

---

# Appeal Decision

Site visit made on 8 April 2016

**by Louise Crosby MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 26 April 2016**

---

## **Appeal Ref: APP/W1850/W/15/3137440**

### **Land at Reeves Hill, Reeves Hill, Near Knighton, Herefordshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
  - The appeal is made by Bolsterstone Innovative Energy (Reeves Hill) Ltd against the decision of Herefordshire Council.
  - The application Ref: 081479, dated 27 March 2015, sought approval of details pursuant to condition No 14 of a planning permission Ref: DCNW2008/1289/F, granted on 25 April 2012.
  - The application was refused by notice dated 22 May 2015.
  - The development proposed is erection and operation of 4 wind turbines and associated access tracks, hardstanding and sub station building.
  - The details for which approval is sought are a detailed surface water and ground water management plan.
- 

### **Decision**

1. The appeal is dismissed.

### **Procedural matters**

2. The complete wording of condition 14 is as follows:

Before development is commenced a detailed surface water and ground water management plan to include details of associated drainage and sediment control and a timetable for implementation shall be submitted by the developer/operator to the local planning authority and approved in writing by the local planning authority. The scheme shall be implemented as approved.

3. The reason given for the condition is: To prevent impact on the groundwater environment and to comply with policy DR4 of the Herefordshire Unitary Development Plan.
  4. The appellant submitted a surface water and ground water management plan to the Council in an attempt to discharge this condition. However, the Council considered that it contained insufficient information and so refused to discharge it. They reached this view following advice from a consulting engineer. Specifically they were concerned that there were no detailed soakaway calculations, infiltration testing in accordance with BRE365 at the location of the proposed soakaways or details of groundwater levels to support the detailed drainage strategies proposed.
-

5. I note that there is also a dispute between the main parties about whether because development has commenced on site prior to the discharge of pre-commencement conditions, the planning permission is still 'alive'. However that is not a matter before me.

### **Main Issue**

6. The main issue is whether the information submitted by the appellant in respect of condition 14 is sufficient for it to be discharged.

### **Reasons**

7. The stated objective of the submitted surface water and ground water management plan (plan) is 'to identify how the site drainage functions at present, and then to describe how the proposed drainage infrastructure will be designed to accommodate tracks, hardstandings, borrow pits and site compound'. The sources of information used were a site visit, a digital terrain model and OS 1:25,000 scale mapping. It then goes on to set out drainage design principles which are general 'best practice' principles rather than the design necessary at this specific site.
8. The plan then looks at the existing drainage, taking into account the relevant public highways and in particular where the 3 new access points will join. It seems as though the wider development area was also assessed for ponding or flooding during the site visit which was undertaken in March 2015, following a period of wet weather.
9. Finally, the plan sets out specific design measures. However, these are done without below ground investigations. Consequently, the conclusion says that 'the existing ground conditions across the development may (my emphasis) permit the use of infiltration for surface water run-off in to the existing groundwater – this will require an infiltration test to be carried out prior to construction'. So the submitted plan is of limited value, particularly since it fails to consider the options should the infiltration testing show that this method of drainage would be ineffective.
10. The appellant argues that this matter could be resolved through the design of the accesses which are still to be fully resolved. Condition No 23 requires the submission of drainage details, for approval, in relation to the access, turning area and parking facilities prior to the development being brought into use. This condition (No 14) seeks to deal with a wider issue since the installation of the wind turbines will require earthworks and the laying of concrete pads, as will the ancillary apparatus. These works could affect drainage within the site in general.
11. Should condition 14 be discharged and later investigations find the specific design measures proposed in the plan to be unsuitable then the Council would be unable to ensure that satisfactory drainage is provided in connection with the development.
12. In addition, the fact that some other planning conditions exist which may cover drainage matters does not absolve the appellant from providing the relevant information necessary to discharge this specific condition.

13. As such, I find that in the absence of calculations and infiltration testing to support the specific design measures advocated in the plan this planning condition cannot be discharged.
14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Louise Crosby*

INSPECTOR