

Development Control Committee

Meeting to be held on 9th December 2015

Electoral Division affected: Heysham

**Lancaster City : Application number LCC/2014/0136
Erection of a wind turbine (79 metres to tip), transformer container and
amendments to existing internal site access road. Morecambe Waste Water
Treatment Works, Compression Road, Heysham.**

Contact for further information:

Rob Jones, 01772 534128

DevCon@lancashire.gov.uk

Executive Summary

Application - Erection of a wind turbine (79 metres to tip), transformer container and amendments to existing internal site access road. Morecambe Waste Water Treatment Works, Compression Road, Heysham.

Recommendation – Summary

That planning permission be **refused** for the following reason:

Insufficient information has been submitted to enable Lancashire County Council, as the competent authority, to carry out the necessary appropriate assessment to conclude that the proposed wind turbine would not give rise to a significant effect on the qualifying interest features of the Morecambe Bay Special Protection Area. In the absence of such information, the applicant has not demonstrated that the proposal would not have an unacceptable impact on ecology contrary to Policies DM17, DM18, DM27 and DM35 of the Lancaster City Council - A Local Plan for Lancaster District 2011 – 2031 Development Management Development Plan Document (DPD).

Applicant's Proposal

Planning permission is sought for the erection of a wind turbine consisting of a 50m high tower to the hub and three blades each with a length of 29m at Morecambe Waste Water Treatment Works (WWTW). The overall height would be 79m from the base of the tower to the tip of the blade at its highest point. The turbine tower would be cylindrical and constructed from steel with carbon fibre blades. The colour of the tower and blades would be a non-reflective matt white/grey. The turbine would have a generating capacity of 500kw (0.5MW) per hour producing approximately 1,445MWh (1.45GWh) of electricity per annum, based on an estimated capacity factor of 33%. The wind turbine would have an operational lifespan of 25 years.

The turbine is proposed to supplement electricity used at Morecambe WWTW that had an electricity consumption of 2,080MWh (2.08 GWh) and 2,060MWh (2.06 GWh) for 2012 and 2013, respectively. Any surplus electricity produced would be fed into the national grid.

A container measuring 2.9m by 2.6m by 2.6m high would house the transformer and electrical equipment required for the operation of the turbine. The kiosk would be brown or light green.

The existing entrance to the WWTW would be improved to ensure that turbine delivery vehicles could access the site. A section of screening bund would be removed to facilitate the widening of the site access. Two parts of the internal access road would also be widened to provide access to the turbine site.

Description and Location of Site

Morecambe WWTW is located on the north side of Heysham Business Park approximately 1km west of Middleton, and on the south side of Compression Road. Access to the site is from Compression Road that leads off Main Avenue and then to Middleton Road.

The WWTW consists of buildings, plant and hardstanding surrounded on all sides by perimeter landscaping mounds. The wind turbine would be located to the south of the buildings and plant in an area of hardstanding approximately 30m from the south-east corner of the site. The transformer kiosk would be sited at the base of the turbine.

Immediately to the south and east of the WWTW are industrial units within Heysham Business Park. The land immediately to the west of the site and along the north side of Compression Road is an area of rough grassland being the site of a former refinery/ chemical works which is now designated as a Biological Heritage Site (BHS) due to its value for Great Crested Newts and other plant and animal species. Ocean Edge Leisure Caravan Park is approximately 360m to the west of, Heysham Golf Course is approximately 420m to the north of, and Heysham Power Station approximately 1.4km to the north-west of the proposed turbine. The nearest houses are a group of three properties located approximately 380m away from the turbine to the south of Heysham Business Park.

The Morecambe Bay Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar Site, and the Lune Estuary and Morecambe Bay Site of Special Scientific Interest (SSSI) are approximately 560m to the west.

There are a number of other wind turbines in this area:

- Three turbines (maximum height to tip of 125 metres) at Heysham South Wind Farm (1.4 km north east of the application site)
- A single wind turbine at the BT Fanny House Farm site (maximum height to tip of 110 metres) (2.4 km north east of the application site)
- Planning permission has also been granted by the City Council for a 77 m high turbine at Heysham Port. (1.7 metres north west of the application site)

Background

The proposed development would be located within an established waste water treatment works. A number of planning permissions have been granted at this site for waste water treatment infrastructure:-

Planning permission for the construction of the waste water treatment works was granted in December 1995 (ref. 1/95/1094).

Planning permission for the erection of two wastewater treatment control kiosks was granted in February 2002 (ref. 01/02/0036).

Planning permission for the construction of three Glass Reinforced Plastic (GRP) kiosk buildings was granted in April 2003 (ref. 01/03/0196).

Planning Policy

National Planning Policy Framework (NPPF)

Paragraphs 6 – 14, 17, 56 - 66, 93 - 98, 109, 111, 118 – 123 are relevant with regard to the requirement for sustainable development, core planning principles, good design, meeting the challenge of climate change and renewable energy and conserving and enhancing the natural environment.

National Planning Practice Guidance

National Planning Practice Guidance also contains advice on how wind turbine developments should be considered. In particular the guidance draws attention to a ministerial statement issued by the Secretary of State for Communities and Local Government on 18th June 2015 relating to the weight to be given to the views of local communities when considering such developments. The statement is to give effect to the commitment made in the Conservative election manifesto that local people should have the final say on wind energy development.

The statement makes clear that when determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if:

- the site is in an area identified as suitable for wind energy development in a local plan; and
- following consultation, it can be demonstrated that the planning impacts identified by local communities have been fully addressed and therefore the proposal has their backing.

For planning applications that had already been submitted at the time of the statement, (such as the current application) the following transitional arrangement applies;

- Where the development plan does not identify sites, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing.

This planning application was submitted in 2014 and therefore the above transitional arrangement applies. The Lancaster Local Plan does not identify any sites or areas for wind energy development and therefore, in applying the ministerial statement, the views of the local community is an important factor.

The Planning Practice Guidance also sets out the general considerations that should be applied to wind energy developments and how these should be dealt with through the planning system.

Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One (JLMWLP)

Policy NPPF 1	Presumption in favour of sustainable development
Policy DM2	Development Management

Lancaster City Council - A Local Plan for Lancaster District 2011 – 2031
Development Management Development Plan Document (DPD)

Policy NPPF1	Presumption in Favour of Sustainable Development
Policy DM17	Renewable Energy Generation
Policy DM18	Wind Turbine Development
Policy DM27	The Protection and Enhancement of Biodiversity
Policy DM28	Development and Landscape Impact
Policy DM35	Key Design Principles
Policy DM40	Protecting Water Resources and Infrastructure

Consultations

Lancaster City Council – Object on the following grounds:

- An additional planning application for another turbine (Port of Heysham re-submission) has been received ahead of the formal submission of the current proposal. As currently submitted, the application does not conform to the guidance set out in the NPPG and in particular does not contain sufficient information to allow the determining authority or its consultees to accurately consider the cumulative impacts of the current development upon the character of the landscape or residential amenity.
- The Noise Assessment has been based upon the recognised assessment methodology of ETSU-R-97 as modified by the Institute of Acoustics Good Practice Guide [IoA GPG]. The assessment should specifically consider the circumstances when there are pre-existing wind developments [whether or not constructed] and the starting point for a cumulative assessment for a further wind turbine seeking consent is not the predicted levels of the pre-existing developments, but their consented levels. The application as submitted has

sought to assess the development in respect of predicted noise levels contrary to the IoA GPG.

Middleton Parish Council – No observations received.

LCC Developer Support (Highways) – No objection subject to the imposition of conditions relating to a construction traffic management method statement and details for the reinstatement of the highway following the removal of any remedial works.

Environment Agency – No objection.

Natural England – Object as there is a lack of information to determine the likelihood of the wind turbine having no significant effects on the qualifying interest features (the birds) that use the internationally and nationally designated sites of the Morecambe Bay Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar Site, and the Lune Estuary and Morecambe Bay Site of Special Scientific Interest (SSSI), and so it cannot be concluded that the turbine would not give rise to a likely significant effect as defined in the Habitats Regulations 2010.

National Grid Gas and Electricity - No observations received.

Ministry of Defence Lands (Safeguardings) – Object as the turbine will be detectable by and will cause unacceptable interference to the Air Traffic Control radar at Warton.

Civil Aviation Authority – No observations received.

National Air Traffic Services – No objection subject to the imposition of the following two conditions:

- No part of any turbine shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in order to avoid the impact of the development on the Primary Radar of the Operator located at St. Annes and the associated air traffic management operations of the NATS Prestwick Centre.
- No blades shall be fitted to any turbine unless and until the approved Primary Radar Mitigation Scheme has been implemented and the development thereafter be operated fully in accordance with such approved Scheme.

Blackpool Airport – No observations received.

The Joint Radio Company Limited (analyses proposals for wind energy development to ensure no interference with radio systems operated by UK energy industry – No objection.

OFCOM – No objection.

Atkins Ltd (advises on telecommunications impacts of wind turbine development). – No observations received.

Lancashire Constabulary – No objection but comment that the proposed turbine is in the path of Lancashire Constabulary's (LC) microwave link that runs from a mast at Barnacre to Heysham port. LC have investigated an alternative and replacement microwave link path from their site at Heysham Port to Fleetwood Port but unfortunately there is not a path due to topography at the Heysham end of the link. It is suggested that the best alternative would be to replace the Microwave link with a ground based network link. This would be subject to survey by a telecoms supplier. The cost would be paid by the applicant. It could also be dealt with by means of an appropriately worded planning condition which would require mitigation to be implemented prior to the operation of the turbine.

LCC Specialist Advisor (Ecology) – Object as there is a lack of information to determine the likelihood of the wind turbine having no significant effects on the qualifying interest features of the internationally and nationally designated sites of the Morecambe Bay Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar Site, and the Lune Estuary and Morecambe Bay Site of Special Scientific Interest (SSSI), and so it cannot be concluded that the turbine would not give rise to a likely significant effect as defined in the Habitats Regulations 2010.

Representations – The application has been advertised by site notice and press notice and the owners of Heysham Business Park and Ocean Edge Leisure Caravan Park have been notified by letter. No representations have been received.

Advice

Planning permission is sought for the erection of a 79m high wind turbine consisting of a 50m high tower to the hub and three blades each with a length of 29m to be sited on the south side of Morecambe WWTW.

Morecambe WWTW treats waste water arising from the urban areas of Morecambe and Heysham. The equipment used to power pumps and other treatment infrastructure is electrical and hence the site is a major consumer of electricity. The applicant estimates that the turbine would have a generating capacity of 500kw (0.5MW) per hour producing approximately between 1,445MWh of electricity per annum, based on an estimated capacity factor of 33%. Based on this electricity generation, the applicant estimates that that the turbine would result in carbon dioxide (CO₂) emission reductions of approximately 622 tonnes per year. Over the operational lifespan of 25 years, it is estimated that the turbine could offset 15,550 tonnes of CO₂.

Planning policies and decisions must reflect and where appropriate promote relevant EU obligations and statutory requirements.

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise. In considering the issues that arise from the proposed development, it is necessary to take into consideration the relevant

policies of the Development Plan and the planning history of the site and all other material planning considerations.

It is also necessary to consider Government Policy, in particular the Ministerial Statement of June 2015. The Ministerial Statement provides that for turbines such as this, where the development plan does not identify sites, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing.

The Development Plan for the site is made up of the Joint Lancashire Minerals and Waste Local Plan – Site Allocation and Development Management Policies – Part One (JLMWLP) and the Lancaster City Council - A Local Plan for Lancaster District 2011 – 2031 Development Management Development Plan Document (DPD).

The NPPF advises that the planning system plays a key role in securing radical reductions in greenhouse gas emissions, minimising vulnerability and providing reliance to the impacts of climate change, and supporting the delivery of renewable energy infrastructure which is central to the economic, social and environmental dimensions of sustainable development. To help increase the use and supply of renewable energy, the NPPF advises that planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable sources. The NPPF states that applicants for energy development should not be required to demonstrate the overall need for renewable energy and that planning authorities should recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. The NPPF advises that applications for renewable energy development should be approved if impacts are (or can be made) acceptable. The proposed turbine would reduce reliance on electricity generated by conventional means using fossil fuels and would therefore reduce the greenhouse gas emissions associated with such generation. The proposal is therefore considered to accord in principle with the policies in the NPPF relating to renewable energy.

Policy NPPF1 of both the Lancaster City Council DPD and of the JLMWLP states the council will take a positive approach that reflects the presumption in favour of sustainable development contained within the NPPF.

Policy DM17 of the Lancaster City Council DPD relates to renewable energy generation and states the council is committed to supporting the transition to a lower carbon future and will seek to maximise renewable and low carbon energy generated in Lancaster District, where this energy generation is compatible with other sustainability objectives. The council will support all proposals for renewable and low carbon energy schemes, regardless of their size, where the direct and indirect impacts are, or will be made acceptable subject to satisfying three criteria. These criteria are that the proposal with its ancillary development would not individually or cumulatively have an unacceptable significant effect as a result of its scale, siting or design on the landscape, visual amenity, biodiversity, geodiversity, townscape and historic assets of the district and will not unduly affect highway safety; the impacts of the development are mitigated so as to ensure that there are no unacceptable significant effects on the amenities of sensitive neighbouring uses (including by

virtue of noise, dust, odour or traffic); and the wider environmental, economic, social and community benefits directly related to the scheme outweigh any significant adverse effects.

Policy DM18 of the Lancaster City Council DPD specifically relates to wind turbine development and seeks to support, in principle, such development providing the following direct and indirect impacts relevant to this application are, or can be made, acceptable: significant effects, either alone or cumulatively, on the landscape's character and value, on local residents and sensitive users by virtue of visual, noise or 'shadow flicker', and on areas of ecological value, especially on protected species and habitats, or result in the fragmentation of migration routes for protected bird species; television reception; highway safety; aviation navigation systems; and hydrological and drainage impacts.

Policy DM35 of the Lancaster District DPD seeks to ensure, amongst other things, that new development demonstrates a number of general principles; contributes positively to the identity and character of an area through good design, having regard to appropriate siting, layout, materials, separation distances and scale, and ensure no significant detrimental impact to amenity in relation to visual amenity.

The main issues to consider when assessing the environmental implications of the proposed wind turbine are the visual impacts upon the immediate and surrounding landscape, shadow/light flicker, noise, nature conservation interests, the effect of electromagnetic disturbance on telecommunications, traffic impacts, aviation and ground and surface waters.

Visual and landscape implications

Policy DM28 of the Lancaster City Council DPD refers to Development and Landscape Impact and seeks to support development which is in scale and keeping with landscape character and which is appropriate to its surroundings in terms of siting, design, materials, external appearance and landscaping. Consideration will be given to both the individual and cumulative impacts of a proposal. Proposals located in coastal locations should be considered against their impacts on coastal landscapes, in particular in relation to Morecambe Bay and the Lune Estuary. Development proposals which are considered, due to their scale or location, to have potential adverse impacts on the local landscape and local character will be expected to be accompanied by a Landscape and Visual Impact Assessment (LVIA). The LVIA should systematically assess the effects of change on the landscape, both landscape and visual effects, as a consequence of a development proposal. Through such an assessment, development proposals should be designed to avoid negative landscape effects and where this is not possible, impacts should be reduced or offset through appropriate mitigation/compensatory measures.

The wind turbine would be located on the south side of the Morecambe WWTW in an area that is not covered by special landscape designations. The applicant has submitted information to allow an assessment of the visual impacts of the development to be made including plans showing the locations from where the turbine would be visible, information on other wind turbine developments showing inter visibility and photomontages showing the likely visual impact from particular locations. Lancaster City Council objected as the submitted LVIA did not consider

the approved wind turbines that have not been constructed and hence the determining authority or its consultees could not accurately consider the cumulative impacts of the current development upon the character of the landscape or residential amenity. An amended LVIA was subsequently submitted to include the approved wind turbine at the Port of Heysham.

The turbine would be located within the Heysham-Overton Low coastal Drumlin landscape area, as established in a 2005 study by Lancashire County Council. (Landscape Sensitivity to Wind Energy Development). This landscape area has a moderate to high level of sensitivity to wind energy development and is classified as being suitable for small and possibly medium scale development. The proposed turbine would be medium scale but when combined with the proposed turbine at the port of Heysham and the existing turbines at Fanny House Farm and at Heysham South Wind Farm, then the moderate to high sensitivity would indicate that additional wind development would generally not be appropriate. However, this assessment of landscape sensitivity is on a broad basis and there will be local topographical and landscape features which should be taken into account in assessing the impact of individual developments.

The location is semi-rural but there are a number of manmade influences, most notably the adjacent Heysham Business Park, and the nearby Ocean Edge Leisure Caravan Park, Heysham Power Station and other wind turbines and electricity pylons. The villages of Middleton, Heysham and Overton are close to the site. The topography in the vicinity of the site is relatively flat except where it rises up to the north at south Heysham and Heysham Head. The main residential and tourist views of the turbine would be from Middleton approximately 1km to the east, Ocean Edge Leisure Caravan Park approximately 360m to the west and a group of three properties located approximately 380m away from the turbine to the south of Heysham Business Park. It is considered that the separation distance between Middleton and the turbine would substantially reduce the scale of the structure when viewed from Middleton. The location of Ocean Edge Leisure Caravan Park and the three houses to the south would result in the turbine being substantial in scale but, as the application is for a single turbine, the horizontal field of view occupied would be relatively small. The other wind turbines in the area would not be particularly visible from these locations due to small variations in the lie of the land, buildings and vegetation. It is therefore considered that these locations would not experience an overbearing effect as a consequence of the wind turbine although it is accepted that there would be a significant change in view from these locations and the surrounding roads. Middleton Town Retirement Village is approximately 600m to the south-west of the turbine site and would have more significant views of the proposed and other existing turbines in the area, although it is considered that the separation distance between the nearest residential properties would substantially reduce the scale of the turbine when viewed from them.

More distant views of the turbine would be from Heysham, Morecambe and Lancaster where the cumulative impact of the various turbines in the area would be apparent. It is accepted that the visual acceptability of turbines is highly subjective and depends on their size, spacing, number and backdrop. The main cumulative impact would be when viewed from south Heysham and Heysham Head, and the countryside north of Overton, where the land is the highest in that area. The existing

wind turbines in the area are fairly closely grouped and therefore the visual impact from any one point would be more limited.

In conclusion, it is considered that the proposed wind turbine, due to its scale would inevitably result in some landscape and visual impacts, particularly when seen from Ocean Edge Leisure Caravan Park and the three properties located to the south of Heysham Business Park and surrounding roads. Whilst the proposed wind turbine would have visual impacts particularly in the area immediately surrounding the turbine, the significance of such impacts does depend upon an individual's perception of the acceptability of wind energy development in landscape terms. Whilst it is accepted that the visual impacts from some locations would be significant, it is considered that the visual impact of the proposed turbine and cumulatively with the other existing and proposed turbines in the area would not be overbearing. However, such impacts will need to be weighed in the balance along with the other impacts and benefits resulting from the development.

In terms of visual appearance of the proposed turbine itself, the tower and blades would be a non-reflective matt white/grey. The colour could be the subject of a condition.

Shadow flicker

The operation of a wind turbine has the potential to generate shadow flicker. Shadow flicker is a phenomenon that occurs under certain combinations of geographical position, wind direction and time of day, when the sun may pass behind the turning turbine rotors, resulting in a flickering effect. When this phenomenon is observed through a window in a property, the shadow flicker can be a cause of annoyance to residents, affecting their residential amenity.

A shadow flicker assessment submitted with the application advises that the only properties that could theoretically experience shadow flicker are buildings in Heysham Business Park and caravans in Ocean Edge Leisure Caravan Park. The maximum theoretical duration that any of the existing industrial buildings could experience shadow flicker would be for 83 days between approximately 1700 and 1800 (early evening) from mid-February through to the end of March, and mid-August through to the end of September. However, the theoretical maximum occurrence per day during this period would be 1 hour and would more typically be around 45 minutes. It is likely that many users of these industrial buildings will only be present for some of this time as it is at the end of the working day. The maximum theoretical duration that any of the existing caravans in Ocean Edge Leisure Caravan Park could experience shadow flicker would be for 104 days between approximately 0450 and 0530 (very early morning) from the start of April through to the start of August. However, the theoretical maximum occurrence per day during this period would be 40 minutes and would more typically be around 30 minutes. Most users of the caravan park are expected to be asleep at this time. However, such a scenario would require a certain combination of sunshine and wind direction which would be unlikely to occur over a long period of time. It is therefore considered that shadow flicker would not affect adjacent development to an unacceptable level and hence the impacts of shadow flicker are acceptable in terms of Policies DM18 and DM35 of the Lancaster City Council DPD.

Noise

Wind turbines have the potential to create noise. A noise assessment has been submitted with the application to assess the likely noise impacts of the development on the four nearest sensitive locations in the surrounding area; a residential property located approximately 380 metres away to the south of Heysham Business Park, Ocean Edge Leisure Caravan Park located approximately 360m to the west, a residential house located approximately 700 metres away on the west side of Middleton, and Middleton Retirement Village located approximately 600 metres to the south. The noise assessment also includes a cumulative assessment of a number of consented wind farms located in the vicinity of the proposed development that have been constructed; the Heysham South Wind Farm consisting of three turbines and the single BT wind turbine at Fanny House Farm. Lancaster City Council objected to the noise assessment as they consider it should also include the consented noise levels of the other approved wind turbines in the area. An amended noise assessment was subsequently submitted to include the approved wind turbine at the Port of Heysham in order to address the City Council's concerns.

The amended assessment advises that the predicted noise levels at all residential properties under various wind speeds and direction conditions is acceptable and meets the requirements of guidelines associated with noise from wind turbines. Lancaster City Council have not commented on the amended assessment. It is considered that should any reasonable noise complaint be made during the operation of the turbine then the problem could be addressed by a condition requiring noise levels from the turbine not to exceed 5dB(A) above background noise levels at the nearest properties. If such noise levels cannot be complied with due to particular climatic conditions, the turbine would have to be temporarily shut down. It is considered that the imposition of such a condition would enable the noise impacts of the development to be acceptable in terms of Policies DM17, DM18 and DM35 of the Lancaster City Council DPD.

Nature Conservation interests

The development would not directly affect any site with statutory ecological designations although the Morecambe Bay Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar Site, and the Lune Estuary and Morecambe Bay Site of Special Scientific Interest (SSSI) are located approximately 560m to the west of the application site. The SPA is of European importance for a range of breeding, migratory and wintering bird species. The turbine may have implications for such birds as a result of collision, disturbance and displacement.

Whilst the proposed turbine would not directly affect the European site, the application site is in close proximity to the SPA and the submitted information acknowledges that SPA qualifying bird species will be affected. Both Natural England and LCC Specialist Advisor (Ecology) therefore consider the proposal has the potential to affect the European site.

Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) states that a competent authority, before deciding to undertake, or give

any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The Habitats Regulations make provision for the applicant to supply such information as is reasonably necessary to allow the competent authority to undertake an appropriate assessment in order to establish the likely impact on the European site. In this case, the applicant has not undertaken an up-to-date desk study/ data search, full survey results (necessary to inform the assessment) have not been carried out or submitted, and robust collision risk modelling for SPA birds has not been carried out/ presented. Although the submitted information indicates that there would be an effect on SPA species, the significance of that effect cannot be determined in the absence of adequate surveys and robust assessment. SPA species potentially affected are herring gull and lesser black-backed gull.

When assessing projects for the purposes of the Habitats Regulations, the precautionary principle must apply and case law has established that projects should not be authorised where there would be a significant adverse effect on the European site or where there is uncertainty as to effects.

The County Council, as the competent authority who are determining the planning application, has undertaken a Habitats Regulations Screening Assessment (HRSA) to assess the potential impacts. In this case, the HRSA concludes that the submitted information does not demonstrate, beyond reasonable doubt, that the proposals would not result in likely significant effects on the European site. This is because the applicant has not submitted sufficient information to enable the County Council to form a view as to the likely significance of the impact. The County Council is unable to carry out the necessary appropriate assessment and hence it cannot be concluded with reasonable certainty that the proposed wind turbine, as proposed, would not generate any significant environmental effects on the qualifying interest bird features (Herring Gull and Lesser Black-backed Gull) that use the nearby Morecambe Bay SPA. The significant environmental effects being disturbance, an effect on their feeding patterns and the risk of bird strike. In the absence of such information, the County Council is unable to comply with its obligations under the Habitats Regulations.

There is some evidence that the site is used by bats which are European protected species. Bats use the perimeter landscaping mounds of the WWTW as feeding habitat. The proposed turbine cannot be located to maintain a 50m buffer between turbine blades and all bat habitat (as recommended by Natural England to minimise impacts on bat populations). Despite the relatively low level of bat activity recorded during surveys, there thus appears to be a risk that bats could be adversely affected by turbines (collision, barotrauma). To reduce the risk to bats, the applicant proposes vegetation management to reduce the suitability of bunds to support bat species. The LCC Specialist Advisor (Ecology) has commented that the proposed management will not necessarily reduce the suitability of bunds to support bats. However, it is acknowledged that impacts on a low number of bats by incidental killing or injuring (where individuals are at medium risk, and the population is at low

risk, of impact) during operation of the proposed turbine would not constitute a breach of legislation and, as such, potential impacts on bats would not be grounds for refusal of this application. It is therefore concluded that subject to a condition to require the implementation of the aforementioned mitigation and compensation measures, then there would not be an adverse effect on bats and their habitat.

However, the potential impacts on the European wildlife site remain unresolved. Given that insufficient information has been provided to allow such ecological impacts to be properly assessed, the proposal is contrary to Policies DM17, DM18, DM27 and DM35 of the Lancaster City Council DPD.

Electromagnetic disturbance on telecommunications and TV

The rotation of wind turbine blades has the capacity to interfere with telecommunications including microwave links, radio and television reception. Ofcom (the independent regulator and competition authority for the UK communications industries), the Joint Radio Company (JRC) and Atkins (band managers for the water, electricity and utilities industries), and Lancashire Constabulary (LC) have been consulted on this application.

No objections were received but LC commented that the proposed turbine is in the path of LC's microwave link that runs from a mast at Barnacre to Heysham port. LC have investigated an alternative and replacement microwave link path from their site at Heysham Port to Fleetwood Port but unfortunately there is not a path due to topography at the Heysham end of the link. It is suggested that the best alternative would be to replace the Microwave link with a ground based network link. This would be subject to survey by a telecoms supplier. The cost would be paid by the applicant. It could be dealt with by means of an appropriately worded planning condition which would require mitigation to be implemented prior to the operation of the turbine. Subject to such a condition, it is considered that no interference with regards to wireless communication links is expected as a result of the proposed turbine.

Following the switchover to digital TV transmission in the UK in 2012 all television transmissions are received via either Digital Terrestrial Television (DTT) or Digital Satellite Television. DTT transmissions are far less susceptible to interference from wind turbines than analogue signals and therefore it is considered highly unlikely that effects on television reception through DTT would be experienced in the locality. The applicant has stated that in the event that TV interference was experienced, mitigation measures through use of alternative technologies are readily available. However, with such an approach, the applicant would not be required to remedy any TV interference. This matter can be controlled through an appropriately worded planning condition. On this basis, the impacts of the proposal on TV reception are acceptable in terms of Policy DM18 of the Lancaster City Council DPD.

Traffic impacts

Traffic impacts of the development would be restricted to the construction period lasting around six months. The delivery of some of the turbine components (such as the turbine blade) would be considered as 'abnormal loads'. The only feasible route of delivering the turbine components would be via the A683, Middleton Road, Main

Avenue to Compression Road which is the access road leading to the WwTW. The applicant considers that the access route is acceptable without requiring any accommodation works to the highway (although there may be some temporary measures (like removing street furniture).

LCC Developer Support (Highways) has not objected subject to the imposition of a condition that, prior to the commencement of the development, a construction traffic management method statement be submitted that includes details of a pre-construction highway condition survey together with details of the timing of any remediation measures. Subject to such a condition, it is considered that the development is acceptable on highway grounds and hence the traffic impacts of the proposal are acceptable in terms of Policies DM17, DM18 and DM35 of the Lancaster City Council DPD

Aviation

The wind turbine has the potential to affect aviation interests through either interference with radar or by presenting a physical obstacle to the path of an aircraft. Two assessments have been submitted in relation to these; an Aviation Impact Assessment (AIA) and the National Air Traffic Services (NATS) Technical and Operation Assessment (TOPA)

The turbine would be located in an area where the Ministry of Defence (MoD) have safeguarding powers in relation to the potential for wind turbines to create a physical obstruction to planes or result in interference to Air Traffic Control and Air Defence radar installations. In this instance the proposed turbine may be detectable intermittently by the Warton Primary Surveillance Radar (PSR) system. With regard to NATS, the assessments indicated an unacceptable impact on en-route operations due to the turbine likely being detectable by the St Annes Primary Surveillance Radar (PSR) system. No observations have been received from Blackpool Airport or the Civil Aviation Authority.

The MoD have objected as the turbine would cause unacceptable interference to the Air Traffic Control radar at Warton. However, it is considered that a condition can be imposed to require that an Air Traffic Control Radar Mitigation Scheme be approved prior to the commencement of development.

NATS have no objection subject to the imposition of a condition to require that the development should not commence until a Primary Radar Mitigation Scheme has been approved in order to avoid the impact of the development on the Primary Radar of the Operator located at St. Annes and the associated air traffic management operations of the NATS Prestwick Centre. Subject to this condition, it is considered that the aviation impacts of the development are acceptable in terms of Policy DM18 of the Lancaster City Council DPD.

Protection of ground and surface waters

An assessment of potential impacts on geology, hydrology and hydrogeology has resulted in identification of three potential effects; the potential excavation of contaminated material during turbine foundation construction, the potential for

migration of contaminants in shallow perched groundwater during foundation excavations, and the potential for migration of sediment and other contaminants in surface water runoff from construction areas. To mitigate and manage these effects, the following measures are proposed to be included in the construction process; a pre-development site investigation to establish the presence of any contaminated ground at the proposed turbine site and the location of associated infrastructure, any contaminated materials from development construction works will be contained on-site until removed to an appropriately licensed disposal facility and onsite containment measures will include provision to prevent migration of potentially contaminated runoff to surface water or groundwater systems, and a pollution management plan will provide specific detail on measures designed to mitigate risks to surface water and groundwater resources.

The Environment Agency has not objected to the application. It is considered that subject to conditions to prevent any contaminated run off from the site, the impacts of the proposal on water resources are acceptable in terms of Policy DM18, DM35 and DM40 of the Lancaster City Council DPD.

Other safety impacts

Other safety impacts are related to ice being dislodged from the blades and the risk of lightning strike.

It is possible for ice to form on the blades of a wind turbine which can either fall to ground when the blades are stationary or be thrown from the blades when operational. The number of days per year where such conditions exist is very low. In relation to ice throw, the flexing of the blades in operation will act to limit the build-up of ice. Any ice fragments that detach from the blades will be thrown from the turbine to land in the plane of the rotor or downwind. Given that there would be no public access to the turbine or surrounding area, the probability of an ice fragment striking a person is low and so it is considered that there would not be any safety problems from icing. The proposed turbine would be fitted with a lightning conductor that protects it from lightning strike and so it is considered that there would not be any safety problems from a lightning strike. These aspects of the development are therefore considered acceptable in terms of Policies DM17 and DM18 of the Lancaster City Council DPD.

Conclusions

The proposed wind turbine would produce electricity to allow Morecambe WWTW to reduce its reliance on electricity produced from fossil fuels. The development would therefore contribute towards meeting the UK's renewable energy targets and would comply with the policy in the NPPF relating to the contribution of renewable energy projects.

The ministerial statement dated 18th June 2015 forms part of Government policy for wind energy development and sets out that local planning authorities can find such development acceptable, if following consultation, they are satisfied it has addressed the planning impacts identified by local communities and has their backing. No representations to this application have been received from local residents or local

parish councils and therefore there is no evidence of local opposition to the proposal. Therefore the proposal can be found to be acceptable if all other planning and land use impacts are acceptable or can be made so through conditions.

Due to its height and location in an area where there are already four existing wind turbines in close proximity to this proposal, the turbine would have some visual impacts both individually and cumulatively, particularly at locations at the Ocean Edge Leisure Caravan Park, the nearest residential properties and surrounding roads. The visual impacts of the turbine have to be weighed and balanced against other impacts and benefits of the development. In this case the landscape and visual impacts are considered to be outweighed by the presumption in favour of renewable energy development contained in the NPPF and the Lancaster City Council DPD. The other impacts of the development in terms of shadow/light flicker, noise, the effect of electromagnetic disturbance on telecommunications, traffic impacts, aviation and ground and surface waters can be addressed to acceptable levels by planning conditions.

In certain circumstances, where there is no viable alternative solution, overriding public interests (which may include the requirement to generate energy from renewable sources), can outweigh any impacts to sites of European wildlife importance. However, such wider considerations can only apply once the degree of harm to the ecological interests of the European site has been established. In this case, insufficient ecological information has been submitted to enable LCC, as the competent authority, to carry out the necessary appropriate assessment to conclude that the proposed wind turbine would not give rise to a significant effect on the qualifying interest features of the Morecambe Bay SPA.

Therefore, the absence of this information means that the County Council cannot properly assess the ecological impacts of the development sufficient to discharge its duties under the Habitats Regulations and hence cannot conclude that the development would not harm the ecological interests of the Morecambe Bay SPA contrary to Policies DM17, DM18, DM27 and DM35 of the Lancaster City Local Plan. The potential impacts on ecology are sufficient to outweigh the benefits of the proposal in terms of the generation of electricity from renewable sources.

Human Rights Issues

Article 1 of the 1st Protocol concerns the enjoyment of property and provides that everybody is entitled to the peaceful enjoyment of his possessions and that no one should be deprived of the enjoyment of property except in the public interest. The refusal of planning permission has the potential to affect the applicant's rights under this Article. However, the County Council has a duty to ensure that the impacts of renewable energy development are properly assessed in order to protect the special features of European wildlife sites as set out in the policies of the Development Plan. The proposal would conflict with these policies and the interference in the rights of the applicant is therefore considered to be justified in order to protect the public interest. It is considered that the public interest can only be safeguarded by refusal of permission and that refusal of the application would not be a disproportionate interference with the rights of the applicant.

Recommendation

That planning permission be **refused** for the following reason:

1. Insufficient information has been submitted to enable Lancashire County Council , as the competent authority, to carry out the necessary appropriate assessment to conclude that the proposed wind turbine would not give rise to a significant effect on the qualifying interest features of the Morecambe Bay Special Protection Area. The significant environmental effects being disturbance, an effect on their feeding patterns and the risk of bird strike. Therefore, the application cannot be determined as it would be in breach of the Conservation of Habitats and Species Regulations 2010 (as amended) and contrary to Policies DM17, DM18, DM27 and DM35 of the Lancaster City Council - A Local Plan for Lancaster District 2011 – 2031 Development Management Development Plan Document (DPD).

Local Government (Access to Information) Act 1985 List of Background Papers

Paper	Date	Contact/Ext
-------	------	-------------

LCC/2014/0136

17th September 2014

Rob Jones
Planning and Environment
534128

Reason for Inclusion in Part II, if appropriate
N/A