Department for Communities and Local Government

Andrew Batterton
Squire Sanders (UK) Llp
Trinity Court
16 John Dalton Street
Manchester
M60 8HS

Our Ref: APP/V3310/A/12/2186162

Your Ref: Black Ditch

25 February 2014

Dear Sir,

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY NEXT GENERATION LIMITED
LAND TO THE SOUTH OF POPLAR FARM, PURITON ROAD, WEST HUNTSPILL, HIGHBRIDGE, SOMERSET
(APPLICATION REF: 52/10/00018)

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, S R G Baird BA (Hons) MRTPI, who held a public local inquiry on 19 and 20 February and between 7 and 9 May 2013 into your client's appeal against the refusal of Sedgemoor District Council ("the Council") to grant planning permission for a wind energy development comprising the erection of 4 wind turbines with a maximum overall height of up to 120m together with access tracks, hard standing areas, information board, electricity sub-station, temporary construction compound and amended vehicular access (application reference 52/10/00018, dated 25 November 2010) at land to the south of Poplar Farm, Puriton Road, West Huntspill, Highbridge, Somerset.

2. On 11 October 2013 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and planning permission granted subject to conditions. For the reasons given in this letter, the Secretary of State disagrees with the Inspector's conclusions and has decided to dismiss the appeal and refuse planning

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permission. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

Procedural matters

4. 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. He agrees with the Inspector that the information contained within the ES meets the requirements of the regulations (IR2) and he is satisfied that sufficient information has been provided for him to assess the environmental impact of the proposal.

5. The Secretary of State has had regard to the Inspector's comments at IR3 regarding documents that were issued after the close of the Inquiry. He notes that the parties were afforded the opportunity to comment on the relevance of these documents with regards to the appeal and, like the Inspector (IR3), he has taken account of their responses in his determination of this case.

Matters arising after the close of the inquiry

6. Following the close of the inquiry, the Secretary of State received a representation dated 29 October 2013 from Ecotricity. He has given careful consideration to this correspondence, but is satisfied that it raises no new issues that would affect his decision. Copies of this correspondence may be obtained, on written request, from either of the addresses at the foot of the first page of this letter.

Policy Considerations

7. In deciding this appeal, 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. In this case, he agrees with the Inspector (IR5) that the development plan comprises the Sedgemoor District Core Strategy 2011 (CS) and the saved policies in the Sedgemoor District Local Plan 1991-2011 (LP). He considers that the policies most relevant to his appeal are those set out by the Inspector at IR6 to 8.

8. Other material considerations which the Secretary of State has taken into account include: the *National Planning Policy Framework* (the Framework) and the associated Technical Guidance (March 2012); *Overarching National Policy Statement for Energy (EN-1)* (NPS EN-1); *National Policy Statement for Renewable Energy Infrastructure (EN-3)* (NPS EN-3); Circular 11/95: *Use of Conditions in Planning Permission*; the documents referred to by the Inspector at IR3; and the legislation and documents referred to by the Inspector at IR13. The Secretary of State has also had regard to the fact that on 28 August 2013 Government opened a new national planning practice guidance web-based resource. However, given that the guidance has not yet been finalised, he has attributed it limited weight.

Main Considerations

9. Having taken account of the Inspector's comments at IR1, the Secretary of State agrees with the Inspector that the main issues in this case are those set out at IR4.

Landscape and Visual Impact

10. The Secretary of State has given very careful consideration to the Inspector's analysis at IR14 – 21. He has had regard to the fact that, in common with the Council, the Inspector considers that from a number of the photomontage vantage points, the significance of the landscape and visual effects of the scheme are understated. He observes that the Inspector considers that the particular viewpoints affected are VPs 1 to 6, which are within a 2km zone of the proposed site and that, in this area, the Inspector advises that the development would result in the creation of a wind farm landscape and that the impact of the development would be significant in ES terms (IR20). He notes the Inspector's opinion that the key impacts on the immediate landscape would be felt most in views obtained by drivers/pedestrians on the A38 and walkers on the permissive path along the raised banks of the Huntspill River and that, given their height, the turbines and rotating blades would have a significant impact on the immediate landscape, where they would become a major component of that landscape and have a significant public visual impact (IR20).

11. The Secretary of State has taken account of the Inspector's observation that, beyond the 2km zone, the landscape and visual impact of the turbines would decrease with distance (IR21). He has had regard to the Inspector's statement that national guidance/policy acknowledges that there will always be significant landscape and visual impacts for several kilometres around a site and that the fact that visual effects would be significant does not necessarily equate to unacceptable harm (IR21). He has also had regard to the Inspector's comments about the landscape around the site and the wider Somerset Levels including his view that although the appeal development would alter the nature of the view from certain locations, the very significant and very broad scale of the sky and The Levels landscape would allow these features to remain the dominant visual and physical characteristics of the area and that the landscape would be able to absorb the turbines without significant harm and that in long range views the turbines would appear as relatively small components of the overall view (IR22).

12. The Secretary of State has taken account of the Inspector's view that the overall landscape and visual impact of the scheme when viewed from Brent Knoll would not be significant (IR23) and that the character and settings of the Quantock Hills and Mendip Hills Areas of Outstanding Natural Beauty would not be harmed (IR24).

13. The Secretary of State has considered the Inspector's overall findings on the scheme's landscape and visual impact, including his view that, having regard to the test posed by CS Policy D4, the change which the scheme would bring about would not be significantly adverse or unacceptable. The Secretary of State does not share this view. The Secretary of State has had regard to paragraph 15 of the *Planning Practice Guidance for Renewable and Low Carbon Energy* which states that local topography is an important factor in assessing whether wind turbines

could have a damaging effect on landscape and which makes clear that the impact of wind turbines can be as great in predominantly flat landscapes as in hilly or mountainous areas. He has given careful consideration to photomontage VPs 1-6, the Inspector's comments on these at IR20-21 and paragraphs 6.43 – 6.50 of the Council's Landscape Proof of Evidence. In the view of the Secretary of State the evidence shows that the scheme would have a significantly adverse impact from those viewpoints, especially where the view is not screened, for example by trees. In view of this finding, he disagrees with the Inspector that no conflict would arise with CS Policy D4. He also concludes that conflict arises with CS Policy D14 as he considers that the scheme would have a significant adverse impact on local landscape character, scenic quality and distinctive landscape features, albeit this impact is limited to the area within about 2km of the appeal site.

14. In conclusion, the Secretary of State is satisfied that the appeal development would not have a harmful impact on the landscape when viewed from Brent Knoll and it would not harm the character and settings of the Quantock Hills and Mendip Hills Areas of Outstanding Natural Beauty. For the reasons given by the Inspector at IR22, he sees no reason to disagree with him that from the locations of VPs 10, 11, 12, 13 and 15 the scheme would be dwarfed by the landscape and that in long range views the turbines would appear as relatively small components of the overall view. However, he considers that the scheme would have a significantly adverse impact within a zone of about 2km around the appeal site and he considers that conflict would therefore arise with CS Policies D4 and D14.

Impact on Wildlife

15. The Secretary of State has given careful consideration to the Inspector's analysis of the scheme's impact on wildlife (IR27 - 37). For the reasons set out in those paragraphs, the Secretary of State sees no reason to disagree with the Inspector's conclusion that the proposed development would not have a significant adverse or unacceptable impact on the ecology of the area (IR38). He also shares the Inspector's view that there is no reason to disagree with the conclusion that, subject to the agreement and implementation of appropriate Monitoring and Mitigation Agreements, the proposed development would not have an adverse effect on the integrity of the Severn Estuary Special Protection Area, Special Area of Conservation and Ramsar site, the Bridgewater Bay Site of Special Scientific Interest or the Somerset Levels and Moors Special Protection Area and Ramsar site (IR38).

Other Considerations

16. For the reasons given by the Inspector (IR39 – 48), the Secretary of State agrees with him that the noise assessment carried out by the appellant complies with the guidance contained in ETSU-R-97 and established best practice and forms a reasonable basis for assessing the likely noise impact of the proposed turbines (IR48). He further agrees with the Inspector that the noise assessment predicts that noise immissions at each of the nearest properties would be within the noise limits derived by applying ETSU-R-97 (IR48).

17. Turning to the Inspector's analysis at IR52 – 55, the Secretary of State agrees with the Inspector that the question to answer is whether the proposal would affect the outlook of residents to such an extent that it would be so unpleasant, overwhelming or oppressive that the property would become an unacceptably unattractive place to live (IR52). Having given careful consideration to the Inspector's comments at IR53 – 55, the Secretary of State sees no reason to disagree with the Inspector's conclusion that, given the separation distances, the broad sweep of the landscape when viewed from many of the properties and the layout and spacing of the turbines, the development would not appear so unpleasant, overwhelming or oppressive as to render houses unattractive places to live (IR55).

18. The Secretary of State has had regard to the Inspector's comments on shadow flicker, electromagnetic interference, public safety, property values, tourism and alternative energy sources and energy contribution. He sees no reason to disagree with that analysis.

Conditions

19. The Secretary of State has had regard to the schedule of conditions at the end of the IR, the Inspector's comments on conditions at IR68 – 71. He is satisfied that the Inspector's proposed conditions are reasonable and necessary and would meet the tests of Circular 11/95 and paragraph 206 of the Framework. However, he does not consider that they would overcome his reasons for dismissing this appeal.

Planning Balance and Overall Conclusions

20. The Secretary of State has concluded that the appeal proposal would not have an adverse impact on wildlife and he is satisfied that it would not give rise to unacceptable impacts in terms of noise or residential amenity. He is satisfied that the scheme would not conflict with CS policies D16. However, he considers that the scheme's landscape and visual impact would be significantly adverse from viewpoints within about 2km of the appeal site. Given this finding he considers that the scheme conflicts with CS Policy D4 and D14.

21. The Secretary of State has considered whether there are material considerations which outweigh this conflict. He recognises that the scheme would contribute to targets for the production of renewable energy and that paragraphs 97 and 98 of the Framework make clear that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. He has taken account of the scheme's benefits in terms of renewable energy, including evidence Document 1 which states that the turbines proposed each have a maximum generating capacity of 2.3MW and that the total installed capacity of the proposal would be 9.2MW. The Secretary of State considers that the proposal offers a considerable benefit in terms of addressing the need for renewable energy and in helping to meet relevant targets for such energy. However, he does not consider that the conflicts he has identified and the harm that this scheme would cause to the landscape and visual impact are outweighed by the scheme's benefits.

Formal Decision

22. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for a wind energy development comprising the erection of 4 wind turbines with a maximum overall height of up to 120m together with access tracks, hard standing areas, information board, electricity sub-station, temporary construction compound and amended vehicular access in accordance with application number 52/10/00018, dated 25 November 2010.

Right to challenge the decision

23. 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.

24. A copy of this letter has been sent to the Council and to the West Huntspill Wind Farm Action Group. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Christine Symes

Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by S R G Baird BA(Hons) MRTPI

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

Date: 5 November 2013

Town and Country Planning Act 1990

Sedgemoor District Council

Appeal by

Next Generation Limited

Inquiry held on 19 & 20 February and 7-9 May 2013

Land to the south of Poplar Farm, Puriton Road, West Huntspill, Highbridge

File Ref: APP/V3310/A/12/2186162

Appeal Ref: APP/V3310/A/12/2186162
Land to the South of Poplar Farm, Puriton Road, West Huntspill, Highbridge, Somerset

- 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 Next Generation Limited against the decision of Sedgemoor District Council.
- The application Ref 52/10/00018, dated 25 November 2010, was refused by notice dated 25 April 2012.
- The development proposed is a wind energy development comprising the erection of 4 wind turbines with a maximum overall height of up to 120m together with access tracks, hard-standing areas, information board, electricity sub-station, temporary construction compound and amended vehicular access.
- The appeal was recovered on 11 October 2013 for the reason that it involves a renewable energy development.

Summary of recommendation: That the appeal is allowed.

Preliminary Matters

1. The local planning authority (lpa) refused planning permission for 3 reasons; landscape and visual impact; cumulative landscape and visual impact and the impact on protected species. The cumulative impact referred to in the second reason for refusal (RfR) related to a proposed wind farm at Withy Farm for which planning permission had been refused but where no appeal had been lodged. Accordingly, the lpa indicated that the second RfR was no longer relevant. The lpa acknowledged that in the absence of an objection from Natural England (NE) and the Royal Society for the Protection of Birds (RSPB), the concerns expressed in the third RfR could be mitigated by planning conditions.

2. I have had regard to the Environmental Statement (ES) submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (EIA). The information contained within the ES meets the requirements of the regulations. The ES contains 20 photomontages (PM) based on photographs taken from agreed viewpoints (VP) within the wider area. I am satisfied that these PMs are adequate in terms of their accuracy and quality and that they form a reasonable basis for judging the visual impacts of the proposed turbines.

3. On 1 May 2013, the Institute of Acoustics (IoA) published *A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise*. On 6 June 2013, the Secretaries of State for Communities and Local Government and Energy and Climate Change issued written Ministerial statements on, *Local Planning and Onshore Wind* and *Onshore Wind*. I also have had regard to, and have taken full account of *Planning Practice Guidance for Renewable and Low Carbon Energy* issued by the Department for Communities and Local Government (DCLG) in July 2013. The parties were asked to comment on the relevance of the above documents to this proposal and I have taken the statements/guidance and responses into account. In the response on the Ministerial statement, the lpa referred to a wind farm proposal

at Pilrow[1] on which an appeal has been submitted. This is not a matter which the lpa pursued at the Inquiry and the appellant's evidence on cumulative impact was not challenged.

Main Issues

4. The effect on: (1) landscape character and public visual impact and (2) wildlife interests of local national and international importance.

Development Plan Policy, National Planning Policy and Other Guidance

5. On the 24 April 2013, an Order to Revoke the Regional Strategy for the South West (RSS) was laid before Parliament. This Order, which came into force on the 20 May 2013, also revokes all directions under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004 preserving policies contained in Structure Plans in the area[2]. With the revocation of the RSS and Structure Plan, the development plan for the area comprises the Sedgemoor District Core Strategy 2011 (CS) and saved policies in the Sedgemoor District Local Plan 1991-2011 (LP).

6. No LP plan policies were identified as relevant. CS Policy D4 says that a renewable energy generation proposal will be supported provided it would not have a significant adverse impact on, amongst other things, landscape character, visual amenity, biodiversity, local residents and other users of the area. On biodiversity, the policy indicates that wind turbine proposals in the vicinity of designated sites of international importance for nature conservation or within areas between designated sites will need to be the subject of a rigorous assessment in respect of the potential impact on bird species.

7. The supporting text to Policy D4 refers to a study, *PPS1 Supplement Study: Planning and Climate Change October 2010* (the Study), produced by Arup to provide an evidence base on renewables to inform energy policies, plan preparation and development control across the district. With the qualification that a landscape and visual assessment of sites had not been carried out, the Study indentified 5 potential areas for wind energy schemes. These 5 areas included land near Huntspill and referred to the appellant's scheme. The CS states that: *"…this potential is largely for stand-alone wind projects, which, although not extensive, may be of significance regionally. It will be important to utilise this capacity, estimated to be approximately 28MW, in order to contribute to regional and national renewable energy targets.*"

8. In areas outside the Mendip Hills and Quantock Hills Areas of Outstanding Natural Beauty (AONB), CS Policy D14 seeks to ensure that wherever possible proposals enhance landscape quality or that there is no significant adverse impact on local landscape character, scenic quality and distinctive landscape features as identified in the *Sedgemoor Landscape Assessment and Countryside Design Summary*. On biodiversity, all proposals should contribute to enhancing and maintaining biodiversity having regard to, amongst other things, the impact on protected species and international and national sites of

[1] APP/V3310/A/132197449
[2] With the exception of Policy 6 of the Somerset & Exmoor National Park Joint Structure Plan Review 1991-2011, which is not relevant in this case.

conservation importance. CS Policy D16 says that proposals that would, amongst other things, result in levels of noise or vibration harmful to other land uses and human health will not be supported.

9. National planning policy is set out in the *National Planning Policy Framework* (the Framework). At the heart of the Framework is a presumption in favour of sustainable development. A core principle of the Framework is that in a changing climate planning should support the transition to a low carbon future and encourage the use of renewable resources. Paragraph 93 provides for planning to play a key role in helping to shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the effects of climate change, and supporting the delivery of renewable energy and associated infrastructure. This is central to the 3 dimensions of sustainable development. Paragraph 98 recognises that small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The Framework's core principles recognise the intrinsic character and beauty of the countryside and that development should contribute to conserving and enhancing the natural environment.

10. To be read alongside the Framework, the Government has published *Planning Practice Guidance for Renewable and Low Carbon Energy*, which cancels the Companion Guide to the former PPS22. The Practice Guidance reiterates the importance of renewable energy to the economy, reducing greenhouse gases and tackling climate change. Whilst all communities have a responsibility to help increase the use and supply of green energy, the guidance indicates that need does not automatically override environmental protections; local topography is an important factor, recognising that the impact can be as great in predominantly flat landscape as in hilly areas; that proposals close to AONBs where there could be an adverse effect will need careful consideration and that protecting local amenity is an important consideration. Specifically relating to wind turbines, the Practice Guidance confirms that ETSU-R-97 should be used to assess and rate noise and says that the May 2013 IoA Good Practice Guide represents current industry good practice. Reference is also made to public safety, ecology, shadow flicker, energy output and landscape and visual impacts.

11. National Policy Statements (NPS) also form part of national planning policy. Although NPSs were issued to assist in the assessment of nationally significant infrastructure projects, it was recognised that they could be a material consideration in determining planning applications. NPS EN-1 highlights that to meet emissions targets, the consumption of electricity will need to be almost exclusively from low carbon sources. The implication is that, in the short-term, much of the new capacity would need to come from on and off-shore wind generated electricity. To meet the 2020 target for energy from renewable sources, EN-1 highlights an urgent need to bring forward new renewable electricity generating projects as soon as possible. Whilst off-shore wind is expected to provide the largest single contribution to the 2020 target, on-shore wind is highlighted as the most well established, and currently the most economically viable, source of renewable energy available for future large-scale deployment.

12. NPSs EN-1 and EN-3 reiterate the important role of on-shore wind and deal with issues including landscape, visual impact, noise and ecology recognising

that there will always be significant landscape and visual impacts for several kilometres around a site. Paragraphs 5.9.12 and 5.9.13 of NPS EN-1 refer to developments outside nationally designated areas, eg AONBs, and whilst development should avoid compromising the purposes of designation, the fact that a project would be visible from within a designated area should not in itself be a reason for refusing consent.

13. The Climate Change Act 2008 sets a binding target to reduce greenhouse gas emissions by at least 80% by 2050 and reductions in CO_2 emissions of some 26% by 2020 against a 1990 base. EU Directive 2009/28/EC set the UK a target to produce 15% of all energy from renewable sources by 2020. These targets, when taken together with the pathway identified in the Renewable Energy Strategy (RES), indicate that by 2020 the proportion of electricity consumed from renewable sources will need to be in some 30%. The UK Renewable Energy Roadmap of July 2011 and the December 2012 Update show where we are now; provides an analysis of how deployment may evolve by 2020, and the actions required to achieve the deployment levels anticipated. The Update reiterates the Government's commitment to onshore wind as part of a diverse energy mix contributing to our security of supply and carbon reduction targets. The assessment indicates that between 2012 and 2020 renewable energy generation will need to quadruple, indicating that it will remain of great importance in meeting our binding renewable commitments. Whilst the Road Map concludes that the UK is on track to meet its commitments and the pipeline of renewable electricity projects is healthy, it highlights that significant uncertainties remain and new, large scale renewable projects need to come forward.

Reasons

Issue 1 - Landscape and Visual Impact

14. The site is located within National Character Area[3] (NCA) 142, Somerset Levels and Moors, an extensive area of low-lying land contained to the north and north-east by the Mendips (325m AOD[4]), to the south-east by the Polden Hills (100m AOD) and to the south and south-west by the Quantock Hills (100m AOD). To the north, at some 137m AOD, and rising dramatically above The Levels is Brent Knoll, an isolated hill. To the south there a smaller isolated knoll centred on Pawlett (33m AOD). Key characteristics of this NCA include, a flat open landscape of wet pasture, arable and wetland divided by ditches, raised rivers/levees with main roads and causeways flanked by houses and dramatic and prominent hills.

15. The *Sedgemoor Landscape Assessment and Countryside Design Summary* contains a more detailed assessment of the District's landscape. The site is located within The Levels and Moors Landscape Character Area (LCA), which is subdivided into The Levels to the west and The Moors to the east. The site is within The Levels sub-area, characterised by flat low-lying fields defined by ditches which generally have a sinuous alignment resulting in an irregular field

[3] Natural England.
[4] Above Ordnance Datum. The various parties quoted marginally different heights for the various features and in
all cases I have taken the highest figure.

pattern. Boundaries are marked by hedgerows and trees. The extent of views is dependent on the nature of hedgerow and tree cover.

16. The Levels have had a long history of settlement and human intervention. To the west of the site is the A38 linking Burnham-on-Sea/Highbridge to the north-west via the settlements of Huntspill and Pawlett to Bridgewater in the south. Immediately to the north of the site is the canalised Huntspill River, to the west and running north to south across the levels are the Taunton to Bristol mainline railway and the M5, and to the south is the extensive Walpole land fill site. Further to the south and east are the former Royal Ordnance factory at Puriton and lines of substantial overhead power lines and pylons. Notwithstanding these man-made influences, The Levels are described as retaining a sense of quiet, unspoilt, rural charm and forming an important component of a distinctive Somerset Landscape.

17. The appellant's assessment of the landscape and visual impact of the proposal is based on applying, amongst other things, the Guidelines for Landscape and Visual Impact Assessment Second Edition (GLVIA). However, whilst applying the GLVIA, the appellant, has identified a Hybrid Character Zone covering an area of approximately 2km around the turbines assessing this to have a local landscape sensitivity of Medium to Low resulting in a Medium to High capacity to accept a medium scale wind energy development. The Levels outside this Hybrid Character Zone is judged to have a Medium landscape sensitivity and a Medium capacity to accept a medium scale wind energy development. The assessment of a Medium to Low sensitivity is carried forward into the assessment of landscape and visual effects in the ES and impacts in conclusions regarding significance.

18. The identification of a Hybrid Character Area and the conclusion that landscape sensitivity is reduced and thereby the capacity for a wind energy development is increased is based on the accumulation of the developed features in this part of The Levels. In principle, I agree that the sensitivity of the landscape and its capacity to accept wind energy development can be affected by particular local features and as such the development of a Hybrid Character Zone is not, on its own, an inappropriate extension of the GLVIA approach.

19. Looking solely at a plan of the area and the juxtaposition of the various features referred to, I can see some force to the argument relating to the existence of a Hybrid Character Zone. However, that impression is not achieved on the ground, which is where the vast majority of observers form their impressions and judgements of the landscape. Of all the developed features referred to, only the pylons/electricity cables and a brief glimpse of urban development at Highbridge from the M5 are visible to the majority of observers in and passing through the area. The remaining features are either well screened and are unobtrusive or consist of features that are not unexpected in a rural area such that they have no effect on the sensitivity or capacity of this landscape to accept a wind energy development. Indeed, the only views from where all these features are seen as a group are from the top of Brent Knoll (VP14) and to a significantly lesser extent from the Mendips (VP17) and Quantocks (VP18).

20. In light of the above, I agree with the lpa that, from a number of the PM vantage points, the significance of the landscape and visual effects of the

scheme are understated. The particular viewpoints affected are VPs 1 to 6, which are within a 2km zone of the proposed site. In this area, I consider the development would result in the creation of a wind farm landscape and the impact of the development would be significant in ES terms. The key impacts on the immediate landscape would be felt most in views obtained by drivers/pedestrians on the A38 and walkers on the permissive path along the raised banks of the Huntspill River. Thus, given their height, the turbines and the rotating blades would have a significant impact on the immediate landscape, where they would become a major component of that landscape and have a significant public visual impact.

21. Notwithstanding the above conclusion, I consider the VPs referred to, particular the views from the A38 (VP4) and from the Huntspill River show a worst case scenario. Indeed, within this 2km zone, there are many areas where, given the presence of buildings and/or mature planting, there would be no views or only very limited views of some of the turbines. This reinforces the point made in the lpa's own assessment of The Levels sub-area in the *Sedgemoor Landscape Assessment and Countryside Design Summary*. Beyond this 2km zone, the landscape and visual impact of the turbines would decrease with distance. National guidance/policy acknowledges that there will always be significant landscape and visual impacts for several kilometres around a site. Thus, the fact that the visual effects would be significant does not necessarily equate to unacceptable harm.

22. The landscape around the site and the wider Somerset Levels does not have any particular designation. The character of the landscape is that of an extensive flat landscape with an open character and an extensive skyscape with long distance views to a wide horizon. Typical examples of these views are obtained from VP7 - Hillside Puriton; VP10 – Fenning Island, Steart; VP11 – Bitham Lane/Crancombe Lane, Woolavington; VP12 - Combwich; VP13 - Wembdon, Bridgewater. Notwithstanding the clear affection and passion expressed by the residents, these features all add up to a landscape that lacks complexity. From all of these locations, it struck me very forcibly, that, although the nature of the view would be altered the very significant and very broad scale of the sky and The Levels landscape would allow these features to remain the dominant visual and physical characteristics of this area. In this context and bearing in mind the reference in the Practice Guidance that, "*local topography is an important factor recognising that the impact can be as great in predominantly flat landscape as in hilly areas*", I consider the landscape would be able to absorb the albeit substantial, but very slender, scale of these turbines without significant harm. In my experience, wind farms have been successfully absorbed into areas with extensive flat landscapes and substantial skies. The ability of the landscape to accommodate this scheme without unacceptable landscape and public visual impacts is shown by the photomontages looking from VPs 10, 11, 12, 13, 15 and 19. These photomontages and my assessment from viewing the area from these locations suggest that despite the height and spread of the turbines, they would be dwarfed by the landscape and in long range views they would appear as relatively small components of the overall view.

23. Brent Knoll, located to the north of the site, rising some 137m above The Levels is a significant landscape feature and a prominent focal point. My visits here confirmed that, whilst it is not a walk for the faint hearted, it is a popular

attraction for walkers and extensive 360° views across The Levels are obtained (VP14). In coming to my conclusion on the landscape and public visual impact of the scheme, I had in mind the comments of my colleague in his decision on the proposed Inner Farm, Edithmead Wind Farm[5]. In terms of the impact of the proposed scheme on Brent Knoll and the appreciation of the landscape, the key difference between my conclusion and that of my colleague is separation. In the Inner Farm scheme the nearest of the 5 proposed turbines was some 1.4km whereas in the appeal scheme the separation to the nearest turbine would some 7km. In this context, when viewed particularly from the Mendips (VP17) the scheme would not have the same impact on the attractiveness or landscape setting of Brent Knoll as would the Inner Farm scheme. Whilst some views from the top of Brent Knoll would be altered, the very significant and very broad scale of the sky and The Levels landscape would allow theses features to remain the dominant visual and physical characteristics in any view. In this context the overall landscape and visual impact of the scheme when viewed from Brent Knoll would not be significant.

24. The Somerset Levels are contained by the Quantock Hills and Mendip Hills AONBs with the site located almost equidistant between them at some 12 to 13km respectively. Both AONBs identify that, views to and from the hills form part of the landscape value of these areas. The photographs taken on the Mendips and Quantocks (VPs 16, 17, 18 & 20) show the degree of containment and intervisibility. I visited vantage points on high ground in both AONBs and came to the conclusion that, given the substantial degree of separation and the extensive flat landscape with an open character and the extensive skyscape that the development of 4 turbines at the appeal site would not unacceptably affect intervisibility between them. As with my colleague in the Inner Farm decision, where the separation to the Mendips AONB was only some 7km, I consider given the separation to the appeal scheme at some 12 to 13km is such that the character and settings of the AONBs would not be harmed.

25. Bringing all these matters together, national guidance/policy acknowledges that there will always be significant landscape and visual impacts for several kilometres around a site. Thus, whilst I consider that within a zone approximately 2km around the site there would be significant landscape and visual impact, having regard to the test posed by CS Policy D4, that change would not be significantly adverse or unacceptable. Overall the substantial and broad scale of the sky and The Levels landscape would allow these defining features to remain the dominant visual and physical characteristics and enable the landscape it to absorb the substantial, but very slender, scale of these turbines.

Issue 2 - Impact on Wildlife

26. No local, national or international ecological designations apply to the appeal site. Some 2km to the west is the Severn Estuary Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar site and the Bridgewater Bay Site of Special Scientific Interest (SSSI). The SAC is designated because of its estuary mudflats and sand flats. The SPA/Ramsar

[5] APP/V3310/A/06/2031158.

site is designated for substantial presence of wintering wildfowl including internationally important numbers of Geese, Dunlins Shelduck and Redshank. The SSSI comprises a variety of habitats including intertidal mud flats, salt marsh, shingle beach and grazing marsh. This area supports internationally and nationally important numbers of over-wintering and passage migrant waders and waterfowl. In addition, a substantial and long-term project is being carried out on the Steart Peninsula to create a new inter-tidal area and to extend the habitat available for wildfowl and waders. Some 7km to the east is the Somerset Levels and Moors SPA/Ramsar site designated because of its large numbers of passage/wintering waterfowl including Swans, Teal, Golden Plover and Lapwing. The Huntspill River is a National Nature Reserve managed by the Environment Agency. The river is used by otters where artificial homes have been constructed and bat and owl nesting boxes have been erected along the riverbanks.

27. Given the location of the appeal site and the separation distances, the scheme would have no direct impacts on the designated areas. Following initial objections from NE, the RSPB and Somerset Wildlife Trust (SWT), and as the site is located within a broad flight corridor for birds moving between the designated sites, the County Ecologist carried out a Habitats Regulation Assessment (HRA) to assess the impact of the scheme on the integrity of the designated sites. The HRA concluded that there would be impacts of low significance on bird features which could be adequately mitigated by post-construction monitoring and mitigation.

28. The appellant's position is that there is no substantial evidence that the site is situated within a flight path and that surveys carried out for the ES confirm that the scheme would not present a significant risk to protected species or have a significant impact on the designated sites. Notwithstanding this position, the appellant has agreed an Ornithological Monitoring and Mitigation Agreement (OMMA) with NE and the RSPB. The proposed OMMA provides for the setting up of an Advisory Group and Steering Group to oversee the implementation of the OMMA; an agreed protocol should predetermined water bird mortality thresholds be reached, which would involve the shutdown of a turbine or turbines at appropriate times, the post-construction monitoring of water bird movements coupled with carcass searches within and adjacent to the site during seasons of peak movement. Monitoring would be undertaken annually for the first 5 years and the need for further monitoring thereafter would be reviewed and determined by the Advisory Group and Steering Group. In light of this NE, the RSPB and the SWT withdrew their objections to the scheme.

29. In relation to the potential impact on ornithological interests, HWFAG did not produce survey evidence to contradict that provided by the appellant to underpin the conclusions in the ES or in response to the initial concerns of NE and the RSPB. What HFWAG has done is raise concerns regarding inadequacy of the data on which the appellant and those conducting the HRA conclusion reached their conclusions and the robustness of the OMMA.

30. NE's role is to ensure that England's natural environment is conserved, enhanced and managed and the overarching objective of the RSPB is spelt out

in its name. Both organisations have considerable expertise in their respective areas of interest and NE commissioned FERA[6] to carry out a radar study of bird movements in the vicinity of the designated areas and the nature of movement between them. Thus, had there been material contradictions or inadequacies in the appellant's evidence base, NE would have been aware of it. Moreover, if either of these organisations had any doubt that the information on which the assessments were being made was inadequate to enable a HRA to be carried out or that the conclusions reached by the County Ecologist and/or the appellant were questionable, they could have maintained their objections to the scheme.

31. On the evidence before me, I have no reason to conclude that the appellant's baseline survey work was not conducted in accordance with best practice by adequately qualified/experienced surveyors. Both NE and the RSPB had the baseline data provided with the ES and subsequently requested additional information that was provided in the form of nocturnal vantage point surveys and supplemented by a radar study. Whilst in any survey work, there is always more that could be done, none of the issues raised by HFWAG in relation to, amongst other things, the extent of the surveys, weather conditions when the surveys were undertaken, the basis of population estimates to determine the level of risk are so fundamental that individually or cumulatively they suggest that the level of work undertaken by the appellant or the basis on which the HRA was undertaken was inadequate.

32. In terms of migratory birds, although the site is between designated sites, the surveys do not suggest that it is within a concentrated corridor for migration as opposed to being part of a broad front that is over-flown or that it contains important habitat features that would suggest or lead to significant concentrations of these birds using the site and consequently unacceptable levels of collision risks. In this context, the work to increase the extent of the habitat at Steart, which would, in any event, take some time to become available for wildfowl would not materially increase the level of collision risk.

33. HFWAG drew particular attention to the potential for the scheme to have an unacceptable impact on rare breeding birds, in particular the Great White Egret and the Common Crane. I was shown a site near Huntspill where Egrets were present and on my visit to Steart, I was able to observe at close quarters this bird. Given the high quality of the habitat to the west of the appeal site at Steart and Bridgewater Bay and the substantially lower quality of and by no means unique habitat, of the appeal site, the evidence before me, does not suggest that the scheme would represent an unacceptable risk to this particular species. Regarding the Common Crane, there is an ongoing project to re-introduce this species to the Somerset Levels. Whilst to date there is some limited evidence that large arrays of turbines might pose a barrier to flight, there little to suggest significant risk of fatality. Moreover, given the RSPB is a partner in this project, had it thought there to be a significant risk to the integrity of this project and the reintroduction of this bird, it could have maintained a specific objection to the scheme.

[6] The Food and Environment Research Agency

34. In terms of the impact of the proposals on breeding birds, again the survey evidence indicates very low proportions of these birds visit the site and that the potential for disturbance, loss of habitat and unacceptable collision risk is low. Moreover, the potential for disturbance/loss of habitat could be mitigated by planning conditions limiting on-site activity during the breeding season. Concern was expressed about the potential adverse impact of the development on Barn Owls and other birds of prey. Whilst I am aware of and HFWAG submitted to the Inquiry details of, a report of a Barn Owl fatally colliding with a turbine in North Cumbria, I am not aware of a change in the general position of the Barn Owl Trust. This is that Barn Owls fly well below blade-height and wind farms generally do not pose a significant risk to them. Whilst there are Barn Owl nest boxes along the Huntspill River and there was some evidence of them being used early in the life of this scheme, the evidence of continued use and of significant use of the site by Barn Owls is limited; thus the risk of harm is low. In relation to other birds of prey, the evidence points to such low numbers either using the site or overflying it that the risk of collision would be low.

35. As to bats, I have no reason to dispute the appellant's submission that the nature of the site, which is used for intensively managed arable crops and improved grass leys, provides a poor habitat for bat foraging. As with the ornithological surveys, I have no reason to conclude that the bat surveys were not carried out in accordance with best practice at the time or to dispute the findings that there is a low level of bat activity on and over the site. The surveys identified low numbers of a variety of bat species, including Noctule bats, listed by NE as uncommon and subject to a high collision risk from turbines, using the site. However, the number of Noctules recorded was so few that, on balance, the risk of collision would be minimal. Moreover, since the surveys were undertaken, it is now known that there is a large and mature maternity roost for Noctule bats in the churchyard at West Huntspill some 1km north-west of the site. In this context, the low level of Noctule activity on the site indicates strong evidence that the site is not a favoured foraging area or commuting route for bats.

36. The appellant suggested the imposition of a planning condition providing for a Bat Monitoring and Mitigation Agreement (BMMA). The BMMA is designed to ensure that local populations of bats, especially Noctule Bats, are not adversely affected by the turbines. The Agreement would provide for surveys to establish and monitor the nature and size of the local bat population, assess whether and to what extent bat mortality occurs and provide if necessary mitigation involving increases in the cut-in wind speed thresholds for the turbines. The BMMA would provide for the setting-up of an Advisory Group to include NE, the lpa and an independent expert to monitor the implementation of the BMMA. In this context and given the evidence regarding the use of the site by bats, there is no reason to refuse permission because of an adverse impact on bats.

37. The ES identified that water voles are present on the site and in recognition of this the appellant has developed a Water Vole Mitigation Plan. This would provide for the enhancement of watercourses to improve the habitat for Water Voles.

38. Drawing all these matters together, I conclude that the proposed development would not have a significant adverse or unacceptable impact on the ecology of the area. Moreover, having regard to all the evidence, I have no reason to disagree with the conclusion of the lpa when it carried out the HRA that, subject to the agreement and implementation of appropriate MMAs, the proposed development would not have an adverse effect on the integrity of the Severn Estuary Special Protection Area, Special Area of Conservation and Ramsar site; the Bridgewater Bay Site of Special Scientific Interest and the Somerset Levels and Moors Special Protection Area and Ramsar site.

Other Considerations

Noise

39. Following an assessment of the appellant's noise study by independent consultants, the lpa acknowledged that, subject to the imposition of appropriate conditions, the proposal would accord with CS Policies D4 and D16 in respect of noise pollution and protecting residents' living conditions. Moreover, the Statement of Common Ground records that the lpa agrees that, subject to appropriate conditions, the impact of noise during construction, operation and decommissioning does not represent an obstacle to the grant of planning permission. At the Inquiry, other than participating in discussions on planning conditions, the lpa did not submit noise evidence.

40. The Framework[7] says that the decision maker should aim to avoid noise resulting from new development giving rise to significant adverse impacts on health and quality of life and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, through, amongst other things, the use of planning conditions. The above aims do not mean that a wind turbine should be inaudible or, as reiterated in the most recent Practice Guidance, that there should be a minimum separation distance to any dwelling. Rather, turbines should be located and designed so that increases in ambient noise levels around noise sensitive developments are kept to acceptable levels in relation to existing background noise levels. The basis on which noise forms part of the assessment of a wind farm is set out at pages 74 and 75 of NPS EN3, which also refers back to guidance in NPS EN1.

41. NPS EN3 says that, taking account of the latest industry good practice, ETSU-R-97 "*The Assessment and Rating of Noise from Wind Farms"* to assess and rate the noise from wind energy developments should be used. Paragraph 30 of the recent Practice Guidance confirms that ETSU-R-97 should be used and refers to IoA good practice guidance. The May 2013 IoA guidance sets out current good practice in the application of ETSU-R-97 and has been endorsed by the Department for Energy and Climate Change as a supplement to ETSU-R-97. NPS EN3 reiterates that the Government is satisfied on the balance of subsequent scientific research that the key conclusions of ETSU-R-97 and the limits it recommends remain a sound basis for planning decisions.

42. Given that it requires the limited input of data, I understand the attraction to residents of using the on-line Wind Turbine Noise Model available via the National Physics Laboratory (NPL) website. However, that attraction is its

[7] Paragraph 123.

main flaw and indeed the NPL sets out some significant qualifications regarding the model i.e. it does not take account of, amongst other things, wind speed or direction effects. Indeed, the NPL model suggests that ETSU is a more sophisticated modelling tool. In these circumstances and given the clear and unequivocal steer by national guidance regarding the use of ETSU-R-97 an assessment of the merits of this scheme based on the NPL model is inappropriate.

43. ETSU attempts to strike a balance between the environmental benefits of wind energy development and the potential for environmental damage through noise pollution. ETSU-R-97 describes a framework for measuring wind farm noise and gives indicative levels calculated to offer a reasonable degree of protection for neighbours without placing an unreasonable restriction on wind farm developments. ETSU-R-97 indicates that in the majority of cases noise limits set relative to the existing background noise at the nearest noise-sensitive properties is the most appropriate approach.

44. Separate noise limits should apply for day time (07:00 to 23:00 hours) and for night-time (23:00 to 07:00 hours) because during the night the protection of external amenity becomes less important and the emphasis is on preventing sleep disturbance. Noise from a wind farm should be limited to 5 dB(A) above background for both the day and the night-time periods and the $L_{A90,10min}$ descriptor should be used for background noise and wind farm noise and when setting noise limits. A fixed limit of 43 dB(A) is recommended for night-time and both the day-time and night-time lower fixed limits can be increased to 45 dB(A) to increase the permissible margin above background where an occupier of a property has some financial interest in the wind farm.

45. ETSU-R-97 sets a framework; it does not prescribe a particular noise assessment model. That is left to the acousticians carrying out the study which, as a predictive exercise, involves by definition the selection of input variables. The lpa's independent assessment of the scheme does not take issue with the model and variables used in the ES noise assessment.

46. Although the noise assessment predated the most recent practice guidance, the noise propagation model used is based on ISO 9613-2[8], an International Standard, which builds into its operation many of the concerns raised by interested persons, and is the model referred to in the IoA Good Practice Guide. Moreover, I am aware that independent reviews indicate that, subject to the appropriate use of parameters, ISO 9613-2 adequately models the typical worst case scenario for noise from wind farms. Whilst these parameters, which include sound-power levels, ground type and topography, are selected by the assessor they are guided by best practice[9]. With regard to sound power levels, which is the starting point for the calculation of wind farm immissions, the noise assessment uses manufacturers' warranted sound power levels that are certificated in accordance with standardised international test procedures. In this case, the warranted sound levels used also include a margin for uncertainty and wind shear based on current best practice. This, in

[8] Acoustics – Attenuation of Sound during Propagation Outdoors
[9] Prediction and Assessment of Wind Turbine Noise – Institute of Acoustics (IOA) Bulletin, March-April 2009

my view, provides for a robust assessment. Therefore, I consider it is unnecessary to include the dB(A) uplifts suggested by residents so as to provide for a margin of error.

47. A key criticism of the appellant's model is the choice of the ground attenuation factor. Here, it is suggested that because the Somerset Levels are regularly waterlogged and in winter prone to freezing that a "hard" ground condition parameter should have been used. As I understand it, recent published research[10] indicates that an ISO 9613-2 noise assessment model using a hard ground parameter will significantly over-predict noise levels on sites with flat topography i.e. the Somerset Levels. Whilst operating on a very worst case scenario is superficially attractive, the degree of precaution has to be balanced against the impact on power output. Thus, the use of a parameter that leads to a significant over prediction of noise immissions would unnecessarily constrain the amount of renewable energy provided by the turbines and negate the contribution to tackling climate change and energy security. In this context, given the topography of the Somerset Levels, the use of a semi-hard ground parameter is a reasonable compromise and consistent with the May 2013 IoA Good Practice Guide.

48. Thus, having carefully read and assessed the various submissions relating to noise, and taking as examples sound power levels and the noise propagation model and its parameters, I consider the noise assessment carried out by the appellant fully complies with the guidance contained in ETSU-R-97 and established best practice such that it forms a reasonable basis for assessing the likely noise impact of the proposed turbines. The noise assessment, which is undertaken as a worst case scenario, predicts that noise immissions at each of the nearest properties would be within the noise limits derived by applying ETSU-R-97. Moreover, a robust suite of noise conditions is suggested, which sets immission levels for properties in the vicinity of the site, sets out a procedure for investigating noise complaints and should a complaint be found to be justified the introduction of remedial measures.

49. Concern was raised about potential for disturbance arising from Amplitude Modulation (AM). The effect generally referred to as "blade swish" is recognised by ETSU which attaches a penalty and is incorporated into the allowable margin against background noise levels to seek to compensate for this. Research in 2005 into concerns regarding low frequency noise and its effect on health concluded that there was no evidence of health effects arising from infrasound or low frequency noise. However, the report went on to note that AM was occurring in isolated instances in ways not anticipated by ETSU. In more recent times, this occurrence has been referred to as Excess AM (EAM), or Other AM (OAM). Of the 2 references, OAM seems to me to be an appropriate, neutral, term of reference

50. Whilst various theories have been advanced as to the cause of OAM, there is no agreement over what the cause of this phenomenon is, what the level of risk is in relation to any one particular wind farm or indeed how to measure it.

[10] Comparison of Predicted and Measured Wind Farm Noise Levels and Implications for Assessment of New Wind
Farms, Acoustics Australia Vol 40, No 1, April 2012.

Subsequent research found that, although OAM cannot be fully predicted, the incidence of OAM resulting from wind farms in the UK was low. Based on this, the Government in July 2007 concluded that there was no compelling case for further research at that time. Here, there is nothing in the nature of the proposed turbines to suggest that there would be the likelihood of OAM occurring. The IoA Good Practice Guide recognises that the evidence in relation to OAM is still developing and that currently the practice is not to attach a planning condition to deal with OAM. In this case, I see no reason to deviate from that advice.

51. In terms of vibration, a 1997 study undertaken by ETSU found that vibration levels 100m from the nearest turbine were a factor of 10 less than those recommended for human exposure. Moreover, a report produced by Keele University on the likely impact of ground-borne vibrations from turbines on the sensitive seismic array at Eskdalemuir concluded that the level of vibration from wind turbines is so small that only the most sophisticated instrumentation can reveal its presence and as such it is almost impossible to detect. In 2006 a Hayes Mackenzie study for the DTI[11] and which was peer reviewed, concluded that low frequency noise was not a significant factor in complaints and there was no evidence of health effects.

Outlook

52. Although in some cases private interests may coincide with the public interest, the planning system does not exist to protect the private interest of one person against the activities of another. The evidence to the Inquiry included an updated residential visual amenity assessment which concluded that the development would have a significant visual effect on residents in ES terms. However, national policy recognises that modern wind turbines are large structures and for some distance around a site there will always be significant visual effects. Therefore, in assessing whether, in the public interest, there is a case to resist this scheme the test relating to impact on residential visual amenity has to go beyond the test of significant impact in ES terms. Thus, in this case the question to answer is whether the proposal would affect the outlook of residents to such an extent that it would be so unpleasant, overwhelming and oppressive, that the property would become an unacceptably unattractive place in which to live.

53. To demonstrate the likelihood of obtaining a view of the turbines, HWFAG flew a blimp located on land just to the east of the site. Whilst I understand that residents consider this demonstrates the height and likely visibility of the turbines, I consider it gave a misleading impression. Although the blimp is released to tip height, it rarely flies vertically because of the wind. Moreover, the bulky mass of the blimp is flown at tip height, which does not reflect the likely visual impact of a slender blade against the sky. This ability to mislead is demonstrated by the submissions of some that they could clearly see the blimp from some considerable distance to the site. I have no doubt they did; indeed the ZTV[12] maps and photomontages show that from some distant areas the towers, nacelles and blade tips might be seen. However, at that distance

[11] Department for Trade and Industry
[12] Zones of Theoretical Visibility

the turbines, particularly the blades, would be almost imperceptible elements against the sky.

54. There is no doubt that four 120m high wind turbines in the flat landscape of the Somerset Levels would change the outlook of many properties within the settlements of Huntspill, East and West Huntspill, Pawlett, Puriton and Woolavington along with individual dwellings and groups of dwellings outside these settlements. From some rooms and gardens, some residents would see all of the turbines; others would see more than one turbine; others would see parts of more than one turbine. In terms of views from inside the properties, views would be framed by windows and depending on the position within the room large parts of the turbines would be almost completely obscured. Some residents, particularly those to the south-east would see the group of turbines in the same view as the rows of overhead electricity lines that cross the Somerset Levels. However, many others, particularly those within the villages, would, given their orientation and the screening effect of nearby buildings and landscaping, have no views of the turbines from habitable rooms or their gardens.

55. I was taken to several dwellings, which having regard to the list of properties assessed by the appellant and representations made by individuals, I consider formed a representative sample of the type of views that would be experienced. From within the houses and in the gardens of all the properties viewed, the scheme would be prominent and change the view to one where turbines or parts of turbines would be a significant part of their outlook. However, a significant change is not necessarily harmful. Given the separation distances, the broad sweep of the landscape when viewed from many of the properties and the layout and spacing of the turbines, I consider the development would not appear so unpleasant, overwhelming or oppressive as to render houses unattractive places to live.

Shadow Flicker

56. The incidence of shadow flicker can be calculated with reasonable certainty and the turbine controls programmed to ensure that at the appropriate time they can be switched off thereby eliminating the problem. Consistent with the advice in the July 2013 Practice Guidance, a planning condition is suggested which would provide for a shadow flicker protocol to govern the operation of the turbines at those times of the year when shadow flicker could occur. As with shadow flicker, problems with reflected light could be acceptably mitigated by the imposition of a condition relating to choice of blade colour and finish.

Electromagnetic Interference

57. Whilst it is not unknown for the operation of wind turbines to interfere with television signals, digital television coverage is much more resistant to interference. Notwithstanding the limited likelihood of electromagnetic interference, the appellant has suggested a condition that should interference occur a mitigation scheme would be in place to provide for its alleviation.

Public Safety

58. Turbines of the scale proposed are no longer an unusual feature in the landscape and they are slow to start up. The siting of the turbines is consistent with guidance produced by the Highways Agency. As such, road users would not be surprised or distracted by their presence or activity. Whilst it is not unknown for ice to form on a turbine blade or for a turbine to collapse, shed a blade or piece of a blade, these events are rare and where they have occurred there are no recorded examples of any injuries. On balance, it appears to me that the risk of total or partial collapse would be low and as such the development would not represent an unacceptable hazard to public safety. Where the potential for icing may exist, turbines are fitted with vibration sensors that detect imbalance caused by icing which would prevent their operation. Here, the appellant has suggested a condition to ensure that vibration sensors are fitted.

59. Concern is expressed that the turbines would have an unacceptable effect on the exercising of horses on public roads within the vicinity of the site. Several of these roads would be within the separation distance of 3-times the turbine height suggested by the British Horse Society. This recommendation is not a statutory requirement and nothing was put to me that objectively justifies applying this figure rigidly. Moreover, it strikes me that if there was a tangible and unacceptable risk to horses and their riders, this is a matter that would be addressed in national planning guidance.

60. Horses, like human beings, have varying levels of tolerance to events and I have no doubt that some could be scared by the presence of a wind turbine whilst others horses quite happily graze close to and allow themselves to be ridden in close proximity to turbines. However, horses that would be spooked by a wind turbine are likely to be spooked by any sudden event, be it an animal darting from a hedge, a plastic bag caught in a hedge or a car coming round a bend. One of the roads involved is the busy A38 to the west of the site, where riders, particularly of more nervous horses, would have to exercise a high degree of caution. Elsewhere, on the roads around the site, I was not aware of locations where views of the turbines would come as a surprise to a horse and rider. Moreover, modern turbines do not suddenly start suddenly nor do they appear to revolve at high speed. Taking all these factors together, I conclude that the presence of the turbines would not amount to an unacceptable hazard to horses and their riders.

Property Values

61. The concern expressed by some residents is understandable. However, it is not for the planning system to protect the private interests of one person against the activities of another. Therefore, it is not whether a development would cause financial loss to neighbouring owners, but whether it would have detrimental effects on the locality generally and on amenities that ought to be protected in the public interest. Thus, concerns relating to the impact on the value of an individuals property are a private matter and not one of public policy and as such it is not generally a material consideration. The ES refers to a study[13] carried out by the Royal Institute of Chartered Surveyors and Oxford

[13] Chapter 13 paragraphs 13.97-13.100

Brookes University, which concluded there was no *"…evidence to suggest a relationship between distance to the windfarm and house price."* Other than assertion, there was no evidence before me to conclude that in relation to property values there is a wider public interest that should be protected.

Tourism

62. The CS identifies that tourism is a significant component of the local economy, accounting for some 14% of local employment and several representations suggest that the wind farm would have an adverse effect on tourism and those businesses linked to recreational activities. In terms of district and county wide tourism, other than assertion, there was no evidence to support or refute the suggestion of harm. Moreover, my own experience of other locations with similar characteristics, i.e. the presence of nationally designated areas of high landscape and ecological value that attract large numbers of tourists, indicates that, notwithstanding the presence of wind turbines, tourism numbers continue to rise in these areas.

63. Significant concern was expressed by the owners of Emerald Pool Fishery located to the east of the site. The fishery comprises 4 substantial lakes, 6 holiday cottages and owners' accommodation and has planning permission for five, 3-bedroom holiday cottages on land immediately to the north of the fishery. Given the investment this represents, I fully appreciate their concerns.

64. The fishery is almost totally enclosed by mixed deciduous and evergreen boundary planting and there is a variety of mature and semi-mature deciduous tree planting between the pools. This semi-mature planting varies in height up to some 6m and has the potential to achieve heights in excess of 20m. The proposed cottages would be positioned to the north of a dense deciduous hedge currently some 5 to 6m high. Immediately abutting the site to the east is a railway line, beyond that is the M5 motorway and some 600m to the south-west, beyond the site of Turbine 3, is a substantial landfill site. These existing features have, to a greater or lesser extent, an impact on the fishing environment, particularly in terms of disturbance. I have already concluded that the proposed wind farm would operate within the limits set by ETSU-R-97 and as such noise and vibration would not have an adverse impact on the operation of the fishery. Given the intimate and enclosed environment created by the existing boundary and internal planting, views out from the fishing stations and to some extent the existing and proposed holiday cottages to the proposed turbines would be limited. In these circumstances, I consider the development would not have an unacceptable impact on the attractiveness of the fishery as a tourist attraction.

Alternative Energy Sources and Energy Contribution

65. Submissions were made about the efficacy of wind turbines compared to other options available to tackle climate change and the level of energy contribution this scheme would make. In particular, given the proximity of the existing Hinckley Point Nuclear Power Station and its proposed extension and the number of large scale solar panel developments, there was a suggestion that the area was contributing to the national renewable energy supply in ways that reduced the necessity to consider wind farm developments.

66. Increasing the supply of energy from other options is not promoted within NPS EN-1 as an alternative to on-shore wind energy. The UK RE Roadmap Update, reaffirms the importance of onshore wind as part of our RE mix. The section on Onshore Wind reiterates that the UK has some of the best wind resources in Europe and that onshore wind is one of the most cost effective large scale renewable energy technologies and as such the Government is committed to onshore wind as apart of a diverse energy mix contributing to our security of supply and carbon reduction targets. The July 2013 Practice Guidance does not alter that position or the position set out in the Framework that small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

Overall Conclusion

67. I conclude that subject to the imposition of appropriate planning conditions the proposal would not have an unacceptable impact on, landscape character, public visual amenity, ecology and the living conditions of nearby residents and this proposal would not conflict with the objectives of relevant development plan Policies D4, D14 and D16 and national policy. Accordingly, I shall recommend that the appeal be allowed.

Conditions

68. The bulk of suggested conditions were discussed and agreed between the main parties. Conditions are necessary to provide for the implementation of the permission (1 & 2[14]), to provide for decommissioning and restoration of the site at the end of the 25-year lifespan and the removal of any turbine that fails to produce electricity for a continuous period of 12 months (3 & 4). Conditions are necessary to minimise landscape and visual impact (5, 6 & 7); to mitigate the effect on the living conditions of residents (8, 9, 10, 11, 12 & 13); to minimise the impact on hydrology and drainage (14, 15, 16, 17, 18 & 19), to minimise the ecological impact and to safeguard wildlife (20, 21 & 22). Conditions relating to the removal of the temporary construction compound within 6 months of commissioning rather than 12 months and details of the access, traffic movements and works to the highway and a Construction Method Statement (23, 24, 25, 26, & 27), are necessary to minimise the impact of the development during the construction period and to control details of the proposed access. Conditions to protect aircraft safety and to prevent potential ice throw are necessary in the interests of public safety (28 & 29). Where necessary, in the interests of precision and enforceability, I have reworded some of the suggested conditions.

69. In relation to the immission levels, the lpa accepted that the daytime levels accorded with those suggested by ETSU-R-97. In terms of night-time noise levels, the appellant's suggested levels use the 43 dB(A) contained in ETSU-R-97 whilst the lpa suggest 40 dB(A) to accord with World Health Organisation Guidelines (WHO). However, other than quoting the WHO guidelines, the lpa did not provide any other justification for reducing the night-time levels below the ETSU-R-97 levels. Whilst I accept that the levels suggested by ETSU-R-97 pre-date the current WHO guidelines, had there been justified concerns that the ETSU levels were no longer relevant there have been several of opportunities for the Government to amend its guidance and it has chosen no

[14] The numbers in brackets refer to the conditions set out in Annex - Schedule of Conditions.

to do so. Here, there is nothing in the evidence to suggest that reducing the night-time levels below those regarded by ETSU-R-97 as acceptable is justified.

70. In addition to the proposed conditions relating to MMAs for birds, bats and water voles, HFWAG suggested that a condition requiring the developer to obtain a European Protected Species Licence (EPSL) in respect of bats, all species of which are European Protected Species (EPS). HFWAG highlights that the BMMA refers to a "sustainable level of mortality" and on this basis the proposal would pose a risk to bats and which means that an EPS licence is necessary.

71. Under Regulation 41 of The Habitats and Species Regulations 2010 (SI 2010/490) it is an offence to deliberately injure or kill any wild animal that is a EPS. European Commission advice[15] identifies at paragraphs 81 to 83 that the Habitats Directive at Article 12(4) requires the establishment of a system to monitor the incidental capture and killing of the animal species listed in Annex IV (a). In the light of the information gathered, Member States have to undertake further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned. An example of the application of this provision is the monitoring of bat deaths in wind turbines and this what the BMMA would do. Recent case law[16] held that the mere fact of operation of wind turbines in circumstances whereby it had been predicted that there may be a certain number of collisions in a year did not constitute the deliberate injuring or killing of a species. There, the Court declined to require the developer to obtain a EPSL on the basis that if criminal offences were as a matter of fact committed in the future it would be a matter for the criminal law. Moreover, paragraph 22 of Circular 11/95[17] indicates that a planning condition which duplicates the effect of other controls will not normally be necessary. In these circumstances, I consider it would be inappropriate to impose a planning condition requiring the developer to obtain a EPSL.

Recommendation

72. The appeal be allowed and planning permission granted for a wind energy development comprising the erection of 4 wind turbines with a maximum overall height of up to 120m together with access tracks, hard-standing areas, information board, electricity sub-station, temporary construction compound and amended vehicular access on land to the South of Poplar Farm, Puriton Road, West Huntspill, Highbridge, Somerset in accordance with the terms of the application, Ref 52/10/00018, dated 25 November 2010, subject to the conditions set out in the Annex attached.

George Baird

INSPECTOR

[15] Guidance Document on the Strict Protection of Animal Species Directive 92/43/EEC February 2007
[16] Eaton v natural England & RWE NPower [2012] EWHC 2401 (Admin); [2013] 1 C.M.L.R 10.
[17] The Use of Conditions in Planning Permissions

ANNEX - SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with Drawing Nos. 4231_T0343_01 Site Edged Red Plan; 4231_T0342_01 Proposed Site Layout; 4231_T0323_02 Visibility Splay Site; 4231_T0360_01 Swept Path Assessment – A38 Pawlett; 4231_T0203_03 Swept Path Assessment 2 Junction of A39/A38; 4231_T0205_3 Swept Path Assessment 3 Site Entrance; 4231_T0242-02 E82 Turbine Elevation.

3. Other than in respect of the temporary construction compounds, the permission hereby granted is for the development to be retained for a period of not more than 25 years from the date when electricity from the development is first exported to the electricity grid ("First Export Date"). Written confirmation of the First Export Date will be provided to the local planning authority within one month of the First Export Date. Within 12 months of the end of the 25 year period, the turbines shall be decommissioned and they and all related above ground structures shall be removed from the site. No later than 6 months before the decommissioning of the turbines, a scheme for the restoration of the site shall be submitted in writing to the local planning authority. The scheme shall make provision for the removal of all above ground components plus 1m of the turbine bases below ground level and the land shall be returned to agricultural use. The scheme shall be implemented within 12 months of the restoration scheme being approved by the local planning authority (or such other period as the local planning authority may approve in writing), in accordance with its provisions.

4. In the event that any wind turbine hereby permitted fails to produce electricity for supply to the electricity grid for a continuous period of 12 months, then:

   (i) the operator of the development shall notify the local planning authority in writing no later than one month after the end of that 12 month period;

   (ii) the wind turbine, its associated ancillary equipment and 1m of turbine base below ground level shall be removed from the site no later than 9 months from the end of that 12 month period unless otherwise approved in writing by the local planning authority.

   If any wind turbine is removed in accordance with clause (ii) above the land associated with each removed turbine shall be restored in accordance with a scheme to be submitted to the local planning authority no later than 2 months prior to the end of the 12 month period. Such scheme is to be approved in writing by the local planning authority and to include the management and timing of the works and a traffic management plan. Restoration shall take place in accordance with the approved scheme or such other variations as agreed in writing with the local planning authority.

5. No development shall take place until details of the dimensions and the design and external appearance of the turbines have been submitted to and approved in writing by the local planning authority. The dimensions of the turbines shall not exceed 120m measured from adjacent ground levels to blade tip. No lettering or logo shall be attached to the turbines other than those which may

be necessary to comply with health and safety requirements. The development shall be carried out in accordance with the approved details.

6. All turbine blades shall rotate in the same direction.

7. All electrical and other cabling between the turbines and the substation shall be laid underground.

8. Commencing with the first commercial generation of electricity from the wind farm the wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with the attached Guidance Note 1(c). This data shall be retained for a period of not less than 12 months.

9. Prior to any of the hereby approved turbines first operating, a scheme to secure the investigation and mitigation (including a programme of works) of any electro-magnetic interference with television reception caused by the operation of the turbines shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the alleviation of any interference with television reception caused by the operation of the windfarm which is notified to the developer within 24 months of the First Export Date. The scheme shall be implemented as approved.

10. The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) when assessed in accordance with the attached Guidance Notes, shall not exceed the values set out in the attached Table 1 of noise limits and Table 2 - Coordinate locations of the properties listed in 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 attached Tables 1 and 2 shall be those of the physically closest location listed in Tables 1 and 2 unless otherwise agreed in writing by the local planning authority. For the purposes of this condition, a “dwelling” is a building within Use Class C3 or C4 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

11. Within 28 days from receipt of a written request from the local planning authority following a complaint to the local planning authority from an occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind farm operator shall, at its expense, employ a consultant from the approved list in Appendix A or such other consultant as may be agreed in writing by the local planning authority to assess the level of noise immissions from the wind farm following the procedures described in the attached Guidance Notes. The written request from the local planning authority shall set out at least the date, time and location that any complaint relates to and, where identified, any specific meteorological conditions. Noise measurements shall commence not more than 14 days after the local planning authority approves the consultant, or such other period as the local planning authority agrees in writing. Thereafter, a report shall be submitted to the local planning authority detailing the results of the measurements within a period of 30 days of the commencement of measurements or such other period as the local planning authority agrees in writing. All data collected for the purposes of undertaking the noise compliance measurements shall be made available to the local planning authority on their request.

12. In the event that the results of the above measurements indicate that the specified noise limits have been exceeded at any dwelling then, within 21 days of notification in writing of this by the local planning authority, or such other period as the local planning authority agrees in writing, the operator shall submit in writing to the local planning authority:

    (i) a scheme of noise control measures to achieve compliance with noise levels in Condition 11 above.

    (ii) a timetable for implementation of the noise control measures.

    (iii) a programme of monitoring to demonstrate the efficiency of the noise control measures.

    The noise control measures will be implemented and the monitoring undertaken in accordance with the scheme and timetable.

13. No development shall take place until a written scheme has been submitted to and approved in writing by the local planning authority setting out a shadow flicker protocol to avoid the incidence of shadow flicker at any affected dwelling which lawfully exists or had planning permission at the date of this permission. The written scheme shall be in accordance with the approach detailed at paragraphs 12.26 and 12.27 of the Environmental Statement. The development hereby approved shall be carried out and operated in accordance with the approved scheme.

14. Prior to the commencement of development the design details of any access tracks that are within the 10m easements of the Wessex Water Pumping Main shall be submitted to and approved in writing by the local planning authority. The submitted details shall include an explanation of mitigation measures within this area for the protection of the public main; this shall be based on worse case scenarios for use of the access track in terms of load and frequency. Should construction of the access track involve any work within the 10m easement of the Wessex Water Sewage Pumping Main, the methods of work shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

15. Surface water drainage details shall be submitted to and approved in writing by the local planning authority prior to the commencement of development, incorporating the principles established in the Environmental Statement in section 9.131-9.133. The surface water drainage system shall be installed in accordance with the approved details.

16. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA), (Appendix 9.1 to the Environmental Statement), and the following mitigation measures detailed in the FRA.

    (i) Flood-proofing measures detailed on page 11 of the FRA

    (ii) Finished floor levels set no lower than 6.5m above Ordinance Datum (AOD).

    There will be no access to the site during a flood event.

17. There shall be no new buildings, raised structures (including gates, walls and fences) or raised ground within:

    (i) 8m of the top of any bank of watercourse and/or

    (ii) 8m of any side of an existing culverted watercourse, inside of or along the boundary of the site.

18. No wind turbine foundations shall be constructed or located within 40m of the public foul rising main.

19. Details of all culverts and the means by which the hereby approved access road will cross rhynes/ditches shall be submitted to and approved in writing by the local planning authority prior to the construction commencing on those access roads. The crossings shall be less than 7m in width and use bottomless arch culverts. The development shall be carried out in accordance with the approved details.

20. Prior to the commencement of development, a scheme shall be submitted to and approved in writing by the local planning authority in accordance with the details set out in the Water Vole Mitigation Plan. The development hereby approved shall be carried out and operated in accordance with the approved scheme.

21. Prior to the commencement of the development hereby approved, a scheme shall be submitted to and approved in writing by the local planning authority for the post-construction monitoring of birds and bats and associated mitigation in accordance with protocol details set out in the Ornithological Monitoring and Mitigation Agreement and the Bat Monitoring and Mitigation Agreement. The detailed methods to be followed will be agreed by an advisory group comprising representatives of Natural England and in relation to birds the Royal Society for the Protection of Birds, the local planning authority and an independent expert. Results of all studies will be reported to the advisory group at agreed intervals (not exceeding 12 months) to enable decisions to be taken regarding future monitoring and permit data evaluation. The reports and further details of methods will be supplied to local planning authority and made publically available on request. The development hereby approved shall be carried out and operated in accordance with the approved scheme.

22. No works involving disturbance or removal of hedgerows shall take place during the period 1 March to 1 September in any calendar year.

23. The temporary construction compounds shall be removed no later than 6 months from the date of commissioning of the turbines and the ground restored to its previous condition within 6 months of such removal.

24. Prior to the commencement of any works, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. This shall include details relating to:

    (i) the prevention of silt-laden run off from the site;

    (ii) the treatment of sediment laden water;

    (iii) site lighting;

(iv) the location and timing of construction of the temporary construction compound and the parking and storage of related vehicles and machinery as well as loading, off-loading and manoeuvring facilities for vehicles;

(v) fuel, oil and chemical storage;

(vi) the means of construction of any watercourse crossings;

(vii) staff facilities and drainage;

(viii) the prevention of mud and debris being tracked onto the highway;

(ix) dust management;

(x) details of the site restoration measures following completion of construction; and

(xi) pollution prevention measures.

The development shall be carried out in compliance with the approved Construction Method Statement. The approved measures for site restoration following construction shall take place within 12 months of the First Export Date.

25. The new access to the A38 as shown in drawing 4231_T_020323_02 shall be constructed and shall be fully available for use prior any work commencing on the hereby approved turbines, substation or access tracks. There shall be no obstruction to visibility within the visibility splays exceeding 900mm in height (above adjacent road level). A native hedgerow shall be replanted behind the visibility splay of the same species as the existing hedge; this shall be undertaken no later than the end of the first planting season following removal of the existing hedge. The new hedgerow shall be maintained and retained thereafter as an integral part of the development hereby approved.

26. Prior to the commencement of the development hereby permitted, a scheme for the carrying out of works to the public highway at the M5 Junction 23 roundabout and the roundabout where the A39 joins the A38 shall be submitted to and approved in writing by the local planning authority. The scheme shall include details relating to:

(i) specification of a condition survey of the routes for deliveries;

(ii) details of required improvement works including timing of works;

(iii) a program and methodology for (a) identifying and repairing any damage caused to the public highway through the construction of the development and (b) removal of improvement works where required;

and

(iv) funding provision for highway works.

All works to the public highway shall be carried out in accordance with the approved scheme.

27. Prior to the commencement of development hereby permitted, a Traffic Management Plan shall be submitted to and approved in writing by the local

planning authority. The Traffic Management Plan shall include details of all proposals for construction vehicle routing, site accesses, the management of junctions to and crossings of the public highway, the scheduling and timing of movements, details of escorts for abnormal roads, temporary warning signs, temporary removal or replacement of highway infrastructure/street furniture, reinstatement of any signs, verges or other items displaced by construction traffic and banksman/escort details. The Traffic Management Plan shall be carried out as approved.

28. Each turbine hereby permitted shall be fitted and operated with infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration. The lighting shall be fitted at the highest practicable point on each turbine. No further additional or alternative means of external illumination, other than the aviation-safety lighting referred to above, shall be installed to or on any turbines hereby permitted unless otherwise first agreed in writing by the local planning authority.

29 All wind turbines hereby approved shall be fitted and operated with vibration sensors (or other sensory equipment) designed to detect ice build-up on the turbine blades. The turbines shall be shut down or not started if ice build-up is detected, until such time that the detected ice is no longer present.

Table 1: Noise Limits

(The day period is defined as 07:00 hours to 23:00 hours. The night period is defined as 23:00 hours to 07:00 hours)

Location	Period	Noise Limits dB L_{a90} at wind speeds (m/s) at 10m height						
		4 m/s	5 m/s	6 m/s	7 m/s	8 m/s	9 m/s	10 m/s
Southern Hayes /Old Pawlett Road North	Day	47.9	48.2	48.5	48.7	49.0	49.0	49.0
	Night	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Emerald Fisheries (holiday cottages)/ Riverway Cottage	Day	47.3	47.5	47.7	47.9	48.2	48.2	48.2
	Night	43.0	43.0	44.1	44.9	44.9	44.9	44.9
Poplar Farm	Day	45.2	45.8	46.4	46.9	47.2	47.2	47.2
	Night	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Withybridge Farm /Croft Farm	Day	45.2	45.8	46.4	46.9	47.2	47.2	47.2
	Night	43.0	43.0	43.0	43.0	43.0	43.0	43.0
39 Withy Road / Properties in Huntspill	Day	44.2	44.6	45.0	45.3	45.7	46.0	46.0
	Night	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Wood Pile Dwelling /Old Pawlett Road Dwellings/Rose Farm	Day	46.9	47.2	47.5	47.8	48.1	48.1	48.1
	Night	43.0	43.0	43.0	43.0	43.0	43.0	43.0

Table 2: Coordinate locations of the properties listed in Table 1.

Property	**Easting**	**Northing**
Southern Hayes	330835	144956
Old Pawlett Road North	330896	145006
Emerald Fisheries (holiday Cottages)	331694	144320
Riverway Cottage	331688	144558
Poplar Farm	331462	144866
Withybridge Farm	331751	144901
Croft Farm	331619	144952
39 Withy Road	331224	145272
Wood Pile dwelling	330580	144352
Old Pawlett Road	330503	144414
Rose Farm	330564	144571

Note to Table 2: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Guidance Notes for Noise Conditions

These Guidance Notes are to be read with and form part of the noise conditions. They further explain the conditions and specify the methods to be deployed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. 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 LA90,10-minute noise statistic should be measured at the complainant’s property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the 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 should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). The LA90,10-minute measurements should be synchronised with measurements of the 10-minute arithmetic average wind speed and with operational data logged in accordance with Guidance Notes 1(c) and 1(d), including the power generation data from the turbine control systems of the wind farm.

(b) Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(c) The microphone should be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by 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 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location..

(d) To enable compliance with the noise conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10

minute periods. Unless an alternative procedure is previously agreed in writing with the Local Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. Each 10 minute arithmetic average mean wind speed data measured at hub height 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 10 metre height wind speed data which is correlated with the noise measurements and referred to in Table 1. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

(e) Prior to the commencement of noise measurements undertaken in accordance with these noise conditions, the wind farm operator shall submit for the approval in writing of the Local Planning Authority details of the proposed location of a data logging rain gauge which shall be installed during the course of the measurement of the noise immission levels . The data logging rain gauge shall record rainfall over successive 10-minute periods synchronised with the periods of data recorded in accordance with Guidance Note 1(c).

Guidance Note 2

(a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Guidance Note 2(b).

(b) Valid data points are those measured in the conditions under which noise complaints occur but excluding any periods of rainfall measured at the permanent meteorological mast erected in accordance with the planning permission on the wind farm site.

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the $L_{A90,10\text{-minute}}$ noise measurements and corresponding values of the 10-minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(c), shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

(a) Where noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

(b) For each 10-minute interval for which $L_{A90,10\text{-minute}}$ data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be

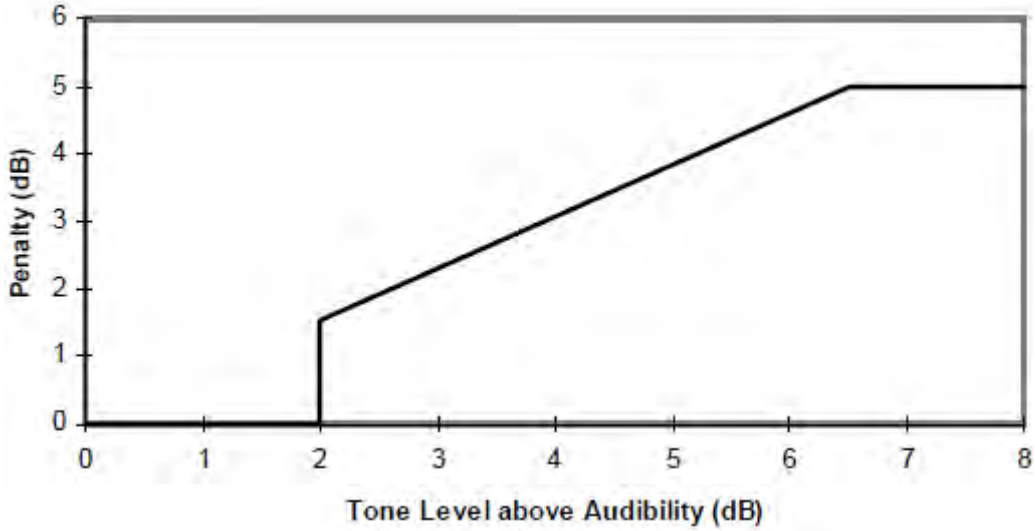
selected. Any such deviations from standard procedure, as described in Section 2.1 on pages 104 – 109 of ETSU-R-97, shall be reported.

(c) For each of the 2-minute samples the tone level above audibility, shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(e) A least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values within ± 0.5m/s of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

(a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed.

(b) If no tonal penalty is to be applied in accordance with Guidance Note 3 then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

(c) In the event that the rating level is above the limit(s) set out in the noise conditions, the independent consultant shall undertake a further assessment of

the rating level to correct for background noise such that the rating level relating to wind turbine noise immissions only is established. This may be achieved by repeating the steps in Guidance Notes 1 and 2 with the wind farm switched off in order to determine the residual noise, L_3, at the assessed wind speed. The wind farm noise at this wind speed, L_1, is then calculated as follows, where L_2 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.

APPENDIX A

RECOMMENDED LIST OF APPROVED NOISE CONSULTANTS

- Hoare Lea Acoustics
- Hayes McKenzie Partnership
- Temple Group Limited
- ION Acoustics Limited
- Parsons Brinkerhoff
- TNEI

APPEARANCES

FOR THE APPELLANT

Jeremy Pike of Counsel, instructed by Squire Sanders (UK) LLP.

He called:

Dr S Pickering BSc (Hons), MPhil.
Senior Ecologist, Ecotricity.

Mr G David Dip LA, CMLI.
Senior Landscape Consultant, Ecotricity.

Mr M Dobson MA, MPhil, MRTPI, MRICS.
Director, Pegasus Planning Group.

FOR THE LOCAL PLANNING AUTHORITY

Gavin Collett of Counsel, instructed by Sedgemoor District Council.

He called:

Mr N Evers Dip LA (Glos), CMLI.
Director, Cooper Partnership Limited.

Mr C J Arnold BA (Hons), Dip TP.
Senior Planning Officer, Sedgemoor District Council.

FOR THE HUNTSPILL WIND FARM ACTION GROUP

Mr J Wakefield, Chairman.

Mr R Lucken.

INTERESTED PERSONS

Mr K Hall, West Huntspill Parish Council.
Mr P Herbert, Woolavington Parish Council.
Mr Ritson, Pawlett Parish Council.
Mrs A Dixon, East Huntspill Parish Council
Mr D Logan.
Mr R Kellaway.
Mrs J Trott,
Mr Sucksmith
Mr D Rodger.
Mrs H Dixon.
Mr Alway.
Mr B Crosby.
Mr Hopwood.
Mrs Wilkinson.
Mr C Walsh.
Mr Ritson.

Mr Rainer.
Mrs Wakefield.
Dr P Edwards.
Cllr Healey
Mr R Kellaway
Mr R Heap
Mrs H Nethercott
Cllr J Moreton
Mr K Hall
Mr D Hazell

DOCUMENTS SUBMITTED AT THE INQUIRY

Doc 1	-	Statement of Common Ground.
Doc 2	-	Submission by Mr Hall, West Huntspill Parish Council.
Doc 3	-	Submission by Mr Herbert, Woolavington Parish Council.
Doc 4	-	Submission by Mr Ritson, Pawlett, Parish Council.
Doc 5	-	Submission by Mrs J Trott.
Doc 6	-	Submission by Mr Sucksmith.
Doc 7	-	Submission by Lt Col (rtd) David Rodger BSc (Hons).
Doc 8	-	Submission by Mr B D Crosby.
Doc 9	-	Submission by Mr R Hopwood.
Doc 10	-	Submission by Mrs A Wilkinson.
Doc 11	-	Submission by Mr M Ritson.
Doc 12	-	Submission by Mrs D Wakefield.
Doc 13	-	Submission by Dr. P Edwards.
Doc 14	-	Submission by Mr S Wallace.
Doc 15	-	Submission by Mr C Walsh.
Doc 16	-	Submission by Mr R Kellaway.
Doc 17	-	Submission by Mr R Heap.
Doc 18	-	Submissions by Mrs H Nethercott.
Doc 19	-	Submissions by Cllr J Moreton.
Doc 20	-	Submissions by Mr K Hall.
Doc 21	-	Submissions by Mr D Hazell.
Doc 22	-	Submissions by Mrs A Dixon, East Huntspill Parish Council.
Doc 23	-	Submissions by Mr T J Spencer.
Doc 24	-	List of suggested conditions.

DOCUMENTS RECEIVED FOLLOWING INSPECTOR'S REQUEST FOR COMMENTS

Doc 25	-	Ecotricity response to IoA Bulletin dated 12 June 2013.
Doc 26	-	Email from HFWAG dated 10 June 2013 – IoA Bulletin.
Doc 27	-	Letter from Mr Heap dated 10 June 2013 – IoA Bulletin.
Doc 28	-	Letter from Sedgemoor District Council dated 1 July 2013 – Ministerial Statement 6 June 2013.
Doc 29	-	Letter from Ecotricity dated 18 June 2013 – Ministerial Statement 6 June 2013.
Doc 30	-	Letter from HFWAG – Ministerial Statement 6 June 2013.
Doc 31	-	Ecotricity comments on July 2013 Practice Guidance.
Doc 32	-	LPA comments on July 2013 Practice Guidance.
Doc 33	-	HFWAG comments on July 2013 Practice Guidance.

Doc 34	-	Ecotricity response to LPA and HRWAG comments on July 2013 Practice Guidance.

SUBMITTED BY NEXT GENERATION LIMITED

ECO1	-	Opening Submissions.
ECO2	-	Written note on noise objections.
ECO3	-	List of application plans.
ECO4	-	Water Vole Mitigation Plan.
ECO5	-	Ornithological Monitoring & Mitigation Agreement.
ECO6	-	Bat Monitoring & Mitigation Agreement.
ECO7	-	RSPB agreement to the Ornithological Monitoring & Mitigation Agreement.
ECO8	-	Natural England agreement to the Ornithological Monitoring & Mitigation Agreement.
ECO9	-	Natural England agreement to the Bat Monitoring & Mitigation Agreement.
ECO10	-	Landscaping Briefing Note. GLVIA 3rd Edition.
ECO11	-	Extract from National Policy Statement EN-1.
ECO12	-	Appellant's response to HFWAG suggested condition.
ECO13	-	Appellant's response to further representations on noise matters.
ECO14	-	Response to Quantock Hills & Mendip Hills AONBs dated 4/1/2010.
ECO15	-	Copy of appeal decision APP/D2510/12/2176754, Land at Carlton Grange, Louth.
ECO16	-	Appellant's closing submissions.

SUBMITTED BY SEDGEMOOR DISTRICT COUNCIL

LPA1	-	Extract from Annual Monitoring Report.
LPA2	-	Landscaping Briefing Note GLVIA 3rd Edition.
LPA3	-	Decision notice 24/12/00018.
LPA4	-	LPA closing submissions.

SUBMITTED BY HUNSPILL WIND FARM ACTION GROUP

AG1	-	Opening Submissions.
AG2	-	Articles regarding wind farm impacts on Barn Owls.
AG3	-	Aerial photograph – location of blimp.
AG4	-	Planning application No. 52/12/0001 Alstone Lane, Highbridge, Reason for refusal & Natural England response 13/9/2012.
AG5	-	HWFAG comments on suggested conditions.
AG6	-	HWFAG closing submissions.

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.