high to medium sensitivity to change. The SPG acknowledges that there is considerable variation in sensitivity level across any area and that areas of higher or lower sensitivity may also exist. The appeal site lies within the southwestern part of LCA. The assessment of the SPG states that the south-western outlier hills although adversely affected by sand and gravel extraction and forestry, are visibly prominent thus increasing the sensitivity of this area to wind energy development. I consider that Beltonanean Mountain is one of these outlier hills and, despite the presence of two quarries and Davagh Forest, it is a sensitive landscape.
13. Planning permission I/2010/211/F was not implemented and expired on 17th May 2017. However, an application for planning permission was submitted for its renewal on 17th February 2017 (Ref LA09/2017/0272/F) and has not yet been determined. In addition to planning application LA07/2017/0272/F two wind farm proposals (I/2014/0413/f and LA09/2015/0459/F) sited within a 3.5km radius of the appeal site remain under consideration by the relevant Planning Authority. As the outcome of all of these applications remains unknown I attach little weight to those proposals. Planning Appeal 2014/A0234 does not set a precedent against which to assess this appeal proposal as each appeal must be decided on the merits of that particular case. There is a 60m tall anemometer in the vicinity of the appeal site constructed by virtue of Planning Permission I/2008/0112/F and its cumulative impact with the appeal proposal must be considered.
14. The Planning Authority supplied me with maps for reference purposes which the appellant disputed were an accurate reflection of the location of the proposed wind turbine. He provided maps to illustrate the location of the proposed wind turbine at Annex B1 of his rebuttal statement. In so far as I can see, and taking account of my observations on the ground, they represent an accurate reflection of the location of the proposed development. I am therefore satisfied that I have sufficient information before me to accurately assess impact of the appeal proposal.
15. The Planning Authority identified six viewpoints from which to assess the proposed development for which the appellant helpfully provided photo montages to assist me. I am mindful that Policy RE1 recognises the dominant and prominent nature of wind energy development. I am also mindful that whilst wind turbines are apparent over long distances by reason of their height and scale it is the mid and closer range views that are most striking in terms of visual impact. This is openly acknowledged in the BPG. It is also acknowledged in the BPG that up to 2km wind energy development is likely to be a prominent feature and that within 2-5kms it will be relatively prominent. Four of the identified viewpoints lie within 2km of the appeal site with the remaining two being 2.6km and 3.3km away. Given this it is to be expected that the proposed wind turbine would be a prominent feature in the landscape. The analysis must therefore be based upon what if any significant detrimental harm would be caused by the proposed turbine within the radius of the viewpoints identified.

16. The appeal site lies near the summit of Beltonanean Mountain some above the 300m above sea level contour. The landscape character of this part of the LCA and AONB is upland, wild and tranquil with panoramic views across the countryside. With the exception of two dwellings and a water tank facility there is little other built development nearby.
17. In making my assessment of the proposed development I do not consider the low volume of traffic using the roads in the vicinity of the appeal site, and those roads where identified viewpoints are located to be a determining factor in this appeal.
- Identified Viewpoint 1 - Beltonanean Lane (1027m distance). From this viewpoint virtually all of the proposed wind turbine would be visible. I do not agree that the trees on the immediate horizon mitigate the impact of the proposed wind turbine. It would appear as a dominant vertical feature in this tranquil upland landscape. Of itself it would be detrimental to the qualities of the AONB and LCA. The existing anemometer, which lies south of the appeal site, already appears as an overly dominant vertical feature within the wider expanse of this viewpoint. When seen with the proposed wind turbine the two would have an unacceptable adverse visual impact on both the AONB and the LCA.
 - Identified Viewpoint 2 - Beltonanean Road (575m distance). This viewpoint is over a short distance and whilst only the upper portion of the turbine pole would be visible due to its location on the other side of a hill crest, the rotor blades would be virtually in full view. Notwithstanding the intrusive nature of the anemometer, which dominates the foreground of this view, this part of the AONB and LCA is particularly wild, unspoilt and tranquil. The proposed wind turbine would introduce an overly dominant feature into the landscape and be detrimental to the particular character of this part of the AONB and LCA. When taken with the anemometer the wild, unspoilt and tranquil nature of the area would be adversely impacted upon.
 - Identified Viewpoint 3 - 84 Tulnacross House (2.6km distance). I agree with the appellant that from this mid distance viewpoint and when taking account of the substantial amount of existing built development in the foreground the proposed wind turbine would not have a detrimental impact on visual amenity. The anemometer is not discernible in the landscape from this vantage point and there would be no cumulative adverse visual impact were the proposed wind turbine to be built.
 - Identified Viewpoint 4 - Dunamore Riverside Walk (3.3km distance). Although the views of the surrounding countryside from this vantage point are relatively unspoilt because of distance the proposed wind turbine would be barely visible in the landscape and it would not have an adverse visual impact on the AONB or LCA when viewed from here. The anemometer is not visible in the landscape and consequently there would be no adverse cumulative impact from this viewpoint.
 - Identified Viewpoint 5 - Garden Centre Beltonanean Road (863m distance). From this viewpoint the landscape is wild, tranquil and unspoilt notwithstanding the presence of the anemometer which would be seen in the foreground of this vantage point. The majority of proposed wind turbine would visible from this location and it would introduce a large overly dominant feature into this landscape. It would be detrimental to the wild, tranquil and unspoilt qualities of the AONB in this location.

The anemometer is already an intrusive vertical feature in the landscape at this point, although its impact is somewhat mitigated by its height (60m) and slender nature. The addition of the proposed higher wind turbine with its moving blades and crest line position would have the effect of this landscape being dominated by visually obtrusive development.

- Identified Viewpoint 6- 8 Beltonanean Road (847m distance). . From this vantage point the proposed wind turbine would be seen in its entirety being located on the crest of a hill. Whilst this viewpoint may be dominated by the existing water tanks adjacent to No 6 Beltonanean Road , those water tanks are not of a significant height and do not have an adverse impact on the landscape. The dwellings in the vicinity are all screened by existing vegetation and the landscape appears as tranquil and unspoilt. The proposed wind turbine would appear as a large skyline vertical feature that would dominate this viewpoint and be detrimental to the qualities of both the AONB and LCA.
18. The proposed wind turbine would introduce an unacceptable vertical and dominant feature into the relatively unspoilt landscape identified in viewpoints 1, 2, 5 and 6 and would not be of an appropriate design, size and scale for the locality; it would also have an adverse visual impact when viewed with the existing anemometer. It must therefore follow that it would have an adverse visual impact upon the AONB, a designated natural asset and LCA 41 Slieve Gullion, and the cautious approach advocated by the SPPS is determining in this matter. Given that it would be contrary to the SPPS it would also be contrary to the requirements of criteria (b); (i); and (ii) of Policy RE 1 PPS 18 and Policy NH 6 of PPS 2.
19. No residential property lies within 355m (10 x rotor diameter) or 500m of the proposed wind turbine. Visual impact on the residents of No 8 Beltonanean Road was raised by both the Planning Authority and the occupiers of that property. The proposed wind turbine is located some 823m from the rear aspect of this dwelling. The rear rooms, which I noted at my site visit, comprise a kitchen and dining area. Although the existing adjacent water tanks offer some enclosure to the views out of the living space and rear garden of this property; and that there is also some boundary vegetation which would also screen views there is a gap in this boundary. The full totality of the moving blades and dominant nature of the wind turbine would be seen and effectively fill this gap, and be an over dominant and ever present feature on main views from the rear of this dwelling. This would be detrimental to residential amenity and the proposed wind turbine would offend criterion (a) of Policy RE 1 of PPS 18.
20. The appellant submitted an Assessment of Shadow Flicker which demonstrated that no receptor would be affected by shadow flicker. Although objectors questioned the suitability of using the ETSU-R-97 guidance for assessing the impact of noise from wind energy development on residential amenity it is the accepted industry standard and in the absence of any other published guidance being brought to my attention I cannot set it aside. A Noise Impact Assessment was submitted which robustly demonstrates that the ETSU-R- 97 standards can be achieved in regard to residential properties that might be affected by noise emanating from the proposed development. I am satisfied that there would be no adverse impact on residential amenity by virtue shadow flicker or noise.

21. Policy BH 1 'The Preservation of Archaeological Remains of Regional Importance and their Settings' of Planning Policy Statement 6 'Planning, Archaeology and the Built Heritage' (PPS 6) indicates that the Department will operate a presumption in favour of the physical preservation in situ of archaeological remains of regional importance and their settings. Development which would adversely affect such sites of regional importance or their settings will not be permitted unless there are exceptional circumstances. The appeal site lies some 3.5km east of Beaghmore Stone Circle a monument in state care. A photomontage was submitted to demonstrate the impact of the proposed development on the setting of the monument. Having visited the monument and taking account of the illustrative evidence I am satisfied that at a distance of 3.5km away with a height of 92.5m the proposed wind turbine would not have a significant adverse impact on the setting of Beaghmore Stone Circle and the objectors' concerns are not upheld.
22. Concerns were raised by objectors regarding the impact of the proposed development on tourism and in particular the use of Davagh Forest. Davagh Forest and its facilities provide for recreation in the form of forest trails, a play area and other visitor amenities which are all attractive in their own right. It is therefore likely that persons visiting Davagh Forest will do so for the purposes of using those amenities and the presence of this single wind turbine in the landscape is unlikely to result in any significant reduction in visitor numbers.
23. Generalised concerns were raised by objectors in respect of the impact of the proposed wind turbine on human and animal health; habitat; and interference with television, radio and mobile phone signals however, no documentary evidence was submitted to substantiate such concerns. No substantiated evidence was presented to demonstrate how concrete and unidentified petrochemicals that might be associated with the proposed development would have an adverse impact on the water environment. In any event compliance with best practice techniques would mitigate against any adverse impact on the water environment. Matters of the robustness of planning policy for AONBs and further regulation of the wind energy industry are not for this appeal. The impact of construction of the proposed wind turbine on bird breeding could be dealt with by condition. None of these concerns either individually or together carry determining weight in this appeal.
24. The appellant outlined a number of benefits likely to arise were the proposal to receive planning permission. He has submitted an application to NIE in respect of grid connection. I agree the appellant that the benefits of wind energy development are well rehearsed. I accept that Mid Ulster Council promotes sustainable development including renewable energy initiatives. It is estimated that the proposed wind turbine would offset CO2 emissions by at least 56,000 tonnes over its operational life and that this would equate to the annual electricity needs of some 1,677 domestic properties.
25. In respect of annual business rates and taxes some £50,000 would be paid by the appellant to the public purse. In addition, the revenue earned by the appellant would underpin his farm business, sustain the rural way of life and allow family members to invest more into the farming activities. In addition the proposed wind turbine when combined with that approved under planning permission I/2010/0211/F would represent a financially viable development as a result of sharing the cost of grid connection

26. The appeal proposal offers environmental, social and economic benefits to which considerable weight should be attached. However, those benefits do not outweigh the detrimental and unacceptable impact that the proposed development would have on the visual amenity and landscape character of the AONB and LCA 41 or the detrimental impact it would have on residential amenity. The Planning Authority has sustained it three reasons for refusal grounded in the SPPS; Policy RE 1 of PPS 18 and Policy NH 6 of PPS 2. The objectors' concerns in respect of those matters are also upheld. Accordingly the appeal must fail.

This decision relates to the 1:2500 scale site location plan; an unscaled site location plan; the 1:500 scale site plan and the unscaled elevational drawing.

COMMISSIONER HELEN FITZSIMONS

List of Documents

Planning Authority:-
Appellant:-

PA 1 Written Statement and Appendices
A1 Written Statement and Appendices
A2 Written Statement and Appendices

Third Parties:-

3rd P1 Written Statement