



Department for
Communities and
Local Government

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Our Ref: APP/D0515/A/12/2181777
APP/A2525/A/12/2184954

Your Ref: CY02/39753.1

09 October 2013

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
BY WIND VENTURES LTD
AT FARMLAND EAST OF THE VILLAGE OF SUTTON ST EDMUND, SOUTH OF
BROAD DROVE WEST AND WEST OF CROSS DROVE
APPLICATION REFERENCES F/YR11/0113/F AND H19-0081-11**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Paul Jackson B Arch (Hons) RIBA, who held a public local inquiry which opened on 23 April 2013 into your client's appeals as follows:
 - **APPEAL A** against a decision of Fenland District Council (FDC) to refuse planning permission for the erection of 4 wind turbines with a maximum height to tip of 126m, a permanent meteorological mast, substation, access tracks, hardstanding areas, external transformers, temporary construction compound and associated infrastructure in accordance with application reference F/YR11/0113/F, dated 21 January 2011.
 - **APPEAL B** against a decision of South Holland District Council (SHDC) to refuse planning permission for the erection of 2 wind turbines with a maximum height to tip of 126m, substation, access tracks, hardstanding areas, external transformers, temporary construction compound and associated infrastructure in accordance with application reference H19-0081-11, dated 21 January 2011.
2. On 5 June 2013, the appeals were recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990 because the appeals relate to proposals of major significance for the delivery of the Government's climate change programme and energy policies.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that both appeals be dismissed and planning permission be refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with his recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

4. In reaching this position the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (IR4). The Secretary of State is content that the ES complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the application. Like the Inspector (IR4) he has taken into account the Residential Visual Amenity Study (RVAS) and the additional viewpoint illustrations.
5. The description of the development involved in the Appeal B proposal in paragraph 1 above is as it is set out in the application form. However, the Secretary of State notes that there would be no temporary construction compound in South Holland district and, like the Inspector (IR1), has considered Appeal B on this basis.

Matters arising after the close of the inquiry

6. Following the close of the inquiry, the Planning Inspectorate wrote to parties on 24 May 2013 inviting comment on 'A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise' which was published on 20 May 2013 by the Institute of Acoustics (IR7). The Planning Inspectorate also wrote to the parties on 13 June 2013 inviting comment on the following Written Ministerial Statements (WMSs) made on 6 June 2013: 'Local Planning and onshore wind' made by the Secretary of State for Communities; and Local Government; and 'Onshore wind' made by the Secretary of State for Energy and Climate Change (IR8). The Secretary of State has taken into account parties' responses to these letters in reaching his conclusion on these appeals. He is also in receipt of a submission dated 8 July 2013 made on behalf of Fenland Residents Against Turbines (FenRATS) regarding the WMSs identified above, which was received by the Planning Inspectorate too late to be considered by the Inspector. The Secretary of State has taken into account this submission alongside other parties' responses to the Planning Inspectorate's letter of 13 June 2013.
7. On 29 July 2013 the Government published 'Planning practice guidance for renewable and low carbon energy' (the Guidance). The Secretary of State has taken into account the Guidance as a material consideration in these appeals. He has carefully considered whether or not there should be consultation of parties on the implications of the publication of the guidance to the cases they put to the inquiry. The Secretary of State notes that, as set out at paragraph 6 above, parties have already been invited to comment on his WMS 'Local planning

and onshore wind' which set out his intention to publish the Guidance. As set out in the WMS, the new planning practice guidance has been prepared to help ensure planning decisions reflect the environmental balance in the National Planning Policy Framework. He is satisfied that the main intentions of the Guidance, as they relate to the appeals before him, were sufficiently described by this WMS so that further consultation of parties is unnecessary. In this respect the Secretary of State notes that the specific concerns which the WMS 'Local planning and onshore wind' indicates would be addressed in the Guidance are included in the factors, set out in paragraph 15 of the published Guidance, which should be used for shaping local criteria for inclusion in Local Plans and considering planning applications in the meantime. The Secretary of State does not consider that any prejudice or unfairness would be caused to any party by proceeding on this basis. The Secretary of State is also in receipt of an email dated 13 September 2013 from FDC. This states that the Fenland Core Strategy has been submitted for examination on 4 September, since the close of the inquiry. It also states that the version submitted for examination differs from the February 2013 version that was considered at the inquiry, but that the only difference is the removal of an allocation of 450 dwellings in North East March. The Secretary of State is therefore satisfied that it is not necessary to consult parties on the implications of the submission of the Core Strategy for examination to the case FDC made to the inquiry.

Policy considerations

8. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case, the development plan comprises (for Fenland) the saved policies of the 1993 Fenland District –Wide Local Plan (FLP) and (for South Holland) the 2006 South Holland District Local Plan (SHLP). The Secretary of the State agrees with the Inspector (IR16) that the FLP is silent and out of date on renewable energy and that, in accordance with paragraph 14 of the Framework, permission should be granted unless any adverse impact would significantly and demonstrably outweigh the benefits. In respect of Appeal B, the Secretary of State considers that the development plan policies most relevant are SHLP policies SG1, SG17 and SG18 (IR19 - 20) and SHLP policy EN4 referred to at IR73.
10. The Secretary of State has had regard to the Fenland Communities Development Plan-Core Strategy as submitted for examination. Taking into account his conclusions at paragraph 7 above and the Inspector's comments at IR15-18, he considers, like the Inspector (IR15), that some weight should be attached to this emerging document. He agrees with the Inspector (IR15) that the South East Lincolnshire and South Holland plan is in the course of preparation but is currently at a very early stage and cannot be given any weight.
11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework), the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3), the

Overarching NPS for Energy (EN-1), Planning Policy Statement (PPS) 5 Planning for the Historic Environment Practice Guide, Circular 11/95: The Use of Conditions in Planning Permissions and Planning practice guidance for renewable and low carbon energy. The Secretary of State has also taken into account the South Holland Supplementary Planning Guidance on Wind Energy but for the reasons outlined by the Inspector he given this only limited weight (IR20). However he has not taken into account Planning for Renewable Energy: A Companion Guide to PPS22 (PPS22CG), which was cancelled by paragraph 2 of the Guidance.

12. Whilst the Secretary of States has had regard to the fact that Government has on 28 August 2013 opened in test mode for public comment a new national planning practice guidance web-based resource, he has attributed it little weight at this stage.
13. The Secretary of State notes that the ES indicates that there are 711 listed buildings within a 15km radius of the site (IR54). In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, he has paid special regard to the desirability of preserving these listed structures or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance conservation areas, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main issues

14. The Secretary of State considers that the main issues in this case are the relationship of the Appeal B to the development plan for South Holland, the presumption in favour of sustainable development set out in paragraph 14 of the Framework in relation to Appeal A, and those issues set out by the Inspector at IR21-76.

Visual character, amenity and living conditions

15. After careful consideration, the Secretary of State agrees with the Inspector's reasoning and conclusions on visual character, amenity and living conditions at IR21-41 but setting aside the Inspector's reference to PPS22CG in respect of amenity. Reflecting the Ministerial Statement, paragraph 15 of the Guidance states that local amenity is an important consideration which should be given proper weight in planning decisions. The Secretary of State agrees with the Inspector's (IR71) assessment that, for the residential properties of St Malo, The Birches and Ashtree Barn, the overwhelming visual effects would be so severe as to make these dwellings unattractive places to live, which is not in the public interest. In his view the proposals are unacceptable in this respect and are in clear conflict with a core planning principle, as set out at paragraph 17 of the Framework, which seeks a good standard of amenity for all existing and future occupants of land and buildings. In terms of paragraph 98 of the Framework which expects applications for energy development to be approved if its impacts are (or can be made) acceptable, for the reasons set out by the Inspector the proposals' impacts are unacceptable and could not be made acceptable.

Right of Way

16. The Secretary of State agrees with the Inspector's reasoning and conclusions on rights of way at IR42-45 but setting aside the Inspector's reference to the PPS22CG in respect of safety and separation.

Tourism

17. The Secretary of State agrees with the Inspector's reasoning and conclusions on the issue of tourism at IR46.

Noise

18. The Secretary of State agrees with the Inspector's reasoning and conclusions on noise at IR47-51 but setting aside the Inspector's reference PPS22CG at IR48. Taking into account the policy set out in paragraph 97 and Footnote 17 of the Framework, the Secretary of State is satisfied that appropriate assessment of noise issues has been undertaken as outlined by the Inspector.

Landscape

19. The Secretary of State has carefully considered the Inspector's assessment of landscape at IR52 and the inquiry evidence before him. Both the Guidance at paragraph 15 and his WMS 'Local planning and onshore wind', state that local topography is an important factor in assessing whether wind turbines could have a damaging effect on landscape and recognise that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas. The Secretary of State has had regard to the Inspector's comment that the key characteristics of the fenland landscape are broad, open, flat drained arable fields with sporadic settlements (IR52). The Inspector reports that the main parties agree that the effect of the proposed development on the landscape character is significant (IR52). While they also agree that the impact is not so serious as to conflict with LP policies or the aims of the Framework, the Secretary of State notes that the impact on landscape character is a concern raised in representations made by the local community. He is sympathetic to the local concern that this cluster of turbines would become an unacceptable defining characteristic of the local landscape and that this adverse impact should be given weight but he does not disagree with the Inspector's overall conclusion on this matter.

Cultural Heritage matters

20. Reflecting the Ministerial Statement, the Guidance states at paragraph 15 that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. It also states at paragraph 34 that, depending on their scale, design and prominence, a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset. Bearing this in mind, the Secretary of State has carefully considered and paid particular attention to the Inspector's assessment of cultural heritage matters at IR53-59, in addition to the evidence put to the inquiry in this respect. The Secretary of State notes that none of the main parties has made the case that the proposals would lead to

substantial harm to or total loss of significance of the designated heritage asset of Guanock House. However the Secretary of State agrees with local concerns that adverse effects on listed buildings and their settings should not be taken lightly, and agrees with the Inspector's conclusion that there would be a moderate degree of harm to the setting of Guanock House (IR58). The Secretary of State notes paragraph 134 of the Framework, which states that where a development proposal will lead to less than substantial harm to the significance of a heritage asset that this harm should be weighed against the public benefits of the proposal. He agrees with the Inspector (IR59) that: the turbines would not be close enough to or so numerous in the setting of any asset to have anything other than a minor effect on its heritage interest; the character and appearance of conservation areas would be preserved; and there would be no significant effects on an Registered Park or Garden. He also agrees with the Inspector (IR59) that although the harm to Guanock House would be a less than substantial harm there would still be harm that would need to be put in the balance.

Wildlife and biodiversity

21. The Secretary of State agrees with the Inspector's reasoning and conclusions on the wildlife and biodiversity at IR60.

Sleep disturbance

22. The Inspector has taken account of the evidence presented on the effects of turbine noise on health, with particular reference to sleep disturbance (IR61). The Inspector reports that despite its quantity, none of the evidence so far prepared is sufficiently robust to demonstrate a positive causal effect between turbine noise and adverse health effects where ETSU has been used to assess and control noise from wind energy development in the UK (IR61). The Secretary of State agrees.

Cumulative impact

23. The Framework, WMS and Guidance require that cumulative visual impacts require particular attention. The Inspector reports that other approved and existing wind energy developments are or would be visible from parts of the area around the appeal site but that these would not be conspicuous and are beyond a distance at which there would be a significant cumulative effect (IR63). The Secretary of State agrees.

Other considerations

24. The Secretary of State agrees with the Inspector's assessment and conclusions in respect of the matters referred to at IR64.

Whether the benefits outweigh the harm

25. The Secretary of State has had regard to the Inspector's comments at IR65-76 and has noted how he has set out policy at IR11. In doing so the Secretary of State notes that there are more recent statements of energy policy and that there is no legal commitment to obtain 30% of electricity from renewable resources by

2020 (IR66). He agrees that the benefits of the proposals in terms of an increase in the supply of renewable energy and a reduction in CO₂ emissions, assisting in mitigating climate change, are very important factors in their favour (IR69). He also agrees that local economic benefits should be added to this (IR69). In respect of the degree of improvement to the landscape around Ashtree Barn (IR69), given the uncertainties with the proposed planting identified by the Inspector at IR41, the Secretary of State considers this benefit merits limited weight. He agrees with the Inspector (IR69) that any increased benefits as a result of re-engagement with the local community would be a factor in favour to put in the planning balance.

26. Weighing against the scheme, the Secretary of State agrees with the Inspector (IR71) that for three of the residential properties, St Malo, The Birches and Ashtree Barn, the overwhelming visual effects would be so severe as to make these dwellings unattractive places to live, which is not in the public interest. He considers that the deterioration in the noise environment at Ashtree Barn and potentially St Malo which the Inspector identifies at IR51, adds to the degree of harm that would be caused to the occupants' living conditions at these properties. The Secretary of State agrees with the Inspector (IR71) that even if the proposed mitigation planting that is proposed could be assured for the lifetime of the scheme, it would not be effective for about 10 years and then would provide only partial screening. He further agrees with the Inspector that the effect on living conditions in respect of these three properties alone significantly outweighs the benefits of the proposal and would not be offset by a more general package of benefits to the community that might flow from re-engagement (IR71). Taking into account paragraph 98 of the Framework, and bearing in mind that the impacts cannot be made acceptable, the Secretary of State considers that for this reason alone the appeals should be dismissed.
27. The Secretary of State entirely agrees with the Inspector (IR72) that, where the impact on living conditions is a main concern, it is not right to give a great deal of weight to the factor that any permission would be for 25 years. He also agrees with the Inspector (IR73) that the proposals conflict with Framework paragraph 17, policy CS14 of the emerging Fenland core strategy (in respect of Appeal A), and policies SG1, SG17 and EN4 of the SHLP (in respect of Appeal B). He further agrees with the Inspector (IR74) that assessed against the policies of the Framework taken as a whole, the adverse impacts cannot be made acceptable and would significantly and demonstrably outweigh the benefits.
28. The Secretary of State agrees with the Inspector's reasoning at IR75 that Appeal B cannot subsist on its own without the supporting infrastructure of Appeal A.

Conditions

29. The Secretary of State has considered the schedules of suggested conditions at Annex A and B of the Inspector's report, the reasons for the suggested conditions set out at page 42 of the Inspector's report and national policy as set out in Circular 11/95 and the Framework. He is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of Circular 11/95 and paragraph 206 of the Framework. However, the Secretary of State does not

consider that they overcome his reasons for dismissing the appeals because the impacts cannot be made acceptable.

Planning Obligation

30. The Secretary of State notes that the appellant has indicated that planning obligation made by agreement would be submitted and that this will reflect requests by FDC and SHDC for the community benefit fund to be set at £5,000 per megawatt. He is not in receipt of any planning obligation, but he considers that a planning obligation in the terms sought by FDC and SHDC would not overcome his reasons for dismissing the appeal set out above.

Overall Conclusions

31. The Secretary of State has identified that the increase in the supply of renewable energy and a reduction in the CO₂ emissions, assisting in mitigating climate change, as very important factors in favour of allowing the appeals before him. However he has also found that this consideration, and the other benefits identified, are significantly and demonstrably outweighed by the impact on the living conditions of the three properties identified at paragraph 26 above. He considers that the proposals are unacceptable in this respect. Added to this he has identified some harm in respect of cultural heritage, the interests of horse riders, the visual amenity of the area generally within 3km of the development, and landscape impact. The Secretary of State concludes that the proposals conflict with national policy set out in the Framework taken as a whole.

32. The Secretary of State, in his WMS 'Local planning and onshore wind', is clear that protecting the local environment should properly be considered alongside the broader issues of protecting the global environment. He finds that such is the level of harm to the local environment from these proposals there is a clear case to dismiss the appeals.

Formal Decision

33. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby:

Dismisses **APPEAL A** for the erection of 4 wind turbines with a maximum height to tip of 126m, a permanent meteorological mast, substation, access tracks, hardstanding areas, external transformers, temporary construction compound and associated infrastructure in accordance with application number F/YR11/0113/F, dated 21 January 2011.

Dismisses **APPEAL B** for the erection of 2 wind turbines with a maximum height to tip of 126m, substation, access tracks, hardstanding areas, external transformers, and associated infrastructure in accordance with application number H19-0081-11, dated 21 January 2011, subject to the clarification identified at paragraph 5 above.

Right to challenge the decision

34. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
35. A copy of this letter has been sent to Fenland District Council, South Holland District Council, FenRATS and the Ministry of Defence. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Lindsay Speed

Authorised by Secretary of State to sign in that behalf



Report to the Secretary of State for Communities and Local Government

by Paul Jackson B Arch (Hons) RIBA

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

Date: 16 July 2013

Town and Country Planning Act 1990

Fenland District Council

South Holland District Council

Appeals by

Wind Ventures Ltd

Inquiry opened on 23 April 2013

File Ref(s): APP/D0515/A/12/2181777 & APP/A2525/A/12/2184954

Appeal A: APP/D0515/A/12/2181777

Farmland east of the village of Sutton St Edmund, south of Broad Drove West and west of Cross Drove

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Wind Ventures Ltd against the decision of Fenland District Council.
- The application Ref F/YR11/0113/F, dated 21 January 2011, was refused by notice dated 3 July 2012.
- The development proposed is the erection of 4 wind turbines with a maximum height to tip of 126m, a permanent meteorological mast, substation, access tracks, hardstanding areas, external transformers, temporary construction compound and associated infrastructure.

Summary of Recommendation: The appeal be dismissed

Appeal B: APP/A2525/A/12/2184954

Farmland east of the village of Sutton St Edmund, south of Broad Drove West and west of Cross Drove

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Wind Ventures Ltd against the decision of South Holland District Council.
- The application Ref H19-0081-11, dated 21 January 2011, was refused by notice dated 19 September 2012.
- The development proposed is the erection of 2 wind turbines with a maximum height to tip of 126m, substation, access tracks, hardstanding areas, external transformers, temporary construction compound and associated infrastructure.

Summary of Recommendation: The appeal be dismissed

Preliminary matters

1. The descriptions of development are as given above, but there would be no temporary construction compound in South Holland district. I have considered appeal B on this basis.
2. The development is known as the Treading Wind Farm. Turbines are denoted on the application documents as T1, T2, T3, T4, T5 and T6 progressing anticlockwise from west to east. During the site visit on 8 May 2013, turbine positions were marked on the ground with yellow revolving markers on posts.
3. Prior to the Inquiry, 'Rule 6' status was granted to a group of objectors, Fenland Residents Against Turbines (FenRATs). On 8 May, FenRATs erected a 'blimp' to the north of the site of T1. Because of the wind speed on the day, the blimp did not reach its full height. However it provided a helpful guide to location and visibility during the site visit.
4. The planning applications were accompanied by an Environmental Statement (ES) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, as amended. Following the applications and after discussions with the Councils' officers, a Residential Visual Amenity Study (RVAS) was prepared together with additional viewpoint illustrations. I have taken these documents into account.
5. During the Inquiry, revised wireframe drawings were provided to give an indication of the locations and appearance of the external transformers. I have taken these into account¹.

¹ Docs 38 & 39

6. In addition to accompanied site visits held on 8 May I carried out extensive unaccompanied visits in the surrounding area at other times including viewpoints in the ES and other locations, including listed buildings drawn to my attention by the parties. An additional evening session was held on 2 May to allow those members of the public to address the Inquiry who could not attend during the day.
7. On 20 May 2013, the Institute of Acoustics published the final version of *A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise* (GPG). This is endorsed by the Secretary of State at the Department for Energy and Climate Change and attracts the same weight as ETSU-R-97 *'The Assessment and Rating of Noise from Wind Farms'* (hereafter referred to as 'ETSU') which the Government advises should be used to assess and rate noise from wind energy development. The parties were invited to comment on the GPG and I have taken those comments into account in the Report.
8. On 6 June 2013 the Secretary of State for Communities and Local Government and the Secretary of State for Energy and Climate Change made Written Statements to Parliament about Onshore Wind. An opportunity was provided for the parties to provide submissions about these written statements. I have taken the Written Statements and the responses into account in making my recommendations.

Main Issues

9. Following from the reasons for refusal, the main issues in both appeals are:
 - The effect of the proposed development on the visual character or amenity of the area;
 - The effect on the living conditions of nearby occupiers in terms of visual dominance; and
 - Whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that might be caused.
10. At the Inquiry, the Rule 6 party raised concerns relating to the impact on listed buildings, the character of the landscape and the noise environment. Whilst not included in the Councils' reasons for refusal, these matters are of sufficient concern to be main issues in themselves.

Policy background

National policy

11. As a result of EU Directive 2009/28/EC, the UK is committed to a legally binding target to achieve 15% of all energy generated from renewable resources, including electricity, heat and transport, by 2020. The 2006 Energy Review set an increased target of 20% of electricity to be from renewable resources by 2020. The Climate Change Act of 2008 sets a target of at least an 80% cut in greenhouse gas emissions by 2050. The overarching strategy to reduce carbon emissions to meet the requirements of the Directive and the Climate Change Act is contained in the UK Renewable Energy Strategy and the UK Low Carbon Transition Plan; the lead scenario is that 30% of electricity is to be derived from renewable resources by 2020. The UK Renewable Energy Roadmap (the Roadmap) was published in 2011 and focuses on 8 technologies

which are considered to offer the greatest potential to deliver the infrastructure to meet the target, including onshore wind energy. An update to the Roadmap was published in December 2012 which confirms that to the end of June 2012, there was a total installed onshore wind capacity of 5.3 GW. By August 2012, there was a total of over 18.2 Gigawatts (GW) of onshore wind capacity that had entered the formal planning system, including the Treading scheme.

12. It is accepted that not all of these developments will be consented and not everything will be built. Bearing in mind the likely attrition rate, the Roadmap concludes that the current pipeline is likely to represent the appropriate quantity of deployment to fulfil the central estimated range in the 2011 Roadmap for onshore wind of 10-13 GW. However, the majority of the new schemes will be in Scotland. There is no cap on capacity. The Roadmap advises that new proposals are needed to meet the 2020 ambition and longer term decarbonisation. It is the Government's aspiration, set out in the Climate Change Act, to cut carbon dioxide emissions against the 1990 baseline by at least 80% by 2050.
13. The National Planning Policy Framework (NPPF) of 2012 replaced the previous Planning Policy Statements (PPSs) and Planning Policy Guidance Notes, though the PPS22 *Planning for Renewable Energy* Practice Guide (PPS22CG) and PPS5 *Planning for the Historic Environment* Practice Guide (PPS5CG) remain extant. The NPPF says at paragraph 98 that applicants for energy development should not have to demonstrate the overall need for renewable or low carbon energy. Applications should be approved² if their impacts are (or can be made) acceptable. The NPPF advises that local authorities (or decision makers) should follow the approach set out in the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3), read with the Overarching NPS for Energy (EN-1), both dated 2011. The NPPF has a core principle at paragraph 17 that a good standard of amenity should always be sought for existing and future occupants of buildings. Paragraph 17 also specifically supports the transition to a low carbon future in a changing climate and encourages the use of renewable resources (for example, by the development of renewable energy).
14. The advice needs to be read as a whole. Particularly relevant to this case is paragraph 5.9.18 of EN-1 which advises that all proposed energy infrastructure is likely to have visual effects for many receptors around proposed areas and that a judgement has to be made on whether the visual effects on sensitive receptors, such as local residents and visitors to the area, outweigh the benefits of the project. EN-3 states at paragraph 2.7.6 that appropriate distances should be maintained between wind turbines and sensitive receptors to protect amenity, the two main impact issues being visual amenity and noise. Paragraphs 2.7.48/49 say that commercial wind farms are large structures and that there will always be significant landscape and visual effects for a number of kilometres around a site; the arrangement of turbines should be carefully designed to minimise effects on the landscape and visual amenity whilst meeting technical and operational siting requirements and other constraints. Paragraphs 2.7.52-2.7.62 concern noise impacts and indicate that ETSU should be used to assess and rate noise from wind energy development, taking account of the latest industry good practice. The PPS22CG also recommends its use.

² Unless material considerations indicate otherwise

Local Plan policies-Fenland

15. So far as relevant to the applications, for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004, the adopted development plans consist of (for Fenland) the saved policies of the Fenland District-Wide Local Plan of 1993 (FLP) and (for South Holland) the South Holland District Local Plan of July 2006 (SHLP). Fenland has completed public consultation on the replacement *Fenland Communities Development Plan-Core Strategy-Proposed Submission February 2013* (FCS) in April 2013, incorporating Government policy in the NPPF. It is anticipated that public examination will occur between July and September 2013. No objections have been received concerning the relevant policies of the FCS and for this reason, in accordance with the advice in paragraph 216 of the NPPF, I give it some weight. A new local plan is in the course of preparation for South East Lincolnshire and South Holland but this is currently at a very early stage and cannot be given any weight.
16. Paragraph 215 of the NPPF indicates that due weight should be given to policies of existing plans according to their degree of consistency with the NPPF. Policy E1 of the FLP aims to conserve the rural environment, advising that development likely to detract from the unique, open character of the fenland landscape will not normally be permitted. Policy E3 seeks to protect, retain and encourage the re-introduction of landscape features which will enhance the visual attraction of the district. Policy E8 advises amongst other things that proposals for new development should normally be of a design compatible with their surroundings in terms of landscape character, scale, architectural detail, materials and landscaping; and have regard to the amenities of adjoining properties and the locality in general. There is no dispute that the FLP of 1993 does not envisage and is silent on renewable energy development, certainly not of the scale now proposed which will always have significant landscape and visual effects. The NPPF shares with the FLP the general thrust that development should be compatible with its surroundings and local receptors, but recognises the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. These should be maximised while ensuring that adverse impacts are addressed satisfactorily, including landscape and visual impacts. In doing this, a balance has to be struck. The FLP is silent and out of date on renewable energy. In these circumstances, in accordance with paragraph 14 of the NPPF, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits.
17. Draft Policy CS12 of the Fenland Core Strategy Draft Consultation of July 2011 is also referred to in the reasons for refusal. The renewable energy objectives of that policy are now in Proposed Submission (FCS) policy CS14, which states that renewable energy proposals will be supported and considered in the context of sustainable development and climate change. Proposals will be considered on their merits having regard to factors including the surrounding landscape, townscape and heritage assets; residential and visual amenity; noise impact; biodiversity considerations and aircraft movements. Although a Wind Turbine Supplementary Planning Document (SPD) as anticipated by the policy has not yet been completed, the Council has the benefit of a 2007 report *Wind Turbine Development Policy Guidance* by The Landscape Partnership which was the subject of consultation. It identifies the landscape capacity for various typologies of wind farm development and provides guidance on visual impact, heritage considerations and mitigation.

18. Emerging policy CS16 is also relevant in seeking to deliver and protect high quality environments across the district. It says that development will only be permitted if it can be demonstrated that the proposal meets all of a number of criteria, including making a positive contribution to the local distinctiveness and character of an area, enhancing its local setting, provides resilience to climate change and does not adversely impact, either in design or scale terms, on the landscape character of the area; does not adversely impact on the amenity of neighbouring users such as noise, light pollution and loss privacy or loss of light. Read together with policy CS14, bearing in mind that that this emerging policy introduces climate change as a factor, I do not regard the FCS as excluding large wind energy installations in principle, providing the benefits are assessed against any adverse impacts.

Local Plan policies-South Holland

19. Policy SG1 of the SHLP says that planning permission will be granted where a proposal is consistent with the principles of sustainable development and where the quality of life for residents is unimpaired or enhanced and South Holland's essential character and main environmental assets are not damaged. Policy SG17 advises that permission will be granted for development which would not cause material harm to residential amenity, taking into account the extent of any overbearing or overshadowing effect, potential noise nuisance and the levels of small, emissions and pollutants. The factors to be considered indicate that it is not the case that a very high threshold of 'no harm at all' is required to satisfy the policy and this introduces an element of balance. The explanatory text says that it is essential to protect residents from intrusive or disturbing development. Policy SG18 requires landscaping proposals as an integral part of new development including the provision of strategic tree planting to improve the setting of development in the wider landscape.

20. Previous policy guidance in the SHLP on renewable energy was not 'saved' in 2009 and the SHLP is now largely silent on the subject. Paragraph 3.31 of the SHLP notes that a 2003 Strategic Landscape Capacity Study was used in the preparation of Supplementary Planning Guidance (SPG) on Wind Energy, subsequently adopted in 2004. The SPG assesses the capacity of the landscape in terms of 1 km squares, taking into account residential properties, conservation areas, major recreation sites and routes and the presence and frequency of detracting visual elements such as power stations, transmission lines, glasshouses and visual clutter at the urban fringe. The resulting landscape values capacity map identifies the majority of the district as 'unsuitable' or 'highly unsuitable' based on a model scheme of 8 turbines at 100m to blade tip. The area around the appeal site is designated as 'unsuitable'. The SPG notes that in certain circumstances, areas classified as unsuitable could be open to consideration as being moderately suitable, provided that no detrimental effects on landscape could be properly demonstrated subject to certain restrictions. I regard this approach to be rather simplistic and 'broad brush' in nature and of limited use; the kilometre square principle does not recognise differences in the natural grain of the landscape from square to square and it is unclear how the various constraints are calibrated in making the assessment. I give it only limited weight. Having regard to national advice in the NPPF and NPPSs, it has not been shown that there is no scope for turbine development in the area, providing the effects are or can be made acceptable.

Reasons

Visual character, amenity and living conditions

21. The effect on the living conditions of individuals within and around dwellings is closely associated with the general issue of amenity. These issues are brought together in this assessment which concerns the effect of the development on people, living, working, walking, riding or just on holiday in the area. The village settlements of Sutton St Edmund in South Holland and Gorefield in Fenland lie closest to the turbines at about 1.25 and 2.6 km away respectively. Tydd St Giles lies approximately 3.5 km away. Parson Drove, Gedney Hill and Throckenholt lie within a 5.5 km radius. There is no doubt that residents of all these settlements will notice a significant change in their surroundings, turbines becoming visible to varying degrees from within villages and many places on the edge of and beyond them. Visibility would often be significantly modified by houses and trees in the centres, turbines only becoming prominent features on looking towards them from the outskirts. Generally speaking, even here, they would not occupy more than a small proportion of the overall view available to the occupiers and though noticeable, would not have an unacceptable impact. However, within a radius of 2-3 km, the turbines would be prominent features when appreciating the local arable surroundings. As modern industrial structures they would have a significant visual impact.
22. Residents of Cross Road and Broadgate in Sutton St Edmund would be relatively close to the turbine field at around between 950m and 1.25km away from T1 and/or T2, with T3-T6 stretching away to the east in a fairly constrained group as far as 2.8km to T6. For many residents in Broadgate their main rear view eastwards across gardens and agricultural fields would be dominated by T1 in particular which would in many cases form a focal point, framed by trees on the side boundaries. I do not doubt the degree of change that these residents would experience because the wind farm would be hard to avoid in their main recreational view, which in most cases is relatively unconstrained by planting; but there would be no turbines within 6km visible in any other directions, the recently permitted Wryde Croft being the nearest, well to the south west. There is no right to a view, but the impact on a view can be a material planning consideration. Overall, there would be a degree of harm by reason of visual dominance to occupiers of dwellings in Sutton St Edmund with east facing views that needs to be put into the balance.
23. Turning to individual properties, the majority of residential receptors likely to be significantly affected lie within and around a radius line drawn 1km away from the turbines and this includes 37 individual dwellings. The RVAS assesses the magnitude of the impact as substantial at all of these, with a major (26) or major/moderate (11) overall effect. The interiors of the dwellings were not visited as part of the RVAS, the appellant stating at the Inquiry that for each property, the worst possible impact was assumed. However the impact on individuals living in any particular dwelling varies depending on factors including the possible layout of furniture relative to windows in rooms, dwelling orientation, the location of outside recreation space and the availability, type and location of any screening.
24. The advice in the PPS22 Companion Guide, for wind energy projects, affirms the basic principle that 'The planning system exists to regulate the development and use of land in the public interest. The material question is whether the proposal would have a detrimental effect on the locality generally,

and on amenities that ought, in the public interest, to be protected". In terms of visual amenity, this translates into the long established principle that there is 'no right to a view', meaning that it is not possible to protect a property simply on the basis that an attractive or cherished view would be adversely affected by development. It has become an accepted principle that when turbines are present in such number, size and proximity that they represent an unpleasantly overwhelming and unavoidable presence in main views from a house or garden, there is every likelihood that the property concerned would come to be widely regarded as an unattractive and thus unsatisfactory (but not necessarily uninhabitable) place in which to live. It may not be in the public interest to create such living conditions where they did not exist before. Private and public interests could coincide in such a way that the outlook from a dwelling would be so harmed as to be generally regarded as unacceptable.

25. Where specific properties are not mentioned, it is not because the opinions of the occupants are not considered, but because they lie reasonably close to another property which would be similarly affected. The impact on all is taken into account. Property numbers are those identified in the RVAS which were adopted by the other parties at the Inquiry.
26. There are 4 main groups of dwellings that would be affected, most of which enjoy views across the open fields of the appeal site to varying degrees. Properties 1-14 lie adjacent to Guanockgate Road in South Holland directly to the west of the turbine field. Property 5 lies just within the 1km radius line in Cross Road. All are detached dwellings of various designs and in general, the occupants enjoy wide expansive views in all directions. However the windows of the main habitable rooms of many also face Guanockgate Road and therefore also directly face the turbines at distances (to the nearest turbine) from 680m to 1060m. Whilst orientation, garden planting and other buildings would limit the impact of turbines for many, there would be 4 properties where they would become an unavoidable and dominant feature for the occupants from day to day. At Guanockgate Farm (6) the main orientation of the house is north/south thus avoiding a direct impact from inside the building although there would be oblique views of T1 and T2 and a view of the turning blades of T1 from the kitchen window over the cartshed roof. From the main outside recreational areas there would be views of turbine blades or the entire turbines and towers of T1 and T2 and others starting at a distance of well under 700m and within an angle of 46 degrees. The wind farm would be a conspicuous and dominant feature on approaching all the dwellings in Guanockgate Road but for the occupants of this property they would also be an unavoidable and frequently overwhelming presence when enjoying the outside areas.
27. At The Birches (8), a bungalow, the main living area window looks directly east towards T2 at 695m. From almost all of the seating in this room, which is conventionally arranged around a wood burner on the north wall, T2 would unavoidably dominate the view out of the large picture window eastwards. There are 3 other windows in this room, but that facing west is smaller and looks through a small conservatory; it does not provide the main focus. Two windows facing north in the flank wall would provide oblique views of T1 at about 835m and the remaining turbines lie at various greater distances between them, partially screened by vegetation. Two bedrooms provide similar views eastwards in which T2 would stand out. The main entrance currently has an obscured sliding patio door but visitors would notice T2 on entering and leaving. I consider that T2, in combination with the other turbines, would have

an overwhelming and overbearing impact on the living conditions of the occupants unless it/they could be sufficiently screened.

28. An existing electricity pole on the opposite side of the road would have no useful screening effect. In consultation with Council officers, the appellant has put forward a screening proposal³ which consists of a new mixed hawthorn hedge on land on the opposite side of the electricity line, thus avoiding the pruning that occurs regularly under such overhead facilities. The land on which this would be planted is lower than the house but the screening impact could be enhanced by the use of some more mature fast growing species. Over time, it would increasingly screen T2 but would not make a noticeable difference for at least 10 years; after that time the revolving blades would still be visible, the extent diminishing with time.
29. The land on which it would be planted is outside land controlled by the appellant (though it is on land farmed by one of the landowners involved in the development). The owners confirm that they are amenable to such planting providing that the developer is totally responsible for the cost of establishing, upkeep and maintenance of the trees and bushes and for any loss of income due to loss of the cropped area⁴. A 'Grampian' condition could ensure that the turbine was not erected until a hedge has been planted and a maintenance regime put in place, but as a matter of fact and degree, the appellant does not retain sufficient control over the land to ensure future action to thicken and retain it as a screen. No planning condition could provide for reimbursement of money for lost cropping acreage. Having regard to the recommendations of Circular 11/95 *The Use of Conditions in Planning Permissions*, it would be unreasonable to require the turbine to be removed in the event of the hedge being removed or neglected at some future date. There is no undertaking or obligation to ensure these matters would be effectively dealt with and I give these third party assurances little weight.
30. The house has other rooms facing west and a large garden to the rear from most of which the turbines would not be readily visible, but on progressing further to the west into the manege, T2 would loom well above the ridge of the roof. Overall, I consider that the occupants would suffer an overwhelming adverse impact on their outlook and their day to day lives that could not be adequately mitigated.
31. At Cottessmore (10), T2 would be 685 m from the façade of the property which contains the front door and bay windows to a living room and a dining room (formerly a bedroom). Narrow dormer windows to a study and a bedroom in the roof space also face east. The main outside recreation area is at the front of the property and links with a conservatory and patio on the south side from which turbines would also be visible. However there would be other views to the west. The seating arrangement in the main living room faces inwards and not towards the open landscape to the east. There would be a degree of screening to the outside areas. Because of these factors, there would be a strong sense of overbearing, but the property would not become an unacceptable place to live.
32. White Cottage (11) is a long cottage with 5 windows facing east. It is surrounded by open arable fields with very little meaningful screening. T2

³ Doc 40

⁴ Doc 36

would be 735m from the façade and all the other turbines would be visible. T2, T3 and T4 would be seen in close association with blade overlap at distances between 735m and 1.7km. Although occupying a relatively narrow angle of about 35 degrees, the turbines would coincide with the view out of the narrow windows seen from the most common seating areas including the dining area. There is no garden to the rear of this property and the turbines would dominate views eastwards from the side garden which is the only outside relaxation area available to the occupants. The kitchen has a window to the west and there is a small conservatory which would not be affected, but the overall impact would be of dominant and distracting revolving blades through most of the windows to habitable rooms. Wind farms at the Grange, Coldham and Wryde Croft are visible from the interior and exterior and although these would be beyond a distance at which there would be a significant effect on visual amenity, I consider they contribute to an impact here which would be only marginally less severe than at The Birches.

33. Properties 16-21 lie south of the turbine field. This is a tight group of detached and semi-detached houses on Elloe Bank in Fenland, a public right of way that links northwards with a network of other footpaths and bridleways. For the purposes of assessment I have also included dwellings in Goredike Bank which were not assessed in the RVAS. Occupiers and visitors to these properties would notice the wide spread of the wind farm on approaching the group. Upper floor windows at Two Acres/The Chase (16) would have a wide view of around 72 degrees with T3 at 935m but ground floor windows and the gardens would be screened to a large extent, more so in the summer months. Turbines would be more difficult to see from the remaining dwellings in the group due to their orientation and vegetation screening. King Edward's Farm (15) lies on slightly raised ground from which T2 would be 770m away. However the farmhouse is on the south side of the farmstead and views for the occupiers would be largely protected from the wind farm by other buildings. Overall, whilst there would be some harm, there would be no unacceptable impacts on the occupiers of any of these properties.
34. Property 22 (Chestnut Farm/Riverside Cottage) lies at right angles to the main turbine field and has significant surrounding vegetation. All the turbines would be visible from the front door in the flank wall and obliquely from some south west facing rooms, the nearest T6 being 780m away. As an isolated property, the occupiers would notice the change in the character of the land on the other side of the existing line of pylons, but the turbines would not affect other views out from the property and would not dominate their outlook.
35. Properties 23-30 lie along Cross Drove on the north eastern edge of the arable land where the turbines would be located. From this direction, the existing line of pylons crossing the fields is a conspicuous feature that already affects the view. The closest turbine would be T6 at between 740 and 815m away. All the turbines would form a prominent group in the main south westerly aspect from all these properties, visible in a tight overlapping formation. Blade overlap would be a distracting feature of the view from most of these properties particularly those to the north such as Ashdown (27). Turbines would form the main focus of the view across open fields from the front living room and bedrooms. This house also has additional living areas to the side and rear, from which turbines would be hard to see, but the main outside seating area would have a view of the hub of T6 at 765m over the boundary hedge with other turbines beyond. Overall, the relatively close proximity of T6 and T1-T5

- in the main westerly view would represent a significant adverse change in the outlook of the occupiers. This would be added to by the close proximity of the sub-station. The adjacent Kenny House (26) would be the closest of the group at 740m but turbines would be screened to a significant extent by an existing mature sycamore tree on the boundary.
36. The main habitable rooms of Poplar Tree House (23) would face the turbines slightly obliquely to the west but T6 would be further away, at around 815m. The turbines would occupy an angle of view of about 21 degrees including the anemometer mast, with some overlap, but there would be some screening from trees and bushes on the boundary. The turbines would bring about a noticeable change in outlook from ground floor and upper floor windows but would not be so close or so dominant as to make the house an unacceptable place to live.
37. Broad Drove West runs from north east to south west more or less parallel to the turbine layout. The main southerly outlook from several properties would include a broad spread of turbines at angles of between 81 to 143 degrees. The view from most would be mitigated by existing vegetation and/or orientation. However, at St Malo (31) T5 and T6 would be dominant features at 900 and 690m from the south east elevation and T6 would loom over the house and garage on entering the property. From the south west facing glazed patio doors in the main living area, T1-T5 would occupy about 57 degrees of the view. From all the main seating areas in the living room, the turbines would be dominant in an otherwise flat rural outlook. From the outside patio the visual impact would be more marked. The removal of a tall evergreen tree outside the patio door since the RVAS was carried out has removed screening that would have obscured T5. The most significant factor at St Malo is that from day to day, inside and around the outside the dwelling, it would be hard to avoid a view of turbines, at least one of which would be relatively close. There would be no relief on the patio or in the long garden, which extends even closer to T6. The entrance to the property would be dominated by T6. Overall, I consider that the spread and proximity of turbines would make this property an unattractive place to live.
38. At Ashtree Barn, T1 and T4 would dominate views from the west and south elevations at distances of 695 and 720m respectively. These together with the remaining turbines would occupy about 142 degrees of the available outlook from the dwelling, ranging from the south west to the east. T1 would be increasingly conspicuous on approaching the house along Broad Drove West. On turning into the drive T3 and T4 would come prominently into view at 775 and 720m, T4 appearing immediately to the side of the house. T4 would also feature most prominently in the main southerly outlook from most of the habitable rooms which extend across 3 floors. Because of the wide angle within which turbines would be seen, it would be very difficult to avoid a turbine within a relatively short distance in any view from the house. This would be particularly true in the dual aspect main living room, where it is likely that T1, T2, T3 and T4 would be seen, sometimes 2 or even 3 at the same time. There would be a framed view of T4 through windows opposite the dining room table and over the kitchen sink.
39. Although there are rooms with windows facing north including a fully glazed 'barn door', the main habitable rooms are designed to take advantage of the far reaching southerly views, for which 13 windows are provided on the south

elevation. For all practical purposes, the family that lives there would not be able to escape the overbearing and wide ranging visual impact of T1-T4; and the blade tips of T5 and T6 at least would be visible over a tree belt to the south east. There are very few locations on the grassed relaxation areas where turbines would not be oppressively near and sunshine could be enjoyed at the same time; from the area immediately outside the rear French doors, all the turbines would probably be visible.

40. At the time of the RVAS, the hedge on the southern boundary had been higher; however it is to be expected that hedges are reduced in height from time to time, for purposes of thickening growth, reducing shadow and facilitating views. Moreover, the occupiers of Ashtree Barn have obtained planning permission for change of use of a further area of land to the south of the property for residential garden use. Use of this area would place the occupiers significantly closer to T3 and T4.
41. Mitigation is proposed in the form of planting of new woodland, trees and vegetation, which would enhance the landscape and provide an increasing level of screening over the years. Those in control of the land are amenable to the proposed planting⁵, but the same uncertainties prevail as at The Birches. I conclude on Ashtree Barn that the dwelling would become an unattractive place to live.

Rights of way

42. The site area is crossed by a Byway Open to All Traffic (BOAT) following the Treading Bank which runs more or less parallel to the turbine layout. This links with a Bridleway and a Byway linking Broad Drove West with Elloe Bank, which, when slightly redirected as proposed, would pass within 180m of T1 before passing between T3 and T4. A Permissive Access Route (PAR) has been established across the eastern end of the site again linking Broad Drove West, Treading Bank and Cross Drove⁶. The PAR would pass within 50m of T6 and 180m of T5. All these rights of way provide useful linking cross routes facilitating round trips by riders and walkers in a small area where the choice of route is limited.
43. The existing pylons are prominent from all these routes but the rotating turbines would be several times higher. The experience of recreational users would substantially change, but it is unclear that the change would be regarded as negative by everyone or that the walking experience would be substantially less satisfying or rewarding. In most cases, the experience of turbines would be a transitory element in a longer walk or ride. The BOAT however would be substantially affected throughout its length. Whilst I accept that some would be discouraged from using this route, it has not been shown that the visual impact on recreational walkers and cyclists would be unacceptable in principle.
44. Evidence was provided of the frequent use of these rights of way by horse riders who thereby avoid local roads, which by their straight and flat nature, tend to encourage speeding and are dangerous for those on horseback. I accept that riders might be discouraged from using the BOAT because the presence of turbines would be constant along its route; the nature of wind turbines is that rates of turn and the angle of the blades can change suddenly,

⁵ Doc 36, see also Docs 40 & 41

⁶ Doc 1

accompanied by mechanical noises. The expectation that such a change could occur could lead to anxiety on the part of a rider. Although none of the turbines would be less than 200m from the BOAT and this is the minimum distance recommended by the British Horse Society, I accept that the extent of the change to this route might discourage use by horse riders.

45. The PAR would be well under 200m from T6 and T5. T6 would also be well within fall over distance of the PAR and a safety issue arises. PPS22CG says that experience indicates that properly designed and maintained wind turbines are a safe technology. The very few accidents that have occurred involving injury to humans have been caused by failure to observe manufacturers' and operators' instructions for the operation of the machines. There has been no example of injury to a member of the public. No evidence was presented to the Inquiry that in the years since PPS22CG was published (2004), there has been any change in that position. It goes on to advise that there is no statutory separation between a wind turbine and a public right of way. Often, fall over distance is considered an acceptable separation, and the minimum distance is often taken to be that the turbine blades should not be permitted to oversail a public right of way. The PAR would not pass under the blades in this case, by a small margin. I conclude that these matters do not weigh heavily against the proposal, but that horse riders are likely to be discouraged from using the BOAT and the PAR which would significantly reduce their choice of safe routes.

Tourism

46. The fenland area is popular with tourists who appreciate its big skies, recreational opportunities and wildlife. Sustrans Route 1 passes through Tydd St Giles between Wisbech and Holbeach. There is a caravan site near Sutton St Edmunds just over 2km from T2. The Tydd St Giles Golf and Country Club extends over 150 acres of land to the north east of Tydd St Giles and includes luxury holiday homes. Whilst I appreciate that there is a worry that tourists may be discouraged from visiting the immediate locality, there is no evidence that this would actually happen. Many people may see the turbines as an incidental part of their surroundings and not dissimilar to electricity transmission lines and other man made aspects of the fens. There would remain large areas of fenland essentially unaffected by turbines. I give little weight to the concern that the development would unacceptably affect tourists' ability to enjoy their surroundings or that there would be a loss of tourism related economic activity.

Other matters

Noise

47. The effect of noise on residential receptors was not a reason for refusal but was raised by objectors. Although ETSU is now a relatively elderly document in the context of the rapidly improving technical knowledge of the layout and operation of wind turbines, its guidance was re-affirmed in 2007 and the Government indicates it should still be used by planning authorities. ETSU describes a framework for the measurement of wind farm noise and gives indicative noise levels calculated to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on wind farm development or adding unduly to the costs and administrative burdens on wind farm developers or planning authorities. These are 5dB above the mean

background noise level, or 43dB at night and 35-40dB (both $L_{A90, 10 \text{ mins}}$) during the day, whichever is the greater.

48. PPS22CG goes on to say that 'well-specified and well-designed wind farms should be located so that increases in ambient noise levels around noise-sensitive developments are kept to acceptable levels with relation to existing background noise. This will normally be achieved through good design of the turbines and through allowing sufficient distance between the turbines and any existing noise-sensitive development so that noise from the turbines will not normally be significant. Noise levels from turbines are generally low and, under most operating conditions, it is likely that turbine noise would be completely masked by wind-generated background noise.'
49. ETSU recognises that the occupiers of dwellings in the countryside may be expected to be exceptionally sensitive to any intrusions on peace and quiet, but it does not seek to require wind farm noise to be reduced to a level which would be completely inaudible to local occupiers. However, it is important to identify properties which might be disproportionately affected, for instance if they are sited downwind most of the time. Dwellings in Broad Drove West and Cross Drove would be downwind of the turbines when the breeze originates in the south west, which is the prevailing direction.
50. The ES indicates that the noise levels experienced by all the local occupiers would fall within ETSU limits, but at Ashtree Farm, there would be only a 'safety margin' of 3 dB between predicted turbine noise levels and the ETSU night time noise limit. Noise readings taken at this location (and at Allenby Farm nearby) show consistent very low noise levels at night, of around 20-22 dB L_{A90} even, on one night, when wind speeds were recorded at around 5-7 metres per second. The turbines would be well into their operating range at this wind speed. On a summer night, it would not be unusual for people to wish to sleep with their bedroom windows open, particularly after a hot day. I consider that this is more likely when bedrooms are in the roof space, as at Ashtree Barn (which is immediately adjacent to Ashtree Farm) with its main south facing elevation directly opposite T3 and T4. The large bedroom roof windows there are top hung and in my opinion it is likely that turbine noise would be noticeable and at times intrusive because although falling within (just) the ETSU limit, it would frequently exceed the prevailing background noise level by a substantial margin. This is likely to be the position at other dwellings in Broad Drove West where exceptionally low night time noise levels prevail.
51. Furthermore, at the Inquiry, the appellant's noise witness acknowledged that where receptors were sitting near a building (as opposed to the free field conditions used to assess background levels) the turbine noise level could be up to 3dB higher, decreasing with distance. There is only a 1dB safety margin between predicted turbine noise levels and the lower ETSU daytime limit at Ashtree Farm; at the adjacent Ashtree Barn, the main sitting area is outside the French doors of the kitchen diner near the wall. I consider that the combination of prevailing wind direction, low safety margins, very low background night time noise levels and sound reflection from the house wall amounts to a noise impact that significantly reinforces the overbearing visual impact on living conditions for the occupiers of this property; and potentially St Malo and others nearby.

Landscape

52. There is no dispute amongst the main parties that the effect of the proposed development on landscape character, whilst significant, would not be so serious as to conflict with LP policies or the aims of the NPPF. The key characteristics of the fenland landscape are broad, open, flat drained arable fields with sporadic settlements. It is large in scale. All the turbines fall within *The Fens* National Character Area 46 as defined by Natural England. T3-T6 fall within Fenland district which has common landscape characteristics with the adjacent similar area of South Holland where T1 and T2 would be situated. For the purposes of my assessment, there is no difference between the SHDC local designation of *Planned & Drained Fens and Carrlands* and FDC's *The Fens* which is considered in the Fenland 2009 wind turbine policy guidance to have a high capacity for a small-medium turbine group (defined as a linear or clustered arrangement of 6-11 turbines with a typical height of 100-125 metres (m)). It has not been shown why the SHDC area would be less acceptable in landscape terms than the area under Fenland's jurisdiction. Whilst the turbines as industrial structures would have a significant visual impact and a number of other wind farms have been built, some of which can be seen from the appeal site at distances of 5-8 kilometres (km), there would still remain a very substantial area of fenland landscape largely unaffected by turbines.

Cultural Heritage matters

53. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty for decision makers which is that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. A similar duty applies to decisions on development affecting conservation areas (s72). The NPPF has as a core planning principle the conservation of heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
54. The ES sets the initial study area for cultural heritage assets at a 15km radius to take into account long distance views. Within this area there are 711 listed buildings and 30 scheduled ancient monuments (SAMS). The flat land allows long views and the turbines would be visible from many of these to varying degrees, along with other turbine developments. However there is nothing to suggest that the ability to understand and appreciate the heritage significance of any SAMS or their settings would be prejudiced. The turbines would form a small part of a mixed background of varied human activity over the centuries.
55. Beyond 5 but within a 15km radius, the impact of the turbines on the contribution made by the settings of listed buildings to their heritage significance would be very limited. Where buildings enjoy a great deal of visibility or interest, such as the village conservation area and church at Leverington (5.3km from the appeal site towards Wisbech), their significance relates primarily to the immediate village surroundings, the parish and the rural area just outside it; in the locations where turbines would be visible at the same time as the asset, they would be sufficiently far away to be incidental and would have very little impact on heritage significance.

56. The height and spread of the turbines becomes more visible within 5km. Within this radius, there are important listed buildings and conservation areas including 1 Grade I asset, the bell tower to the church of Tydd St Giles; 6 assets at Grade II* including 5 other churches and Park House at Leverington; and 54 Grade II buildings and assets such as bridges, crosses, headstones and telephone boxes. As far as it was possible to do so, I visited all the Grade I and Grade II* assets, all those referred to in the representations and others where I considered the turbines may affect setting and appreciation of their heritage value. Many with the greatest heritage significance are surrounded by mature trees which characterise most settlements and dwellings in the fens. Such planting, which is likely to have always been there in one form or another, affects the contribution that the immediate setting makes to significance, but reduces intervisibility and hence the sensitivity of the wider setting of that asset.
57. In all cases, there would be no change to the architectural or historic interest of any of the assets of most concern. Their immediate settings would usually only be altered at the margins where a wider view of the surrounding fens is available. The landscape is an important part of the setting especially seen from the buildings themselves (often from upper floor windows) and in some longer views where turbines would be seen in the same context as the asset. However the character of the broad flat fenland landscape and the contribution that the wider setting makes to their heritage significance has changed over time; apart from agricultural methods of cultivation and industrial means of raising livestock in large buildings, other man made items have become part of the accepted view such as pylons and masts. The Church of St John the Baptist in Parsons Drove has less trees around it as does the nearby Yucca House, but these buildings are in a village setting, the turbines would be over 3.5km away and the impact of the proposed wind farm would be minor.
58. The 20th century garden landscape which complements the 16th century Grade II listed Guanock House is designed to provide mainly intimate internal vistas but also deliberately relates to the contrasting, flat far-reaching fens which are glimpsed through gaps and over boundary planting. At a distance of only 1.7km, the blades of T1 and other turbines would be seen revolving over the enclosing hedges. The manor house and its outbuildings would be seen with turbines in some views. Hubs and blades would be visible from some internal rooms which would appear anachronistic and a modern distraction in an unusually well preserved environment. The garden and house is visited by many seeking peace and contemplation. There would be a moderate degree of harm to the setting of Guanock House.
59. In no other case would the turbines be close enough or so numerous in the setting of any asset to have anything other than a minor effect on its heritage interest. The character and the appearance of conservation areas would be preserved. There would be no significant effects on any Registered Park or Garden. I find that there would be a less than substantial degree of harm at Guanock House which would be moderately adverse, and this needs to be put into the balance.

Wildlife and biodiversity

60. Objectors have drawn attention to the potential impact on wildlife particularly birds and bats. Natural England and the RSPB are supportive of renewable and clean energy developments where there will not be unacceptable impacts on

the natural environment and adverse impacts upon wildlife are avoided. There were comprehensive ornithological and non-avian ecological surveys of the site carried out as part of the ES which suggests a mitigation scheme and a programme of site biodiversity enhancement. I am satisfied that the impacts on birds and other wildlife can be monitored and suitably mitigated using planning conditions.

Sleep disturbance

61. I have taken account of the evidence presented on the effects of turbine noise on health, with particular reference to sleep disturbance. People living predominantly within 1km of the turbines would be likely to notice turbine noise from time to time. Those currently living in an exceptionally quiet area such as Broad Drove West are likely to notice turbine noise more readily; and more frequently, being downwind. It is likely that some of these residents will have moved to the area because it is peaceful. In common with the rest of the population, some may have pre-existing conditions which affect the quality of their sleep. However, despite its quantity, none of the evidence so far prepared is sufficiently robust to demonstrate a positive causal effect between turbine noise and adverse health effects where ETSU has been used to assess and control noise from wind energy development in the UK.
62. There are also local occupiers who have medical conditions which make them especially sensitive to noise and therefore should be regarded as sensitive receptors, but there is no medical evidence to support their assertion that turbine noise, at the levels predicted, would actually have harmful effects. Whilst anxiety about health itself can be a material consideration, there is no evidence available to suggest that such a fear has had any harmful effect on anyone living in the vicinity of an existing turbine in the UK.

Cumulative impact

63. Other approved and existing wind energy developments are or would be visible from parts of the area around the appeal site but these would not be conspicuous and are beyond a distance at which there would be a significant cumulative effect on people or any significant harmful effect on landscape or cultural heritage assets.
64. I have taken account of all the other matters raised, including the potential for disturbance to power networks due to the difficulty of balancing increasing renewable energy inputs which are intrinsically variable, but the National Grid has no objections and I have no evidence that this problem is serious enough to weigh against the scheme. Other matters of concern, such as shadow flicker, radio/tv interference and air safety can be dealt with by imposing suitable conditions.

Whether the benefits outweigh the harm

65. Assuming a capacity factor of 25.2%, the development would provide electricity for about 5540 homes and could save in the region of 11700 tonnes of CO₂ per annum. At the Inquiry, much doubt was cast on the actual amount of carbon dioxide (CO₂) that would be saved, by multiplying together factors such as an underestimate of the payback time, overestimation of the life of the turbines, an overestimate of the CO₂ emissions of conventional plant displaced; and the increased CO₂ emissions emanating from the inefficient operation of plant continuously operating as backup. If all of these predictions were proved

to be correct, CO₂ emissions savings could be reduced by a factor of 0.33, to no more than 3200 tonnes per annum or even less. However, the calculations used to portray this scenario are indicative and subject to an accuracy variable of +/- 10%. Some of the factors are speculative and remain to be proven one way or another.

66. There is evidence from the Scottish Parliament's Economy, Energy and Tourism Committee⁷ which indicates that the impact of reduced thermal generation plant efficiency due to increasing intermittent wind generation on the overall carbon intensity of the electricity system is less than 1% of the benefit of carbon reductions from wind farms. What is inescapable is that the UK has a commitment to obtain 30% of electricity from renewable resources by 2020. The Government has identified onshore wind as an important part of the energy mix to reach that goal and to go beyond in further reducing fossil fuel emissions. In that light, without more persuasive evidence, I give these doubts and uncertainties very limited weight.
67. As for the total amount of onshore wind in the pipeline, a great deal of progress has been made, but the total predicted to come on stream to meet the 2020 wind energy target has not yet been reached and there is no certainty that it will. The Roadmap Update of December 2012 says that it remains true that there is an urgent need for new large scale renewable energy projects to ensure that the target is met. Whilst the potential is there to provide the appropriate quantity of onshore deployment, it cannot be assured. The Treading proposal forms part of that potential. There is no assurance that all of the renewable energy technologies will come forward in the way anticipated and the proportional split between them may change.
68. The Government is sympathetic to the concerns of communities about development in their areas and undertook a call for evidence on costs, engagement and benefits for 8 weeks between 20 September and 15 November 2012. This was referred to in evidence to the Inquiry. On 6 June 2013, the Secretaries of State for the Department for Communities and Local Government and the Department for Energy and Climate Change issued written ministerial statements, the Government's responses to the onshore wind call for evidence. In summary, measures are to be introduced to ensure that communities will have a greater say over proposed onshore wind development in their area and can gain increased benefits from hosting developments that do proceed. New and streamlined planning practice guidance will be issued to ensure that the environmental balance is correctly considered and that any adverse impact from a windfarm is addressed satisfactorily. It is also the Government's intention to ensure that communities are recognised and rewarded for their contribution to meeting the national need for secure, clean energy.
69. At the present time there is no lessening in the drive to increase onshore wind capacity. Accordingly the benefits of the proposal in terms of an increase in the supply of renewable energy and a reduction in CO₂ emissions, assisting in mitigating climate change, are very important factors in favour, coupled with benefits to the local economy in terms of employment and a degree of improvement to the landscape around Ashtree Barn. Any increased benefits as a result of re-engagement with the local community, if that was considered to be advisable, would be a factor in favour to be put in to the planning balance.

⁷ Doc 10

70. Against that, the harm to residential amenity by reason of visual dominance at a significant number of properties has to be considered, in addition to a degree of harm to the interests of horse riders using the Treading Bank bridleway, a moderate degree of harm to the setting of Guanock House and a varying adverse impact on the visual amenity of the area generally within 3km of the development.
71. For 3 of the residential properties, St Malo, The Birches and Ashtree Barn, the overwhelming visual effects would be so severe as to make these dwellings unattractive places to live, which is not in the public interest. The deterioration in the noise environment adds to the degree of harm that would be caused to the occupants' living conditions. Even if the mitigation planting that is proposed could have been assured for the lifetime of the scheme, it would not have been effective for about 10 years and then would provide only partial screening. That would be a long time in which the occupiers would suffer significant harm. I consider that this matter alone significantly outweighs the benefits of the proposal, and would not be offset by a more general package of benefits to the community that might flow from re-engagement. Should the Secretary of State disagree, then the opportunity should be provided for new negotiations on the nature and extent of those benefits. In connection with this matter, I draw the Secretary of State's attention to paragraph 1.23 of the appellant's submissions in response to the Ministerial Statement by the Secretary of State for Energy and Climate Change⁸ and subsequent email correspondence on the matter⁹.
72. Although any permission would be for 25 years after which a new planning application would have to be made, that is a long period on a human timescale amounting to one generation. It would not be right to give this factor a great deal of weight where the impact on living conditions is a main concern.
73. My recommendation is that the effect on living conditions is sufficient on its own to justify dismissing both the appeals. The effect of the development on occupiers of dwellings in Fenland would conflict with the aims of emerging policy CS14 and with the objectives of the NPPF at paragraph 17 which advises that a good standard of amenity should always be sought for existing and future occupiers of buildings. For those in South Holland, the impact would conflict with the residential amenity protection aims of policies SG1 and SG17 of the SHLP and with NPPF paragraph 17. The harm to the setting of Guanock House conflicts with the heritage protection aims of policy EN4 of the SHLP.
74. With the proviso set out at paragraph 71, assessed against the policies of the NPPF taken as a whole, the adverse impacts cannot be made acceptable and would significantly and demonstrably outweigh the benefits.
75. There is an opportunity to consider whether one or other of the appeals should be allowed but the proposal subject of appeal B cannot subsist on its own without the supporting infrastructure of the scheme subject of appeal A. The harmful impact on the occupiers of dwellings affected by turbines is more wide ranging in appeal A. I recommend that neither appeal A nor appeal B should be allowed to succeed.

⁸ Doc 49

⁹ Doc 50

76. Should the Secretary of State disagree, then it would be possible to allow Appeal A or Appeals A and B together, but not Appeal B on its own. In either case, I recommend the conditions set out in Annexes A and B to this report be attached to the respective permissions as appropriate.

Paul Jackson

INSPECTOR

Annex A

Schedule of suggested conditions to be attached to planning permission for the development subject of Appeal A.

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the application plan: -

Title	Date Stamped
Application Form	08.02.2011
Application Plan – Site Layout	08.02.2011

3. This permission shall expire not later than 25 years from the date when electricity is first exported from any of the wind turbines to the electricity distribution grid (First Export Date). Written notification of the First Export Date shall be given to the Local Planning Authority no later than 14 working days after the event.
4. Not later than 12 months before the end of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the wind turbines and associated ancillary equipment to a depth of at least 1 (one) metre below ground, and the restoration of the land to its former condition. The scheme shall include:
 - a) the management and timing of any works,;
 - b) a traffic management plan to address likely traffic issues during the decommissioning period;
 - c) an environmental management plan to include details of measures to be taken to protect wildlife and habitats;
 - d) identification of access routes;
 - e) location of material lay down areas;
 - f) restoration measures and a programme of implementation;
 - g) Details of the methods to be adopted to reduce the effects of noise occurring during the decommissioning period to the lowest practicable level and in accordance with BS5228:2009 Code of practice for noise and vibration control on construction and open sites (or any other best practice guidance which subsequently supersedes that and is prevailing at the time the site is decommissioned).

The approved scheme shall be fully carried out within 12 months of expiry of this permission.

5. If any wind turbine hereby permitted fails for a continuous period of 6 months to produce electricity for supply to the local electricity grid network, then, unless otherwise agreed in writing with the local planning authority, that wind turbine and the ancillary equipment solely relating to that wind turbine shall be removed from the site and the land shall be reinstated

within a period of 6 months from the end of the 6 month period (starting when the turbine is removed) in accordance with a scheme that shall have been submitted to and approved in writing by the local planning authority prior to the commencement of the works. The scheme shall include the matters set out in condition 4 and shall be implemented as approved.

Construction Method Statement

6. Prior to the commencement of the development hereby approved a Construction Method Statement including details of all on-site construction works, post-construction reinstatement, drainage, mitigation and other restoration, together with details of their timetabling shall be submitted to and approved by the Local Planning Authority and shall include measures to secure: -
- a) Formation of the construction compound and access tracks and any areas of hardstanding
 - b) Dust Management
 - c) Cleaning of site entrance and the adjacent public highway
 - d) Pollution Control, protection of water courses and ground water and subsoil, bunding of fuel storage areas, sewage disposal and discharge of foul drainage
 - e) Temporary Site Illumination
 - f) Details of the methods to be adopted to reduce the effects of noise occurring during the construction period to the lowest practicable level and in accordance with BS5228:2009 Code of practice for noise and vibration control on construction and open sites (or any other best practice guidance which subsequently supersedes that and is prevailing at the time the site is constructed or decommissioned).
 - g) Disposal of surplus materials
 - h) The construction of the access into the site and the creation and maintenance of associated visibility splays
 - i) The carrying out of foundation works
 - j) The method of excavating and backfilling cable trenches
 - k) The sheeting of all HGV's taking soil to/from the site to prevent spillage or deposit of any materials on the highway
 - l) Soils storage and handling
 - m) Post-construction restoration/reinstatement of the working areas including the construction compound.

The development shall not be carried out otherwise than in accordance with the approved Construction Method Statement.

Construction and Delivery Hours

7. The hours of operation during the construction phase of the development only and delivery of construction materials or equipment to the site and associated with the construction of the development hereby permitted shall be limited to 08:00 hours to 18:00 hours Monday to Friday and 08:00 hours to 13:00 on Saturday and no work shall take place on Sundays and Bank holidays. Outside these hours, except in the case of emergency, no works to implement the planning permission shall take place. The Local Planning

Authority shall be informed in writing of an emergency works within three working days of occurrence.

8. Prior to the commencement of the development hereby approved the applicant shall submit to and have approved in writing by the Local Planning Authority details of any additional hours of working (outside the hours provided for by Condition 7 above) required in connection with the erection of turbines, dust suppression, emergency work, commissioning or testing of wind turbines only. The development shall be carried out in accordance with the details so approved.
9. Notwithstanding the provision of Condition 7 (construction hours), delivery of turbine and crane components may take place outside the hours specified subject to the written approval of the Local Planning Authority, having been given not less than two working days notice of the proposed delivery. Deliveries shall take place in accordance with the written approval.

Appearance

10. All cabling between the turbines and the substation shall be laid underground in accordance with details to be submitted to and approved in writing by the Local Planning Authority, prior to the erection of any turbine.
11. Prior to the erection of any turbine, details of the finish and colour of the wind turbines and any external transformer units shall be submitted to and approved in writing by the Local Planning Authority. The agreed colour finishes of the wind turbines shall not be changed without the prior written consent of the Local Planning Authority. Only wind turbines with the approved finish and colour shall be installed upon the development site.
12. Prior to the commencement of the development hereby approved details of the precise position and external appearance (including materials) of the substation shall be submitted to and approved in writing by the Local Planning Authority and the substation will be constructed in accordance with the approved details.
13. Prior to commencement of the development a scheme for safety lighting of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The proposal shall be implemented in accordance with the approved scheme.
14. The overall height of the wind turbines shall not exceed 126 metres to the tip of the blades when the turbine is in a vertical position. The hub height of the wind turbines shall be within a range of 75 – 85 metres. The heights shall be measured from natural ground conditions immediately adjacent to the turbine base.
15. All turbine blades shall rotate in the same direction.
16. Notwithstanding any design or colour approved by the Local Planning Authority pursuant to condition 11 above all wind turbines shall be of a three bladed construction, shall be of semi-matt finish and shall not display any

name, sign, symbol or logo on any external surfaces of the turbines or any external transformer units other than those required to meet statutory health and safety requirements.

17. Prior to the commencement of the development hereby approved a planting mitigation scheme for the benefit of "Ashtree Barn", Broad Drove West, shall be submitted to and approved by the Fenland District Council Local Planning Authority. This shall follow the principles set out in the submission by E4environment Ltd (dated 7 March 2012 with reference ENG13/Planting_d1_ashtree barn), Figure AB1 and Figure AB2 on behalf of the Applicant. The scheme shall include details of species, implementation specification and on-going maintenance and management for the duration of the planning consent. The approved planting scheme shall be fully implemented prior to the erection of any turbines on site and shall be retained and maintained in accordance with the scheme thereafter for the duration of the life of the development.
19. The temporary site compound required in connection with construction and decommissioning work shall be removed from the site within 6 months of completion of the commissioning or decommissioning of the final turbine respectively.

Highways and Construction Traffic Management Plan

20. Prior to the commencement of the development hereby approved the applicant shall submit to and have approved in writing by the Local Planning Authority details of adequate temporary facilities which shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site during the period of construction. These areas shall be provided as per the agreed details.
21. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall include:
 - a) measures for the routing of construction traffic;
 - b) scheduling and timing of movements;
 - c) the management of junctions to and crossing of the public highways and public rights of way (including bridleways);
 - d) temporary warning signs;
 - e) temporary removal and replacement as required of highway infrastructure/street furniture and, as required, reinstatement of any signs, verges or other items displaced by construction traffic.

The Construction Traffic Management Plan shall be implemented as approved.

22. No development shall take place until a scheme to secure any repairs to the proposed access route required as a consequence of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include for a pre-construction condition survey of the proposed access route and a timetable for the repairs to be carried out and shall be implemented as approved.

Micro-siting

23. The wind turbines and meteorological mast hereby permitted shall be erected at the following coordinates:

T3	538636	312707
T4	539005	312869
T5	539428	313191
T6	539673	313504
Mast	539616	312841

Notwithstanding the terms of this condition, the locations of the wind turbines and other infrastructure shown on the application plan may vary by up to 10 metres, except that no turbine shall be micro-sited closer to any residential property or public rights of way.

Ecology and Wildlife

24. Prior to commencement of the development hereby approved a scheme for the proposed ecological mitigation measures contained within the submitted Environmental Statement, shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation measures shall include for water vole, badger and BOCC red and amber listed birds and shall be implemented in accordance with the approved scheme and timetable.
25. Prior to the commencement of the development hereby approved a scheme for site biodiversity enhancement to include a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include for skylark plots and a management regime for ditch cutting to improve water vole habitat and shall be implemented as approved.
26. The site and surrounding area shall be subject to a programme of post construction bird and bat monitoring in years 1, 2, 3 and 5 after the date of first export to the grid to assess whether the impacts of the development are as predicted in the Environmental Statement. The monitoring arrangements and the mitigation action to be taken in the event of unexpected mortality, including a schedule for its completion, shall be agreed in writing by the Local Planning Authority. The monitoring shall be carried out by a suitably qualified independent person and the results of surveys shall be submitted to the Local Planning Authority within 4 weeks of the anniversary of the date of first export, in each subsequent year. The programme shall be carried out as approved and any mitigation completed in accordance with the agreed schedule.

Television Interference

27. No turbine shall be erected until a scheme to secure the investigation and alleviation of any electro-magnetic interference to TV and radio reception and satellite broadband connections caused by the operation of the turbines has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for a preconstruction baseline survey and for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a dwelling (defined for the purposes of this condition as a building within Use Class C3 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission where such a complaint is notified to the developer by the Local Planning Authority within 12 months of the First Export Date. Where the impairment is determined by the qualified independent television engineer to be attributable to the wind farm, mitigation works which have been approved in writing by the Local Planning Authority shall be implemented in accordance with the approved scheme.

Air Safeguarding

28. No development shall commence unless and until an Air Traffic Control Radar Mitigation Scheme has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Ministry of Defence (MOD).

The Air Traffic Control Radar Mitigation Scheme means a detailed scheme to mitigate the adverse impacts of the Development on the air traffic control radar at RAF Coningsby and the air surveillance and control operations of the MOD associated with the air traffic control radar at RAF Coningsby. The scheme will set out the appropriate measures to be implemented to that end.

No turbines shall become operational until:

- (a) the mitigation measures which the approved scheme required to be implemented prior to the operation of the turbines have been implemented; and
- (b) any performance criteria specified in the approved scheme and which the approved scheme requires to have been satisfied have been satisfied; and
- (c) that implementation and satisfaction of the performance criteria have been approved by the Local Planning Authorities.

The applicant shall thereafter comply with all other obligations contained within the Air Traffic Control Radar Mitigation Scheme.

29. The applicant shall install MOD-accredited infra-red warning lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on all turbines. Each turbine will be erected with this lighting installed and the lighting will remain operational throughout the duration of the consent.
30. Before development commences details of the date of commencement of construction, the height above ground level and the location of the tallest structure, the maximum height reached by any construction equipment, the

latitude and longitude of each wind turbine and the anemometer mast, and details of any site lighting shall be notified to the Civil Aviation Authority and MoD. Within 28 days of the commissioning of the final wind turbine details of the completion date of construction and of any alterations to the data previously submitted shall be provided to the CAA and MoD.

Shadow flicker

31. 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 turbines shall take place in accordance with the agreed protocol and remedial measures.

Ice fall/throw

32. Development shall not be commenced until details of measures to be undertaken to prevent possible ice fall/throw from the turbines have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Noise Conditions

33. The level of noise immissions from the combined effects of the existing and proposed wind turbines (including the application of any tonal penalty) when calculated in accordance with the attached Guidance Notes, shall not exceed the values set out in the attached Table 1. Noise limits for dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in the Table 1 attached shall be those of the physically closest location listed in Table 1 unless otherwise agreed with the Local Planning Authority.
34. Within 20 working days from the receipt of a written request from the Local Planning Authority and following a complaint relating to wind turbine noise to the Local Planning Authority from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall, at the wind farm operators' expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property following the procedures described in the attached Guidance Notes.
35. The wind farm operator shall provide to the Local Planning Authority the independent consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3 months (or in accordance with a timetable to be agreed) of the date of the written request of the Local Planning Authority submitted in connection with Condition 34 above.

36. Upon notification in writing of an established breach of the noise limits in condition 33, the wind farm operator shall within 20 working days propose a scheme to the Local Planning Authority to mitigate the breach and to prevent its future occurrence. This scheme shall specify the time scales for implementation. The scheme that is approved by the Local Planning Authority shall be implemented and thereafter maintained.
37. Wind speed, wind direction and power generation data shall be continuously logged and provided to the Local Planning Authority at its request and in accordance with the attached Guidance Notes within 20 working days of such request. Such data shall be retained for a period of not less than 12 months.
38. No development shall commence until there has been submitted to the Local Planning Authority details of a nominated UK based representative for the development to act as a point of contact for local residents together with the arrangements for notifying and approving any subsequent change in the nominated representative. The nominated representative shall have responsibility for liaison with the Local Planning Authority in connection with any noise complaints made during the construction, operation and decommissioning of the wind farm.

Schedule of Noise Guidance Notes

These notes are to be read with and form part of the conditions on noise. They further explain these conditions and specify the methods to be deployed in the assessment of complaints about noise immissions from the wind farm. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

NOTE 1

- a) Values of the LA90, 10min noise statistic shall be measured at the complainant's property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This shall be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the replacement thereof). These measurements shall be made in such a way that the requirements of Note 3 shall also be satisfied.
- b) The microphone shall be mounted between 1.2 - 1.5 m above ground level, fitted with a two layer windshield (or suitable alternative approved in writing from the Local Planning Authority), and placed outside the complainant's dwelling. Measurements should be made in "free-field" conditions. To achieve this, the microphone should be placed at least 3.5m away from the building facade or any reflecting surface except the ground at a location that shall be agreed with the Local Planning Authority.
- c) The LA90, 10min measurements shall be synchronised with measurements of the 10-minute arithmetic mean average wind speed and with operational data, including power generation information for each wind turbine, from the turbine control systems of the wind farm.

- d) The wind farm operator shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods from the hub height anemometer located on the site meteorological mast unless otherwise agreed with the Local Planning Authority, to enable compliance with the conditions to be evaluated. The mean wind speed data shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10m height wind speed data which is correlated with the noise measurements of Note 2(a) in the manner described in Note 2(c).

NOTE 2

- a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the Local Planning Authority. In specifying such conditions the Local Planning Authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise. At its request the wind farm operator shall provide within 28 working days of the completion of the measurements all of the data collected under condition 34 to the local planning authority
- b) Valid data points are those that remain after all periods during rainfall have been excluded. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10minute period concurrent with the measurement periods set out in Note 1(c) and is situated in the vicinity of the sound level meter.
- c) A least squares, "best fit" curve of a maximum 2nd order polynomial or otherwise as may be agreed with the local planning authority shall be fitted between the standardised mean wind speed (as defined in Note 1 paragraph (d)) plotted against the measured LA90,10min noise levels. The noise level at each integer speed shall be derived from this best-fit curve.

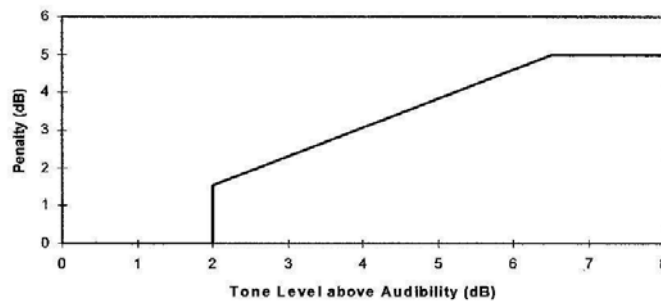
NOTE 3

Where, in the opinion of the Local Planning Authority, noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component a penalty shall be calculated and applied, to be calculated using the following rating procedure.

- a) For each 10-minute interval for which LA90,10min data have been obtained as provided for in Note 1, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10- minute period. The 2-minute periods shall be regularly spaced at 10-minute intervals provided that uninterrupted clean data are available. Where clean data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.
- b) For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, ΔL_{tm} (Delta Ltm), shall be calculated

by comparison with the audibility criterion, given in Section 2.1 on pages 104-109 of ETSU-R-97.

- c) The tone level above audibility shall be calculated for each integer wind speed bin for each of the identified tones of the same origin, by averaging the values for all the samples acquired in each bin. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- d) The tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be calculated as the arithmetic sum of the wind farm noise level, as determined from the best-fit curve described in Note 2, and the penalty for tonal noise.



NOTE 4

If the wind farm noise level (including the application of any tonal penalty as per Note 3) is above the limit set out in the conditions, measurements of the influence of background noise shall be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Note 1 & 2 with the wind farm switched off in order to determine the background noise, L3, at the assessed wind speed. The wind farm noise at this wind speed, L1, is then calculated as follows, where L2 is the measured wind farm noise level at the assessed wind speed with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

The wind farm noise level is re-calculated by adding the tonal penalty (if any) to the wind farm noise.

Table 1 – Noise Monitoring Results and Derived Noise Limits (dB LA90) of derived noise limits.

Location*	Time Period	Standardised 10m height wind speed (m/s)

		3	4	5	6	7	8	9	10	11	12
Allenby Farm 539189 314049	Daytime Limit	35	35	36	38	41	45	49	50	50	50
	Night Limit	43	43	43	43	43	43	43	50	50	50
Ashtree Farm 538741 313507	Daytime Limit	35	36	38	41	44	47	50	50	50	50
	Night Limit	43	43	43	43	43	43	45	50	50	50
Chestnut Farm 540298 313052	Daytime Limit	35	35	37	40	44	48	50	50	50	50
	Night Limit	43	43	43	43	43	43	45	50	50	50
Pecks Farm 539971 314192	Daytime Limit	35	36	37	39	41	45	49	50	50	50
	Night Limit	43	43	43	43	43	43	43	49	50	50
Two Acres 538654 311791	Daytime Limit	35	36	37	39	41	45	49	50	50	50
	Night Limit	43	43	43	43	43	43	43	49	50	50

* The grid co-ordinates are provided to aid identification and should not be taken as an exact measurement location.

After adjustment of tonal penalty and rating noise if levels fail to comply with condition 33 action shall be undertaken in line with condition 34 to 36. If the levels comply, no further action is required.

Annex B

Schedule of suggested conditions to be attached to planning permission for the development subject of Appeal B.

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the application plan: -

Title	Date Stamped
Application Form	08.02.2011
Application Plan – Site	08.02.2011

Layout

3. This permission shall expire not later than 25 years from the date when electricity is first exported from any of the wind turbines to the electricity distribution grid (First Export Date). Written notification of the First Export Date shall be given to the Local Planning Authority no later than 14 working days after the event.
4. Not later than 12 months before the end of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the wind turbines and associated ancillary equipment to a depth of at least 1 (one) metre below ground, and the restoration of the land to its former condition. The scheme shall include:
 - h) the management and timing of any works,;
 - i) a traffic management plan to address likely traffic issues during the decommissioning period;
 - j) an environmental management plan to include details of measures to be taken to protect wildlife and habitats;
 - k) identification of access routes;
 - l) location of material lay down areas;
 - m) restoration measures and a programme of implementation;
 - n) Details of the methods to be adopted to reduce the effects of noise occurring during the decommissioning period to the lowest practicable level and in accordance with BS5228:2009 Code of practice for noise and vibration control on construction and open sites (or any other best practice guidance which subsequently supersedes that and is prevailing at the time the site is decommissioned).

The approved scheme shall be fully carried out within 12 month of expiry of this permission.

5. If any wind turbine hereby permitted fails for a continuous period of 6 months to produce electricity for supply to the local electricity grid network, then, unless otherwise agreed in writing with the local planning authority, that wind turbine and the ancillary equipment solely relating to that wind turbine shall be removed from the site and the land shall be reinstated within a period of 6 months from the end of the 6 month period (starting when the turbine is removed) in accordance with a scheme that shall have been submitted to and approved in writing by the local planning authority prior to the commencement of the works. The scheme shall include the matters set out in condition 4 and shall be implemented as approved.

Construction Method Statement

6. Prior to the commencement of the development hereby approved a Construction Method Statement including details of all on-site construction works, post-construction reinstatement, drainage, mitigation and other restoration, together with details of their timetabling shall be submitted to and approved by the Local Planning Authority and shall include measures to secure: -

- a) Formation of the construction compound and access tracks and any areas of hardstanding
- b) Dust Management
- c) Cleaning of site entrance and the adjacent public highway
- d) Pollution Control, protection of water courses and ground water and subsoil, bunding of fuel storage areas, sewage disposal and discharge of foul drainage
- e) Temporary Site Illumination
- f) Details of the methods to be adopted to reduce the effects of noise occurring during the construction period to the lowest practicable level and in accordance with BS5228:2009 Code of practice for noise and vibration control on construction and open sites (or any other best practice guidance which subsequently supersedes that and is prevailing at the time the site is constructed or decommissioned).
- g) Disposal of surplus materials
- h) The construction of the access into the site and the creation and maintenance of associated visibility splays
- i) The carrying out of foundation works
- j) The method of excavating and backfilling cable trenches
- k) The sheeting of all HGV's taking soil to/from the site to prevent spillage or deposit of any materials on the highway
- l) Soils storage and handling
- m) Post-construction restoration/reinstatement of the working areas.

The development shall not be carried out otherwise than in accordance with the approved Construction Method Statement.

Construction and Delivery Hours

7. The hours of operation during the construction phase of the development only and delivery of construction materials or equipment to the site and associated with the construction of the development hereby permitted shall be limited to 08:00 hours to 18:00 hours Monday to Friday and 08:00 hours to 13:00 on Saturday and no work shall take place on Sundays and Bank holidays. Outside these hours, except in the case of emergency, no works to implement the planning permission shall take place. The Local Planning Authority shall be informed in writing of an emergency works within three working days of occurrence.
8. Prior to the commencement of the development hereby approved the applicant shall submit to and have approved in writing by the Local Planning Authority details of any additional hours of working (outside the hours provided for by Condition 7 above) required in connection with the erection of turbines, dust suppression, emergency work, commissioning or testing of wind turbines only. The development shall be carried out in accordance with the details so approved.
9. Notwithstanding the provision of Condition 7 (construction hours), delivery of turbine and crane components may take place outside the hours specified subject to the written approval of the Local Planning Authority, having been

given not less than two working days notice of the proposed delivery. Deliveries shall take place in accordance with the written approval.

Appearance

10. All cabling between the turbines and the substation shall be laid underground in accordance with details to be submitted to and approved in writing by the Local Planning Authority, prior to the erection of any turbine.
11. Prior to the erection of any turbine, details of the finish and colour of the wind turbines and any external transformer units shall be submitted to and approved in writing by the Local Planning Authority. The agreed colour finishes of the wind turbines shall not be changed without the prior written consent of the Local Planning Authority. Only wind turbines with the approved finish and colour shall be installed upon the development site.
12. Prior to commencement of the development a scheme for safety lighting of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The proposal shall be implemented in accordance with the approved scheme.
13. The overall height of the wind turbines shall not exceed 126 metres to the tip of the blades when the turbine is in a vertical position. The hub height of the wind turbines shall be within a range of 75 – 85 metres. The heights shall be measured from natural ground conditions immediately adjacent to the turbine base.
14. All turbine blades shall rotate in the same direction.
15. Notwithstanding any design or colour approved by the Local Planning Authority pursuant to condition 11 above all wind turbines shall be of a three bladed construction, shall be of semi-matt finish and shall not display any name, sign, symbol or logo on any external surfaces of the turbines or any external transformer units other than those required to meet statutory health and safety requirements.
16. Prior to the commencement of the development hereby approved a planting mitigation scheme for the benefit of "The Birches", Guanockgate, shall be submitted to and approved by the South Holland District Council Local Planning Authority. This shall follow the principles set out in the submission by E4environment Ltd (dated 7 March 2012 with reference ENG13/Planting_d1_birches), Figure B1 and Figure B2 on behalf of the Applicant. The scheme shall include details of species, implementation specification and on-going maintenance and management for the duration of the planning consent. The approved planting scheme shall be fully implemented prior to the erection of any turbines on site and shall be retained and maintained in accordance with the scheme thereafter for the duration of the life of the development.

Highways and Construction Traffic Management Plan

17. Prior to the commencement of the development hereby approved the applicant shall submit to and have approved in writing by the Local Planning Authority details of adequate temporary facilities which shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site during the period of construction. These areas shall be provided as per the agreed details.
18. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall include:
- a) measures for the routing of construction traffic;
 - b) scheduling and timing of movements;
 - c) the management of junctions to and crossing of the public highways and public rights of way (including bridleways);
 - d) temporary warning signs;
 - e) temporary removal and replacement as required of highway infrastructure/street furniture and, as required, reinstatement of any signs, verges or other items displaced by construction traffic.

The Construction Traffic Management Plan shall be implemented as approved.

19. No development shall take place until a scheme to secure any repairs to the proposed access route required as a consequence of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include for a pre-construction condition survey of the proposed access route and a timetable for the repairs to be carried out and shall be implemented as approved.

Micro-siting

20. The wind turbines hereby permitted shall be erected at the following coordinates:

T1	538133	312986
T2	538031	312502

Notwithstanding the terms of this condition, the locations of the wind turbines and other infrastructure shown on the application plan may vary by up to 10 metres, except that no turbine shall be micro-sited closer to any residential property or public rights of way.

Ecology and Wildlife

21. Prior to commencement of the development hereby approved a scheme for the proposed ecological mitigation measures contained within the submitted Environmental Statement, shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation measures shall include for water vole, badger and BOCC red and amber listed birds and

shall be implemented in accordance with the approved scheme and timetable.

22. Prior to the commencement of the development hereby approved a scheme for site biodiversity enhancement to include a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include for skylark plots and a management regime for ditch cutting to improve water vole habitat and shall be implemented as approved.
23. The site and surrounding area shall be subject to a programme of post construction bird and bat monitoring in years 1, 2, 3 and 5 after the date of first export to the grid to assess whether the impacts of the development are as predicted in the Environmental Statement. The monitoring arrangements and the mitigation action to be taken in the event of unexpected mortality, including a schedule for its completion, shall be agreed in writing by the Local Planning Authority. The monitoring shall be carried out by a suitably qualified independent person and the results of surveys shall be submitted to the Local Planning Authority within 4 weeks of the anniversary of the date of first export, in each subsequent year. The programme shall be carried out as approved and any mitigation completed in accordance with the agreed schedule.

Television Interference

24. No turbine shall be erected until a scheme to secure the investigation and alleviation of any electro-magnetic interference to TV and radio reception and satellite broadband connections caused by the operation of the turbines has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for a preconstruction baseline survey and for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a dwelling (defined for the purposes of this condition as a building within Use Class C3 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission where such a complaint is notified to the developer by the Local Planning Authority within 12 months of the First Export Date. Where the impairment is determined by the qualified independent television engineer to be attributable to the wind farm, mitigation works which have been approved in writing by the Local Planning Authority shall be implemented in accordance with the approved scheme.

Air Safeguarding

25. No development shall commence unless and until an Air Traffic Control Radar Mitigation Scheme has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Ministry of Defence (MOD).

The Air Traffic Control Radar Mitigation Scheme means a detailed scheme to mitigate the adverse impacts of the Development on the air traffic control radar at RAF Coningsby and the air surveillance and control operations of the MOD associated with the air traffic control radar at RAF Coningsby. The

scheme will set out the appropriate measures to be implemented to that end.

No turbines shall become operational until:

- (d) the mitigation measures which the approved scheme required to be implemented prior to the operation of the turbines have been implemented; and
- (e) any performance criteria specified in the approved scheme and which the approved scheme requires to have been satisfied have been satisfied; and
- (f) that implementation and satisfaction of the performance criteria have been approved by the Local Planning Authorities.

The applicant shall thereafter comply with all other obligations contained within the Air Traffic Control Radar Mitigation Scheme.

- 26. The applicant shall install MOD-accredited infra-red warning lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on all turbines. No turbine will be erected without this lighting installed and the lighting will remain operational throughout the duration of the consent.
- 27. Before development commences details of the date of commencement of construction, the height above ground level and the location of the tallest structure, the maximum height reached by any construction equipment, the latitude and longitude of each wind turbine and the anemometer mast, and details of any site lighting shall be notified to the Civil Aviation Authority and MoD. Within 28 days of the commissioning of the final wind turbine details of the completion date of construction and of any alterations to the data previously submitted shall be provided to the CAA and MoD.

Shadow flicker

- 28. 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 turbines shall take place in accordance with the agreed protocol and remedial measures.

Ice fall/throw

- 29. Development shall not be commenced until details of measures to be undertaken to prevent possible ice fall/throw from the turbines have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Noise Conditions

- 30. The level of noise immissions from the combined effects of the existing and proposed wind turbines (including the application of any tonal penalty) when

calculated in accordance with the attached Guidance Notes, shall not exceed the values set out in the attached Table 1. Noise limits for dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in the Table 1 attached shall be those of the physically closest location listed in Table 1 unless otherwise agreed with the Local Planning Authority.

31. Within 20 working days from the receipt of a written request from the Local Planning Authority and following a complaint relating to wind turbine noise to the Local Planning Authority from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall, at the wind farm operators' expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property following the procedures described in the attached Guidance Notes
32. The wind farm operator shall provide to the Local Planning Authority the independent consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3 months (or in accordance with a timetable to be agreed) of the date of the written request of the Local Planning Authority submitted in connection with Condition 31 above.
33. Upon notification in writing of an established breach of the noise limits in condition 30, the wind farm operator shall within 20 working days propose a scheme to the Local Planning Authority to mitigate the breach and to prevent its future occurrence. This scheme shall specify the time scales for implementation. The scheme that is approved by the Local Planning Authority shall be implemented and thereafter maintained.
34. Wind speed, wind direction and power generation data shall be continuously logged and provided to the Local Planning Authority at its request and in accordance with the attached Guidance Notes within 20 working days of such request. Such data shall be retained for a period of not less than 12 months.
35. No development shall commence until there has been submitted to the Local Planning Authority details of a nominated UK based representative for the development to act as a point of contact for local residents together with the arrangements for notifying and approving any subsequent change in the nominated representative. The nominated representative shall have responsibility for liaison with the Local Planning Authority in connection with any noise complaints made during the construction, operation and decommissioning of the wind farm.

Schedule of Noise Guidance Notes

These notes are to be read with and form part of the conditions on noise. They further explain these conditions and specify the methods to be deployed in the assessment of complaints about noise immissions from the wind farm. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise

from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

NOTE 1

- a) Values of the LA90, 10min noise statistic shall be measured at the complainant's property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This shall be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the replacement thereof). These measurements shall be made in such a way that the requirements of Note 3 shall also be satisfied.
- b) The microphone shall be mounted between 1.2 - 1.5 m above ground level, fitted with a two layer windshield (or suitable alternative approved in writing from the Local Planning Authority), and placed outside the complainant's dwelling. Measurements should be made in "free-field" conditions. To achieve this, the microphone should be placed at least 3.5m away from the building facade or any reflecting surface except the ground at a location that shall be agreed with the Local Planning Authority.
- c) The LA90, 10min measurements shall be synchronised with measurements of the 10-minute arithmetic mean average wind speed and with operational data, including power generation information for each wind turbine, from the turbine control systems of the wind farm.
- d) The wind farm operator shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods from the hub height anemometer located on the site meteorological mast unless otherwise agreed with the Local Planning Authority, to enable compliance with the conditions to be evaluated. The mean wind speed data shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10m height wind speed data which is correlated with the noise measurements of Note 2(a) in the manner described in Note 2(c).

NOTE 2

- a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the Local Planning Authority. In specifying such conditions the Local Planning Authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise. At its request the wind farm operator shall provide within 28 working days of the completion of the measurements all of the data collected under condition 31 to the local planning authority.
- b) Valid data points are those that remain after all periods during rainfall have been excluded. Rainfall shall be assessed by use of a rain gauge that shall

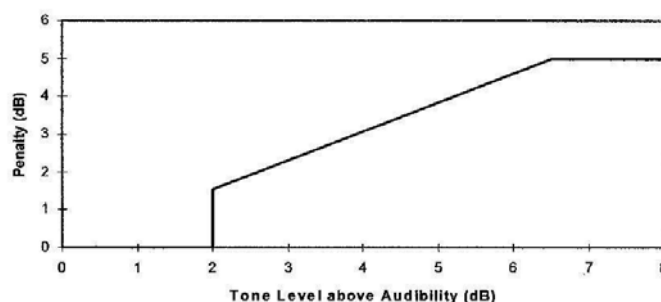
log the occurrence of rainfall in each 10minute period concurrent with the measurement periods set out in Note 1(c) and is situated in the vicinity of the sound level meter.

- c) A least squares, "best fit" curve of a maximum 2nd order polynomial or otherwise as may be agreed with the local planning authority shall be fitted between the standardised mean wind speed (as defined in Note 1 paragraph (d)) plotted against the measured LA90,10min noise levels. The noise level at each integer speed shall be derived from this best-fit curve.

NOTE 3

Where, in the opinion of the Local Planning Authority, noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component a penalty shall be calculated and applied, to be calculated using the following rating procedure.

- a) For each 10-minute interval for which LA90,10min data have been obtained as provided for in Note 1, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10- minute period. The 2-minute periods shall be regularly spaced at 10-minute intervals provided that uninterrupted clean data are available. Where clean data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.
- b) For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, ΔL_{tm} (Delta Ltm), shall be calculated by comparison with the audibility criterion, given in Section 2.1 on pages 104-109 of ETSU-R-97.
- c) The tone level above audibility shall be calculated for each integer wind speed bin for each of the identified tones of the same origin, by averaging the values for all the samples acquired in each bin. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- d) The tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be calculated as the arithmetic sum of the wind farm noise level, as determined from the best-fit curve described in Note 2, and the penalty for tonal noise.



NOTE 4

If the wind farm noise level (including the application of any tonal penalty as per Note 3) is above the limit set out in the conditions, measurements of the influence of background noise shall be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Note 1 & 2 with the wind farm switched off in order to determine the background noise, L3, at the assessed wind speed. The wind farm noise at this wind speed, L1, is then calculated as follows, where L2 is the measured wind farm noise level at the assessed wind speed with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

The wind farm noise level is re-calculated by adding the tonal penalty (if any) to the wind farm noise.

Table 1 – Noise Monitoring Results and Derived Noise Limits (dB LA90) of derived noise limits.

Location*	Time Period	Standardised 10m height wind speed (m/s)									
		3	4	5	6	7	8	9	10	11	12
Guanockgate Farm 537456 312854	Daytime Limit	35	35	37	40	43	46	50	50	50	50
	Night Limit	43	43	43	43	43	43	44	50	50	50

* The grid co-ordinates are provided to aid identification and should not be taken as an exact measurement location.

After adjustment of tonal penalty and rating noise if levels fail to comply with condition 30 action shall be undertaken in line with condition 31 to 33. If the levels comply, no further action is required.

Reasons for the suggested conditions
(Numbers in italics refer to Appeal B conditions)

- i) The works are to be carried out in accordance with the approved drawing, for the avoidance of doubt. Conditions are necessary to ensure that after 25 years the development is decommissioned, removed and the land restored. (2, 3, 4) (2, 3, 4)
- ii) In the event of a turbine not operating for a period of 12 months, then it should be removed to avoid an unnecessary impact on the landscape. (5) (5)
- iii) Conditions ensuring the implementation of a Highways and Construction Traffic Management Plan and Construction Method Statement are necessary in view of the exceptional nature of the structures proposed. The hours of working and deliveries need to be controlled to prevent undue disturbance to local residents, except for large items that may need to be delivered out of hours for practical reasons. (6, 7, 8, 9, 20, 21, 22) (6, 7, 8, 9, 17, 18, 19)
- iv) The precise siting, appearance, finish, height and rotation of the turbines are subject to control to ensure that they are visually acceptable. Lighting during the operation and construction period shall be controlled in order to avoid unnecessary artificial lighting in this rural environment. Details of the substation need to be approved and all cables should be laid underground to protect the character of the countryside. (10, 11, 12, 13, 14, 15, 16, 19) (10, 11, 12, 13, 14, 15)
- v) A scheme to ensure that TV reception is maintained is required due to the likelihood that the turbines may interfere with transmission quality. There is also a likelihood of a certain amount of shadow flicker occurring and a condition requiring investigation and alleviation of any such effect is required. (27, 31) (24, 28)
- vi) Conditions require schemes for ecological mitigation and biodiversity enhancement to be put in place in accordance with the ES, in the interests of wildlife. Post construction surveys of bat and bird mortality that might occur are needed together with any mitigation necessary. (24, 25, 26) (21, 22, 23)
- vii) A condition is suggested to require screening, though my comments on the effectiveness of such a condition at paragraphs 27, 28 and 40 of the Report need to be taken into account. (17) (16)
- viii) Illumination is necessary for aviation safety purposes. A condition is suggested to ensure that a radar mitigation scheme is in place, in consultation with the MOD. This is because of the potential impact on safe operations at RAF Coningsby. The wording of the condition is that suggested by the MOD and I concur that there is a reasonable prospect of such mitigation being available within the lifetime of the scheme. Another condition requires the relevant aviation bodies to be advised of the existence of the development. (28, 29, 30) (25, 26, 27)
- ix) Ice throw is the subject of another suggested condition, in the interests of the safety of passers-by. (32) (29)
- x) With regard to noise, conditions are imposed to ensure that the noise levels from turbines remain within defined limits having regard to existing levels of background noise, to be read with the attached Guidance Notes. (33-38) (30-35)

APPEARANCES

FOR FENLAND DISTRICT COUNCIL:

Asitha Ranatunga	Of Counsel
He called	
Jonathan Billingsley MA (Oxon) BPhil CMLI	The Landscape Partnership
Steve Arnold MA(Cantab) MA MRTPI MRICS	On behalf of Fenland District Council

FOR SOUTH HOLLAND DISTRICT COUNCIL:

Jack Smyth	Of Counsel
He called	
Jonathan Billingsley MA (Oxon) BPhil CMLI	The Landscape Partnership
Christopher Crew BA MA MRTPI	Principal Planning Officer, SHDC

FOR FenRATs:

David Cocks	Queen's Counsel
He called	
Peter Leaver BA(Hons) Dip LD CMLI	David Wilson Partnership Ltd
Stewart Squires	Historic Buildings Consultant
Robert Davis BSc (Eng) MIOA	Robert Davis & Associates
Dr Christopher Hanning BSc MRCS LRCP MB BS FRCA MD	Consultant in Sleep Disorders Medicine
Dr Phillip Bratby BSc PhD ARCS	Energy Consultant
Andrew Powers	Local resident

FOR THE APPELLANT:

Patrick Robinson	Burges Salmon LLP
He called	
Kay Hawkins BSc (Hons) BLD CMLI	E4environment Ltd
Dr Andrew McKenzie PhD BSc FIOA	Hayes McKenzie Partnership
Peter Newland BSc (CEng) BA (Oxon) MICE FRGS	Albro Planning & Environmental

INTERESTED PERSONS:

John Hayes MP	
Stephen Barclay MP	
Roger Helmer MEP	
William Webb	Councillor, Lincolnshire County Council
Nick Clarke	Leader, Cambridgeshire County Council
Steve Tierney	Chairman, Health and Wellbeing Board, Cambridgeshire County Council

Michael Seymour	Chairman, South Holland District Council
Gavin Booth	Parson Drove Parish Council
Michael Humphrey	Fenland District Councillor and Chairman, Gorefield Parish Council
Debbie Rodgers	Chairman, Sutton St Edmund Parish Council
Geoffrey Lee	Local resident
Francis Stanton	Local resident
Steffie Shields	Local resident
Rev Keith Rowbottom	Local resident
Henry Cochrane	Local resident
John Lock	Local resident
Kathleen Powers	Local resident
Jayne Salter	Local resident
Michelle Coleman	Local resident
Michael Coleman	Local resident
David Brown	Local resident
Jason Hunns	Local resident
Paul Hinks	Resident of Sutton St James
Margaret Gerrard	Local resident
Suzanne Orr	Local resident
Geoff Scaplehorn	Local resident
Maria Oddy	Local resident
Christina Ross	Local resident
Richard Horspool	Local resident
Suzanne Smith	Local resident
Michael Baker	Local resident
Steve Wing	Local resident
Sue Plaw	Local resident
Lydia Kelsey	Local resident
R Cooke	Local resident
Richard Olive	Peterborough Friends of the Earth
Georgia Francis	Local resident
Belinda Francis	Local resident
Steven Russell	Local resident
Mick Hasting	Local resident

DOCUMENTS

- 1 Revised Figure JB02A showing residential properties and rights of way including permissive access routes, submitted by Jonathan Billingsley.
- 2 High Court Decisions, East Northants DC/English Heritage/National Trust v SSCLG/Barnwell Manor Wind Energy Ltd (the Lyveden New Bield judgement) case no. CO/4231/2012; and South Northants DC/Deidre Veronica Ward v SSCLG/Broadview Energy Developments Ltd, case no. CO/8849/8922/2012.
- 3 Letter and enclosures from Jonathan Billingsley dated 7 March 2012 to FDC regarding proposed mitigation planting scheme.
- 4 Letter from Fran Iribar of E4environment dated 16 September 2011 relating to the response of Lincolnshire Gardens Trust to the proposal.
- 5 Extract from Lincolnshire Gardens Trust editorial, provided by FenRATs.
- 6 Explanation for trees not being shown on larger scale maps after 1893, provided by FenRATs.
- 7 Briefing note on Health and Safety provided by the appellant.

- 8 Osprey Consulting Services Ltd holographic radar solution, provided by the appellant.
- 9 Letter from Defence Infrastructure Organisation dated 13 February 2013, provided by the appellant.
- 10 Note on the achievability of the Scottish Government's renewable energy targets, provided by the appellant.
- 11 Kay Hawkin's evidence on Yucca House, listed Grade II, provided by the appellant.
- 12 Repower MM92 turbine data sheet, provided by the appellant.
- 13 West Dorset Wind Farm extract from Chapter 8 of the Environmental Statement 'Noise Assessment', provided by FenRATs.
- 14 RenRATs suggested alternative noise limits.
- 15 Harbourcross Wind Farm extract from Volume 2 of the Environmental Statement, provided by FDC.
- 16 Update on Steve Arnold Appendix 2 advising March 2013 onshore wind developments operational and under construction, provided by FDC.
- 17 Letter from Newton Parish Council dated 2 May 2013.
- 18 Submission from Geoffrey Lee.
- 19 Submission from Lincolnshire Gardens Trust.
- 20 Submission from Mr Lock on new bird species in locality.
- 21 Submission from Michelle Coleman.
- 22 Submission from Kevin Salter.
- 23 Extract from 'The Sun' provided by Mr Brown.
- 24 Appeal decisions APP/T5720/A/09/2099306 & 2098386 concerning the fear of an effect on health, submitted by Mr Salter.
- 25 Submission from Michael Coleman.
- 26 Submission from Henry Cochrane.
- 27 Submission from Steven Russell on ice throw.
- 28 Submission from Jayne Salter.
- 29 Note from FDC on the updating of photographs in the Fenland Local Plan reprinted in 2005.
- 30 Extract from Natural England environmental information map, provided by Richard Horspool
- 31 Extract from RE STATS Database for the UK dated March 2013, supplied by FDC.
- 32 Submission from Francis Stanton.
- 33 Statement of Common Ground on noise issues.
- 34 HM Treasury/DECC Valuation of energy use and greenhouse gas emissions, October 2012, submitted by FenRATs.
- 35 Appeal decision APP/D2510/A/12/2176754 relating to wind energy development at Carlton Grange.
- 36 Copies of letters from SA Coates, DR Coates and CS Gent & Sons relating to mitigation planting on land within their control, submitted by the appellant.
- 37 Amended Figure 10.2 rev 1 Wind Farms in the study area.
- 38 Amended Figure 1.8 rev 1 'The Birches' with transformers.
- 39 Amended Figure 1.26 rev 1 'Kenny House' with transformers.
- 40 Amended planting plans B1 rev 1 and B2 rev 1 relating to 'The Birches'.
- 41 SHDC note on revised planting plans for 'The Birches' submitted by SHDC.
- 42 FenRATs preferred noise limit table on 1 May 2013.
- 43 Copy of title deed relating to land opposite 'The Birches' submitted by SHDC.
- 44 Explanation of Conditions Noise Tables, submitted by the appellant.
- 45 Statement of Common Ground with FDC.
- 46 Statement of Common Ground with SHDC.

- 47 Inquiry Documents List at 3 May 2013.
- 48 Bundle of responses to the GPG.
- 49 Bundle of responses to the Ministerial Written Statements to Parliament about Onshore Wind.
- 50 Copy of email correspondence of 5 July 2013 between the appellant, FDC and FenRats.



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.