

Application Number: F/YR14/0100/F

Minor

Parish/Ward: March Town Council

Date Received: 4 February 2014

Expiry Date: 1 April 2014

Applicant: Mr B Skoulding, Snowmountain Enterprises Ltd

Agent: As applicant.

Proposal: Variation of condition 14 of planning permission F/YR13/0116/EXTIME (Erection of a 70 metre high (hub height) wind turbine and transformer kiosk (renewal of permission granted on appeal APP/D0515/A/09/2114817/NWF in relation to planning application F/YR09/0020/F)).

Location: Land South of 2 Foundry Way, March.

Site Area: 0.33 ha

Reason before Committee: This proposal is before the Planning Committee as Councillor Skoulding is a director of Snowmountain Enterprises Ltd. Should it have not been the case the application would have been determined under delegated powers by Officers.

1. EXECUTIVE SUMMARY/RECOMMENDATION

Planning permission was granted on appeal in March 2010 for the erection of a 70 metre high (hub height) wind turbine and transformer kiosk (APP/D0515/A/092114817).

Permission was granted to extend the time limit for implementing this permission, until 9 May 2016 (F/YR13/0116/EXTIME).

The proposal to re-position the proposed turbine by 11.0m to the SSE is considered to have very limited impact, as it is located to the south of a mainly industrial/commercial area and would still be some distance from the nearest residential properties on the north side of March (Elm Road and Daglass Way).

No concerns have been raised by statutory consultees and it is proposed to re-apply the previous conditions, that related to the earlier extension of time approval (F/YR13/0116/EXTIME).

The proposed amendment to the position of the approved turbine is therefore considered to be acceptable and complies with Policies LP14 and LP16 of the Fenland Local Plan (2014) and is recommended for Approval.

2. HISTORY

Of relevance to this proposal is:

- | | | | |
|-----|--------------------|--|-------------------|
| 2.1 | F/YR14/0008/NONMAT | Amendment to position of approved turbine | Refused 3/2/2014 |
| | F/YR13/0357/NONMAT | Amendment to height and design of approved | Approved 9/7/2013 |

	turbine.	
F/YR13/0116/EXTIME	Extension of time to commence development to 9 May 2016	Approved 9/5/2013
F/YR11/3085/COND	Details reserved by Condition 8 of Appeal Decision APP/D0515/A/092114817	Approved 19/12/2011
F/YR09/0020/F	Erection of 70 metre high (hub height) wind turbine and transformer kiosk.	Refused 15/04/2009 Appeal Allowed 10/03/2010 (APP/D0515/A/092114817)
F/YR08/0775/SCO	Erection of 1 no 67.0 metre high (hub height) wind turbine	Concluded further details not required 25/09/2008
F/YR08/0035/F	Erection of a 67.0 metre high (hub height) wind turbine and 1.8 metre high chain link fence	Withdrawn 18 August 2008
F/YR08/0274/F	Erection of 3 industrial units	Granted 27/08/2009
F/YR01/1212/F	Erection of 10 no. Industrial units for B1/B2 and B8 Uses together with 1 no. 67 metre (hub height) wind turbine with associated access road, sub station and balancing pond.	Approved 04/07/2003

3. PLANNING POLICIES

3.1 National Planning Policy Framework:

Paragraph 2: Planning law requires that application for planning permission must be determined in accordance with the development plan.

Paragraph 14: Presumption in favour of sustainable development.

Paragraph 93: Meeting the challenge of climate change, flooding and coastal change.

Paragraph 109: Conserving and enhancing the natural environment.

Paragraph 98: Need for renewable energy and acceptable impacts.

3.2 Fenland Local Plan 2014:

LP14: Responding to climate change and managing the risk of flooding in Fenland.

LP16: Delivering and Protecting High Quality Environments across the District.

4. CONSULTATIONS

March Town Council – Middle Level Commissioners – FDC Environmental Health	Recommend Approval Will not be commenting Due to the relatively small change in the turbine location the original noise report is still deemed acceptable. If permission is granted the original noise conditions as detailed in the appeal decision (APP/D0515/A/09/2114817) still need to be applied.
Defence Infrastructure Organisation (MOD) NATS Joint Radio Co Ltd	No aircraft safeguarding objection to this proposal Does not foresee any problems in terms of signal interference
Cambs CC Police Cambs CC Archaeology Network Rail Natural England	No comments to make Require standard archaeological condition No observations No comment (not materially different to previous approval)
Environment Agency	No further comments - previous comments on F/YR13/0116/EXTIME still apply
Residents	None received

5. SITE DESCRIPTION

- 5.1 The site comprises an area of land situated to the southern end of Foundry Way an existing industrial complex. The site itself has no particular features save for mounded soil and the temporary storage of waste construction materials from the adjacent site which at the time of site inspection was under construction. The eastern boundary has been formed as part of the adjacent development site and comprises weldmesh fencing. The boundary to the northern side of the development site appears to encroach on the established boundary of the adjoining industrial premises, the current boundary being formed by post and wire fencing. It is however noted that the submitted plans show the area referred to as within the ownership/control of the applicant.

To the west of the site lie the Railway sidings, with open areas leading on to residential properties to the south-east.

The site lies within Flood Zone 1. Foundry Way is an unclassified road. The site area measures 0.33 hectares.

6.1 PLANNING ASSESSMENT

6.2 Background

Originally planning permission was granted on appeal for a 70m high (hub height wind turbine and transformer kiosk on 10 March 2010 (F/YR09/0020/F & Appeal Ref: APP/D0515/A/09/2114817). Permission to extend the time limit for the commencement of this development for a further 3 years was granted on 9 May 2013 (F/YR13/0116/EXTIME).

A subsequent non-material amendment was permitted in July 2013 (F/YR13/0357/NONMAT) because the originally approved turbine was no longer manufactured and an alternative model was proposed. The height comparison between the originally approved turbine and the proposed turbine was:

- Approved Turbine 70.0m (hub height) / 112.0m (maximum height to tip)
- Proposed Turbine 74.5m (hub height) / 101.5m (maximum height to tip)

As the overall height of the turbine was reduced by 10.5m (and the rotor diameter swept path reduced from 84m to 54 m) the resulting structure was smaller than that approved previously on appeal. On this basis it was treated as a non-material amendment to the original scheme.

A further non-material amendment to the planning permission to move the position of the turbine to a point 11.0m to the SSE of the approved location (F/YR14/0008/NONMAT) was refused as the re-positioning was considered to be too significant a change to be dealt with as a Non-Material Amendment.

This was because the positioning of the turbine was slightly closer to the urban area of March, meaning that the noise condition attached to the extension of time application (F/YR13/0116/EXTIME) would need to be re-considered and consultation carried out. This made the proposal more substantive than a simple non-material amendment to the scheme.

The current application seeks again permission to relocate the turbine 11.0m to the SSE of the approved location, but using the appropriate application process.

Principle and Policy Implications

- 6.3 The principle of locating a turbine in this location has been accepted by the granting of the original appeal in March 2010, which was time extended in May 2013.

Due to the presence of the above 'fall back' position, it is only the impact of the proposed change in location of the turbine that falls to be considered in the current application

For these reasons the proposal is therefore considered to comply with guidance contained in Policies LP14 & LP16 of the Fenland Local Plan (2014).

6.4 **Noise/Shadow Flicker.**

The proposal involves a very minor amendment to the positioning of the turbine, moving it 11m in a SSE direction.

The appeal inspector in 2009 dealt with the question of the noise and amenity impacts on nearby residents as follows:

In this regard the local planning authority accepts the noise report submitted by the appellant which demonstrates that with both wind turbines working together, at various wind speeds, the noise levels at sensitive properties would not exceed acceptable limits established by the noise condition set by the existing planning permission and which would similarly apply to the appeal proposal.

Moreover, in the absence of any corroborative evidence of complaints about the existing wind turbine, through investigations by the local planning authority, and the ability to control the noise emissions of the existing and proposed wind turbines, the generalised claims of some local residents do not provide a robust basis to dismiss the appeal on noise grounds.

Turning to shadow flicker, the appellant's pre-application assessment sets out details of potential shadow flicker and it indicates that some properties are likely to experience such effects. Some residents already report problems from the existing wind turbine and remedial action has been taken to resolve effects at Whitemoor Prison. The appellant and the local planning authority agree that it would be appropriate to impose a planning condition to provide a robust means of protecting nearby living conditions.

Material circumstances therefore remain broadly unchanged since 2009, when the Appeal Inspector judged the proposal to be acceptable in terms of noise impacts and shadow flicker.

FDC's Environmental Health Officers are satisfied that due to the relatively small change in the turbine location, the original noise report submitted in 2009, is still deemed to be acceptable. If permission is granted the original conditions dealing with noise and shadow flicker (as detailed in the 2010 appeal decision) should still be applied.

Therefore the current application is considered to be acceptable on these grounds.

Visual Impact

6.5 The appeal inspector in 2009 dealt with the question of the visual impact of the proposed turbine on the nearby residents as follows:

The appeal site lies within an industrial setting on the north-western edge of the built up area of March and close to Whitemoor Prison. An existing wind turbine, of similar height to the appeal proposal, lies to the north of Longhill Road. This road serves The Fenland Business Centre industrial estate and the prison.

Looking first at the nearby work-place homes within the estate, their west facing windows are backed by commercial uses and buildings and the existing wind turbine is set to one side. The proposed wind turbine would be similarly off-set in the opposite direction. In my opinion, whilst it would be clearly visible above other buildings, it would not be unduly overbearing given the scale of nearby buildings and the overall character of the area.

Residential properties along Elm Road, to the south of Longhill Road, have, for the most part, an east-west orientation and aspect. Although a number of these residents have objected to the proposal, I found the existing wind turbine to be neither intrusive nor dominant having particular regard to it being very much on the periphery of residents' views, the industrial setting of The Fenland Business Centre and the more direct outlook in the direction of active railway sidings. Whilst the proposed wind turbine would be closer to these houses than the existing installation, I consider that its additional and combined visual impact would be relatively minor.

Moving farther away to the residential areas to the south and south-east, from where there are also a number of objections, the existing wind turbine does not, in my view, have a significant visual presence due to distance and partial screening by intervening buildings and landscaping. Whilst the proposed wind turbine would be closer to existing houses, I am satisfied that as a result of the characteristics that I have already described, it would not, either alone or in combination with the existing wind turbine, have a significant impact on the outlook of these residents.

Finally, in terms of Whitemoor Prison, the accommodation is generally low rise and it is separated by a part-wooded area from the industrial estate. In my opinion, as a more distant feature than the existing wind turbine, the proposal would not have an adverse visual impact on the aspect from the prison as a whole.

I have considered the effect of the proposed wind turbine on surrounding generally isolated and more distant dwellings to the north and on the residential properties to the west in Westry. In each case the proposal would be seen with the existing installation and often with a backdrop of more distant grouped wind turbines. On this basis I am satisfied that the visual impact of the proposed wind turbine would be very minor.

Again, material circumstances remain unchanged since 2009, when the Appeal Inspector judged the proposal to be acceptable in terms of visual impact.

The re-positioning of the proposed turbine by 11.0m to the SSE is considered to have very limited impact on residential amenity, as it is located to the south of a mainly industrial/commercial area at Foundry Way and Whitemoor Prison and would still be some distance from the nearest residential properties on the north side of March (Elm Road and Daglass Way).

Therefore the current extension of time application is considered to be acceptable on these grounds.

Access

- 6.5 No response has been received from the Highway Authority. A condition was placed on the previous appeal decision requiring details of a route for the delivery of components, turning and tracking. This is proposed to be included again.

Air Traffic Control

7. The Ministry of Defence (Defence Infrastructure Organisation) raised no objection, but will require a condition to ensure a warning light is provided on top of the turbine. This is included in the proposed conditions.

CONCLUSION

- 7.1 The current proposal involves the re-siting of the turbine to a point 11.0m to the SSE of the approved location under F/YR13/0116/EXTIME, which extended the time period for implementation of F/YR09/0020/F & Appeal Ref: APP/D0515/A/09/2114817.
- 7.2 The re-positioning of the proposed turbine by 11.0m to the SSE is considered to have very limited impact, as it is located to the south of a mainly industrial/commercial area and Whitemoor Prison and would still be some distance from the nearest residential properties on the north side of March (Elm Road and Daglass Way).
- 7.3 No concerns have been raised by statutory consultees and it is proposed to re-apply the previous conditions, that related to the earlier extension of time approval (F/YR13/0116/EXTIME) and varying condition no. 14 to insert the new plan showing the revised positioning of the turbine.

The proposed amendment to the position of the approved turbine is therefore considered to be acceptable and complies with Policies LP14 and LP16 of the Fenland Local Plan (2014).

8.0 RECOMMENDATION

Grant subject to the following conditions:

- 1) The development hereby permitted shall begin not later 9th May 2016

Reason – to ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

- 2) The generation of electricity from the wind turbine hereby approved shall cease no later than 25 years after the first commercial generation of electricity at the site. At the end of this period the wind turbine and the transformer kiosk shall be dismantled and removed from the site, and the site shall be restored in accordance with a scheme of restoration which shall have been submitted to the local planning authority within a period no later than 12 months before the expiry of the planning permission. The approved scheme shall be implemented within 12 months of the expiry of the permission.

Reason – In the interests of the visual amenity of the countryside.

3) If the turbine fails to produce electricity for a continuous period of 12 months, the turbine and the transformer kiosk shall be dismantled and removed from the site in accordance with a scheme of restoration which shall have been submitted to the local planning authority within 3 months following the expiry of the 12 month period; and the approved scheme shall be implemented within 12 months of the date of approval.

Reason – In the interests of the visual amenity of the countryside.

4) No development shall take place until a scheme of highway routing for the delivery of the wind turbine components has been submitted to the local planning authority and has been approved in writing. The scheme shall be implemented as approved.

Reason – In the interests of highway safety

5) The temporary construction compound and all materials, plant and structures within it shall be removed and the land returned to its former use within a period of three months following the commissioning of the wind turbine.

Reason – In the interests of the visual amenity of the countryside.

6) No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to the local planning authority and approved in writing.

The scheme shall include the following components, completion of each of which will trigger the phased discharging of the condition:

- (i) fieldwork in accordance with the approved programme of archaeological work which shall be completed in accordance with the approved scheme before any other works commence on site;
- (ii) post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the local planning authority);
- (iii) completion of post-excavation analysis; preparation of site archive ready for deposition at a store approved by the local planning authority; completion of an archive report; and the submission of a publication report (to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the local planning authority).

Reason – To enable the inspection of the site by qualified persons for the investigation of archaeological remains in accordance with a written scheme of investigation.

7) No development shall take place before details of likely bat habitats, if any, within the vicinity of the site, and an assessment of the potential risk of bats colliding with the proposed wind turbine, has been submitted to the local planning authority and approved in writing.

If bat activity and potential risk of collision is confirmed, no development shall take place before a detailed scheme for the post construction monitoring of bats and bat activity on the site during the first active season following the commissioning of the wind turbine has been submitted to the local planning authority and approved in writing. The monitoring shall thereafter be undertaken in accordance with the approved scheme.

Reason – To ensure that any possible bat collision situations are monitored and prevented where possible.

8) No development shall take place before details for the provision of a 25 candela omni-directional red light on the wind turbine have been submitted to the local planning authority and approved in writing. The light shall be installed in accordance with the approved scheme and it shall thereafter be retained and operated until the wind turbine is dismantled.

Reason – In the interests of aircraft safety.

9) The combined noise level of the wind turbine hereby approved and the existing wind turbine to the north of Longhill Road shall not exceed the following levels when measured at any noise sensitive property which is in existence (or for which planning permission has been granted) at the date of this permission and is at a distance exceeding 375 metres from either turbine:-

(a) between 07:00 hours and 23:00 hours a limit of 35dB (LA90, 10 minute);
(b) between 23:00 hours and 07:00 hours a limit of 38dB (LA90, 10 minute);
(c) Or, 5dB (LA90, 10 minute) above the background noise level, whichever is the greater.

The noise levels shall be measured and calculated in accordance with steps 2 – 6 specified at pages 102 – 104 of 'The Assessment and Rating of Noise from Wind farms, ETSU-R-97' published by ETSU for the Department of Trade and Industry.

Reason – To safeguard the amenity of nearby properties.

10) At the reasonable request of the local planning authority the operator of the development shall employ an independent consultant approved by the Council to measure and assess the level of noise emissions from the wind turbine generator, following the procedures described in 'The Assessment and Rating of Noise from Wind Farms, ETSU-R-97' published by ETSU for the Department of Trade and Industry.

Reason – To safeguard the amenity of nearby properties.

11) No development shall take place until a scheme detailing the protocol for the assessment of any complaints of shadow flicker resulting from the development, including remedial measures, has been submitted to the local planning authority and has been approved in writing. Operation of the turbine shall take place in accordance with the agreed protocol.

Reason – To safeguard the amenity of nearby properties.

12) No development shall take place until a scheme designed to safeguard existing television reception quality arising from the operation of the wind turbine has been submitted to the local planning authority and has been approved in writing. The scheme shall, in particular, provide a protocol for dealing with any complaints arising from the operation of the wind turbine and for the identification and implementation of necessary mitigation measures to be undertaken in accordance with details and a time-table previously submitted to and approved in writing by the local planning authority.

Reason – To safeguard the amenity of nearby properties.

13) No development shall take before a Construction Method Statement, including details of all on-site construction, drainage and restoration/reinstatement work, has been submitted to the local planning authority and has been approved in writing. Thereafter construction works shall be carried out in accordance with the approved Method Statement.

Reason – To ensure that site construction works are carried out appropriately.

14) Approved Plans

INFORMATIVE.

This application relates to a variation of condition 14 relating to F/YR13/0116/EXTIME (Extension of time to planning application F/YR09/0020/F). All originally approved plans and supporting information are contained on file ref: F/09/0020/F.