

Allerdale Borough Council

Planning Application VAR/2020/0504

Development Panel Report

Valid Date:
Reference Number: VAR/2020/0504
Valid Date: 18/12/2020
Location: Oldside Wind Farm, Oldside Workington Cumbria
Applicant: Cannock Windfarm Services Ltd
Proposal: Proposed Variation to approved application
2/1995/0916, condition 6 to increase the operational
life of 9 wind turbines from 25 to 35 years

RECOMMENDATION

APPROVE subject to:

Securing a s106 legal agreement to provide:

- (i) a £14,080 contribution to nature conservation projects in the locality of the site;(prior to 31/01/22)**
- (ii) undertake the identified additional amphibian, reptile, bat, badger, otter and invertebrate ecology surveys within the WYG ecology appraisal report dated Dec 2020 before any decommissioning works;**
- (iii) The submission and approval of an agreed amenity mitigation strategy in the event of the allocated Gypsy/traveller allocation being both approved and implemented (within 2 months of the implementation of any approved scheme for the allocation).**
- (iv) Before development commences, a detailed method statement for the long-term management/ eradication of invasive species on the site as outlined in the WYG ecological appraisal report dated December 2020 on the site shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of Japanese Knotweed during any operations such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds, roots or stem of any invasive plant covered under the Wildlife and Countryside Act 1981. Development shall proceed in accordance with the approved method statement.**

1. Summary

<u>Issue</u>	<u>Conclusion</u>
Principle of Development	<p>Members need to re-evaluate the merits of the proposal in the context of the present updated planning policy context and indeed any change of circumstances arising during the original operational timescale of the windfarm development</p> <p>As a retrospective “repowering” proposal there will be some aspects where impacts have already been addressed e.g. contamination, whereas other topics have new planning considerations in the light of changing policy or regulations.</p> <p>The application site is located within the adopted area of search for wind development under Policy SA50 of the Allerdale Local Plan (Part 2).</p>
Landscape and visual	<p>The existing turbines are located in an area already reflecting a windfarm/ industrial landscape on a section of the coastline which incorporates a wide range of existing large scale man-made commercial and industrial infrastructure. Officers are of the opinion that the continued retention of the turbines would not have a significant individual or cumulative impact on its host or neighbouring landscape character.</p>
Visual impact and amenity	<p>The extent of visual effects is greatest and most significant in short term views of the site, which diminishes with distance. However cumulatively when viewed alongside neighbouring Siddick windfarm, there are some significant receptors at greater distances, albeit within an established urban setting.</p> <p>The windfarms turbines are within 800m of a large number of existing residential properties (predominately in the Siddick hamlet, a cluster of dwellings north of</p>

	<p>Dunmail Park, Northside and properties on Stanley St at the port), a number of which will have direct views which is likely to have an impact on the amenity of the residents of these properties.</p> <p>However officers attach significant weight that, unlike new turbine development, the proposal relates to existing turbines which have been in existence for a considerable period of time and therefore are accepted as part of the streetscape in their locality. (especially given its urban setting with large scale commercial/ industrial plant and buildings in its immediate locality).</p>
Noise	<p>Noise is a material planning consideration Policy S32 of the Allerdale Local Plan (Part 1) seeks to safeguard amenity. An updated noise assessment has been undertaken as well as a noise assessment of the proposal to evaluate the noise impact in the locality of the site. There are high existing background noise levels in the locality of the site due to the existing nearby uses and proximity to transport corridors.</p> <p>The Environmental health officers have assessed this evidence that has been updated during the course of the application.</p> <p>The submitted evidence relating to potential noise impact on existing residential properties appears to be acceptable and the Environmental Health officer concludes that that the proposal will comply with ESTU-R-97 guidance. Although there are additional industrial commitments under Policies SA36 and allocations SA37 in the southern section of the site, it is accepted that noise thresholds will not be as relevant for future industrial uses.</p>
Gypsy site allocation (SA31) of ALPP2	<p>One additional significant consideration is the local plan Gypsy, Travellers and Travelling show people allocated site under Policy SA31 of ALP2 at the former</p>

	<p>caravan site at Oldside. Albeit not yet formally approved or implemented it would represent a residential use that is expected to be delivered within the timeframe of the local plan (i.e. prior to 2029). These caravans would have the same status as residential units with the need to evaluate potential future impacts on noise, shadow flicker and visual amenity.</p> <p>The applicant in response has agreed to a mitigation plan under a s106 which may involve decommission the nearest turbine to the allocation (T6) if the allocation is implemented and have a noise mitigation strategy for the other nearest two turbines</p> <p>This is in order to safeguard a satisfactory standard of residential amenity for the occupiers of any proposed caravans, in the eventuality that the allocation is implemented.</p>
Highways	<p>As an existing development with little traffic generation, subject to conditions relating to decommissioning operations the proposed development would not have an adverse impact on the highway network.</p> <p>No objections were received from the highway authority.</p>
Nature Conservation	<p>Policy S35 seeks to safeguard and protect biodiversity.</p> <p>The proposal and the wider site has naturally regenerated supporting a range of habitats (including specific reference to the Small blue butterfly colonies).</p> <p>The three more northern turbines are site within the designated County Wildlife site and are therefore more sensitive to future works.</p> <p>The site of Siddick pond's SSSI is located 0.2km to the east.</p>

	<p>Any constructional impacts on nature conservation has already occurred through the implementation of the turbines. It is acknowledged there may be some disturbance at the decommissioning stage.</p> <p>Supporting surveys on birds and bats have been submitted.</p> <p>The site is located in an ecologically sensitive area. As a retrospective form of development it is recommended that compensatory mitigation measures be alternatively channelled through a s106 commuted sum contribution. This will be spent on a wider strategy to improve the ecological value and habitat of species in the locality of the windfarm (agreed with Workington Nature Partnership).</p>
Drainage	<p>Flood risk and /or contamination of water are not anticipated to increase as a result of the development although mitigation measures would be required by planning condition.</p>
Potential benefits	<p>The windfarm will continue to make a valuable contribution to renewable energy deployment nationally. All of the energy produced will be exported.</p>

2. **Introduction**

- 2.1. Members may recollect that this application was considered at the last Development panel meeting on 3rd August. Members were minded to approve the application in accordance with the officer's approval recommendation subject to a s106 and planning conditions (as amended by the details on the late list) plus an additional condition requested by members for an annual structural survey of the turbines.
- 2.2. However members may recollect that during the debate the question was raised as to whether the proposal's location was sited within the parish of Workington as they were absent in the consultee representations. Officers advised as part of the recommendation that this issue would be checked to ensure the correct consultation procedure had been undertaken and that the panel's resolution was subject this check.

- 2.3. Following the panel meeting this issue was investigated. It was identified that although the site was within the ward of Seaton and Northside, all the windfarm's nine turbines were sited within Workington parish.
- 2.4. The host parish of any proposal's site is a mandatory consultee on any full or variation planning application. Workington town council have therefore been consulted on the current proposal.
- 2.5. Members are therefore requested to reconsider the merits of the application to account for any additional representations received from the town council.

3. **Proposal**

- 3.1. The proposal remains identical to that considered at the 3rd August Development panel meeting (The former panel report is attached as an appendix document) . The officers recommendation has been updated to reflect the details reported to and agreed at the last panel meeting

4. **Additional Representations**

- 4.1. **Natural England** – Natural England consultation response was outlined in the former panels late list- “agree with the conclusions of the submitted Appropriate assessment with no adverse impact on the integrity of the Solway Firth pSPA. Need a condition for a Construction Environmental management plan, plus the required surveys prior to the decommissioning exercise. By decommissioning phase net gain will have become mandatory and will need to be incorporated into the habitat management plan.”

- 4.2. **Workington Town Council**- Comments awaited

5. **Development Plan Policies**

- 5.1. The relevant planning policies are outlined in the report . However officers outlined that the NPPF had recently been updated following the completion of the drafting of the officers report .

5.2. **The updated version of the NPPF(2021) includes**

Chapter 14

“158. When determining planning applications for renewable and low carbon development, local planning authorities should:

- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- b) approve the application if its impacts are (or can be made) acceptable⁵⁴. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for

commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas.”

6. Policy weighting

- 6.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, due regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise. This means that the Allerdale Local Plan (Part 1) 2014 and the Allerdale Borough Local Plan (Part 2) 2020 policies have primacy.

7. Assessment:

Principle of development

- 7.1. Significant weight is attached to member’s former resolution as there are no material change of circumstances relating to the proposed development itself which was considered an acceptable form of development at the last meeting.
- 7.2. Therefore unless new material planning consideration are raised by the town council in their consultation reply officers recommend the proposal be supported as previously determined.
- 7.3. (In the eventuality of no representations being received from the town council before the meeting, officers consider the proposal should similarly be reassessed based on the earlier report. The town council have been consulted in accordance with the timescales of the statutory planning procedural regulations. Officers consider it would be unreasonable to defer the application for their outstanding representation especially given the potential for any appeal on non-determination grounds as the original application expires at the end of October).

8. Conclusions

- 8.1. Officers consider the application was assessed on its individual planning merits at the initial meeting. Unless new material planning considerations are raised by the town council it is recommended the proposal be approved, subject to the same criteria of their former resolution.

9. RECOMMENDATION

APPROVE subject to:

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- undertake the identified additional amphibian, reptile, bat, badger, otter and invertebrate ecology surveys within the WYG ecology appraisal report dated Dec 2020 before any decommissioning works;
- The submission and approval of an agreed amenity mitigation strategy in the event of the allocated Gypsy/traveller allocation being both approved and implemented.(within 2 months of the implementation of any approved scheme for the allocation).
- Before development commences, a detailed method statement for the long-term management/ eradication of invasive species on the site as outlined in the WYG ecological appraisal report dated December 2020 on the site shall be submitted to and approved in writing by the Local Planning Authority. The method statement shall include proposed measures to prevent the spread of Japanese Knotweed during any operations such as mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds, roots or stem of any invasive plant covered under the Wildlife and Countryside Act 1981. Development shall proceed in accordance with the approved method statement.

Annex 1

CONDITIONS

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In Accordance:

1. The development shall be implemented solely in accordance with the following plans:
 Approved plans 2/1995/0916
 Letter re amended strategy dated 4th June re Policy S31 mitigation measures.
 A108660 Oldside windfarm Ecological appraisal
 A108660 Oldside Windfarm HRA
 A108660 Oldside Wind Farm Shadow Flicker report ISSUE 2
 A108660 Oldside and Siddick windfarm Noise 10 Dec 2020

Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990.

Post-commencement/Pre use commencing conditions:

2. All of the existing materials on the service/ access tracks within the site shall, unless otherwise agreed in writing with the local planning authority, be retained for the lifetime of the development.
 Reason: To ensure that possible dereliction an unsightliness of the site is avoided.

- 3. If at any time any turbine shall cease being operational for a continuous period of six months it, and any ancillary equipment shall be removed from the site and the land reinstated unless further planning permission for its replacement has been granted in the meantime.**
Reason: To ensure that possible dereliction an unsightliness of the site is avoided.
- 4. The turbines hereby approved shall all rotate in the same direction.**
Reason: For the avoidance of doubt.
- 5. The number of wind turbines shall not exceed nine.**
Reason: To limit the development to that applied for.
- 6. This s73 approval is for an extended operational period of 10 years up to the end of October 2031, upon which the operational use of the turbines shall cease. Prior to decommissioning of the turbines, details of a decommissioning plan including:**
a) The removal of all development above or below ground level or
b) Details of the replacement grass cover to reinstate the land to a satisfactory condition to the former grass cover
c) Removal or deposition of spoil
within 12 months of the cessation of the operational use of the turbines shall be submitted to and approved, by the local planning authority. The works shall be implemented in accordance with the approved details.
Reason: To ensure that possible dereliction an unsightliness of the site is avoided.
- 7. Prior to the commencement of any decommissioning works details of wheel washing facilities shall be submitted to and approved by the local planning authority. The approved details shall be installed prior to the commencement of the de-commissioning works and shall be retained and made available at all times during the course of these works.**
Reason: In the interests of highway safety
- 8. Within 2 months of the date of this consent, a written scheme shall be submitted to and approved by the local planning authority setting out a shadow flicker protocol for the assessment of shadow flicker in the event of any complaint from the owner or occupier of a dwelling which lawfully exists or had planning permission at the date of the complaint. The written scheme shall include remedial measures and the operation of the turbines shall take place in accordance with the approved protocol unless the local planning authority gives its prior written consent to any variations.**
Reason. To ensure a satisfactory standard of residential amenity to nearby properties in compliance with policy S32 of the Allerdale Local Plan Part 1.
- 9. No development shall take place until a Decommissioning Environmental Management plan (DEMP) has been submitted to and approved in writing by the Local Planning Authority. The statement shall include the following:**
(a) Traffic Management Plan to include all traffic associated with the development, including site and staff traffic, off-site parking, turning and compound areas;

- (b) Procedure to monitor and mitigate pollution, noise and vibration from the decommissioning works and to monitor any residential properties or wildlife habitats at risk (including type of generators, fuel storage facilities, spillage procedures and oil types use in plant working on the site), as well as taking into account noise from vehicles, deliveries. All noise measurements should make reference to BS7445.**
- (c) Mitigation measures to reduce adverse impacts on residential properties from decommissioning compounds including visual impact, noise, and light pollution.**
- (d) Measures to control the emissions of dust and dirt during construction and demolition (including any wheel washing facilities);**
- (e) Programme of work for Demolition and Construction phase;**
- (f) Hours of working and deliveries;**
- (g) Details of lighting to be used on site;**
- (h) Highway signage/ Haulage routes.**

The approved statement shall be adhered to throughout the duration of the development.

Reason: In the interests of safeguarding the amenity of the occupiers of neighbouring properties and the habitats and designated local wildlife species during the decommissioning works, in compliance with the National Planning Policy Framework and Policy S32 and S35 of the Allerdale Local Plan (Part 1), Adopted July 2014 and in the interests of highway safety.

- 10. Prior to the decommissioning works a Biodiversity Management Plan (including a Environmental Construction Management plan) shall be submitted to and approved by the local planning authority . The plan shall include details on measures and details to be implemented during and after the course of construction works at the site to safeguard the habit of protected species at the site. The works shall be implemented solely in accordance with the approved details and thereafter managed at all times in accordance with the approved scheme.**

Reason: In the interests of safeguarding local wildlife and biodiversity in compliance with Policy S35 of the Allerdale Local Plan (Part 1) 2014 .

- 11. Noise from the wind turbines hereby consented shall not exceed the following LA90, 10min noise levels specified within Table 1 and 2 below at downwind free-field locations representing receptors as shown in Figure 1 and Table 3 as detailed within the Tetra Tech noise assessment December 2020. Background noise and turbine noise measurements to be carried out in line with the Institute of Acoustics Good Practice Guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise” taking account of all guidance notes for noise conditions.**

Table 1 Noise Level Criteria at R1, R2, R3, R4, R5, R6 & R9

Time Period	Recommended Noise Criteria at a Standardised Wind Speed at 10m height (L_{A90})									
	3m/s	4 m/s	5 m/s	6 m/s	7 m/s	8 m/s	9 m/s	10 m/s	11 m/s	12 m/s
Daytime 07:00 – 23:00	51	51	52	52	53	54	54	55	55	56
Night-time 23:00 – 07:00	50	50	51	51	52	52	53	54	54	55

Table 2 Noise Level Criteria at R7 and R8

Time Period	Recommended Noise Criteria at a Standardised Wind Speed at 10m height (L_{A90})									
	3m/s	4 m/s	5 m/s	6 m/s	7 m/s	8 m/s	9 m/s	10 m/s	11 m/s	12 m/s
Daytime 07:00 – 23:00	46	47	47	48	48	49	50	51	52	53
Night-time 23:00 – 07:00	44	45	46	47	48	49	49	50	51	52

Table 3 – Noise Sensitive Receptors

Receptor	Location	Receptor Height (m)
R1	3 Town Quay	1.5
R2	Kerristy, off A596	1.5
R3	121 Shore Side	1.5
R4	Morven B&B off A596	1.5
R5	3 Buildings Farm Close	1.5
R6	Hillcrest St. Helens Lane	1.5
R7	71 Barncroft Avenue	1.5
R8	24 Solway Avenue	1.5
R9	Gypsy & Traveller Allocation (if implemented)	1.5

Reason. To ensure a satisfactory standard of residential amenity to nearby properties in compliance with Policy S32 of the Allerdale local plan part 1.

12. **Within 21 days of a written request by the Local Planning Authority, following a complaint to it from a resident alleging noise disturbance at the dwelling at which they reside and where Excess Amplitude Modulation is considered by the Local Planning Authority to be present in the noise immissions at the complainant’s property, the wind farm operator shall submit a scheme, for the approval of the local planning authority, providing for the further investigation and, as necessary, control of Excess AM. Relevant background noise levels to inform the limits should be agreed with the Local Planning Authority prior to any compliance measurements. The scheme shall be based on best available techniques and shall be**

implemented as approved by the Local Planning Authority within 1 month post completion of measurements.

Reason: To ensure a satisfactory standard of residential amenity to nearby properties in compliance with policy S32 of the Allerdale Local Plan Part 1.

13. An annual report reviewing the structural condition of the turbines shall be prepared by the developer and submitted to the Local Planning Authority prior to the 31st October of each year for the lifetime of the temporary consent. Any identified mitigation /repair works shall thereafter be implemented and maintained in accordance with the approved scheme.

Reason: To ensure the long term structural stability of the turbines hereby approved.

