

# Inspector's Ruling

David M H Rose BA (Hons) MRTPI

In relation to:-

Application Ref: APP/R2928/A/07/2039188	Site at Green Rigg Fell
Application Ref: GDBC/001/00247C	Site at Ray Estate
Application Ref: GDBC/001/00278C	Site at Steadings

1. On Tuesday 22 January I heard legal submissions on behalf of Tynedale District Council and responses by the three applicants, namely Wind Prospect Developments Limited (Wind Prospect), Steadings Wind Farm Limited (Steadings) and AMEC Project Investments Limited (AMEC). Oral submissions were based on written outline submissions supported by various legal authorities and Inquiry documents, notably those relating to Environmental Impact Assessment. I have taken all of these into account in my consideration of the application.
2. The application, in short, invites my consideration as to whether the continuation of the Inquiry serves any useful purpose in view of the alleged failures of the applicants to comply with their duties in law, both domestic and European, with particular reference to the provision of environmental information. The principal point at issue concerns the respective grid connections for each of the proposed wind farms.
3. The starting point is to understand that each of the three applications sought permission for a wind farm development – put simply, to erect a specified number of wind turbines and to install related on-site infrastructure within the boundary of the proposed wind farm sites. Connections to the grid did not form part of the applications for development. These are intended to be the subject of separate consent applications.
4. It is clear that the proposed wind farm developments and future grid connections have an inextricable link in that one would have no purpose without the other. In that regard, although they can be seen to be interrelated and interdependent, the grid connections here would be a secondary and subsidiary consequence of approval or consent for any or all of the wind farm developments. To my mind, they can be distinguished from each other and said to be separate projects. Nonetheless, this does not, realistically, change the need to assess the environmental impact of the grid connections.
5. Each of the wind farm applications is supported by an environmental statement and supplementary environmental information. Consideration of grid connections has been given to varying degrees, albeit, at best, in broad illustrative corridors, but none of the information contains a full assessment of the effects of any potential grid connection. The proximity of, and the possible need to cross, Hadrian's Wall World Heritage Site and its setting is a matter of particular relevance.

6. The Secretary of State issued formal directions, under Regulation 13 of the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000, to AMEC (2 May 2006) and Steadings (17 August 2006) to provide full details of the construction of the grid, including route, habitat to be traversed, and mitigation measures. The applicants were also asked to state whether consideration had been given to the sharing of electrical connections with other wind farm proposals in the area, and if not, why not.
7. Similarly, I advised Wind Prospect at the Pre-Inquiry Meeting that it should provide a more detailed description of how the turbines would be connected to the grid, including the methods proposed and any consequent effects entailed in traversing sensitive areas such as Hadrian's Wall World Heritage Site. This did not represent a formal request under Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.
8. In respect of AMEC, supplementary environmental information was submitted in November 2006, prefaced by an admission that it had not been possible to exactly meet the Secretary of State's request. An area of search is depicted, which includes the World Heritage Site; but no potential routes are identified or assessed. Subsequently, one route, which would avoid the World Heritage Site, has been the subject of budget costing by the grid operator.
9. As to Steadings, supplementary environmental information on grid connection was submitted in January 2007. It outlines three potential options within broad corridors for individual or shared connections but stops short of identifying a precise route as this would be determined by the district network operator. One of the potential routes would involve crossing the World Heritage Site along the route of a road and within a built up area. The overall conclusion is that it would be possible to provide a grid connection that would not have adverse environmental effects.
10. For Wind Prospect, acknowledgement is made, in evidence, of the Pre-Inquiry request and the concerns of English Heritage with respect to potential impacts on the World Heritage Site. The most likely option for Wind Prospect alone is said to be a southerly route which would need to cross the wall, albeit underground utilising an existing road corridor to minimise potential adverse effects. In the event of a shared grid connection two possible routes, already identified by Steadings, are described with confirmation that potential archaeological effects would be assessed and mitigated.
11. Here, despite national guidance favouring the concurrent consideration of wind farm proposals and grid connections, there are undoubtedly practical difficulties in providing full details of the intended grid connections. Even if each developer had progressed to a stage where the route of its grid connection were certain, the consenting of more than one of the proposed wind farms could lead to a different scenario of a combined grid connection. Much will also

depend on the distribution company and the subsequent consenting regime which could include the need to make an application for Scheduled Monuments Consent.

12. Consideration of the proposed grid connections as part of this Inquiry would allow any impacts on other topic matters, and the views of consultees and interested persons to be taken into account at this stage. Applications for grid connections, under Section 37 of the Electricity Act 1989, could also make concurrent decisions possible. But, in reality, it would be premature for any of the applicants to 'fix' its connection as the eventual solution is likely to emerge following the outcome of the wind farm applications. To my mind it would be unreasonable and unrealistic to expect firm proposals at this stage.
13. The underlying principles of environmental assessment are to ensure that the affects of any development subject to the relevant Regulations are fully and appropriately assessed and that all of the environmental information is before the decision maker at the earliest possible stage. Consideration at a later stage is permissible, as a matter of law, although the Council contends that this is restricted to circumstances of ignorance or inadvertence. However, there is nothing to suggest that the aims of the Environmental Impact Assessment Regulations and the related Directive would be frustrated by separate applications.
14. To my mind, in so far as the developments before me are concerned, Steadings has met the Secretary of State's direction to the extent that it is reasonable and practical but AMEC's information falls short of this threshold. Wind Prospect's description of possible options provides a clear outline, albeit it could be criticised for lacking illustrative material. It should also be formally incorporated as further environmental information.
15. Given that the Inquiry is unlikely to close before mid/late April there would appear to be sufficient time for AMEC and Wind Prospect to remedy the identified shortfalls in their environmental information to make possible further consideration, as necessary, at the Inquiry.
16. To the extent that any of the environmental information remains deficient it would be open to the decision making Secretary of State to require further information before reaching a decision on the applications. Moreover, if concurrent decisions on the applications and the grid connections were deemed to be essential, it would be open to the Secretary of State to issue a minded to approve letter as the catalyst to an authoritative and reliable grid connection proposal.
17. In the final analysis, law, policy and good practice require full information at the earliest possible stage and it is apparent that there are clear advantages in concurrent consideration of wind farm applications and grid connections. Taking full account of the practical difficulties identified here, there are good reasons to defer full information to a later stage in so far as the appropriate regulations and directive permit and to the related needs of consultation and procedural fairness.

18. Against this background I will advise the Secretary of State to require further information of AMEC and I shall issue a Regulation 19 request to Wind Prospect in the terms already described. However, I am not convinced that I should exercise my discretion to adjourn the Inquiry.

*David M H Rose*

Inspector

29 January 2008