

Item Number: 17
Application No: 22/01327/FUL
Parish: Luttons Parish Council
Appn. Type: Full Application
Applicant: Mr Robert Stubbings (RF & EA Stubbings)
Proposal: Erection of 1no. Vestas V29 225kW wind turbine down rated to 130 kW with a hub height of 31.4 metres and overall tip height of 45.9 metres to replace the existing Endurance E3120 55kW wind turbine
Location: Wind Turbine North Of Manor House Long Hill Helperthorpe Malton North Yorkshire
Registration Date: 2 December 2022
8/13 Wk Expiry Date: 27 January 2023
Overall Expiry Date: 13 February 2023
Case Officer: Kevin Riley **Ext:** 43269

CONSULTATIONS:

Eddsfield Airfield - Mr E Peacock	No comment received
East Riding of Yorkshire Council	No comment received
NYCC Natural Services	No objection
Environmental Health	No comment received
National Air Traffic Services (NATS)	No safeguarding objection
NPOWER - Northern Powergrid	No comment received
Ministry Of Defence Safeguarding Department	No objection subject to condition
The Joint Radio Company Ltd	No objection
Wind Farm Enquiries	No comment received
National Grid Plant Protection	No comment received
Tree & Landscape Officer	No objection
Natural England	No objection
Northern Gas Networks	No objection
NYM National Parks	No objection
Atkins Ltd	No objection
CAA - Civil Aviation Authority	No comment received
Archaeology Section	No objection
Highways North Yorkshire	No objection
Luttons Parish Council	Objection
Weaverthorpe Parish Council (neighbouring council)	No comment received

Representations: Mr John Wane, Mrs Brenda Scott, Mr Robert Harling,

BACKGROUND:

The application is to be determined by Planning Committee because representations received in response to the consultation exercise have raised objections based on material planning considerations.

SITE:

The application site is located approximately 1 km to the north of the village of Helperthorpe. The Site comprises of a part of approx. 0.17 hectares of hardstanding adjacent to the existing wind turbine. The infrastructure for the existing wind turbine comprises its foundation, grid connection kiosks, crane pad

and access track. The land use surrounding the site is open arable farmland associated with the farm business under the ownership of the applicant. The application site is within the Wolds Area of High Landscape Value which has prominent escarpments and foothills rising from the Vales of York and Pickering. The landscape is characterised by rounded rolling hills and long views from the escarpment and plateaux. The nearest residential property, Dotteral Cottage Farm, is located 835m from the proposed turbine. The nearest road, Green Lane, is 210m to the east of the site.

PROPOSAL:

Permission is sought for the erection of 1no. Vestas V29 225kW wind turbine down rated to 130 kW with a hub height of 31.5 metres, a tip height of 45.9 metres and a rotor radius of 14.5 metres to replace the existing Endurance E3120 55kW wind turbine which has a hub height of 36.4 metres, a tip height 46 metres and a rotor radius of 9.6 metres. The process of replacing of existing wind turbines by new ones is known in the renewable energy industry as “repowering”.

The applicant’s planning statement states that the proposed location of the replacement wind turbine is adjacent to the existing wind turbine and it would be sited within the swept path of the existing wind turbine. The replacement wind turbine will utilise the grid connection kiosks, access track and crane pad of the existing wind turbine.

The applicant has stated this it is his intention that the electricity generated will be used by the agricultural holding with any excess being exported to the national grid. The proposal is expected produce double the amount of electricity generated by the existing turbine.

PROCEDURAL NOTE:

Footnote 54 to the National Planning Policy Framework 2021 (NPPF), states that for applications for the repowering of existing wind turbines it is not necessary for it to be demonstrated that the proposal has the backing of the local community. Only applications for additional wind turbines require community engagement. Footnote 54 states:

Except for applications for the repowering of existing wind turbines, a proposed wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been fully addressed and the proposal has their backing.

Although not defined in the NPPF, wind turbine repowering is a phrase used by the renewable energy industry to refer to the process of replacing aging, generally smaller wind turbines and turbine parts with new and more efficient units.

The application has been publicised in accordance with paragraph 15 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). A site notice has been placed at the entrance to the site and on a noticeboard in Helperthorpe.

RELEVANT PLANNING HISTORY:

12/00201/FUL - Erection of 1 no. 36.4m high (overall tip height 46m) 55kw wind turbine to generate electricity for on farm use. Allowed under appeal APP/Y2736/A/12/2179101 dated 06.12.2012.

POLICIES:

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 planning authorities are required to determine each planning application in accordance with the planning policies that comprise the Development Plan unless material considerations indicate otherwise. The Development Plan for the determination of this particular application comprises the following:

Ryedale Local Plan Strategy 2013

- Local Plan Strategy - Policy SP9 The Land-Based and Rural Economy
- Local Plan Strategy - Policy SP12 Heritage
- Local Plan Strategy - Policy SP13 Landscapes
- Local Plan Strategy - Policy SP16 Design
- Local Plan Strategy - Policy SP18 Renewable and Low Carbon Energy
- Local Plan Strategy - Policy SP20 Generic Development Management Issues

National Planning Policy Framework

- Section 6 - Building a strong, competitive economy
- Section 14 - Meeting the challenge of climate change, flooding and coastal change
- Section 15 - Conserving and enhancing the natural environment
- Section 16 - Conserving and enhancing the historic environment

REPRESENTATIONS: Three letters of representation have been received:

One letter of support from Mr R Harling: “more green energy is needed”.

Two letters of objection have been received from:

Mrs B Scott: Objection; however no material planning reason for objecting was stated.

Mr J Wane (Chair of Luttons PC): Objection for the following summarised reasons:

- Plans scale too small for details to be read
- Proposal unclear as to whether turbine is additional or a replacement
- There are two airstrips in the area
- Clarity on disposal of waste (old turbine) is needed
- Site is in an Area of High Landscape Value
- Original turbine granted on appeal. Are Council’s grounds for refusing extant?
- Wider community consultation should be undertaken.

APPRAISAL:

The main considerations for the determining of this application are:

- Principal of the Development
- Cumulative impact on the Wolds Area of High Landscape Value
- Impact of the development on residential amenity

Principle of the Development

At the national level, the NPPF (2021), at paragraph 152, explains that the planning system should support the transition to a low carbon future in a changing climate and confirms support for renewable

and low carbon energy and associated infrastructure. Paragraph 158 of the NPPF emphasises that applicants are not required to demonstrate the overall need for renewable or low carbon energy and the policy recognises that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. The policy directs LPA's to approve applications where the impacts are (or can be made) acceptable.

At the local level Local policy SP18 *Renewable and Low Carbon Energy* states:

Developments that generate renewable and/or low carbon sources of energy will be supported providing that individually and cumulatively proposals:

- *Can be satisfactorily assimilated into the landscape or built environment, especially in respect of the setting of the North York Moors National Park, the Howardian Hills Area of Outstanding Natural Beauty (and its setting), the Wolds and the Vale of Pickering;*
- *Would not impact adversely on the local community, economy, or historical interests, unless their impact can be acceptably mitigated;*
- *Would not have an adverse impact on nature conservation, in particular in relation to any sites of international biodiversity importance, unless their impact can be acceptably mitigated;*
- *Would not have an adverse impact on air quality, soil and water resources in Policy SP17, unless their impact can be acceptably mitigated.*

It is considered that the principle of the proposal to erect a replacement wind turbine is in accordance with policy SP18, subject to it meeting the constraints stated in the policy.

Impact on the Wolds Area of High Landscape Value

The planning application for the existing wind turbine on the site (12/00201/FUL) was refused by the Planning Committee, contrary to the case officer recommendation. The reason for refusal was:

The proposed wind turbine, as a result of its size and scale and the cumulative impacts of other similar developments, would be an overly prominent feature within the landscape resulting in a detrimental impact on the character and appearance of the Wolds Area of High Landscape Value. The proposal is, therefore, contrary to the requirements of saved Policy RE1(i) of the Ryedale Local Plan which seeks to ensure that individual wind turbines would not result in a significant adverse effect on the quality of the surrounding landscape.

An appeal was lodged against the Council's decision to refuse. In considering the impact on the landscape of the 2012 proposal to erect the existing turbine on the site the appeal inspector made the following observations:

[...] The appeal site lies in the Wolds Area of High Landscape Value (AHLV), designated under Policy ENV3 of the Ryedale Local Plan. Characteristics of the AHLV are set out in the Local Plan: of particular relevance to the area around Helperthorpe is the description of a large-scale landscape of rounded and rolling hills, with big skies and long views from the escarpment and plateaux, contrasting with the more enclosed sheltered valleys. The proposed turbine would be erected on rising land to the north of Helperthorpe. It would be set back from the road and it would also be positioned apart from the scattered groups of buildings on the hillside. Helperthorpe itself is contained in a valley, although the spire of the church is visible from beyond the low ridge to the north of the village. About 0.9km to the east is an existing two blade turbine at Dotteral Farm, which does not appear unduly prominent in this large-scale landscape. Whilst the installation of the turbine at the appeal site would undoubtedly represent a significant change in the immediate locality, at 46m to the upper tip of the blades it would not be markedly taller than the turbine at Dotteral Cottage, and I consider that it would be similarly accommodated by the scale of the landscape.

[...] I have found that the proposal would only have a limited adverse effect on the character and appearance of the area. This would be outweighed by the economic and environmental benefits to the business, and the contribution of the proposal to wider policy objectives to reduce reliance on non-renewable sources of energy. My overall conclusion, having regard to all matters raised, is that the appeal should be allowed.[...]

The planning statement accompanying the current planning application lists the specification of the replacement wind turbine and the existing wind turbine as follows:

	Existing Wind Turbine	Replacement Wind Turbine
Make & Model	Endurance E3120	Vestas V29
Number of Blades	Three	Three
Hub Height	36.4 metres	31.4 metres [shown at 31.5m on plans]
Rotor Radius	9.6 metres	14.5 metres
Total Height to Tip	46 metres	45.9 metres [shown at 46m on plans]
Colour & Finish	Galvanized white steel tower	Galvanized light grey steel tower
Generating Capacity	55kW	225kW

Luttons Parish Council has objected to the proposal, making the following comment:

The Parish Council has concerns about this application on the grounds that it is misleading; it believes that the proposed replacement is not a 'like for like' and is much larger. It has an industrial look and the sweep area of its blades is two and a half times greater than that of the existing blades. The Parish Council is also concerned that the proposed replacement would be much more visually intrusive in this area of high landscape value which could jeopardise any decision regarding the designation of this area as a new Area of Outstanding Natural Beauty and is unclear on the disposal regime for the existing turbine.

Although the tip height of the replacement turbine would be very similar to the existing, the greater swept path of the rotor blades would have a greater visual intrusion in the landscape due the greater sweep of moving parts. As such the proposal would have an increased impact on the landscape. The Parish Council's concerns in this regard are noted. However, it is considered that the increased impact on the landscape caused by the longer rotor blades would be a relatively modest increase and the harm caused not significant in comparison to the existing situation. The minor harm caused is considered to be outweighed by the economic and environmental benefits of the resulting increase in electricity generated.

With regard to cumulative visual effects the turbine will be read as separate from others in the locality and therefore the cumulative impacts are not considered to be significant. Other turbines in the area include one at Dotterel Farm Cottage, two turbines at Duggleby Wold, and one at Spaniel Farm

For the above reasons the proposal is considered be acceptable in terms of its impact on the landscape and in accordance policies SP13 and SP18.

Impact of the development on residential amenity

The main issue for consideration in assessing the impact of the development on residential amenity is the level of noise likely to be generated by proposed replacement turbine, in comparison to the existing turbine, and whether or not it is likely to be significantly harmful to the amenity of the area.

The nearest residential property, Dotteral Cottage Farm, is located 835m from the proposed turbine and the nearest settlement, the village of Helperthorpe, is approx. 1 km to the south of the site.

The applicants planning statement states:

A noise assessment was submitted as part of the original application in 2012 to demonstrate the proposed turbine would be well within acceptable noise limits when considering the nearest receptors. The applicant has advised that the Vestas wind turbine will be derated to 130 kW, therefore noise levels are anticipated to be similar to that of the existing development.

The manufacturer's noise data indicates that the turbine is predicted to produce a Sound Power Level of 94.8dB Lw whilst the Vestas V29 at 225kW is 97.8 Lw dB but this will be reduced by down rating the turbine to 130kW.

It is noted that the appeal inspector for the 2012 application found that:

[...] in the circumstances I do not consider that conditions concerning noise are required to safeguard the living conditions of local residents or the character of the area. Similarly there is nothing before me to indicate that a single turbine of the size proposed would emit excess amplitude modulation, and a restrictive condition in this regard would be unnecessary.

With regard to shadow flicker it is considered that the turbine is a sufficient distance from the nearest residential property such that shadow flicker would not cause significant harm to amenity.

The Council's Environmental Health Officer has commented that she has no comments or objections relating to the current application for the replacement of an existing Wind Turbine.

As the Planning Inspector did not impose a condition restricting noise when granting permission for the existing turbine, and in view of the Environmental Health Officer's comments, it would not be reasonable or necessary to impose a condition regarding noise on the grant of planning permission for this application, if approved.

The proposal is considered to be in accordance with policy SP20 in terms of its impact on the amenity for the neighbouring land.

Impact on wildlife

Natural England has commented that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites. The County Ecologist has commented that he has no concerns regarding the proposal.

Impact on heritage assets

Due to the distance of separation, 2 km and 1 km respectively, it is considered that the proposal would not have a significant impact on the setting of the Grade I and Grade II Listed churches at Weaverthorpe and Helperthorpe.

Archaeology

The Country archaeologist has commented:

The application site was subject to previous archaeological recording during the installation of the current wind turbine, its grid connection and access track. There were no finds or features of archaeological interest.

The current proposal is to replace the existing turbine and this should not have a significant impact on archaeological deposits given the negative results of the previous archaeological observations.

I have no objection to the proposal.

Highway safety

The proposal will have no significant impact on the highway and the Highways Authority has offered no objection to the proposal. However the Highways Officer makes the following comment regarding access construction for the existing turbine:

In respect to discharge of conditions application ref. 13/00935/COND, relating to Condition 07 of the original wind turbine consent (as allowed on appeal ref. APP/Y2736/A/217901), I seem to have no record of a vehicle crossing licence being applied for in respect of upgrading the verge crossing as confirmed on the supporting documents appertaining to this discharge of condition application.

I would respectfully ask that the applicant applies to the highway authority (via the website www.northyorks.gov.uk quoting the original planning application reference) for the licence required for the work in order that the verge crossing construction is to appropriate specification and can therefore withstand the vehicle loading associated with installing and erecting the replacement wind turbine, and subsequent maintenance vehicle visits.

It is noted that the applicant applied to the Council to discharge condition 7 (13/00935/COND) and details were agreed. Nevertheless, in view of the Highway Officer's comments, it is considered that condition 7 of the original permission remains relevant and necessary to the grant of planning permission for the current permission. Condition 7 stated:

No ground works (other than investigative works) shall take place and the wind turbine shall not be erected until the access road has been constructed in accordance with a scheme to be submitted to and approved in writing by the local planning authority.

A similar condition will therefore be used for the current application but relating to the verge crossing only because the access track has been constructed.

Safeguarding of systems and infrastructure

The application requires consultation with various bodies and organisations in relation to technical matters and safeguarding implications arising from the proposed development. No objections have been received from these relevant bodies.

Other matters raised by third parties

Concerns have been raised that the submitted plans were inadequate to accurately show the position of the replacement turbine. To address this concern the applicant has provided an additional site plan and the Parish Council has been re-consulted.

Conditions

The Parish Council has stated that it is unclear on the disposal regime for the existing turbine. Should this planning application be approved, a condition will be attached such that the replacement turbine shall not be brought into use until the existing turbine has been decommissioned and removed from the site.

Those conditions attached by the Planning Inspector to the grant of planning permission for the existing wind turbine that remain relevant and necessary to the granting of planning permission for this application will also be applied, amended as appropriate.

Conclusion

The benefits of generating additional renewable energy in a more efficient manner outweigh the minor additional visual impact on the landscape of the larger turbine blades and, as a result, the recommendation is to approve subject to the conditions stated below.

RECOMMENDATION: Approval

1 The development hereby permitted shall be begun on or before .

Reason: To ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

2 The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan scaled 1:10000
Site Plan scaled 1:5000 showing existing and proposed turbine positions
Proposed Wind Turbine Elevation scaled 1:75 Vestas V29

Reason: For the avoidance of doubt and in the interests of proper planning.

3 The permission hereby granted is for the development to be retained for a period of not more than 25 years from the date that electricity from the development is first supplied to the farm/and or grid from the replacement wind turbine, this date to be confirmed in writing to the Local Planning Authority. By no later than the end of the 25 years period the turbines shall be decommissioned and all related above ground structures shall be removed from the site. Six months before the due date for the decommissioning of the turbine, a scheme for the restoration of the site shall be submitted and approved in writing by the Local Planning Authority. The scheme shall make provision for the removal of all above ground elements, plus 1.5m of the concrete turbine base below ground level, and all associated equipment. The scheme shall include timing for the remediation work before returning the land to agricultural use. Upon approval, the restoration scheme shall be implemented fully in accordance with the approved details.

Reason: In the interests of maintaining the character of the landscape, and to satisfy the requirements of Policies SP13, SP16 and SP20 of the Ryedale Local Plan Strategy and the

NPPF.

- 4 If the turbine hereby permitted ceases to generate electricity for a continuous period of six months, all its above ground elements plus 1.5m of concrete below ground level shall be removed within the ensuing period of not more than 6 months.

Reason: In the interests of maintaining the character of the landscape, and to satisfy the requirements of Policies SP13, SP16 and SP20 of the Ryedale Local Plan Strategy and the NPPF.

- 5 The construction of the wind turbine hereby approved shall not take place above foundation level until details of the colour and finish of the wind turbine have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of maintaining the character of the landscape, and to satisfy the requirements of Policies SP13, SP16 and SP20 of the Ryedale Local Plan Strategy and the NPPF.

- 6 The replacement wind turbine hereby approved shall not be first brought into use unless and until the existing wind turbine has been decommissioned and removed from the site.

Reason: In the interests of maintaining the character of the landscape, and to satisfy the requirements of Policies SP13, SP16 and SP20 of the Ryedale Local Plan Strategy and the NPPF.

- 7 The undertaker must notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:

- a) The date of the commencement of the erection of wind turbine generators;
- b) The maximum height of any construction equipment to be used in the erection of the wind turbines;
- c) The date any wind turbine generators are brought into use;
- d) The latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason: To maintain aviation safety.

- 8 No ground works (other than investigative works) shall take place and the wind turbine hereby approved shall not be erected until the highway verge crossing leading to the site access road has been constructed in accordance with a scheme submitted to and approved in writing by the local planning authority.

Reason: In the interests of road safety.

INFORMATIVE(S)

- 1 The Highways Authority advises the applicant to apply to the Highway Authority (via the website www.northyorks.gov.uk quoting the original planning application reference - 12/00201/FUL) for the licence required for the verge crossing construction in order that the verge crossing construction is to an appropriate specification and can therefore withstand the vehicle loading associated with installing and erecting the replacement wind turbine, and subsequent maintenance vehicle visits.