

DEVELOPMENT SERVICES

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NOTICE OF DECISION - REFUSAL OF PLANNING PERMISSION

E.ON Climate And Renewable Energy
c/o Entec UK Ltd
Glen Robson
Northumbria House
Regent Centre
Gosforth
Newcastle Upon Tyne
NE3 3PX

Reference No: 10/00883/FM
Application
Registered: 26 May 2010
Parish: Bagthorpe with Barmer

Details: **A wind energy development comprising the erection and 25 year operation of five wind turbines with a maximum blade height of 100m and up to 50m -micrositing, together with ancillary infrastructure including on-site access tracks, hard standing areas, control buildings and cabling and a permanent anemometer mast at Land Between Bagthorpe Barner And Syderstone Known As Chiplow Main Road Bagthorpe Norfolk**

Town and Country Planning Act 1990
Town and Country Planning (General Development Procedure) Order 1995 (as amended)

Permission is refused for the carrying out of the development referred to above for the following reasons:

1. The proposed development is considered to have a significantly harmful impact upon the landscape character and visual amenity of the landscape in the local area, i.e. within 1.3km of the site. This landscape is characterised by a strong sense of peace and tranquility as well as of rural isolation. The introduction of the turbines as dominant, man made features, and in particular the movement associated with the blades, will disrupt this character to the detriment of those living in the locality and using the various footpaths and roads from which the turbines will be visible. The proposal is therefore contrary to saved Local Plan 4/6 as well as national government guidance expressed in PPS7, which states that Local Planning Authorities should ensure that the quality of the wider countryside is protected and, where possible, enhanced; and in PPS22, which states that the environmental impacts of renewable energy projects should be addressed satisfactorily.
2. The proposed development, when taken with others proposed for the surrounding area, is considered to have a significantly harmful cumulative impact upon the landscape character and visual amenity of the landscape in the local area. The introduction of the turbines as dominant, man made features, and in particular the movement associated with the blades, will disrupt this character to the detriment of those living in the locality and using the various footpaths and roads from which the turbines will be visible. The proposal is therefore contrary to saved Local Plan 4/6 as well as national government guidance expressed in PPS7, which states that Local Planning Authorities should ensure that the quality of the wider countryside is protected and, where possible, enhanced; and in PPS22, which states that the environmental impacts of renewable energy projects should be addressed satisfactorily.
3. The proposed development is considered to have a harmful impact upon the setting of both Bloodgate Hill fort, a Scheduled Ancient Monument, and Houghton Hall Park, which is a Grade I Historic Park. The proposal is therefore contrary to policy HE10 of PPS5 in that it fails to preserve or enhance the setting of these designated heritage assets. It is also contrary to policy HE1 of PPS5 as the harm caused to the designated heritage assets is not considered to be outweighed by the contribution that the project would make to mitigating climate change, bearing in mind the relatively modest scale of the development.
4. The development would be in line of sight with and would adversely affect the Air Traffic Control radar at RAF Marham. Consequently, the development poses a significant risk to current Air Traffic Control operations.

5. The Local Planning Authority considers that there are uncertainties over the potential impacts of the development upon the pink footed geese population that is known to be present in the area, in particular in relation to post-construction monitoring and the mitigation management package. The pink footed geese population is a feature for which the North Norfolk Coast and the Wash Special Protection Areas are designated and given the lack of agreed details regarding post-construction monitoring and the mitigation management package for the pink footed geese the Local Planning Authority is consequently unable to conclude that the proposed development would not have an adverse impact upon the SPAs that could be controlled by condition. The proposal is therefore contrary to the Conservation (Natural Habitats _c.) Regulations 1994 and to central government guidance as expressed in PPS9 'Biodiversity and Geological Conservation' and ODPM Circular 06/2005 'Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System'.



Executive Director, Development Services
On behalf of the Council
27 April 2011

The case officer who dealt with this application was Mr D Parkin, telephone number 01553 616468.

Notes relating to decisions on planning applications:

1. This permission refers only to that under the Town and Country Planning Acts and does not include any consent or approval under any other enactment, byelaw order or regulation.
2. If the applicant is aggrieved by the decision of the local planning authority to refuse permission or approval for the proposed development, or to grant permission or approval subject to conditions, he may appeal to The Planning Inspectorate in accordance with Section 78 of the Town and Country Planning Act 1990. Appeals must be made within 6 months unless subject to an enforcement notice (see below). (Appeals must be made on a form which is available from The Planning Inspectorate, Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN, telephone 0117 372 6372). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the local planning authority, or could not have been so granted otherwise than subject to the conditions imposed by them, having regard to the statutory requirements (*), to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the local planning authority is based on a decision given by him.

Appeal time limits where the same development is subject to an enforcement notice

- 28 days from the date of the refusal or the expiry of the period which the local planning authority (LPA) had to determine the application, where the enforcement notice is served before the application is submitted;
 - 28 days from the date of the refusal or the expiry of the period which the LPA had to determine the application, where the enforcement notice is served before the decision on the application is reached or the determination period has expired; or
 - 28 days from the date the enforcement notice is served, where the enforcement notice is served after the decision or expiry of the period which the LPA has to reach a decision on the application, unless the effect would be to extend the period beyond the usual time limit for cases not involving an enforcement notice.
3. If permission to develop land is refused or granted subject to conditions, whether by the local authority or by the Secretary of State of the Environment, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has or would be permitted, he may serve on the Council or the county district in which the land is situated a purchase notice requiring that council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
 4. In certain circumstances, a claim may be made against the local planning authority for compensation where permission is refused or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

(*) The Statutory requirements are those set out in Section 76(6) of the Town and Country Planning Act 1990 namely section 70 and 72(1) of the Act.