

BRECKLAND COUNCIL - PLANNING COMMITTEE - 09-07-2012

ITEM	1	RECOMMENDATION : APPROVAL
REF NO:	3PL/2011/0854/F	CASE OFFICER: James Stone
LOCATION:	BRADENHAM Land at Wood Farm Church Lane	APPN TYPE: Full POLICY: Out Settlemnt Bndry ALLOCATION: No Allocation CONS AREA: N TPO: N LB GRADE: N
APPLICANT:	Ecotricity (Next Generation) Ltd Unicorn House Russell Street	
AGENT:	Ecotricity (Next Generation) Ltd Unicorn House Russell Street	
PROPOSAL:	Erect 2 100m wind turbines, access tracks, crane pad areas, electricity sub-station & temp construction compound	

KEY ISSUES

Provision of renewable energy
Landscape character and visual impact
Local and residential amenity (including noise and shadow flicker)
Protected species
Ministry of Defence (MOD) Radar
Aviation safety

DESCRIPTION OF DEVELOPMENT

The application seeks full planning permission for the erection of two wind turbines, each with a maximum tip height of 100m. The scheme also includes access tracks, crane pad areas, an electricity sub-station and temporary construction compound. The proposed turbines are Enercon 2.3MW, three bladed turbines. They are variable speed, direct drive turbines mounted on a steel tower with a clockwise blade rotation. The final specification of the turbine to be used is not yet confirmed due to continual improvements to wind turbine design. However, all assessments are based on the specifications of the Enercon E70 turbine.

SITE AND LOCATION

The two turbines would be situated within an agricultural field in the countryside. The southernmost turbine would be the nearest to a Settlement Boundary, being located 1200m north of the northern boundary of the Shipdham Settlement Boundary and its Conservation Area. Furthermore, the site is located on the boundary of Landscape Character Types 10 (Plateau Farmland) and 11 (Settled Tributary Farmland) as defined in the 2003 Wind Turbine Development Landscape Assessment, Evaluation and Guidance report. A line of pylons runs east to west to the north of Daffy Green.

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EIA REQUIRED

Yes

RELEVANT SITE HISTORY

Planning permission was refused on 17 December 2002 under ref: 3PL/2002/0004/F for the erection of two turbines (reduced from three). The grounds of refusal at Committee related to impact on the landscape and the implications of the traffic which would be generated by the development. The application was dismissed at appeal in September 2003 on the grounds of potential noise problems. The Inspector concluded that whilst the development would have an effect on the living and working conditions of people nearby, those effects would generally fall within acceptable limits apart from the noise produced from the turbines. "The information I have seen on this matter is not to my mind sufficient to illustrate that the resultant noise climate would not give rise to disturbance to local, nearby residents". The Inspector completed her report by stating that "Overall I conclude that the proposal would be in accord with the objectives of the development plan, regional and national policy except in relation to the impact the development would be likely to have on peoples living conditions through noise disturbance. This matter is in my view sufficient to justify refusal of the proposal".

On 4 January 2005 planning permission was refused under ref: 3PL/2004/0313/F for the erection of two E-66 wind turbines with a hub height of 65m and a 70m rotor diameter (The 2002 turbines would have been approximately 20m taller than those in the 2004 submission). Committee refused the application on the grounds that there was currently a significant element of uncertainty about the likely impact of the proposed turbines on civil aircraft safety. However, the resulting appeal in June 2006 was allowed and the Inspector stated that "I have reached the same conclusion as did my colleague, save on the question of noise where I have had the benefit of much fuller information and the up to date guidance of PPS22 and its Companion Guide. In my view, the scheme meets the aims of the relevant development plan policies. Moreover, it is consistent with the Government's energy polices in that it would secure worthwhile savings in terms of carbon dioxide emissions". The appeal decision was, however, quashed at the High Court through Judicial Review with the appeal referred back to the Planning Inspectorate; the Inspector's ultimate conclusions after yet a further Public Inquiry being that, in the light of new evidence in respect of noise, the appeal be dismissed.

POLICY CONSIDERATIONS

The following policies of the adopted Breckland Core Strategy and Development Control Policies and the adopted Site Specific Policies and Proposals Document, including the Proposals Maps, have been taken into consideration in the determination of this application. The provisions of the National Planning Policy Framework have also been taken into account, where appropriate

CP.10	Natural Environment
CP.11	Protection and Enhancement of the Landscape
CP.12	Energy
DC.01	Protection of Amenity
DC.12	Trees and Landscape
DC.15	Renewable Energy

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DC.16	Design
DC.17	Historic Environment
DC.19	Parking Provision

CONSULTATIONS

BRADENHAM P C -

Bradenham Parish Council objects.

Our specific objections relate to noise, impact on wildlife, unreasonably close proximity to neighbouring houses causing unacceptable visual dominance and shadow flicker, impact on the Norfolk Cycle Route, and the fact that the proposed development is contrary to Breckland's guidance for wind turbine development in this landscape area.

In view of these detailed objections we would strongly urge the Council to refuse this planning application.

SHIPDHAM P C -

The parish council have the following comments :

This application is not fundamentally different from the previous application which was rejected. It should therefore be rejected.

It does not satisfactorily address the concerns about health and wellbeing of those living in the vicinity, therefore should be rejected.

The developer appears to be unable to decide technical details eg noise levels until the turbines have been put into operation (rather too late). The application should therefore be rejected.

These applications have been received for many years, with no material difference, and each application has caused dissent within the village. The Parish Council believe that accepting this application would harm the community.

ENVIRONMENT AGENCY

No objections subject to conditions

ENGLISH HERITAGE

The proposal will result in change to the setting of a number of highly graded heritage assets.

However, the degree of harm will not be substantial and it might be possible to conclude that this harm would be outweighed by the public benefit of mitigating the effects of climate change.

If minded to approve this application, we would wish to see a condition requiring the removal of the turbines at the end of their operational life, or when they become redundant, whichever is the sooner.

NATURAL ENGLAND

No objection subject to conditions

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MINISTRY OF DEFENCE

No objections subject to conditions relating to lighting, notification of start date, height of construction equipment, latitude and longitude of each turbine

CIVIL AVIATION AUTHORITY

No objections

NATIONAL AIR TRAFFIC SERVICES

No safeguarding objection to this proposal.

NORWICH AIRPORT (SAFEGUARDING)

No objections subject to conditions relating to requirement for a scheme to address airport safeguarding including mitigation, notice of commencement, details of cranes and their positions

NORFOLK COUNTY COUNCIL HIGHWAYS

No objection subject to conditions to ensure satisfactory highway improvement works.

CPRE NORFOLK

Objects to the application.

The application site lies close to the existing concentration for on-shore wind farms that are operational at North Pickenham, Swaffham Ecotech Centre and Swaffham II; the cumulative impact is already apparent in this area. In addition we draw attention to the fact that the first four off-shore turbines at Sheringham Shoal are now operational, and all 88 will be operational next spring (and are already all too clearly visible from the north Norfolk shoreline at a range of 10-13 miles away). This company is now planning for a wind farm of up to 1,667 turbines of the north east coast. There are also proposals for 333 turbines some 28 miles north of Wells-next-the-Sea, and 140 are being built off the coast of Suffolk.

CPRE Norfolk concludes that the visual effects of the turbines proposed will be both significant and detrimental to the landscape of Shipdham and the surrounding countryside, near and far. The environmental benefits of the scheme, which are small and variable, and insignificant in comparison with the off-shore developments, are greatly outweighed by the damage it would cause.

R S P B

No objection

GREAT ELLINGHAM P C

Object on the basis that similar applications have been previously refused. Concerns about the closeness of the turbines to neighbouring properties and the amount of noise they will create.

CONTAMINATED LAND OFFICER

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No objections subject to conditions

ENVIRONMENTAL HEALTH OFFICERS

Based on the information submitted, the Council's retained Acoustic Consultant advises that there is no robust or sustainable reason to refuse planning permission on noise grounds. Conditions are proposed in relation to noise limits which are more stringent than those within the Environmental Statement. In respect of Amplitude Modulation, there is a small risk of noise annoyance but it is difficult to predict if it would occur and to what extent. No reasonable condition can be imposed.

Appeal Inspectors on recent planning appeals have suggested using statutory nuisance legislation to address AM if it occurs.

NORFOLK LANDSCAPE ARCHAEOLOGY

No objection subject to a condition to secure a programme of archaeological work.

TREE & COUNTRYSIDE CONSULTANT

The Environmental Statement prepared for Ecotricity does not raise any overriding issues in the field of Biodiversity that would argue against the proposal. This is borne out by the responses from Natural England and RSPB which expressed no objection.

The construction access is based on existing agricultural tracks and should not impact on ponds or watercourses in the locality. The issue of bats is more controversial; however, no potential roosts would be affected and there are no known roosts nearby whose flight paths would be at risk from the turbine blades. The survey results recorded low level use of the area and that not at the height of the blades - risks may therefore be classed minimal.

As far as landscape goes, the statement itself points out that any argument for or against large wind turbines can be countered by the opposite point of view. My opinion is not carried by any evidence presented on the planning file and it is noteworthy that the proposed location of the turbines is not significantly different from previous proposals examined in the planning process and subjected to Inspector's scrutiny at appeal when landscape issues were not found to be justification for refusal.

Any consent should be accompanied by conditions requiring the preparation, approval and execution of a detailed Biodiversity Enhancement Plan for the application site as proposed in section 8.8.3 of the Environmental Statement and a programme of monitoring of possible effects on wintering birds, breeding birds and bats as proposed in section 8.8.4 of the statement.

HISTORIC BUILDINGS CONSULTANT

I can confirm that I support the comment offered by English Heritage.

SHIPDHAM AERO CLUB

Objection - proximity to Shipdham Airfield and obvious danger to Air Traffic

DIRECTORATE OF AIRSPACE POLICY - No Comments Received

BEESTON P C - No Comments Received

CARBROOKE P C - No Comments Received

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MUNDFORD P C - No Comments Received

SCARNING P C - No Comments Received

NATIONAL AND WEST MIDLANDS CASEWORK TEAM - No Comments Received

REPRESENTATIONS

In response to consultation on the application, local comments from the community include the following:-

Objections

- Visual impact - obstruct view of other properties/is an eyesore (visual)
- Noise levels adverse effect on landscape quality
- Birds will be killed
- Sleep disruption, especially for those with medical conditions exacerbated by lack of sleep
- Government recommends 1 mile away from residential(Members bill going through with increase to 1.5 miles). Proposal is less.
- Penetrating low-frequency noise pollution day and night
- Costly method of carbon dioxide reduction
- Increase risk of RTA's as they are a distraction
- Previous applications have been rejected and not much/nothing has changed
- Impact on the amenity of neighbouring property
- Impact on the wildlife (including bats) in neighbouring Manor Farm and elsewhere
- Shadow flicker impacts on people and livestock
- Noise impact inside dwellings
- Persecution as already won numerous public enquiries/high court challenges
- Noise restrictions in conditions of 3PL/2006/0470/D should also apply to turbine application
- Not cost-effective and has a low electricity production
- Annoyance during construction
- Radar interference
- Altered behaviour in farm animals
- Impact on the Conservation Area
- Inadequate background data and EIA
- Safety of aircraft operating from Shipdham Airfield e.g. wind turbines obstruct natural landing corridor for commercial flights in distress
- MOD have objected as have local airfield
- No economic benefit to Shipdham
- Health risks to vulnerable/elderly people, e.g. Shipdham Manor care home, with risk to mental health
- Impact on tranquility

Support

- Suitable as noise mitigation methods in place
- Clean energy

ASSESSMENT NOTES

* The application is referred to Planning Committee as it is a major application.

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Renewable Energy

* The NPPF is supportive of renewable energy as illustrated by para.97 which states that local planning authorities should 'have a positive strategy to promote energy from renewable and low carbon sources'. Furthermore, para.98 of the NPPF explains that local planning authorities should 'not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy'. This paragraph also states that applications for renewable energy should be approved 'if its impacts are (or can be made) acceptable.'

* At a local level Policy DC 15 Renewable Energy of the adopted Breckland Core Strategy states that "Proposals for renewable energy development, will be supported in principle" and Policy CP12 supports the provision of renewable and low carbon technologies.

* Reference has been made in representations to a document from 2005 entitled Wind Energy Development - A Statement of Breckland Council Policy. However, this is not part of the Development Plan and therefore carries limited weight in the determination of this application.

Landscape Character and Visual Impact

* The site is located on the boundary of Landscape Character Types 10 (Plateau Farmland) and 11 (Settled Tributary Farmland) as defined in the 2003 Wind Turbine Development Landscape Assessment, Evaluation and Guidance Report prepared for Breckland Council and Kings Lynn and West Norfolk Borough Council.

* Plateau Farmland:- A small group of turbines (being defined as 2 to 12 in the report) is recorded as having a 'Low' impact on all key characteristics of this type of landscape apart from 'Landmarks and Visible Built Structures' and 'Remoteness and Tranquillity' where such a development is considered to have a 'Moderate' impact. With regard to Landmarks and Built Structures, the report states that a small group could potentially provide a point of focus however more than one turbine could appear dominant and out of balance with the general absence of other 'grouped' vertical structures. With reference to Remoteness and Tranquillity, the report states that a small group may be appropriate if linked to the busy areas of the landscape such as the main transport corridors. However, it would be less suited to the more peaceful parts of the landscape type.

* Settled Tributary Farmland:- A small group of turbines is defined as having a 'Low' impact on all key characteristics of this landscape type apart from 'Landform and Topography', 'Land Cover Pattern', 'Skyline' and 'Landmarks and Visible Built Structures' where it is deemed to have a 'Moderate' impact.

* With reference to 'Landform and Topography' the assessment explains that the undulating landform is likely to result in turbines occurring at varied heights which could lead to visual confusion - although this would not be as apparent as with larger groups.

* The section on 'Land Cover Pattern' explains that the hedgerow network and the presence of shelterbelts provide lines or edges in the landscape to which a small group could relate. However the patterning is not as consistent or distinct as other areas. As such, visual connections to these lines are less likely to be apparent.

* With regard to 'Skyline' the report claims that it is tiered with varying heights of tree canopies suggesting that various heights of turbines (over undulating ground) could relate to this pattern. However there is scope for it to make the skyline more confusing.

* Finally, the section on 'Landmarks and Visible Built Structures' claims there are few focal or landmark features within the landscape and those present are individual features such as the village churches. As such there are no obvious 'grouped' features to which a small scale development could relate.

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* The two turbines proposed would be located to the south and south west of those sought in 2002 and 2004. In terms of the distance between the turbines and the nearest joint Settlement Boundary and Conservation Area boundary, the proposed turbines are set at 1200m and 1440m respectively with the previously refused turbines being distanced at 1620m and 1520m respectively.

* With regard to their relationship to the man-made structures to the north, notably the pylons and their east-west run of cables, it is accepted that in this instance there will be some greater separation when compared to the previous applications. The current northerly and southerly turbines would be situated approximately 150m and 350m, respectively, further from the pylons (and associated cables) than the previous turbines would have been.

* Notwithstanding this modest increased distance, the visual relationship would not be significantly different. In addition, no previous Inspector concluded that landscape impact was a reason to dismiss the appeals. Furthermore, as highlighted above, this is supported by information contained in the Landscape Assessment, Evaluation and Guidance Report as there are not deemed to be any key characteristics that are highly sensitive to the proposed turbines. They do not impact on valued features or designated landscape, to include AONB's or National Parks. They do not impact significantly on any high grade heritage assets within the locality, as evidenced by English Heritage's lack of objection relating to the setting of Listed Buildings and the Conservation Area, subject to the ultimate removal of the turbines.

* Whilst the turbines would result in significant change to the landscape it is not considered that the change would be so harmful as to warrant refusal on the grounds of impact on landscape character or visual amenity.

Local and Residential Amenity

A. Noise

* The Council's retained Acoustic Consultant concludes that, fundamentally, the noise assessment in the Environmental Statement has been carried out in a generally competent manner and the noise levels from the proposed wind turbine development will comply with published standards and guidance.

* Despite these overall conclusions, it should be noted that there will most certainly be some type of noise impact on the residents and the surrounding environment. However, it is very difficult to precisely quantify this level of impact due to the level of uncertainty based upon varying environmental conditions and the subjective element that applies to any potential noise issues. It is precisely this evaluation of uncertainty around the potential noise impact of the development that has been at the heart of previous planning appeal rulings.

* Conditions are proposed which incorporate noise limits that are more stringent than those proposed in the Environmental Statement, in line with relevant guidance contained in ETSU-R-97. The issue of Amplitude Modulation (AM) has been researched and the consultant has confirmed that there is a small risk of noise annoyance from AM occurring. However this is very difficult to predict if it would occur at Shipdham and to what extent. In this respect, there is no reasonable condition that can be imposed. The Consultant has reviewed a number of recent planning appeal decisions which address the problem and acknowledge the risk of AM occurring. However, planning inspectors have not refused permission based upon it. The planning inspectors involved have suggested using statutory nuisance legislation to address AM if it occurs.

* The Council's Environmental Health Officer has therefore concluded, having taken extensive advice from a leading independent acoustic expert on the matter, and taking account of the noise conditions that can lawfully be imposed on any planning permission, that there are no noise grounds to justify a recommendation to refuse this application. Noise disturbance, despite some uncertainties, is therefore, not considered to be an acceptable reason for refusal.

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B. Shadow Flicker

* The submitted shadow flicker assessment concluded that one residential property could be affected by shadow flicker. However, the applicants have stated that if incidences of shadow flicker occur, the mitigation scheme proposed will be implemented and that such mitigation has been demonstrated to be effective at a number of UK wind turbine sites. The Environmental Health Officer has recommended a condition to address this issue.

Protected Species/Biodiversity

* It is considered that the proposal would not be harmful to any European Protected Species on or in close proximity to the site and would enhance biodiversity in the locality. There are no internationally statutory designated sites within the application site or within 5km of the developable area. There are three SSSIs within 5km of the site and seven County Wildlife Sites within 4km of the site. An extended Phase 1 habitat survey was carried out in 2005 and updated in 2010 and found that the hedgerows within the site are mainly species poor whilst there were no Great Crested Newts in the thirteen ponds on site. Furthermore, it was concluded that the proposal would not be harmful to the badger setts along the western boundary of the site.

* Natural England has stated that the application will not have an impact on any statutory or non-statutory designated sites in the vicinity and from the information provided, it is unlikely that the application will adversely affect any protected species. Natural England also explained that the methodology used to survey the site for bats and birds was satisfactory but that it would also have been useful to carry out automated surveys at turbine locations. It should also be noted that the RSPB has not objected to the scheme.

* The proposal will include the establishment and management of species-rich grassland and field margins to improve biodiversity in the locality.

* The Tree and Countryside Consultant raises no objection subject to conditions.

Cultural Heritage

The proposal will result in change to the setting of a number of highly graded heritage assets in the vicinity of the site and, in some instances, that change will result in a degree of harm. However, English Heritage has explained that the degree of harm will not be substantial and that it might be possible to conclude that this harm would be outweighed by the public benefit of mitigating the effects of climate change.

* Norfolk Landscape Archaeology reiterate the stance taken by English Heritage and feel that although the proposal will impact on below ground deposits these can be dealt with by a condition.

Aviation

* Norwich International Airport has explained that whilst the proposed development has certain elements that continue to concern them they do not feel that the proposal warrants a recommendation for refusal provided the grant of planning permission includes the requirement to comply with the airport's recommended conditions. Furthermore, NERL Safeguarding (NATS) have concluded that although the proposed development is likely to impact on their electronic infrastructure they have no objection to the proposal.

* Following a re-assessment of the application, the MOD has withdrawn its objection to the proposal. In the interests of air safety, the MOD requests that the turbines are fitted with aviation lighting.

* Shipdham Aero Club has objected to the proposal on the grounds of danger to air traffic. However, air safety is not considered to be an obstacle to this proposal because both the National Air Traffic Service and the Civil Aviation Authority have not objected to the scheme. It should be noted that the first appeal (ref: APP/F2605/A/03/1109816) regarding proposed turbines

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on the field in question made reference to Shipdham airfield. The inspector explained that the airfield lies to the east of the village whereas the field in question lies to the west. Aircraft from the airfield do not overfly the village and the extended base leg is in a generally westerly direction some way to the north of the turbine site. Whilst the glider approach is to the west of the airfield it is generally to the east of the village and again some distance from the appeal site. The Inspector accepted that it is conceivable that there could be potential conflict with pilots in distress but felt that the possibility of this occurring was extremely remote. The Inspector did not consider that an objection on these grounds was sufficient to justify a refusal. Furthermore, the Inspector stated that in reaching this conclusion they have taken into account that from time to time the airfield may be used for distress and diversion purposes.

Flood risk

* The site lies within Flood Zone 1 which means that there is a 1 in 1000 chance of flooding on an annual basis. The site overlies a principal aquifer (Chalk), which is highly permeable with soils of high leaching potential. Principal aquifers are geological strata that exhibit high permeability and provide a high level of water storage. They support water supply and river base flow on a strategic scale.

* Having reviewed the information as submitted, the Environment Agency has no objection to the proposed development.

Access

* The applicants have stated that the proposed use of the site is not a traffic generating use but that there will be increased levels of traffic around the construction phase. Whilst NCC Highways have no objection to the proposal they disagree with the applicants' claim that no temporary highway improvements are required and have, therefore, asked for conditions to ensure adequate highway improvements.

Conclusion

* The proposal seeks permission for the generation of renewable energy and so is supported in principle by policies in the Development Plan. It is considered that there would be no unacceptable impacts on the local area with regard to cultural heritage, landscape, visual amenity, aviation safety/radar and protected species. Furthermore, it is felt that the issues of noise and shadow flicker relating to local and residential amenity have been adequately addressed by the applicant, subject to appropriate conditions being imposed.

* The application is recommended for approval subject to conditions

RECOMMENDATION

Planning Permission

CONDITIONS

3007 Full Permission Time Limit (3 years)

3046 In accordance with submitted plans

3920 Limited to 25 years

3920 Environment Agency conditions

3920 Natural England conditions

Biodiversity/wildlife

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- 3920**
- 3920** MOD conditions
- 3920** Norwich Airport conditions
- 3920** Contaminated Land conditions
- 3920** NLA condition
- 3920** Highway conditions
- 3920** Ceasing of operations
- 3920** External lighting
- 3920** Noise - compliance measurements
- 3920** Noise -disturbance
- 3920** Noise - assessment of rating level of noise
- 3920** Noise - measurement locations
- 3920** Wire/cabling/services
- 3920** Soil removal
- 3920** Ancillary buildings materials
- 3920** Shadow flicker
- 3920** Electromagnetic interference
- 3920** Hours of operation
- 3998** NOTE: Reasons for Approval
- 4000** Variation of approved plans
- 3996** Note - Discharge of Conditions