



Department for
Communities and
Local Government

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Our Ref: APP/I2630/A/13/2203839
Your ref: GRANGES/209756.00002

23 January 2015

Dear Madam/Sir

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY UPPER VAUNCES WIND FARM LIMITED
LAND EAST OF SEMERE GREEN ROAD. (FORMING PART OF UPPER VAUNCES
FARM), PULHAM MARKET AND DICKLEBURGH (WITH ACCESS FROM A140),
NORFOLK
APPLICATION REF: 2013/0725**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Graham Dudley BA(Hons) Arch Dip Cons AA RIBA FRICS, who held an inquiry which commenced on 7 January 2014 into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of South Norfolk District Council ("the Council") to refuse planning permission for an application for planning permission for three wind turbines and associated development for a period of 25 years, including control buildings, electricity transformers, underground cabling, access tracks, crane hardstandings and vehicular access dated 26 April 2013, in accordance with application ref: 2013/0725.
2. On 10 April 2014 the appeal was recovered for the Secretary of States determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because it involves a renewable energy development.

Inspector's recommendation

3. The Inspector recommended that the appeal be allowed and planning permission granted. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation and has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. In reaching this position the Secretary of State has taken account of the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999 (IR37, IR338). The Secretary of State considers that the ES complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the proposals.
5. Following the close of the inquiry, on 6 March 2014, the Government issued new planning guidance. The Inspector has had regard to references to the guidance by the parties (IR343).

Policy Considerations

6. 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.
7. In this case, the adopted development plan comprises the saved policies of the South Norfolk Local Plan (LP) which was adopted in 2003, and the 2011 Joint Core Strategy for Broadland, Norwich and South Norfolk (JCS). The Secretary of State notes that the parties agree that the Development Management policies Plan Document (DMP) is still at too early a stage to be of significant weight (IR19). The Secretary of State considers that the development plan policies most relevant to the appeal are those identified by the Inspector at IR10.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (“the Framework”) and the planning practice guidance published 6 March 2014; the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3); the Overarching NPS for Energy (EN-1); and the Written Ministerial Statements on ‘Local Planning and onshore wind’ (DCLG) and ‘Onshore wind’ (DECC).
9. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has also paid special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess.

Main issues

10. The Secretary of State agrees with the Inspector that the main issues are those set out at IR254.

Character and Appearance

11. The Secretary of State has had regard to the Inspectors reasoning and conclusions at IR255-IR272. He agrees with the overall conclusion that there is an impact upon the appearance of the immediate area conflicting with LP Policy ENV8; that the proposals protects the environment in terms of future harm to it from climate change, but causes some visual harm to the environment in conflict

with the CS Policy 1; but maintains landscape character and accords with CS Policy 3 in this respect (IR273).

Heritage Assets

The Church of St Mary, Rushall

12. The Secretary of State has carefully considered the Inspectors reasoning IR277-IR286 on this matter. He agrees that the church is an imposing historic structure and that its dominance and importance means that it would continue as a landmark feature in the landscape. In addition he accepts that the harm to the significance of the church, in terms of the Framework, would be 'less than substantial' and that the setting would not be preserved (IR283).
13. The Secretary of State has also had regard to the opinion of English Heritage as indicated by the Inspector at IR284. He observes that English Heritage consider the scheme still contains elements harmful to the setting and significance of the church and recommended permission be refused. He also notes that in terms of Rushall Church, English Heritage stated that although the turbines have been repositioned, they will still be seen in combination with the church, an effect which the previous Inspector found to have a harmful impact. The Secretary of State has also had regard to the Inspectors consideration at IR284-IR286. He agrees with his overall conclusion on this matter in that the removal of the nearest turbine, so that the turbines are not seen from either side of the tower, addresses the harm identified by the previous Inspector (IR286).

Other Listed Buildings located around the appeal site

14. The Secretary of State notes the Inspectors findings IR294 and the conclusion that the visibility of the turbines will have an effect on the setting of these buildings, but the effect in relation to the overall significance of the listed buildings would be small and that for each little weight should be carried through to the balance against public benefits, in addition to that associated with Section 66(1).
15. In addition the Secretary of State has had regard to the Inspector's assessment of impact upon the Grade I listed church of St Mary, Pulham St Mary, Church of St Mary Magdalene, Pulham Market and Church of All Saints, Dickleburgh. He notes that the towers of the churches in the Pulham villages are tall and conspicuous in the landscape and focal points of the parish. The Secretary of State observes that where these turbines would be visible the experience of the church is diminished and accepts the Inspectors findings that given the considerable spacing of the churches from the turbines, the impact would be limited (IR295).

Residences

16. The Secretary of State has carefully considered the evidence and the Inspector's conclusions on the impacts of the proposals on residential amenity and living conditions. He notes that it is common ground between the appellant and the Council that any of the harm identified would be 'less than substantial' in terms of the Framework (IR287).

Seamere Cottage and Barnacres (Grade II)

17. The Secretary of State has had regard to the evidence (IR288-IR290) on this matter. He observes that the main effect on setting would be visual intrusion in terms of views in and out. He also notes that the turbines will be visible from the gardens of the listed buildings (IR289). He also observes that in views approaching the properties turbines T1 and T2 would be visible and to some extent would compete with the cottages, in addition he notes that T1 would be seen to be located above the thatched roof of Barnacres (IR290).
18. Having regard to the Inspector's assessment at IR290 the Secretary of State agrees with his conclusions on the impact of the proposals on these two Grade II listed properties (IR291).

Semere Green Farmhouse (Grade II)

19. The Secretary of State notes that the principal view of the building would be from the north-west and the turbines would be seen in the background and would attract attention in the views. He has had regard to the Inspectors findings that the turbines would be a considerable distance away and T2 and T3 would be partially screened behind trees and that the turbines would be visible from the gardens that form the immediate setting of the listed buildings (IR292). He notes that the Inspector considers that because the turbines would be a considerable distance away they would not be overbearing or unacceptably dominant in relation to the listed building. For the reasons given by the Inspector the Secretary of State agrees with the Inspectors overall conclusion on this matter (IR293).
20. In accordance with the recent Court of Appeal decision in *Barnwell Manor Wind Energy Limited v East Northamptonshire District Council and others* [2014] EWCA Civ 137, the Secretary of State attaches considerable weight and importance to the harm caused to designated heritage assets in the planning balance. He agrees with the Inspector (IR277-IR295) that the scheme would result in less than substantial harm to the setting of some listed buildings and in particular to the setting of the Church of St Mary, Rushall, Seamere Cottage and Barnacres. It would also result in limited harm to the setting of St Mary Pulham, Church of St Mary Magdalene Pulham Market and Church of All Saints, Dickleburgh.
21. Although the Secretary of State agrees with the Inspector that the level of harm would not be 'substantial' in the terms set out in the Framework but that, in accordance with s.66 of the LBCA, the preservation of setting is to be treated as a desired or sought-after objective, and considerable importance and weight attaches to the desirability of preserving the setting of listed buildings when weighing this factor in the balance. The Secretary of State takes the view that it does not follow that if the harm to heritage assets is found to be less than substantial, then the subsequent balancing exercise undertaken by the decision taker should ignore the overarching statutory duty imposed by section 66(1) and he therefore sees a need to give considerable weight to the desirability of preserving the setting of all listed buildings.

Living Conditions

22. The Secretary of State has given careful consideration to the Inspectors assessments of the impact upon the remaining listed buildings located around the appeal site (IR308-IR321). He has had regard to the fact that the Inspector finds that in relation to all these properties that the impacts range from moderate to significant as well as some substantial impact in terms of Semere Green Farm (IR311), 2 The Cottages, Air Station Lane (IR318) and the rear garden of No5 Semere (IR319).
23. The Secretary of State agrees with the Inspector's assessment that the visual impact, the proposed turbines would be visible over a wide area and some residents would get some clear views of the turbines from their homes and gardens (IR322).

Ecology

24. The Secretary of State has given careful consideration to the evidence on this matter and like the Inspector has had regard to LP Policy ENV14, LP Policy ENV15, LP Policy ENV13 (IR323) and the EIA Directive and Regulations (IR324). For the reasons given by the Inspector at IR325-IR336 he agrees with the Inspector's assessment and conclusion that the requirements under the EIA Directive and the Regulations have been met and that the submitted ES is suitable to assess the development for its potential impacts on birds and bats. In addition he agrees that, in respect of these matters, where there is potential harm these may be adequately mitigated against by the proposed conditions at Annex A (IR337).

Other matters

25. The Secretary of State notes the main parties agree that sufficient environmental information has been provided in relation to land contamination and that conditions related to contamination and unexploded ordnance have been included. He further notes that in relation to concerns about contamination the assessment in the ES determined there was no unacceptable risk to human health resulting from radioactive materials (IR338).
26. For the reasons given by the Inspector, the Secretary of State agrees that this matter can be controlled by condition and that this matter does not weigh against the scheme (IR339).

Conditions

27. The Secretary of State has considered the Inspector's comments at IR277-IR290 and his recommended conditions as set out in Annex 2 to his report. The Secretary of State is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of Planning Guidance – Use of Conditions. However, he does not consider that they overcome his reasons for dismissing the appeal.

Planning balance

28. The Secretary of State has had regard to the Inspector's balancing exercise at IR340-IR351. The Secretary of State has taken account of the fact that the output from the turbines will be reduced in relation to the previous application but that the proposals would provide an important supply of electricity which attracts substantial weight in favour of the appeal (IR348). He also accepts that the scheme would also have an economic benefit in terms of employment associated with its construction and maintenance and would provide benefit to the farmer in terms of farm diversification and the income to the farm provided from use of the land.
29. The Secretary of State agrees with the Inspector that production of renewable energy by wind turbines is inherently sustainable, but that is only one aspect of sustainable development. In the terms of the Framework, sustainable development is that which conforms to its guidance and accords with the economic, social and environmental roles identified. He acknowledges that the Inspector considers the scheme would meet all these roles in some respects, providing economic benefits in terms of energy production and diversification for the farm and some local benefit, particularly during construction. He further agrees that it would provide an important social role in the provision of renewable energy, available to feed in to the national grid and help to protect the environment in terms of climate change. However, like the Inspector he acknowledges that there is harm to the local environment and neighbours and this needs to be taken into the balance together with the weight associated with Section 38(6) of the Town and Country Planning Act and Section 66(1) of the Listed Building and Conservation Areas Act (IR349).
30. Like the Inspector the Secretary of State has given considerable weight and importance to the duty imposed by Sections 66(1) and 72(1) of the LB Act and therefore the strong presumption in favour of the desirability of the preservation of heritage assets. However, he disagrees with the Inspector's balancing and considerations at IR350.
31. The Secretary of State concludes like the Inspector that the impact of the revised siting of the wind turbines which will reduce the adverse effect upon the setting of St Mary's Rushall Church, Seamere Cottage and Barnacres and to the other limited harm to the setting of St Mary Pulham, Church of St Mary Magdalene Pulham Market and Church of All Saints, Dickleburgh. However, he considers that the reduction in harm is underestimated by the Inspector. In particular, he considers that while the turbines would not be seen either side of the tower of St Mary's Rushall Church the harm would still remain. He acknowledges that the resiting of the turbines would be more respectful to the settings of other listed buildings but concludes that the harm would still be significantly adverse.
32. The Secretary of State finds, in agreement with the Inspector, that whilst a number of dwellings would still experience changes to their outlook which residents may consider to be adverse, none of the dwellings would become unacceptable (IR351).

Overall conclusions

33. The Secretary of State concludes that the proposals would lead to environmental benefits relating to offsetting the effects of climate change. However weighing against the proposals he has also identified a significant level of harm to the setting of St Marys Rushall Church, and harm to the setting of other heritage assets. The Secretary of State concludes that the harm he has identified outweighs the benefits of the proposals. He considers that the proposals conflict with LP Policy ENV8 and CS Policy 1 and the Framework paragraph 98, the impacts of the proposals are not, and cannot be made, acceptable.

Formal Decision

34. 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 the erection, 25 year operation and subsequent decommissioning of a wind energy development comprising: three wind turbines and associated development for a period of 25 years, including control buildings, electricity transformers, underground cabling, access tracks, crane hardstandings and vehicular access, dated 26 April 2013, in accordance with application ref: 2013/0725.
35. This letter serves as the Secretary of State's statement under Regulation 21(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

36. 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.
37. A copy of this letter has been sent to South Norfolk District Council, and a notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Richard Watson

Authorised by the Secretary of State to sign in that behalf



Department for Communities and Local Government

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Our Ref: APP/I2630/A/13/2203839

Your ref: RANGES/209756.00002

23 January 2015

Dear Madam/Sir,

APPEAL BY UPPER VAUNCES WIND FARM LIMITED.

CORRECTION NOTICE

Following a request by Ms Lucy Melrose, I am enclosing a copy of the corrected decision letter, in pursuance of Section 56(2) of the Planning and Compulsory Purchase Act 2004. This decision letter corrects that issued on 15 January 2015 by substituting the word 'disagree' for 'agree' in the first sentence of paragraph 34.

A separate note is enclosed setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

Yours faithfully

Richard Watson

Authorised by the Secretary of State to sign in that behalf

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Report to the Secretary of State for Communities and Local Government

by **Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS**

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

Date: 20 June 2014

Town and Country Planning Act 1990

Upper Vaunces Wind Farm Limited

South Norfolk District Council

Inquiry commenced on 7 January 2014

Land east of Semere Green Road, (Forming part of Upper Vaunces Farm), Pulham Market and Dickleburgh (with new access from the A140), Norfolk

File Ref: APP/L2630/A/13/2203839

File Ref: APP/L2630/A/13/2203839

Land east of Semere Green Road, (Forming part of Upper Vaunces Farm), Pulham Market and Dickleburgh (with new access from the A140), Norfolk.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The application is made by Upper Vaunces Wind Farm Ltd to South Norfolk District Council.
- The application Ref 2013/0275 is dated 26 April 2013.
- The development proposed is the erection of three wind turbines and associated development for a period of 25 years, including control buildings, electricity transformers, underground cabling, access tracks, crane hardstandings and vehicular access.
- The reason given for making the direction was because it involved a renewable energy development.

Summary of Recommendation: the appeal be allowed

Procedural Matters

1. The inquiry was held on 7 - 10 January, 14 – 17 January and 30 January 2014. The site visit was made on 31 January 2014.
2. This report includes a description of the application site and surrounding area, the gist of the cases made at the inquiry and my conclusions and recommendation. I have attached all documents, including proofs of evidence/statements and plans submitted to the inquiry. These are as originally submitted and do not take account of how the evidence may have been affected during the inquiry.
3. The appeal was recovered for decision by the Secretary of State by a direction, made under section 79 of the Town and Country Planning Act 1990, on 10 April 2014.

The Site and Surroundings¹

4. The appeal site is located approximately 7km to the north-east of Diss in South Norfolk. Located on farmland in the parishes of Pulham Market and Dickleburgh and Rushall, the proposed development would be situated between five villages: approximately 1km north-west of Rushall, 1.9km south south-west of Pulham Market, 1.8km south-west of Pulham St Mary, 1.6km to the north-east of Dickleburgh and 2.5km to the south-east of Tivetshall St Mary.
5. There are a number of individual and small groups of residential properties associated with the network of country lanes immediately surrounding the appeal site.
6. The A140 Ipswich Road/Norwich Road runs in a north/south direction to the west of the nearest proposed wind turbine at a distance of approximately 1.4km and access for construction and decommissioning would be from this road. Semere Green Road is located approximately 716m to the north-west of turbine T1 position at its closest point, Semere Lane is 720m north-east of turbine T3

¹ See Stephenson Halliday Appendix 2 Landscape and Visual Assessment Figures LVIA.01 – 07 or statement of common ground ID64

position and Harleston Road is 1.1km south of turbine T2 position. The nearest public right of way to the appeal site is Lonely Road approximately 550m south of turbine T1 and 564m south of turbine T2.

7. The nearest nationally designated landscape is the Broads National Park, which lies to the north-east of the appeal site at a distance of approximately 14km at its closest point in the vicinity of Bungay. The nearest Area of Outstanding Natural Beauty is the Suffolk Coast and Heaths, which is located approximately 24km to the east south-east of the nearest proposed wind turbine in the vicinity of Halesworth.
8. There are no European (Ramsar, SAC or SPA) statutory designations within or adjacent to the appeal site. However, there are 46 sites of nature conservation value within 20km of the proposed development.
9. The closest statutory designation to the appeal site is the Pulham Market Big Wood Site of Special Scientific Interest (SSSI). The closest international site is the Waveney and Little Ouse Valley Fens Special Area of Conservation ("SAC") which is located more than 12km to the south west of the appeal site. As stated above, the western extent of the Broads National Park is located approximately 14km to the north-east of the proposed development at its closest point – an area noted for its fens, watercourses, wet woodlands and marshes.

Planning Policy²

10. The majority of the policies contained in the South Norfolk Local Plan were saved. A number of the saved policies have since been superseded by policies contained in the Joint Core Strategy for Broadland, Norwich and South Norfolk. Of those saved Local Plan policies which remain in force, it is agreed between the parties that the most relevant to the determination of the appeal are as follows:
 - ENV 8: Development in the Open Countryside;
 - ENV 9: Nationally and Locally Important Archaeological Remains;
 - ENV 10: Historic Hedgerow Pattern – Dickleburgh;
 - ENV 13: Sites of Regional and Local Nature Conservation Interest & Geological / Geomorphological Value;
 - ENV 14: Habitat Protection;
 - ENV 15: Species Protection;
 - ENV 21: Protection of Land for Agriculture;
 - IMP 8: Safe and Free Flow of Traffic;
 - IMP 9: Residential Amenity;
 - IMP10: Noise;
 - IMP 15: Setting of Listed Buildings;
 - IMP 25: Outdoor Lighting;
 - TRA 17: Off-site Road Improvements;
 - UTL 13: Renewable Energy; and
 - UTL 15: Contaminated Land.
11. Policy UTL 13 states that planning permission will be granted for renewable energy projects, provided that the benefits of exploiting the renewable energy resource in the national interest are not outweighed by demonstrable harm to the locality in terms of: (i) visual intrusion (ii) pollution from noise, vibration, smell,

² Policies are located in CD1.1 and CD1.2

- fumes, smoke, ash or the treatment and disposal of waste (ii) the safe and free flow of traffic. The policy also makes reference to areas which are designated for their archaeological, historic or landscape quality and areas which are adjacent to the Broads National Park. The appeal site is not within either category; the appeal site is not located within or close to a landscape which is recognised through statutory designation as being of high value for its archaeological, historic or landscape quality and, at the closest point, the Broads National Park lies approximately 14km to the east north-east of the nearest proposed turbine.
12. The appellant criticises the previous inspector for taking into consideration other policies in the plan that do not have a balancing exercise built in. I disagree with this, as it clearly is necessary to assess any project against all the policies in the development plan and, whether individual policies note it or not, to have an overall balancing exercise at the end to take account of any relevant material considerations. It is the degree of consistency with the Framework which is to determine the amount of weight to be given to the Framework and local policies.
 13. LP Policy ENV8 relates to development in the open countryside, which will only be granted planning permission if it is justified to sustain economic and social activity in rural communities and demands a rural location. Such development should respect intrinsic beauty, diversity of landscape, the wealth of natural resources, and the ecological, agricultural and recreational value of the countryside and be sensitively integrated into its rural surroundings.
 14. LP Policy ENV10 indicates that the district council will seek to retain and enhance the historic hedgerow pattern in the Dickleburgh area. LP Policy ENV21 seeks to protect the best and most versatile agricultural land and notes it would not be permitted unless the development outweighs the agricultural considerations.

The Joint Core Strategy for Broadland, Norwich and South Norfolk (March 2011)

15. The Joint Core Strategy (JCS) forms a key part of the council's new Local Plan (formerly known as the South Norfolk Local Development Framework). It was adopted in March 2011 and constitutes the most up-to-date component of the Development Plan with an end date of 2026. It is agreed between the parties that the most relevant policies in the JCS to the consideration of the proposed development are:
 - Policy 1: Addressing Climate Change & Protecting Environmental Assets;
 - Policy 2: Promoting Good Design;
 - Policy 3: Energy and Water;
 - Policy 17: Smaller Rural Communities and the Countryside; and
 - Policy 20: Implementation.
16. The policies contained within the JCS are strategic in nature and confirm the council's spatial vision for the South Norfolk area. With regard to energy, Policy 3 makes the general statement that development in the council's area will, where possible, aim to maximise the use of decentralised and renewable or low carbon energy sources.
17. Also of relevance is the Arup Study 'Placing Renewables in the East of England' and the AECOM study of 2011. While these contributed to the now non-existent

East of England Plan, I nevertheless attach some weight to them and the demonstration that there is a substantial onshore wind resource.

18. The council is in the process of consulting on documents that will be part of its Local Plan. Consultation on the Development Management Policies DPD : Preferred Options took place between March 27 and May 22 2013. Pre-Submission Document, which the council published on 1 November 2013, contains various policies:
- Policy DM 1.1: Ensuring Development Management Contributes to Achieving Sustainable Development in South Norfolk;
 - Policy DM 1.3: The Sustainable Location of New Development;
 - Policy DM 1.4: Environmental Quality and Local Distinctiveness;
 - Policy DM 3.9: Design Principles Applying to All Development;
 - Policy DM 3.12: Road Safety and the Free Flow of Traffic;
 - Policy DM 3.14: Amenity, Noise and Quality of Life;
 - Policy DM 3.15: Pollution, Health and Safety;
 - Policy DM 4.2: Renewable Energy;
 - Policy DM 4.3: Flood Risk;
 - Policy DM 4.4: Sustainable Drainage and Water Management;
 - Policy DM 4.7: Landscape Character and River Valleys;
 - Policy DM 4.10: Protection of Trees and Hedgerows;
 - Policy DM 4.11: Incorporating Landscape into Design;
 - Policy DM 4.12: Designated Heritage Asset; and
 - Policy DM 4.13: Non-designated Heritage Assets.
19. A basic aim of Draft Policy DM 4.2 is to achieve sustainable development, Proposals for renewable energy are to be supported and considered in the context of sustainable development and climate change on the wider environmental social and economic benefits of maximising use of renewable energy. However, it also indicates that proposals for renewable energy development would not be permitted where either individually or cumulatively the adverse impact would outweigh the benefits in terms of (a) significant adverse impact upon the landscape character, nature conservation or historic asset; and (b) significant adverse impacts on the amenities and living conditions of nearby residents by way of noise, outlook and overbearing or unacceptable risk to health or amenity by way of other pollutants such as dust and odour. The parties agree that the latest version of the DPD is still at too early a stage to be of significant weight in the determination of this appeal.
20. CS Policy 1 relates to addressing climate change and protecting environmental assets. While the policy mainly relates to general development and not specifically stand alone groups of wind turbines, it is clear the aim is to promote energy efficiency, while protecting environmental assets in the area.
21. CS Policy 2 requires all development to be designed to the highest standards. It notes it will protect local distinctiveness, including the historic hierarchy of villages, the landscape setting of settlements, landscape character and historic environment.
22. CS Policy 3 relates to energy and water. This promotes use of low carbon energy and while not directed specifically to wind turbine developments, the aim for sustainable energy supply is clear. It is noted that other Development Plan Documents will allocate land for renewable energy development.

23. CS Policy 20 promotes a co-ordinated approach to be taken to the timely and ongoing maintenance of infrastructure, services and facilities to support development and this is noted to include local renewable energy generation. There is no policy specifically related to onshore wind energy developments in the CS.
24. The 'Wind Turbine Landscape Sensitivity Study' by Land Use Consultants was published in 2006 and amended in 2008. This is not a supplementary planning document, but is relevant and I attach some weight to it. For tributary farmland the overall sensitivity to a small group (2-6 turbines) is rated as moderate, with emphasis on the lower end of the scale.
25. While local targets in the former East of England RSS are no longer relevant, there still remain international commitments on delivery of greenhouse gas emission reductions and this has always been related to a national rather than specifically local need. It is acknowledged that climate change is occurring and that there is a need for appropriate action. This is set out in the White Paper of 2007 and many subsequent documents. By 2020 15% of all the energy consumed in the UK has to be from renewable sources, but given this relates to matters such as heating and transport, it is probable that at least 30% of all electricity consumed in the UK will need to come from renewable sources by 2020.
26. The Framework sets out a basic principle to achieve sustainable development with a presumption in favour of it, supporting the transition to a low carbon future and encouraging development of renewable energy. It notes that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions. It is central to the economic, social and environmental dimensions of sustainable development. It notes that all communities should contribute to energy generation from renewable or low carbon sources and should have a positive strategy to promote energy from renewable and low carbon sources.
27. It notes that when determining planning applications, local planning authorities should not require applicants for energy developments to demonstrate the overall need for renewable or low carbon energy, and also to recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Applications should be approved if their impact is acceptable or can be made acceptable.
28. The Framework notes that the presumption in favour of sustainable development is at the heart of the Framework. While I accept that wind turbines are in terms of energy production inherently sustainable, in terms of the Framework, sustainability is made of an economic role, social role and environmental role and these are not to be looked at in isolation. In my view, policies are compatible with the Framework and the fact that there is some tension between policies is to be expected when considering development of this nature; these are the matters to be balanced.
29. A ministerial statement on June 2013³ renewed the government's commitment to onshore wind energy, noting that appropriately sited development has an

³ See CD Section 2

important part to play in a responsible and balanced UK energy policy. This was followed up with government guidance. Planning Policy Guidance for Renewable and Low Carbon Energy (July 2013) is relevant and replaces technical guidance attached to the former Planning Policy Statement 22 – Renewable Energy. This reaffirms the importance of wind energy and that local authorities should develop a positive strategy to promote the delivery of renewable and low carbon energy and maximise renewable and low carbon energy development. However, it also notes that the need for renewable or low carbon energy does not automatically override environmental protections. Local topography is an important factor in assessing whether wind turbines could have a damaging effect on landscape and the impact can be as great in predominantly flat landscapes as in hilly or mountainous areas.

30. It also notes that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. The approach is very much as identified in the Framework.
31. The main aim of National Policy Statements on Renewables is to provide guidance for the former Infrastructure Planning Commission and proposals in excess of 50MW, but it is also noted that it might be a material consideration for local planning authorities, especially where the development plan has not been brought up to date, and provides a useful approach to assessment. National Policy Statements [NPS] for Energy [EN1] and for Renewable Energy Infrastructure [EN3] are material considerations for this appeal to which weight should be attached. It is noted that the transition to a low carbon economy should proceed as quickly as possible.
32. The roadmap (UK Renewables Energy Roadmap Update 2012) indicates that the ranges identified are being met. However, the roadmap notes that the central ranges do not represent technology specific targets or the levels of ambition. It is also noted that it cannot be certain how much of the capacity in the pipeline projects will go forward as not everything in the pipeline will be built. EN3 identifies the important role onshore wind farms play in provision of low carbon energy and that they will continue to play an important role in meeting renewable energy targets. It is also noted that the temporary nature of wind farms [25 years] is an important consideration. Also considered is the need for micro-siting and in terms of heritage assets significant weight should be given to the fact that onshore wind turbines are time-limited and non-permanent in the context of the effects.

Planning History

33. The appeal site was the subject of a previous planning application for a wind farm development made by TCI Renewable Ltd, the agent acting on behalf of the appellant. The planning application was refused and a subsequent appeal made and inquiry held, commencing in June 2011. This appeal was dismissed in a decision made on 15 October 2012⁴.

The Proposals

⁴ Doc CD5.1 – previous appeal decision

34. The application is for the construction of 3 wind turbines of up to 126m high to blade tip, together with ancillary equipment and infrastructure. The application was submitted on 26 April 2013. A candidate wind turbine was selected for the purpose of modelling, the Environmental Impact Assessment and to base planning parameters of the proposed development on. A final turbine selection will be made following the grant of planning permission if forthcoming.
35. The proposal is EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI2011/1824). A request for a scoping opinion was submitted by the appellant to the council in relation to the first planning permission in November 2008. The Environmental Statement which accompanied the current application was prepared in the light of the scoping opinion provided.
36. The drawings associated with the application are listed in the statement of common ground. The application drawings are GB0008 – P101 Rev A, P102 Rev A, P108 Rev A, P109 Rev A, P111 Rev A, and P112 Rev A⁵.

Other Agreed Matters⁶

37. The appellant and the council agree that the environmental information submitted in support of the planning application for the proposed development is adequate and complies with the requirements of Schedule 4 of the 2011 Regulations. 4 Villages are not in agreement with this and consider that insufficient environmental information has been provided, particularly in relation to the ecological impacts of the proposed development. Neither the council nor 4 Villages object on the basis of (3) contamination, subject to the imposition of a suitable condition.

The Case for the Upper Vaunces Wind Farm Ltd

The case for the appellant is set out in documents AD1 to AD5. Closing submissions are at ID71 and further submissions were made relating to Section 66 and the new Planning Practice Guidance at OD23 and 29 The material points are: -

38. This is a new application which is to be considered on its own merits, but the previous application and associated appeal are significant material considerations. The reasons that the previous scheme was refused are capable of being addressed by relocation of the turbines.
39. The council is not alleging that the appeal site is unacceptable in principle for this size and scale of commercial wind energy development. The appeal site has a very high degree of 'fit' with the locational guidance contained within the council's own Wind Turbine Landscape Sensitivity Study.
40. The previous decision was refused on discrete grounds, which were:
 - Modest harm to the landscape from some viewpoints, with the most significant harm being that relating to the landscape around the settlement of Rushall. The level of harm to the small scale landscape to the south of the appeal site is not quantified in paragraph 15 of the

⁵ See Plans listed under documents PL and Doc ID64

⁶ Doc ID 64 - the agreed statement of common ground sets out areas of agreement between the 3 main parties to the appeal

decision letter and is not specifically referred to again in paragraph 115. The unacceptable harm caused to the character of the landscape around Rushall was specifically limited to a short stretch of the public footpath to the south of St. Mary's Rushall, where the church tower would appear to have turbines situated at either end (paragraph 18)

- Some modest harm to the setting of 4 listed buildings (identified at paragraph 115 on CD5.1) at Semere Green, as well as to Lowbrook Farm, Dickleburgh Hall, Home Farmhouse, Upper Vaunces Farm, Seamere Cottage (Rosella), Barnacres and Semere Green Farmhouse.
- More significant harm, but still less than substantial harm in the context of the NPPF advice, to the setting of St. Mary's Rushall, the key concern being position of the turbines 'straddling' the Church from the same short part of the footpath to the south (paragraph 26)
- Serious harm to the living conditions of the occupiers of Lowbrook Farm from Turbine 1 and more limited harm to the occupiers of Seamere Cottage from the same turbine (paragraph 116)

41. In terms of impacts on the smaller scale landscape to the South of Harleston Road, on Rushall Church and on all of the closest residential properties, the revised proposal is a better scheme, demonstrated by the photomontages⁷. The proposed development accords with LP Policy UTL 13, even if the balancing exercise envisaged by it falls short of that now set out in paragraph 14 of the NPPF. The proposed development is in accordance with the adopted development plan when it is read as a whole.

42. Inevitably the proposed development would involve change and would be visible and result in change to local landscape character and changed views within the local and wider environment, including some views which involve heritage assets. However, visibility does not equate to unacceptable harm to either landscape or visual amenity.

43. The benefits in favour of the proposed development are:

- The supply of a material amount of renewable energy and contribution to the achievement of the national target of meeting 15% of the United Kingdom's energy demand from renewable resources by 2020. This remains an important material consideration in its own right, even following the recent announcement by the European Union to remove national targets which will not take effect until 2020.
- The contribution that the scheme would make to mitigating climate change
- Energy security through contributing to a mix of renewable resources in Norfolk
- Provision of renewable energy at lowest cost to the consumer
- Direct economic benefit in terms of some local new employment
- Indirect economic benefits which are recognised by the Coalition Government
- Local community benefits in the form of tangible community projects which can be enabled through 25 years of local community funding support

⁷ Doc AD4 appendix 3

- The proposed development is a wholly reversible form of development which will leave the landscape character and visual resource intact
44. In his Ministerial Statement of 6th June 2013⁸, Secretary of State Davey reaffirmed that:
“appropriately sited onshore wind turbines, as one of the most cost effective and proven renewable energy technologies, has an important part to play in a responsible and balanced UK energy policy”.
- The revised scheme for the Upper Vaunces wind farm is appropriately sited and can and should play its part in our low carbon future.
45. Some of 4 Villages’ and individual local objections mis-understand the guidance. The NPPG and now the Planning Practice Guidance is not a local community veto of the sort which had been ventilated by those opposing wind farms prior to its publication. Whilst members of 4 Villages are articulate and forthright, the point remains that vocal opposition is limited to a relatively small number of local people. Opposition is not universal; for instance, evidence was given by Hilary Hardy and Mr. Taylor of the equal split in public opinion, for and against, in a survey undertaken in Pulham Market. It certainly cannot be said that Mrs Hardy does not know and understand the local environment or that her family has not been intimately involved in community and civic life. Evidence from 4 Wind⁹ was corroborative of the split in opinion.
46. Baroness Murphy appeared to be ill-informed about renewable energy in general but felt able to suggest that wind turbines should not be sited in any part of Norfolk, which is not reasonable. Local residents identify the local landscape as unique and valued by them. Just like everywhere else, the local countryside is valued highly at a local level. There is nothing unusual or unique in this situation.
47. However, modern commercial wind turbines are large structures that always bring with them significant change in the open countryside, and it is unrealistic to expect otherwise. In this case:
- residential amenity has been protected through the use of “stand-off” distances to nearest residences that exceed those that have previously been found to be acceptable
 - noise levels are all within ETSU limits
 - access for construction and maintenance completely avoids passing through the local villages
 - public rights of way, including bridleways, have been avoided
48. To argue that such impacts that would occur are unacceptable is to say that onshore wind should not, as a matter of principle, play any significant role in renewable energy provision – and that runs counter to express Government policy, reiterated again in the recent Ministerial Statements and in the NPPG and in the Renewable Energy Roadmap Update 2013.
49. Policy UTL 13 is agreed to be the pre-eminent policy and it provides that planning permission will be granted for renewable energy projects, provided that the benefits of exploiting the renewable energy resource in the national interest are

⁸ CD2.5

⁹ Doc ID35 petition and ID39

not outweighed by demonstrable harm to the locality in terms of: (i) visual intrusion (ii) pollution from noise, vibration, smell, fumes, smoke, ash or the treatment and disposal of waste (iii) the safe and free flow of traffic.

50. It is inconsistent with paragraph 14 of the Framework because it refers only to “demonstrable” harm which was being interpreted by the Council as “discernible” or “identifiable” harm. This provides no indication of the gravity or seriousness of harm which the Framework indicates to be necessary to outweigh the much needed wider benefits from this sort of sustainable development.
51. The Framework makes clear its support for renewable energy proposals in particularly robust terms:
- Encouraging the deployment of renewable energy is explicitly included within the Core Principles at paragraph 17
 - Paragraph 93 urges that the planning system play “a key role” in supporting the delivery of renewable energy; delivery of renewable energy is “central to the economic, social and environmental dimensions of sustainable development”. This paragraph ‘operationalises’ the concept of sustainable development in the case of a renewable energy development such as this wind farm
 - Paragraph 96 states the responsibility of “all communities to contribute to” renewable and low carbon energy
 - Paragraph 98 provides that need for renewable generation projects does not need to be demonstrated by the appellant and all applications should be granted permission provided only that the impacts are (or can be made) acceptable
 - The decision maker should follow the approach set out in EN-1 and EN-3
52. The Ministerial Statement from DCLG dated 6th June 2013 and others remain relevant, but must be read in the context of the later policy documentation including the Planning Practice Guidance.
53. The 6th June 2013 Ministerial Statement by Ed Davey makes clear that on-shore wind remains central to renewable energy policy as the most mature, least cost option. Both Ministerial Statements were published together with the Government Response to the Onshore Wind Call for Evidence. The updated and streamlined advice in the planning guidance was being prepared according to the Taylor Review.
54. Taken together and properly understood, the Ministerial Statements did not constitute a change in Government planning policy in relation to onshore wind development and deployment. Nor did the Ministerial Statements direct the decision maker to actually do anything. They gave notice of and looked forward to the policy guidance itself which was being prepared.
55. When the NPPG arrived, the four bullet points identified within the Ministerial Statements as being matters that need to be carefully considered were carried forward, with the addition of two more: (1) the need case (2) cumulative matters (3) topography (4) heritage assets (5) national designations and (6) amenity. However, all these points were already addressed in national planning policy and guidance and well known decided case law and they gain no greater weight from being repeated. The Appellant agrees these are relevant.

56. There is nothing in the NPPG that does or could be taken to imply a recalibration of the threshold of acceptable change and it does not say that any greater weight should be afforded to local concerns. There is no reference in the text of the NPPG which suggests that a recalibration of harm, explicit or implicit had taken place.
57. There is reference at paragraph 5 to local concerns, but the wording is explicit that it is the “planning concerns of local communities” that need to be “properly heard in matters that directly affect them”. This reinforces the need to distinguish between planning concerns that genuinely affect the local community and generalised objections; and it seeks to ensure that such concerns are “properly heard” and “properly weighed in the balance”.
58. In relation to the latest Planning Practice Guidance there is no substantive change.
59. Paragraph 6 of the NPPG effectively encourages local authorities to design their policies – and interpret them when making planning decisions in a way that maximises renewable energy development, subject to the caveat of the impacts being acceptable.
60. Whilst the need does not automatically override environmental protection and the concerns of the community, it is an important material consideration in this case which should be afforded significant weight in the planning balance. In summary, the considerations set out in the Ministerial Statements were those that would already be applied under the NPPF and in environmental impact assessment procedures and were considerations properly addressed by the Appellant in its evidence. Whilst helpful and welcome, the NPPG or Planning Practice Guidance does not require the Appellant or decision maker to do anything more or different.
61. Energy policy is clear¹⁰. There is no reasonable room for dispute regarding (1) the seriousness of climate change and its potential effects (2) the seriousness of the need to cut carbon dioxide emissions or (3) the seriousness of the Coalition Government’s intentions regarding deployment of renewable energy generation.
62. The Roadmap Update, written in November 2013, confirms that on-shore wind continues to have an important role to play in UK energy policy and a long term investment programme underpins that commitment. As with the 2012 Update, the document emphasises the economic benefits presented by renewable energy including that on shore wind is one of the most cost effective and proven renewable energy technologies and has an important part to play in a responsible and balanced UK energy policy (paragraph 114) and that renewable energy helps the UK achieve challenging decarbonisation targets and a key benefit of deploying renewable energy technologies is the potential reduction in carbon emissions (paragraph 91).
63. EN-1 makes it clear that the need for renewable energy remains urgent. The Secretary of State was explicit in recognising this point in the recent Treading Bank appeal decision and that it remained a “very important” factor.

¹⁰ See CD documents in Section 6

64. The council was also clear that it does not make a performance related case against the proposed development; in other words, there is nothing relating to available wind speed, commercial viability, predicted output, carbon payback or emissions savings which specifically weigh against the scheme in the planning balance. Any recalculations of the likely benefits of the scheme are on the basis of revised assumptions which would be common to all commercial scale wind farms and it is likely to be rather better performing than the conservative estimates in the environmental statement and that takes account of increased wake loss because of the closer turbine spacing¹¹. This would be a strongly performing wind farm and could be delivered quickly.
65. The emerging Development Management Policies DPD is at too early a procedural stage to be accorded significant weight. However, to the extent that weight is attached, it indicates that applicants will need to demonstrate that they have assessed and tested their proposal against the methodology contained within the "South Norfolk District Wind Turbine Landscape Sensitivity Study" (Final Report for South Norfolk District Council by Land Use Consultants, April 2006-January 2008). Map 4.2 which accompanies the draft policies shows the appeal site to be located in an area of moderate sensitivity to a small scale wind farm (2 to 6 turbines).
66. The guidance contained within the South Norfolk District Wind Turbine Landscape Sensitivity Study was intended to set out a positive approach to guide development rather than absolute thresholds. The basis of this study is important in that it was intended to provide strategic guidance on the landscape factors influencing the location of wind turbines; and it identified local variations in character (within a landscape type) as a factor to be considered in relation to individual applications. The appeal site is located within Landscape Type B: Tributary Farmland. The wind turbine landscape sensitivity study states that this is an area of moderate sensitivity to a small group of wind turbines (2-6 turbines).
67. The introduction to the "Guidance on Assessing the Landscape and Visual Impact of Large Turbine Developments"¹² states that the increased development of renewable energy resources is vital to facilitate the delivery of the Government's commitments on both climate change and renewable energy. When assessing the landscape and visual impacts of large turbine proposals, it confirms that the council will use the information contained within the South Norfolk District Landscape Character Assessment and the Wind Turbine Landscape Sensitivity Study. The three saved Local Plan policies identified to be of most relevance to this assessment are Policy ENV 1: Protection of Landscape (now superseded), Policy UTL 13: Renewable Energy and Policy ENV 8: Development in the Open Countryside. It also identifies that "Policy UTL 13 provides a separate mechanism for approving large turbines where the benefits to be derived from the renewable energy outweigh the potential harm to the countryside that policy ENV8 would normally prevent.
68. There are three separate considerations (1) landscape character (2) visual amenity and (3) the visual component of residential amenity. The turbines will be

¹¹ Doc ID59

¹² CD3.5

seen, but it cannot be the case that those who have established encouraging and enabling policies have done so without a clear awareness that in doing so as part and parcel of tackling climate change, this will give rise to significant landscape change and with it, visual change which will give rise to perceptions of visual and landscape harm for a proportion of the local and wider community.

69. Landscape and visual effects are only one consideration to be taken into account in assessing planning applications. Effects may be deemed significant and even harmful, but they do not have to be rendered harmless to be acceptable.
70. The previous inspector considered the effect of the previous scheme on the character and appearance of the surrounding landscapes on a broad and unrestricted basis and formed particularised conclusions which were as follows:
- The appeal site is within a pleasant rural area that is clearly valued by local residents. Although pleasant this area does not have any special designation for its landscape qualities (paragraph 12)
 - The wind turbine landscape sensitivity study identifies character areas and for each one sets out a sensitivity level based on the likely impact of individual and varying sized groups of turbines in the height range 120-150 m. Whilst the wind turbine landscape sensitivity study was not the subject of public consultation, it is based on the Norfolk District Landscape Character Assessment and provides a “useful starting point upon which to consider the landscape in this locality” (paragraph 12)
 - The appeal site is classed as being within the Tributary Farmland (Landscape Type B) and more particularly within the Waveney Tributary Farmland (B4). The Wind Turbine Landscape Sensitivity Study considers this area as having moderate sensitivity to a small scale group of turbines and it is indicated that only the lower end of this scale (2-3 turbines) will be appropriate (paragraph 13)
 - The proposed turbines would be large scale structures and more readily accommodated within larger scale landscapes (paragraph 14)
 - The immediate area around the proposed turbines is of a larger scale because of the large field areas, gentle undulation, limited built structures and occasional blocks of tall trees. It is also at the higher end of land levels in this area. However, the scale of the landscape changes as one moves away from the site (paragraph 14)
 - The proposed turbines would be seen from the small scale landscape to the south, including from Harleston Road. There would be a significant contrast in scale between the narrow, historic roads, with their hedge boundaries, the small scale field pattern and the proposed turbines. The very modern form of the turbines would clearly distinguish them from the immediate farming landscape from which they would be seen but despite this, their scale would be discordant. T3 would not have a significant visual impact but the alignments of some smaller roads that join Harleston Road give almost direct views towards T1 and T2, exacerbating visual effects (paragraph 15)
 - From the north, the topography, scale of the landscape with wide open views, seen for instance from Poppy’s Lane and from Pulham St. Mary is such that the turbines, despite their vertical emphasis, would be readily absorbed without resulting in a jarring or overly dominant appearance. The

turbines would not alter the clear and defining tributary landscape type (paragraph 16)

- In terms of churches, in most cases they would remain clear features of their own type and so would be seen as different from, rather than competing with, the landmark role of churches where visible, for instance when Pulham Market parish church is seen on the valley crest (paragraph 17)
- The relationship of the turbines to St. Marys Rushall in terms of its landscape setting¹³ will vary and from some viewpoints that visual relationship would not be harmful. However the public footpath to the south of the church has views in which the church, with its locally important distinctive round tower, would appear to have turbines situated at either end. As perceived from this part of the public right of way, the visual prominence of the church in the landscape would be diminished and this would detract from the simple pastoral scene because of the jarring relationship of the turbines and tower. The change to the character of this part of the landscape would be significant and harmful (paragraph 18)
- In many views, all three turbines would be acceptably accommodated within the landscape but there would be some views where modest harm would arise and there would be specific views where the disposition of the turbines would cause visual harm, particularly as regards Rushall and its surroundings. This would not accord with Local Plan Saved Policy ENV8 or Policy 2 of the JCS (paragraph 28)

71. The appeal site comprises large, open arable fields divided by hedgerows or ditches, with occasional clumps of trees or shelterbelts. The council's witness agreed that the previous inspector had correctly described the appeal site as being of a larger scale because of the large field areas, gentle undulation, limited built structures and occasional blocks of tall trees. It is at the higher end of land levels in this area. The appeal site is located precisely where the Wind Turbine Landscape Sensitivity Study suggests the best opportunities for turbine developments of 2-3 turbines are.
72. There would be localised significant effects on landscape character within part of the Waveney Tributary Farmland LCA within a distance of about 2 km. These can be characterised as follows:
- The B4 Waveney Tributary Farmland LCA would experience a substantial and significant effect within 0-1 km
 - Between 1-2 km, there would be a moderate (significant) effect on landscape character to both the north and south of the appeal site
 - To the north, the more open larger-scale landscape would allow more visibility of the turbines but this larger scale could accommodate them satisfactorily, just as the previous inspector concluded.
73. To the south of the appeal site and south of the Harleston Road over a km away is an area of land that has a different character within the Waveney Tributary Farmland LCA B4 landscape. This is a limited area of smaller-scale, more intimate

¹³ AD4 Appendix 3, viewpoints 19 and 20

landscape located between Rushall and Dickleburgh. It is an undesignated landscape. There is no specific policy protection at any level for views out from the smaller scale landscape towards the appeal site. Such views are not a key characteristic of the small scale landscape and management guidelines are to do with matters such as the retention and enhancement of hedgerows and physical landscape fabric.

74. The photomontages¹⁴ illustrate that, for the revised scheme, in views of the turbines from certain points on the local roads, there would be a medium to high magnitude of change. However, the high magnitude of change would be limited to specific points at road junctions, where a wider view is available. These are not characteristic of the majority of views available from the 'small scale' area, because the roads are enclosed by high hedges and there are many trees. In comparative terms, the turbines have been (1) brought closer together and (2) moved further away from this landscape than they were previously.
75. Having considered a number of churches serving as landmarks in the wider landscape, the previous inspector was content that they would not be unacceptably affected, with the one exception at St. Mary's Rushall. However, even here, from most viewpoints the visual relationship between church and turbines would not be harmed. Paragraph 18 of the previous decision is carefully constructed and it is clear that what was considered to represent an unacceptable relationship was the turbines appearing at either side of the church from a particular, short stretch of the footpath. The straddling effect would have been obtained for a distance of about 30m.
76. Removal of the straddling effect was one of the key objectives in the redesign of the project. The turbines would now be closer together, forming a more defined and cohesive group and all set off to the right hand side of the church. The jarring relationship of the turbines and church tower has been eliminated and that which is important about the building in contemporary landscape terms has been adequately respected. This is a minor path within an agricultural landscape and it is not a location from which the village is seen in any important way, including its relationship with the church. The Wind Turbine Landscape Sensitivity Study criteria do not prohibit seeing turbines and church towers in the same view.
77. The separation between what is a private interest and what should be protected in the public interest is tolerably clear; it has been the subject of particular focus in wind farm cases since the decision at Enifer Downs in April 2009. It is acknowledged that the approach, articulated in its fullest form at Carland Cross should not be regarded as a mechanistic 'test' and has no status in terms of being part of statutory documentation or planning policy or guidance. However, it is most welcome to adopt a logical, transparent and objective approach and was recognised by the High Court as a suitable way of determining a policy compliance threshold.
78. No individual has the right to a particular view, but there comes a point when, by virtue of the proximity, size and scale of a given development, a residential property would be rendered so unattractive a place to live that planning permission should be refused. The public interest is engaged because it would not

¹⁴ Doc AD4 photomontages 22 - 25

- be right in a civil society to force persons to live in a property, which, viewed objectively, the majority of citizens would consider to be unattractive. The test is concerned with an assessment of living conditions as they would pertain with the wind farm built, irrespective of the starting point.
79. At Burnt House Farm, the Secretary of State found it useful to pose the question “would the proposal affect the outlook of these residents to such an extent i.e. be so unpleasant, overwhelming and oppressive that this would become an unattractive place to live?”. This was the position adopted by the Secretary of State in the Nun Wood decision decided in mid-December 2013.
80. At none of the individual residential properties identified or at any other dwelling would the turbines be visually overbearing, overwhelming or oppressive such that they would be rendered unattractive places in which to live¹⁵. Given the scale of the development, spacing of the turbines, distances involved, orientation of properties and amenity space and openness of view, any effects on outlook would not cross the public interest line at Upper Vaunces¹⁶.
81. If it is considered necessary and desirable, mitigation planting is offered, secured by a combination of condition and legal undertaking. In relation to Barnacres, the proposed development marks an improvement over the previous scheme. T3 has moved 72 m further away to 722 m from the house and would be partially obscured from the house by outbuildings and vegetation. T2 is 194 m closer but is still 955 m away. T1 is only 2 m closer at 703 m. The turbines now present a tighter and more evenly spaced group than previously but retain an open arrangement, maintain visual permeability and avoid any overlap and blade clash¹⁷.
82. Semere Green Farm would be about 735m from the nearest turbine T1. In the previous scheme T1 would have been the nearest at about 610m. T3 has also moved a little further away, but T2 is closer, but still about 1039m away. While there would be a substantial effect, the spacing would be acceptable and there would be a significant improvement in relation to the previous scheme. Planting at the boundary could be provided in mitigation.
83. Seamere Cottage would now be about 714m to the nearest turbine T1, whereas in the previous scheme it would have been about 625m. T3 would also be further away at about 841m, and although T2 would be closer than before, it would still be the furthest away turbine at about 1010m. Any harm at worst would be moderate, and not unacceptable.
84. In terms of Lowbrook Farm, the nearest turbine T1 would be about 1047m, rather than about 700m in the previous scheme. The previous inspector noted in relation to the turbines, that those at 1270m and 1409m would be sufficiently spaced to not be particularly intrusive. Turbines would take up a small part of the view. While the hedge to this side of the property has been removed, reducing screening in comparison with the previous scheme, the increased distance is sufficient to overcome any increased harm from the hedge removal.

¹⁵ See doc AD4 appendix 3 for view points of and from the various properties

¹⁶ See Environmental Statement Volume 2 part 1

¹⁷ Appellant's assessment at AD4 Section 9

85. In mitigation, the appellant offers to provide planting to the boundaries of some properties, which would be the subject of an undertaking¹⁸.
86. The council did not identify harm to listed buildings or conservation areas in its reason for refusal relating to the previous scheme, apart from contending that there were issues relating to historic buildings as part of the landscape. In addition to the role potentially played by churches, attention was drawn by the council to Barnacres, including in respect of the recent earthworks associated with the reservoir to the rear of the property
87. The reason for this is clear from the consultation response to the proposed development by the Conservation and Design team, dated 18th July 2013. It was confirmed that whilst the council felt that the previous scheme would have an impact on the setting of several listed buildings in the area, the conservation team did not feel it would be able to justify objecting on that basis. More importantly, the considered professional view of the council was that the turbines “would not harm the church of St. Mary’s at Rushall or its setting”.
88. In the final paragraph of English Heritage’s letter dated 5th July 2013¹⁹, it is recognised that England Heritage is not in a position to undertake the balancing exercise within paragraph 134 of the Framework. By reference paragraph 134 of the Framework, English Heritage is accepting that any harm is less than substantial. Accordingly, it is not in a position to recommend refusal of planning permission, as it cannot assess the wider benefits of the scheme and balance required. English Heritage refers back to the previous decision, but this involved a greater level of harm and any such planning balance struck is not portable.
89. With regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990, notwithstanding misgivings about it expressed in the Bedford BC case, the Barnwell Manor litigation has made plain the statutory duty is separate from the planning policy position. Laborious as it may be, each and every heritage asset within the study area has to be considered separately under both regimes. The Barnwell Manor decision is going to be considered by the Court of Appeal in late January 2014²⁰.
90. Setting is not a heritage asset in itself and nor is it a heritage designation; its importance lies in what it contributes to the heritage significance of the heritage asset. The key question is to understand whether and to what extent elements of the setting of a heritage asset contribute to significance. It is then possible to assess whether any change in that setting due to the proposed development would affect the significance of the asset. Change in itself does not constitute an effect on significance.
91. When an asset is likely to be affected, significance must be assessed in its entirety. This involves looking at setting ‘in the round’. Particular views may be more important (because they were designed or because they convey more heritage relevant information) than others but an assessment must not be restricted merely to views in which a development may have an effect.

¹⁸ Doc OD20

¹⁹ See black lever arch file with application documents.

²⁰ See doc OD23 for appellant’s comments on Court of Appeal decision now decided

92. Paragraph 2.7.17 of NPS EN-3 directs that when undertaking an assessment of the likely impacts of wind turbines on landscape and cultural heritage assets, the decision maker should take reversibility into account. This echoes English Heritage's own guidance on Wind Energy and the Historic Environment which provides in the last bullet point on the Checklist that consideration should always be given to the reversibility of wind turbines. Reversibility can only serve to mitigate any harm arising and militate in favour of the grant of planning permission. Comments about reversibility in the Nun Wood report and decision letter cannot be read as construing a change in the clear policy set out in NPS EN-3.
93. The dwelling houses are all examples of rural houses and cottages designated as Grade II listed buildings. They are all examples of what may be termed vernacular buildings; relatively modest examples of the local historic building tradition. They are well represented both as small clusters of assets in the historic cores of the local villages and more scattered in rural settings. The assets are all examples of the latter type.
94. Most of the assessments are essentially the same, as the way in which the various Grade II farmhouses and cottages relate to their respective settings is similar. Generally the assessment of the setting by the council is not disputed. However, the council has not demonstrated how the turbines would harm the significance of these buildings. Just because turbines would be seen in a view does not mean that any harm to heritage significance would be caused.
95. It is recognised that there is potential for erosion of significance of St. Mary's Church, Rushall as a focal point. However, erosion of the contribution to significance in the specific view should not be confused with loss of significance overall. Setting is not about single views.
96. So far as views from the churchyard are concerned, whatever happens in respect of T1, the impact is more than balanced by the fact that T2 would appear smaller. Viewpoint 21²¹ is a single viewpoint and chosen as a worst-case location. There is a need to consider the full range of viewpoints within the churchyard. It would not lose its solemnity or its important role in community life to any unacceptable degree.
97. The thrust of the heritage protection guidance in the Framework is about managing change in the historic environment responsibly, not about avoiding harm altogether where it is justified. Paragraph 134 of the Framework applies in relation to the various designated heritage assets. The modest degree of harm identified in this case should be weighed against the wider benefits of the application and the public benefit of mitigating the effects of climate change. It is clear that the benefits of this scheme outweigh any harm within paragraph 134.
98. Very extensive ecology related evidence was heard at the previous inquiry. Indeed in paragraph 90 of the decision letter, the inspector made a point of describing how "lengthy" the evidence about the adequacy of the ornithological survey work had been. Having heard evidence over a number of days at the first session and then again over multiple days at the second session, the previous conclusions are not altered.

²¹ See AD4 appendix 3 Viewpoint 21

- Survey work in respect of the farm buildings indicated negligible bat activity (paragraph 81)
- It was accepted by the witness for 4 Villages that whilst not of a level which she would have wished for, the survey work could be interpreted as being within the Bat Conservation Trust Guidelines 2007 and advice in TIN051 (paragraph 82)
- 8 species of bat were found on site including Serotine and Barbastelle (paragraph 83)
- Advice contained within TIN051 would be complied with (paragraph 85, 86 and 87)
- Adequate evidence has been provided to demonstrate that the degree of risk to bats, which are a protected species, would be negligible and there would be no conflict with the Framework or Local Plan Saved Policy ENV 15 (paragraph 89)
- In terms of birds, surveys were undertaken using Scottish Natural Heritage guidance dating from 2005, which set out a suitable approach to numbers and timings of surveys, vantage point watches and distances to be covered. None of the points raised by 4 Villages, individually or cumulatively, is such that it fundamentally detracts from the adequacy of the survey work (paragraph 92)
- Variation exists between the list of bird species recorded by the appellant and the records produced by 4 Villages, but it is important to concentrate on the likely effect of the proposed development having regard to species on site and the likelihood of the impact of the proposed development upon them (paragraph 93)
- Occasional or infrequent sightings, whilst interesting, are less likely to be significant (paragraph 93)
- The point at issue is whether or not the proposed development would cause harm to the observed flocks of golden plovers. Based on the high level of collision avoidance, the modelling, based on the data provided for the Environmental Statement which was satisfactory, indicated that the effect on the population of golden plover would not be significant (paragraph 95)
- Unacceptable disturbance or dislocation would not be caused (paragraph 96)
- The newly constructed irrigation reservoir would not be particularly attractive to wading birds, but might be attractive to other wildlife and possibly occasional waterfowl use (paragraph 97)
- There is no evidence to suggest that a flight path between the irrigation reservoir and the Lonely Road reservoir was likely to be created (paragraph 98)

- Whilst contrary to the normal aims of seeking to maximise biodiversity, management of the irrigation reservoir might be to avoid ecological interests (paragraph 98)
- Given the extensive area for birds such as buzzards, kestrels and sparrowhawk (the only raptors identified as nesting within 500 m of the turbines) to hunt, it seems unlikely that the water body would introduce a significant change to behaviour (paragraph 99)
- In terms of barn owls, whilst there are records of sightings near to Upper Vaunces farm buildings, they were at low height (paragraph 99)
- The reservoir is part of a changing approach to agricultural management of the land and whilst current agricultural cropping may attract certain species, changes to cropping may occur at any time depending on what is financially attractive and are not material to the decision (paragraph 100)
- The proposed development would not materially harm bird populations that use the site area and subject to management of the reservoir, it would not result in material harm to wildlife in the locality. There would not be any conflict with Local Plan Saved Policy ENV15 or Policy 2 of the JCS which seeks to avoid harm to key environmental assets (paragraph 101).

99. The evidence from 4Villages was about process. There has been virtually no allegation of substantive harm at all. Surveys are not intended to find "all there is to find at the site" but rather to provide a sufficient level of baseline information upon which to undertake an impact assessment which meets the requirements of the EIA Regulations. The council, Natural England, RSPB and the Planning Inspectorate are all content that the conclusions of both the bat and bird assessments provide sufficient environmental information for the purposes of the EIA Regulations and an adequate basis for lawful decision making. This is not a case of 4Villages not being respected or listened to; the RSPB, Natural England, the Council ecologist, and other experts simply disagree.

100. Importantly, the council originally sought to request further environmental information pursuant to regulation 22 but, in light of the information provided by the appellant, this was not required. Natural England took the view that it neither requires more information nor objects to the proposed development. The clear message from Natural England was that it felt misled by objectors to the wind farm, who have persistently tried to build up the ecological issues into something they never were.

101. In terms of harm, the remaining question is whether or not there have been any material changes in circumstances which would justify reaching a different decision on the planning merits to that of the previous decision. In relation to bats, the changes in circumstances relied upon were (1) relocation of the turbines (2) construction of the irrigation reservoir (3) the fact that trees on various parts of the sites had grown rather taller than was noted in the Phase 1 Update study (4) publication of the Norfolk Bat Group study and (5) the need for what was termed an "emergence" survey.

- 4Villages expressly agreed that the survey effort undertaken by Atkins for the previous inquiry was “good” and reliable and remained so.
- In respect of the new turbine locations, all parties accept that they would comfortably exceed the minimum stand-off distances set out in the current Natural England guidance note TIN051. The previous inspector was satisfied with the previous locations and the current locations are at even greater stand off distances from habitat features of bat interest.
- The irrigation reservoir had been constructed and was the very purpose of the second session of the first inquiry. It is located some considerable distance from any of the turbines (500m). Whilst it might conceivably attract some of the bat species most strongly associated with water, notably Daubentons and Soprano Pipistrelles, the Norfolk Bat Group survey showed relatively low bat activity at the nearest monitoring location and extremely low activity from these particular species. Given compliance with TIN051, the appellant's expert opinion was that the irrigation reservoir in its current form made no difference.
- All trees close to the turbines have been accurately surveyed and their respective heights measured. These measurements have been used as the basis of the TIN051 triangulation measurements. Precisely when they were measured and whether or not tree heights should have been included in the Phase 1 update survey is irrelevant. Correct and full information is available now.
- The Norfolk Bat Group study results support the appellant's position. It corroborates the studies undertaken by them in terms of total number of species identified and levels of activities. Activity of rarer and higher risk bat species such as Noctules is negligible. The overwhelming number of bat registrations came from Common Pipistrelles
- An Emergence/Re-entry survey would be appropriate for a potential building or tree roost in a physically inaccessible location. It is unnecessary and wholly inappropriate on this site.
- Whilst it is a matter of regret that an individual bat may be killed or injured, determination should be based on an adequate assessment of the conservation of local bat populations and not on a premise that each and every bat must be protected at all costs. In this case, there simply is not any evidence to justify refusal of planning permission.
- Overall, the appeal site comprises managed arable fields and access tracks which have low value as feeding or commuting habitat for bats. Much of the wider survey area is also predominantly arable land. The more important bat commuting and foraging route along Lonely Road would be entirely unaffected by the proposed development.

102. The changes in circumstances identified by 4Villages were (1) relocation of the turbines (2) establishment of the irrigation reservoir (3) the fact that trees on various parts of the site had grown rather taller than was noted in the Phase 1 Update study and (4) more information on barn owls and also refer to the absence of a specific raptor survey.

- No evidence has been put forward that relocation of the turbines would make any material difference to previously considered impacts on ornithology.

- The irrigation reservoir was considered in the previous appeal. The appellant's expert view is that the potential for the irrigation reservoir to raise the level of impact on birds is sufficiently low that a grass cutting regime is not necessary; however, adopting a precautionary approach advocated by the previous inspector, the appellant can understand why the decision maker might want to impose a condition.
- The fact that the trees on various parts of the site had grown taller since 2008 is irrelevant to the question of potential harm to birds.
- Whilst there is more information available on barn owls than at the previous inquiry, Dr. Holloway who can justifiably claim long term practical expertise in monitoring and assessment of barn owl activity, relied on the current Barn Owl Trust guidance which states that risk to the species is very low. Barn owls fly low at 3-4 m from the ground when hunting and even on return flights fly at about 10m, well below the turbine collision risk zone. Simply pointing to more barn owl activity doesn't increase the likely impact of the turbines if barn owls aren't adversely affected. Mr. Ramsden at the Barn Owl Trust is the leading expert on barn owls in the United Kingdom and the 2013 Wind Turbine Position Statement is the Trust's considered stance, taking into account the available evidence to date.
- Raptors were not overlooked in the EIA and the sufficiency of information has been accepted by the RSPB, Natural England and the Council in this regard. There is no evidence that there would be at unacceptable risk at Upper Vaunces.

103. Government guidance has consistently incorporated ETSU-R-97 as the approved methodology for assessing the impact of noise from wind turbines. The NPPF specifically incorporates the guidance contained within EN-1 and EN-3. General guidance on noise is contained within EN-1. The technology specific guidance for assessment of noise from on-shore wind energy schemes is provided in section 2.7 of EN-3. Paragraphs 2.7.57 and 2.7.58 of National Policy Statement EN-3 are clear that (1) ETSU-R-97 should be used and (2) providing that it is demonstrated that a particular scheme would comply with an ETSU-R-97, a decision maker may decide to give limited or no weight to claimed impacts on amenity. Although it is also open to a decision maker to look at factors beyond or contrary to ETSU-R-97, the Government is steering decision makers very much away from giving other factors weight in the planning judgement. The very recent Parliamentary answer from Greg Barker confirms there are no plans to change the ETSU-R-97 methodology.

104. In the recent Spring Farm Ridge challenge, the High Court said that it was perhaps unsurprising that the Inspector had used ETSU-R-97 as the exclusive and sole criteria for determining the acceptability of noise impacts. It would be open to consider other material considerations, but perfectly lawfully and rationally to decide that ETSU-R-97 should be used for determining acceptability of impacts and as the basis for imposing a suitably worded condition.

105. In this case, predicted wind turbine immission levels using a candidate turbine will meet the ETSU-R-97 derived noise limits under all conditions and at all locations for both quiet daytime and night-time periods. The council has not objected on the basis of noise. 4Villages expressly indicated that they took no issue with the accuracy or use of the ETSU-R-97 noise assessment.

106. The issue raised in respect of operational noise is use of the same derived level for both quiet daytime and night time periods. This would be a departure from ETSU-R-97 which provides a clear justification for the differential adopted. The appellant submits that ETSU-R-97 should be applied in the normal way and that the evidence does not indicate that a departure from it is necessary. This is a very different situation to the one at Batsworthy where turbines during the day, which were being run in a constrained mode, could be ramped up at night. No constrained modes are proposed at Upper Vaunces.
107. Excess or 'other amplitude modulation' has been discussed at length in a number of inquiries. The only condition imposed by an Inspector was at Den Brook and by the Secretary of State at Swinford. It was agreed by 4Villages that there remains no consensus amongst the acoustic community regarding the definition, causes, mechanics, frequency, duration or seriousness of amplitude modulation. Government policy and guidance has not changed. As recorded in the very recently published IoA Good Practice Guidance, current best practice is not to attempt to impose an amplitude modulation condition.
108. The Appellant case is that it is not possible, given the current state of play to construct a lawful condition to control 'other amplitude modulation'. Precisely because the causal mechanism is not known, it is simply not possible to devise a scheme to predict and abate it. As is suggested in the Renewables UK material, the condition would likely dissolve in to a blunt tool requiring turbines to be switched off, at least every night which is neither proportionate nor workable. Particular reference should be made to the detailed discussions in the recent appeals at Woolley Hill, Jacks Lane/Chiplow and Batsworthy Cross and the conclusions reached, all of which remain sound. At the inquiry, Mr. Davis did not argue for use of the Renewables UK template condition, but for a Swinford style variant of a scheme to be agreed. Exactly this sort of condition was rejected by the Inspector in the Jacks Lane/Chiplow case.
109. An OAM condition would be (1) unnecessary (2) imprecise (3) unenforceable and (4) unreasonable and therefore unlawful. This does not mean that planning permission should be refused. The unquantifiable risk of OAM occurring at Upper Vaunces at levels which would be unacceptable and which might justify refusal of planning permission in the public interest does not lead to this conclusion. Statutory nuisance remains available as an appropriate statutory code for dealing with OAM complaints.
110. The proposed development would involve change, but change in itself is not unacceptable. Change of this type and magnitude is an acknowledged impact of a policy of deployment of wind turbines in the Norfolk countryside which the council itself has encouraged and still wishes to encourage through the wind turbine landscape sensitivity study. The general landscape and visual effects of this scheme are precisely what the Council can expect to see. There is nothing so special or out of the ordinary with the proposal to suggest that the likely significant environmental effects would be unacceptable in the public interest which the planning system is there to preserve.

The case for the South Norfolk District Council is set out in documents SND1 to SND5. Closing submissions are at ID70 and further submissions were made relating to Section 66 and the new Planning Practice Guidance at OD21 and OD27. The material points are:

111. The council maintains its position that when it considered the application (after the appeal had been lodged for non-determination) its putative reasons for refusal struck the correct balance between environment and climate change. There would be an unacceptable impact on the landscape, and the revised location of the turbines has not overcome the concerns of the previous Inspector in this regard. The siting of the turbines would continue to have a harmful impact on the settings of a number of heritage assets as referred to in the previous Inspector's decision²². The siting of the turbines would cause much greater harm to the setting of St. Mary's Church Rushall (Grade I). It is considered that the harm to each heritage asset would be less than substantial in terms of paragraph 134 of the Framework, which is to be weighed in the balance against the public benefits.
112. The revised proposals would lead to substantial adverse impacts to the living conditions at Semere Green Farm, Seamere Cottage, Barnacres, and Lowbrook Farm. The impact on the living conditions of Barnacres, and Semere Green Farm would be unacceptable.
113. In terms of landscape, the previous inspector noted several impacts with regard to the small scale landscape to the south of Harleston Road. It is not the geographical size of the area which is relevant, but rather the proximity of the appeal site (with its turbines) to this area. The Inspector was also making a landscape character point with regard to the impact on St. Mary's Church at Rushall. She noted the important role that churches play in the landscape character of the area. For St Mary's at Rushall, there would be impacts on views of the church from the public footpath to the south. The Inspector identified the wider landscape harm because of the diminution of the church as a feature and to the appearance of the settlement of Rushall.
114. The previous inspector identified unacceptable living conditions for the occupiers of Lowbrook Farm as well as an oppressive presence to the patio area of Seamere Cottage. She also identified substantial changes in the outlook for the residents of Semere Green Farm and Barnacres amongst others. All of these identified harms weighed in the planning balance²³.
115. The previous inspector agreed with the appellant's Environmental Statement that there would be harm to a number of Grade II listed buildings which the Environmental Statement had identified as having effects of up to moderate significance. In referring to the harm to the setting of Rushall church the Inspector did not limit the harm to the specific impact of the turbines either side of the church tower. The harm was caused by the position of the turbines when seen from the footpath. It was all of these identified harms which weighed in the balance even though no one impact was deemed to be substantial.

²² Doc 5.1 paragraph 29

²³ Doc 5.1 paragraphs 36 - 48

116. In those circumstances, it misses the point to say that these were discrete impacts, narrowly defined by the Inspector. It is the overall thrust that is relevant: when the impacts are considered together. The form and design of this revised scheme is not suitable for the appeal site. The council's expert gave her view that it was difficult to see in landscape and visual terms how a wind farm on this scale could be accommodated here. The previous Inspector's overall conclusion was that the harms identified were not and could not be made acceptable for the development proposed.
117. The appellant's witnesses placed too much weight on the detail of the guidance in National Policy Statements EN-1 and EN-3²⁴. It is the 'approach' in those documents, not the detail of the guidance, which the Framework advocates should be applied to these applications, and it should at all times be remembered that those documents were drafted to apply to schemes for 50MW or more with the added benefits such scheme would have. These also need to be read in the context of the Planning Practice Guidance which, together with the Written Ministerial Statements, which foreshadowed it²⁵, seeks to redress the balance more with local amenity impacts, including landscape, residential amenity, and cultural heritage. The new advice is to be taken into account by planners and experts when considering local amenity impacts which have historically been under-assessed.
118. The appellant notes that EN-3 indicates that the time limited nature of wind farms is an important consideration for the IPC when determining applications. However, too much weight has been placed on reversibility when assessing the cultural heritage impacts and, more generally, particularly in the light of the recent decision in Nun Wood. In Nun Wood, the Secretary of State agreed with the Inspector that the benefit to the appellant's case which could be derived from the reversibility of the scheme was limited. The Secretary of State agreed with the Inspector and gave limited weight to reversibility, adding that the proposed 25 year operational life of the scheme was in any case a relatively long time. The footnote to paragraph 97 of the Framework does not simply import all of the guidance in the national planning policy statements into the Framework wholesale, but advises that the 'approach' should be followed.
119. The weight to be attached to energy policy should be qualified by an appreciation of the relative importance of planning policy. In particular, whilst Government energy policy statements are material considerations carrying weight, when considering national energy policy and planning policies, it is national planning policy which should carry more weight, and planning policy statements on energy can reasonably be taken to reflect the thrust of energy policy statements which preceded them. Importantly, land use planning policy reflects that there is a balance to be struck with environmental impacts.
120. The fact that the impacts here are felt at a more localised level does not mean that they can be easily overridden by the national need for renewable energy. The Planning Practice Guidance on renewable energy and low carbon energy is the most recent statement from central government on these issues and follow

²⁴ Doc CD 6.3 and 6.4

²⁵ See documents in Section CD2

the previous guidance²⁶. Its focus is on decision making at a local level. The need for renewable or low carbon energy does not automatically override environmental protection; local topography is an important factor in assessing whether wind turbines could have a damaging effect on landscape; great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. Protecting local amenity is an important consideration which should be given proper weight in planning decisions.

121. Decision makers should now scrutinise impacts on the local environment carefully. They can and should be afforded more weight in the planning balance, bearing in mind that the view was that decisions were not always reflecting a locally led planning system and that action is needed to ensure the local environment is properly considered. More broadly, the PPG undercuts the argument about the direction of travel of energy policy when translated into national planning policy.
122. The previous appeal noted that the Wind Turbine Landscape Sensitivity Study²⁷ was not the subject of public consultation, but was based on the South Norfolk District Landscape Character Assessment and provided a useful starting point upon which to consider the landscape in this locality. The Wind Turbine Landscape Sensitivity Study remains relevant, up to date, and whilst it was not consulted upon, it does carry significant weight in the determination of this appeal.
123. It is not simply a case of noting that the Tributary Farmland landscape has a moderate sensitivity to a small-scale group of turbines. The wind turbine landscape sensitivity study goes on to require consideration of the appropriate location within the landscape type, firstly by reference to the guidance for a single turbine, and secondly by providing additional guidance that the rural and tranquil character of the tributary farmland should be respected as well as the sensitive views across the landscape and into adjacent character areas. It is too simplistic to use the guidance in the Wind Turbine Landscape Sensitivity Study which applies to all Tributary Farmland, and suggest that because the appeal site is on the more open, flatter ground of the Waveney Tributary Farmland, that identifies it as a suitable site.
124. Whilst the Wind Turbine Landscape Sensitivity Study does indicate a moderate sensitivity to the location of a small group of 4 turbines, it is clear that the guidance when read as a whole is restrictively worded and provides for some limited opportunity for no more than 2 or 3 turbines. The Wind Turbine Landscape Sensitivity Study must be applied as part of a suite of documents, and reference to the Landscape Character Assessment²⁸ reveals the location which is envisaged here. The Waveney Tributary Farmland as a specific Landscape Character Area within that Landscape Type is described within the Landscape Character Assessment. One of the Key Characteristics of this particular Landscape Character Assessment is the 'Undulating landform to the south of the

²⁶ Doc CD 2.2 and see councils views on Planning Practice Guidance at OD27

²⁷ Doc CD 3.4

²⁸ CD 3.6

- area where it is dissected by tributaries. Land is higher and flatter towards the north of the character area adjoining the Great Moulton Plateau Farmland.'
125. This is a transitional landscape gently sloping from the higher plateau landscapes (at 50m AOD) to the Waveney Valley (at approximately 30m AOD). In the north, such as around Tivetshall St. Mary, the landform is higher and flatter, reflecting the transition to the adjacent Great Moulton Plateau Farmland. In the south of the character area the topography is more undulating where tributary streams dissect the landform. The narrow valleys are an important feature, providing pockets of intimacy and enclosure contrasting with the larger scale open landscape found on the higher ground.
126. So it is plain that the higher and flatter ground envisaged by the Wind Turbine Landscape Sensitivity Study as accommodating a small group of turbines is, in the case of the Waveney Tributary Farmland, the area to the north, adjacent to the Great Moulton Plateau Farmland, and not the area of the appeal site. Indeed, reference to the Plateau Farmland Landscape Type within the Wind Turbine Landscape Sensitivity Study indicates that that adjacent character type has less sensitivity to such development which would make small scale development adjacent to it more appropriate.
127. Small settlements are identified as more sensitive to development in the 'Settlement Pattern and Density' category of the Wind Turbine Landscape Sensitivity Study (p.21), as well as views to and the setting of distinctive churches in the 'Prominent Built Structures and Landmarks' category (p.22).
128. Views to and the setting of distinctive churches are referred to as a sensitive element in the Wind Turbine Landscape Sensitivity Study. Reflecting this, the Landscape Character Assessment identifies round towers as being a key characteristic of the Waveney Tributary Farmland. Once it is recognised that this is not the location envisaged for a small group of turbines in the Wind Turbine Landscape Sensitivity Study when it is read with the Landscape Character Assessment, it is plain that the advice to site away from settlements and views of churches has not been respected by this scheme.
129. In the previous decision it was noted²⁹ 'The proposed turbines would be seen from the small scale landscape to the south, including from Harleston Road. There would be a significant contrast in scale between the narrow, historic roads, with their hedge boundaries, the small scale field pattern and the proposed turbines. The very modern form of the turbines would clearly distinguish them from the immediate farming landscape from which they would be seen but despite this the scale would be discordant... [T]he alignments of some smaller roads that join Harleston Road give almost direct views towards [two of the turbines] exacerbating visual impact in those views. The differences in scale seen from this area would impact on the small scale landscape to the south of the appeal site.'
130. This remains valid. In Viewpoint 22³⁰, there is a clearer view of all three turbines than before, and there remains a clashing effect between T2 and T3. In Viewpoint 23, Turbine 1 is more clearly in view than before; whilst the turbines

²⁹ CD5.1 paragraph 15

³⁰ Environmental Statement Vol 3 Part 2

appear more closely together in Viewpoint 24, they would still take up a significant arc of view which would be all the more significant as one moves further back from the junction; in Viewpoint 25, all three turbines are now clearly in view and are likely to be more prominent along stretches of this road given the absence of intervening hedge screening³¹. In that context, it cannot reasonably be contended that the location of T2 further away from this area has materially improved the impacts.

131. The previous inspector referred to a landscape character effect in identifying harm to the sensitive view of the distinctive round tower church in its village setting at Rushall³². The position of the turbines as perceived from Rushall footpath to the south of the village would remain dominating and would diminish the prominence of the church. The location of the turbines detracts from the simple pastoral scene and there remains harm to the wider landscape character because of the diminution of the church as a feature and to the appearance of the village of Rushall.
132. It is accepted that there is an improvement to the impacts caused by the relocation of T1 to the east of the tower and the absence of the straddling effect of the turbines in the revised scheme. However, when comparing the before and after visualisations³³, the proximity of T2 in the previous scheme and T1 in the revised scheme is not significantly different in terms of its impact. The thrust of the Wind Turbine Landscape Sensitivity Study (read with the Landscape Character Assessment) is that views of distinctive round tower churches are sensitive and turbine development should be sited away from such landscape features. This has not been achieved on the revised scheme.
133. Although it can be acknowledged that landscape consultants do in practice apply a pass / fail 'test' (Lavender Test) to impacts on residential amenity, there is a very real danger in doing so in decision making. There is no such test in statute. The Planning Practice Guidance does not set up such a test, instead stating that the protection of local amenity is an important consideration which should be given proper weight in planning decisions. The approach in subsequent Inspectors' decisions is not to formulate a 'test' as such, but rather to find a way of articulating, on a case by case basis, the acceptability (or otherwise) of the impacts on residential amenity.
134. How far the turbines are from the property in question is always a key factor. Being within 800m is not in itself determinative, although the significance of proximity clearly increases where distances are substantially less than 800m. Where turbines are screened by vegetation or other buildings, their impact is lessened. This factor can only be determined on the ground. The orientation of a property relative to the turbines has been considered significant in a number of decisions, as direct views are considered more likely to cause harm than an oblique view. Where the turbines occupy a significant proportion of the view, this has been considered to increase the impact, although single and two turbines have been considered to give rise to unacceptable effects as well.

³¹ For comparative views of this and previous scheme see AD4 App 3 Viewpoints 22-25

³² CD5.1 paragraph 18

³³ AD4 App 3 Viewpoint 19

135. By moving T1 further away from Lowbrook Farm and closer together with T2 and T3, the revised scheme may have brought about a degree of improvement in the impacts at that property (in spite of the loss of the intervening evergreen hedge), and at Seamere Cottage, but it has made the impacts worse at Barnacres and no better at Seamere Cottage. T1 would be 735m from Semere Green Farm, 714m from Seamere Cottage, and 703m (2m closer than previously) from Barnacres.
136. At Barnacres, T1 at 703m is now therefore closer (just) than previously to the property. More importantly, T1 is on approximately the same alignment as T2 of the previous scheme. Yet T1 is approximately 450m closer to the property than T2 was in that alignment. The previous inspector remarked that the views from the kitchen sink would include the old T2, but that that turbine was the furthest away at over a kilometre and that the open sided barn would partly screen its tower. T1 will now be seen from the kitchen sink and be substantially closer. All three of the turbines would now appear in the remaining open view to that landscape (before it was only T3). There is nothing which intervenes in the view of T2 and T3. All three turbines would be visible from the approach, with T1 above the roof, T2 to the left of the house in the view, and T3 above the single storey buildings in the view. The revised scheme has exacerbated the impacts and this property would be rendered an unattractive place in which to live by this scheme.
137. When considering the visual impacts on Semere Green Farm the, previous inspector referred to the residential annexe in the garden, between the main dwelling and the nearest turbine, which together with other ancillary buildings and attractive garden area, would provide an immediate focus. The turbines have been moved around to the west, away from the residential annexe and ancillary buildings, and would have less of a role in mitigating the impacts.
138. The property is orientated around this south east facing view, with two sides of the conservatory almost completely glazed. The turbines will be ever present in the majority of views from this room and from the other rooms on this side of the property, as well as from the garden. Less weight should be attached to the impacts as shown on Viewpoint RV14³⁴ since it is taken from the edge of the garden area, considerably closer to the turbines, making the screening effect of the trees seem greater. Ms. Bolger's MB Figure 08³⁵ is taken from the edge of the patio area, with the old 60m meteorological mast in place (close to the alignment of T1 and T2).
139. The revised scheme has not resulted in any improvement to the previous overbearing impacts. The occupier would have little respite from the presence of the wind turbines, their enjoyment of their place of residence would be significantly undermined and the turbines would dominate their property and their lives. The council contends that the impacts here will render the property an unattractive place in which to live.
140. The council say there would be substantial adverse visual impacts at Lowbrook Farm and Seamere Cottage. The appellant identifies substantial effects for each

³⁴ AD4 Appendix 3

³⁵ Doc SND3

of the properties³⁶. Such impacts must weigh in the planning balance and it would be logical to apply a relative weighting to such impacts according to the degree of harm identified. While the impacts at Seamere Cottage and Lowbrook Farm do not render them unattractive places in which to live, the impacts nevertheless weigh heavily in the planning balance. If either of Semere Green Farm or Barnacres are rendered unattractive places in which to live, and the council contends they both are, the appeal should be refused.

141. Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, there is a duty to have special regard to the desirability of preserving the setting of listed buildings. Through the application of that duty, the cultural heritage assets are afforded statutory protection and their national importance is recognised. The effect of the decision in *East Northamptonshire DC (et al.) v SoSCLG* [2013] EWHC 473 (Admin) is that special weight or considerable importance should be attached to the desirability of preserving the setting of listed buildings and has now been confirmed in the court of appeal.
142. English Heritage grappled with the effect of the climate change agenda, and particularly wind energy proposals, providing guidance in 2005 (*Wind Energy and the Historic Environment*) and 2008 (*Climate Change in the Historic Environment*)³⁷. These acknowledge the threat of climate change and the Government's commitment to reducing the emissions which contribute to it. However, there is an equal emphasis on the fact that some renewable energy technologies have the potential to cause serious damage to irreplaceable historic sites, which are themselves an integral part of the wider and environmental sustainability agenda³⁸, and that some policies for adaptation and mitigation may have a damaging effect on historic buildings which can diminish the public's quality of life and be detrimental to the important social and economic contribution our cultural heritage makes to society³⁹. The Framework has similar aims⁴⁰. It should be recognised that heritage assets are an irreplaceable resource and that wider social, cultural, economic and environmental benefits that conservation of the heritage conservation can bring should be taken into account.
143. The recent Planning Practice Guidance provides that 'careful consideration' should be given to the impact of wind turbines on heritage assets and notes that, depending on their scale, design and prominence, a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset. This represents a material change in the policy baseline for the consideration of this scheme and the thrust of the PPG must mean that more weight should be attached to these impacts in the planning balance.
144. Whilst English Heritage were going further than their remit in making a recommendation on the application to refuse, they clearly refer to paragraph 134 of the Framework and less than substantial harm to be weighed in the balance in their letter. The important point is that having considered the revised scheme and Viewpoint⁴¹, they identified a harmful impact on the setting of the church.

³⁶ Environmental Statement, Vol. 2, Part 1, A-53ff

³⁷ CD 9.1 and CD 9.7

³⁸ CD 9.1, p.3 left hand column

³⁹ CD 9.7, page 10

⁴⁰ CD 2.1, paragraph 17

⁴¹ Doc AD4 Appendices viewpoint 19

This would detract from an understanding of the character and importance of the church, resulting in harm to its significance.

145. Setting is the surroundings in which a heritage asset is experienced. The setting and importance of setting is often expressed by reference to visual considerations. Views of or from an asset will often play an important part in the way in which we experience an asset. There is a need to assess the contribution (if any) that setting makes to the significance of the asset, and elements of setting may affect the ability to appreciate that significance.
146. The grade II listed buildings are all agricultural, with an architectural and historic interest, and land use and openness are potential attributes of their setting, which contribute to their significance, illustrating the farming landscape with which they are associated.
147. The council⁴² has carefully assessed the individual impacts on each of the Grade II Listed Buildings, following the staged approach advocated in the English Heritage Settings Guidance and calibrating its assessment using the criteria for magnitude of change taken from the Environmental Statement. The conclusion is that there would be a moderate adverse impact on Seamere Cottage, Barnacre Cottage, and Semere Green Farmhouse, amounting to less than substantial harm but requiring to be weighed in the planning balance alongside the impacts on the other listed buildings.
148. In the previous decision the degree of harm was determinative in the planning balance, leading to refusal of the previous scheme⁴³. It is a fair reading of the decision letter that it was the impact on the views of the church from the path to the south east of Rushall which caused the harm. It therefore must follow that the previous inspector considered that the views of the church from this area contributed greatly to its significance.
149. The church has an architectural and historic significance as a place of worship and the round tower at the west of the building is an important part of that significance. The church was, and to some extent still is, the focal point of the parish. Part of the reason behind tall towers on churches is that they would be designed to be seen and to demonstrate the power of the church, and the Rushall path provides the only mid-range views of the tower, which allow the church to be appreciated as the focal point of the parish in its village setting.
150. Currently the tower of Rushall church is the most prominent built form on the skyline from that path, but with the proposal (as with the previous scheme) the turbines would be the most prominent built feature on that same skyline. The movement of the turbine blades would add a distracting element in those views and compete for visual dominance with views of the church from the footpath. The turbines would detract from the church's role as the focal point of the parish.
151. Any identified harm has to be added to the harmful impact on views from the churchyard, which is an important element of the immediate setting of the church, as a place of peace and tranquillity. The turbines will introduce a distracting element which will have an adverse impact on the existing peace and

⁴² Doc SND1 paragraph 5.6, 7.3

⁴³ CD5.1 paragraph 115

- tranquillity. Under the revised scheme, there is a greater likelihood of T1 being viewed between the trees than before and parts of all 3 turbines can be seen.
152. The council does not argue that the impacts amount to substantial harm; whether they are substantial or less than substantial, they still fall to be weighed in the planning balance, and the harm identified by the previous inspector appears to have been determinative. Simply removing the straddling effect of the turbines on the tower has not made the difference.
153. Following the position statements lodged with the council's evidence, the council seeks conditions on ecology, ornithology and land contamination. Conditions are likewise sought on noise, though the council remains neutral on the question of amplitude modulation.
154. The decision maker is required to apply properly adopted and saved development plan policy, and determine appeals in accordance with those policies unless material considerations indicate otherwise. The Development Plan consists of the Joint Core Strategy for Broadland, Norwich, and South Norfolk (March 2011) and the saved policies of the South Norfolk Local Plan (March 2003).
155. There are obvious difficulties in analysing closely worded policy text for consistency against the whole of the Framework and it would be entirely unsurprising to find consistency with particular parts of the Framework and inconsistency with others. In that context, it is too simplistic to state that policies of general application have less relevance to this development because they do not contain a balancing provision supporting renewable energy. Properly adopted general policies which seek to protect the environment and which are consistent with similar sections of the Framework remain relevant.
156. As the technology specific policy, UTL13 can be said to be the dominant policy. However, each of the other policies listed above should be applied in assessing the demonstrable (identifiable) harm which could outweigh the benefits in any given case. The guidance note⁴⁴ of June 2009 provides helpful advice on what demonstrable harm to the locality means in terms of visual intrusion under UTL13. The potential of the wind turbine application to impact on the sensitivity of views to churches is of particular relevance. The guidance note states that UTL13 provides a separate mechanism for assessing such development in the countryside.
157. However, it would be wrong to approach UTL13 as the only relevant policy and to apply it as if it reflected the second part of paragraph 14 of the Framework. Whilst this policy is broadly consistent with the Framework on renewable energy, it pre-dates it, and the second part of paragraph 14 only applies where the development plan is absent, silent, or out of date, which is not the case here. When properly assessed, the proposals are in breach of extant local plan policy.
158. As for the Joint Core Strategy, Policy 1 seeks to conserve and protect heritage assets through the protection of their settings; Policy 2 promotes good design by respecting local distinctiveness, including the landscape setting of settlements and the landscape character and historic environment; and Policy on energy and

⁴⁴ CD 3.5 paragraph 8.8

water provides a positive approach to the use of renewable energy sources. It is submitted that there is an overall conflict with the development plan.

159. The climate change targets contained in the Climate Change Act 2008 and the strategy by which they are to be achieved are acknowledged by the council, including the legally binding target of sourcing 15% of energy from renewables by 2020. However, it is national planning policy which should be the starting point and should carry considerable weight.
160. There is no presumption in favour of renewable energy contained within the Framework. The encouragement of the use of renewable resources is one of 12 core planning principles, each of which carry equal weight in paragraph 17 of the Framework. Others include the requirement that planning should be genuinely plan-led and to recognise the intrinsic character and beauty of the countryside, always seek to secure a good standard of amenity, conserve and enhance the natural environment, and conserve heritage assets in a manner appropriate to their significance.
161. It is suggested that wind energy is an inherently sustainable form of development (by reference to paragraph 93 of the Framework) and any harm needs to significantly and demonstrably outweigh the benefits under paragraph 14 of the Framework. However, at Nun Wood it was acknowledged that a wind energy scheme could be described as an example of sustainable development, but the definition of sustainable development in paragraphs 6-10 of the Framework was referred to, finding that there was no particular justification for the elevation of the status of such schemes or any reason to accelerate their passage to paragraph 14. (Nun Wood IR, paragraph. 305). The Secretary of State agreed (SoS, para. 24).'
162. A proposal must be assessed against the Framework as a whole and be reasonably compliant with it, for it to be considered sustainable development. That is the only way to give meaning to this part of the Framework.
163. The development plan contains a renewable energy policy (UTL13) which provides a positive approach to renewable energy and requires a balancing exercise to be undertaken. When considered with the other relevant policies and supplementary guidance the development plan is not absent, silent, or out of date. In any event, application of this bullet point does not mean that the development plan is cast aside.
164. Whilst there remains a policy need for renewable energy, acknowledgement of that need is tempered by reference to the performance of the UK in deploying onshore wind within the strategy contained in the Roadmap. The Roadmap (together with its updates) is a recent and comprehensive expression of Government policy on renewable energy and the strategy for its deployment. It should be accorded significant weight⁴⁵.
165. The goal of the strategy is to meet the legally binding commitment of 15% energy from renewable sources by 2020. That remains the focus in the 2012 update. Whilst it is right to note that the central ranges are illustrative, and do

⁴⁵ CD 6.5 and CD 6.6

not represent technology specific targets, they do represent the means by which the 2020 target can be achieved.

166. Factoring in the significant attrition rate at the planning stage, the stated view in the 2012 Update is that the current (Dec 2012) pipeline is healthy and likely to represent the appropriate quantity of deployment to fulfil the central estimated range in the Roadmap⁴⁶.
167. The appellant accepted that it shows that there are 13.1GW of capacity which are operational, under construction, or consented which exceeds the upper end of the central range for 2020, as at June 2013. The figures show a rapidly accelerating performance in onshore wind in the last two years and the UK is virtually certain to reach the upper end of the central range for operational schemes well in advance of 2020. The Roadmap Update 2013 reflects a healthy pipeline of onshore wind developments and the data indicates that as at October 2013 there are 13.54GW of onshore wind developments either operational, under construction, or consented.
168. In terms of reversibility, a 25 year scheme is a long time and the reversibility of such a scheme should carry little weight⁴⁷.
169. Whilst it is claimed that there would be a reduction of 7300 tonnes of CO2 per year, the Partnerships for Renewables information⁴⁸ indicates that a typical 2MW turbine would be expected to avoid emissions of over 1880 tonnes of CO2 per year. Based on that figure, if 2 MW turbines are eventually chosen, the total reduction would be less than the generalised figure put forward, at 5640 tonnes of CO2 per year.
170. Local environmental considerations such as landscape matter, and there are harmful impacts to the landscape caused by this scheme. The appellant has attached undue weight to the arguments in favour of renewable energy.

The Case for 4Villages

The case for the 4Villages is set out in documents 4VD1 to 4VD5. Closing submissions are at ID69 and further submissions were made relating to Section 66 and the new Planning Practice Guidance at OD22 and OD28. The material points are: -

171. 4Villages took the deliberate decision not to call evidence on landscape, cultural heritage and planning, in the light of South Norfolk Council maintaining its objection on these grounds. There are minor differences in approach, but 4Villages supports the council's objection and agrees with it that the appeal should be dismissed on those grounds. It is also deeply concerned at the appellant's failure to provide adequate and up to date survey information to enable an informed decision as to the effect of the proposals on protected species of wildlife, especially birds and bats.
172. There is a recent unchallenged decision on appeal which relates to the same development on the same site. The only significant difference is the precise

⁴⁶ CD 6.6, p.38, paragraphs 2.31-2.33

⁴⁷ CD 5.20 - SoS at Treading Field , IR paragraph 72, SoS paragraph 27

⁴⁸ Doc SND2 paragraph Appendix 2

location of the three turbines within the site, where they have been moved closer together. In all other respects this is the same scheme that the previous inspector refused in her decision of 15 October 2012, finding clear and unacceptable harm to landscape, cultural heritage and residential living conditions.

173. For consistency purposes, given that the decision is so recent and the scheme so similar, her findings plainly carry substantial weight and should be followed, unless there are changes to the appeal scheme and any other change in circumstances provide clear reasons for departing from the previous decision.
174. The reasons given in the previous decision were clear and precise and the site is too constrained by its landscape, its historic and architectural character and the close presence of a significant number of residential properties and a community which relies on the open and undeveloped character of the site as a major contributor to their quality of life and from which they derive much of their residential amenity. However carefully the appellants have sought to cluster the turbines, they remain, in relation to this site, massive and grossly disproportionate in scale, alien and industrial in character, design and function.
175. The new siting arrangement creates a close cluster of the turbines, more likely to suffer from blade "clash" and creating a more overbearing and oppressive visual effect.
176. The previous decision did not find conflict with ENV15 (species protection). The survey data presented by the appellant are now either out of date or not available at all and there is new evidence which indicates the presence of potentially important populations of birds and bats on or around the site, evidence that was not available to the previous inspector. In addition, in relation to noise, (where the relevant Local Plan policy is IMP10 (Noise)) it is considered that there is a real prospect of excessive amplitude modulation occurring, which is now widely acknowledged to cause problems with onshore wind schemes.
177. The Framework emphasises that notwithstanding the need to increase green energy, it does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. As with other types of development, it is important that the planning concerns of local communities are properly heard in matters that directly affect them. This follows on from the Ministerial Statement of 29 June 2013 where the Secretary of State had expressed his concern that "We need to ensure that protecting the local environment is properly considered alongside the broader issues of protecting the global environment".
178. 4Villages acknowledges that there is strong policy support at national, regional and local level for renewable energy developments. But that support is always caveated by the need to protect the environment and economic and social interests. There is no overriding reason why this scheme is needed in this location. No local target or threshold applies and all the indications are that the UK is on line to meet and exceed expectations regarding onshore wind. It would provide only about 25.8% of the notional 7.5 MW total output of these three turbines, enough to power just under 4000 homes. To put that in perspective, Dickleburgh has a population of just over 2600 in just over 1075 homes. This does not outweigh the harm it would cause. There could also be other

impediments to output, including wind flicker and their close spacing. Capacity is now a material consideration following the recent guidance.

179. This landscape is not designated for its national or regional landscape value, but that does not mean the proposal cannot be refused on account of landscape impacts. The previous decision confirms that, in terms of the temporary permission, if the turbines would cause significant harm to landscape character, that harm would not be made more acceptable by the prospect of their ultimate removal, confirmed in a decision of the Secretary of State in appeal decision APP/Y04535/A/10/2140401⁴⁹.
180. Reference has been made to the Landscape Character Assessment and The South Norfolk District Wind Turbine Landscape Sensitivity Study⁵⁰ carried out by consultants for the council, as providing an important baseline for assessments of both the impact on landscape character and visual impact. The site plainly enjoys many of the key characteristics of the area identified as B4 Waveney Tributary Farmland in the Landscape Character Assessment at 11.2 and Figure B4. The "Evaluation" following paragraph 11.14 identifies the presence of round tower churches as being of national/international importance and the historic field pattern around Dickleburgh as being of county/district importance.
181. Many of the "sensitivities and vulnerabilities" including the "rural setting of villages", "small scale vernacular features" and "the overall peaceful, rural character and absence of visual and aural intrusion" are present in and around the site. The presence of the turbines would be in conflict with the overall landscape strategy expressed in 11.16, by introducing into this fine grained landscape a cluster of massive rotating industrial structures that have no apparent functional relationship with the domestic scale of rural life and character of the area defined in the patterns and relationships between fields, hedges, copses and trees, vernacular and religious buildings, paths and lanes which help to define this area.
182. It is in the nature of large turbine development that it changes the landscape wherever it goes, but that does not justify such development or in any way reduce the weight that is to be given to those adverse effects.
183. The site is located in the Tributary Farmland Character Type in the wind turbine landscape sensitivity study and identified in the study as being of moderate sensitivity to the location of a small group of 2-6 turbines and the guidance states that "It is likely that only the lower end of this scale (2-3 turbines) will be appropriate.". However, the council's analysis is that at a more site specific scale, the area around the site is of medium-high sensitivity on account of the particular combination of factors including: the tributary valley to the north, views to sensitive landmark churches, the settlement patterns and the peaceful and tranquil character.
184. The appellants have interpreted the wind turbine landscape sensitivity study as meaning that the entire area of tributary farmland is suitable for a small group of turbines. That is not the case. The site is, in principle, inappropriate for this scale and nature of development. The previous inspector noted, "The

⁴⁹ Doc ID3

⁵⁰ Documents CD Section 3 - 3.4

consequence would be harm to the wider landscape character because of the diminution of the church as a feature and to the appearance of this small settlement which is currently glimpsed through trees with the church as its main focus. The change to the character of this part of the landscape would be significant and harmful.”

185. The reason for this is the presence of ancient churches, often with distinctive round towers; the absence of clutter; no pylons or electricity transmission lines; a very attractive landscape, full of variety and interest, of domestic and sometimes intimate scale, with immediate and apparent links to historic mediaeval field patterns and rural associations to be perceived in its small roads and lanes, hedges and copses, agricultural buildings as well as the open character of the agricultural fields.
186. Its intrinsic qualities are such that, unlike the larger and wider landscapes where turbines are able to be assimilated into the sheer scale and geometric patterns (the Fens are a case in point), this particular landscape has essential local qualities that are highly vulnerable to this scale of change.
187. Although the site and the wider landscape character is largely flat or gently rolling, the NPPG emphasises that “local topography is an important factor in assessing whether wind turbines and large scale solar farms could have a damaging effect on landscape and recognise that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas.”
188. The church at Rushall, or the modest vernacular farm houses and their simple adjoining agricultural buildings, the lanes and hedges, all create a whole which would be much diminished by development that is so overwhelming and dominating. The movement of the blades attracts the eye, which is inevitably drawn to their rotation, and which disrupts the inherent restful tranquillity of this place.
189. Local plan policy makes it clear that planning permission for new development will only be granted where the council is satisfied that the development would not have a significantly adverse impact on nearby residents. When considering the impact on residential amenity, distances, landform, the nature of the property, intervening screening, the present outlook from the property and the particular features of layout and relationship with the development and a host of other factors, are material.
190. The appellant refers to part of a 2009 decision at Enifer Downs⁵¹.
Para 66: “.....when turbines are present in such number, size and proximity that they represent an unpleasantly overwhelming and unavoidable presence in main views from a house or garden there is every likelihood that the property concerned would come to be widely regarded as an unattractive and thus unsatisfactory (but not necessarily uninhabitable) place to live. It is not in the public interest to create such living conditions where they did not exist before”
However, the decision letter continues: (68) “...moving about the settlement at my site inspection I gained the impression that the outlook from the whole of this small community would be dominated by their unavoidable presence, whether seen as a complete cluster, individually or just in glimpses of moving blades. In

⁵¹ Doc CD 5.6

this case it is the spread of the turbines rather than their height that would in my judgement be so visually invasive as to make the settlement a less satisfactory place in which to live than it is now.(71)....it is my conclusion that living conditions would be demonstrably harmed by significant and over-dominant visual impact.(103)I have not been convinced that physical separation between turbines and places of habitation would be sufficient in this case to ensure that satisfactory living conditions would be maintained."

191. There is no single absolute test of whether, considered objectively, the "overbearing" effect of the turbines would make the individual dwelling "unattractive". The Enifer Downs decision as a whole, indicates the assessment of impact on amenity is not confined to the effect on individual dwellings, but must also consider the effect on the wider settlement.
192. A comparative assessment is necessary to establish the degree of harm to amenity having regard to the extent and nature of residential amenity that the property currently enjoys. It is not only the effect on the house and its garden that is relevant, but also passing to and from the properties and the wider settlement or community. The test for impact on residential amenity does not have a higher bar in wind farm decisions than in any other decisions, because of the imperative of securing renewable energy development established in national and regional policy.
193. There is nothing in planning guidance at any level to indicate that those whose residential amenity is affected by wind turbines are expected to tolerate a greater degree of harm to their living conditions than those affected by other development.
194. Flicker and noise, whether on their own or together, are material considerations and should be added into the balance where they occur. The effect on living conditions is primarily concerned with the effect on visual amenity and criterion as nebulous as the "attractiveness" of the property as the sole basis for a knockout blow is questionable. The effect on people coming to and from their property, as well as moving around in the community must be considered, but the genuinely held fears and concerns of residents and neighbours can also be legitimately taken into account.
195. In a dwelling such as Semere Green Farm, the dramatic and outstanding unspoilt distant views over countryside are a major factor in the quality of amenity of the dwelling. They are the reason why the house has been modified to create an unbroken panorama of that landscape from the principal habitable room. Currently this is a house with a principal room, where the family work, eat and relax with a wide open outlook which will with the proposal be dominated by a panoramic vista of a cluster of 126 metre turbines, which would have an unacceptable impact on their residential amenity.
196. It would also dominate the garden to the south and east of the property and formal amenity areas enjoyed by the property as well as being seen as looming over the house when turning into the entrance to the property, whether on foot or by car. The oblique nature of the views would not mitigate that harm.
197. The turbines would also be visible in views of Barnacres from Semere Green Road, from the approach to the house and from all its exterior spaces. That the house would come to be widely regarded as an unattractive and thus

unsatisfactory place to live is entirely consistent with the evidence of the occupiers. The changes to the location of turbines has brought T2 nearly 200 metres closer than the previous scheme and has put all three turbines within 1 km of the house, with T1 at 703 and T3 at 722 metres respectively. It would be overwhelmed in every sense.

198. There is an additional consideration with both of these properties, in that they are both listed for their architectural and historic interest. They are, by definition, of national importance and special interest. It is, therefore of particular importance that the attractiveness of such buildings should not be harmed by insensitive development.
199. The previous inspector found that Lowbrook Farm would experience “overwhelming” and “unacceptable” living conditions due to the proximity of T1 in the previous scheme. While T1 has now been moved, the closer configuration of the turbines means that T1 and T2 will suffer from “blade clash” and the loss of the evergreen hedge will expose the key view from the staircase area of the house to full view of the cluster. It has not been assessed in the Environmental Statement. 4Villages considers that the effect will be severe and adverse.
200. Baithentwaits Farm House (also listed grade 2) will suffer similarly, both in respect of house and garden. The appellant’s grading of this effect as moderate is disputed and it would be substantial and unacceptable. 4Villages considers that the effect on Semere Green Farm, Barnacres, Lowbrook, Damson Cottage and Baithentwaits Farmhouse would be unacceptable and sufficient to justify, individually, refusal of permission.
201. In addition to individual impacts, when considered as a whole the effect on the neighbourhood, including nearby footpaths, the proposal would be unacceptable. While attention is concentrated on several properties closest to the site which are most affected, the overall impact on residential amenity is widespread. The Environmental Statement identifies 16/21 properties within 1km that would experience moderate or substantial effects on the dwelling house and 12 which would suffer such an effect on their garden. On the information in the Environmental Statement the effects are significant in 8/21 properties⁵². The effect on residential amenity both individually and collectively clearly outweighs the limited contribution that the site contributes to renewable energy.
202. There can be no real doubt that the statutory duties under section 66 of the Town and County Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged in this appeal. The Environmental Statement identifies 389 listed buildings (20 of which are Grade 1 and II*) within 5 km of the site⁵³. The importance attached to setting of heritage assets and Section 66(1) is also expressly recognised in the Framework at paragraphs 128 and 129. The importance of this has been reinforced by the recent Barnwell case⁵⁴.
203. The letter from English Heritage dated 5 July 2013, concerning St Mary’s Church Rushall states: “The applicationis effectively an amended version of a

⁵² ES Vol2 part 1 Appendix 6.2 Table A6.2.4

⁵³ ES Vol 1 Table 7.7 and para 7.6.29

⁵⁴ Doc OD22

scheme proposed in 2010, but still contains elements harmful to the setting and significance of the church and we recommend permission is refused." All parties are thereby on notice that the decision must be made in accordance with section 66(1). The appellant argues that recommending refusal overstepped English Heritage's remit as there is need to balance against public benefits that English Heritage would not have known about.

204. However, such criticism does not undermine the assessment of the importance of the church and the effect of the development on its setting contained in the letter. It is clear that, whether English Heritage overstepped its remit or not, the author of the letter, an acknowledged expert on East Anglian round tower medieval churches, was clear that the effect of the development would, despite the re-siting of the turbines, be unacceptable.
205. The appellant suggests that the important position for viewing relates to the length of the footpath to the south of Rushall where two of the turbines in the previous scheme would be seen at either end of the church. The previous inspector drew particular attention to this effect, but that was not the extent of her concern. The Inspector considers the effect of the development on the landscape setting of the church and starts by comparing the effect on St Mary's Rushall with other churches⁵⁵. The effect in relation to the heritage asset is also considered⁵⁶
206. It is accepted that the previous inspector was primarily concerned with the effect on St Mary's Church in views from the south and in particular from the footpath, where those views could best be perceived, but there is nothing to indicate that the minor relocation of the turbines would overcome the fundamental objection and overcome the previous inspector's concerns.
207. The present relationship, though marginally different in that the turbines are now seen as a cluster to the right of the church, remains the key adverse impact on setting, and means that for the length of the walk along the footpath, the views of this ancient settlement and its distinctive landmark church would have a constant backdrop of large scale modern industrial development.
208. In relation to other residential buildings, the suggestion that the effect on Barnacres (and all the other grade II buildings) is "insignificant" indicates that the appellant's stepped approach to the assessment of "setting" following English Heritage guidance gives results that have no recognisable bearing on how people experience heritage assets in reality. This approach is an aide to interpretation, not a substitute for it. Setting is largely experienced by people as a visual effect and the turbines will be seen as huge and dominating revolving features above the roof in all approaches to Barnacres, a modest thatched 17th Century cottage.
209. The requirement to have regard to the impact of development on wildlife arises from statute. The EIA Directive and the Regulations which transpose the Directive into UK law require the appellant to provide an assessment of the significant environmental effects of the development. It must be sufficiently up to date to be relied on. It is a feature of this appeal that the main body of the

⁵⁵ CD5.1 paragraph 17

⁵⁶ CD 5.1 paragraph 26

- information on ecology in the Environmental Statement is now five years old or more.
210. The Phase 1 Habitat survey was carried out in 2008 and, although it was reasonably thorough, it did not include any assessment of Lonely Road reservoir, which was outside the study area. The reason for its exclusion was never explained. The ES states at Vol 1 para 8.1.2 that "A phase 1 Habitat Survey carried out in Spring 2013 confirmed the validity of the baseline." This misleading statement was queried by Natural England and the LPA and the notes and other documentation were requested. The totality of the new survey notes appears to be a copy of the original survey map with some notes on it. No information about the conditions on the site, the weather or how long was spent there on the 27 March by Mr Mahon has been produced. The document which was eventually produced which the appellant now claims comprises the so called Phase 1 Habitat Survey turns out to be the 2008 survey with the "one day walkover" survey of 27 March which it was claimed confirmed that there had been no significant changes except for the new agricultural reservoir.
211. The survey of birds and bats in the ES was carried out in 2008/9. The Phase 1 Habitat Survey was prepared in 2008 and updated in late March 2013 by a one day walkover survey. A single map annotated with tick marks was the only documentation apparently recorded during the survey update. The appellant met with representatives of Natural England at a meeting on 5 September 2013. Until that date, Natural England had insisted that a full habitat survey and further bird and bat surveys should be carried out. It had also been sufficiently concerned to ask the council to make a Regulation 22 Direction.
212. As a result of the meeting with the appellant, Natural England dropped its requirement for further environmental information. Neither the appellant's representative nor either of the two Natural England representatives had ever visited the site at the time the meeting took place on 5 September.
213. The only significant change on the habitat notes was the new reservoir. By contrast, in a short two hour site visit carried out by Mrs King and Mrs Oakes they identified important features that had not been noted by the appellant's expert in his walkover review. These were⁵⁷ : (i) Woods XX and YY ; (ii) the maturing of the reservoir; the significant maturing and increase in size of woods and shrub cover; (iv) the presence of barn owls; (v) the presence of several very large mature trees, especially close to the turbines. None of these matters were identified by Dr Holloway in his walkover review in November.
214. Barn owls are a species protected by Part 1 and Schedules 1 and 9 of the Wildlife and Countryside Act 1981, where they are Amber Listed (as they are in decline) and at European level are listed in Annex 1 to the Birds Directive. As a matter of law it is required to have regard to the protection of this species. There can be no doubt from the direct evidence of Mrs King that a significant population of barn owls is roosting, breeding and hunting on and around the appeal site. Yet, their presence, numbers and details of where and how many are nesting and breeding within and close to the site has never been the subject of any survey.

⁵⁷ Doc 4VD1 Section B pg 9 and ID 37 Fig 11

215. The most up to date study and best practice guide for surveying and reporting barn owls is Shawyer (Revised April 2012)⁵⁸. This states: "One reason that barn owls are given low priority or sometimes disregarded when assessing the impact of wind generation schemes is the inherent belief of some ecologists that this bird confines its flight activity to within a few metres of the ground and is unlikely to encounter the area swept by turbine blades. However, this bird will fly at considerable height on fixed flight trajectories, when moving from its nest or roost site to outlying feeding habitat or when ferrying prey back to the nest. Potentially this flight behaviour places barn owls, like many other birds of prey, at significant risk of collision with wind turbines."
216. The appellant relies on the Barn Owl Trust, but it always recommends that a full Environmental Assessment be undertaken, to include desktop surveys and an assessment of the proximity of the proposed turbine to probable flight paths used by barn owls before planning permission is considered. This is especially important where barn owl population and proposed turbine density are particularly high in any one given area." The Barn Owl Trust's advice that risk of barn owl strike was low is based upon studies that pre-dated Shawyer and Shawyer has considerable qualification and experience.
217. In relation to an application for a wind farm at Woodmancott Down, the appellant (TCI) has provided an Environmental Statement in support of a similar proposal for turbines of the same height, in which the Environmental Statement indicates, contrary to this appeal, that there are behavioural activities of barn owls that would cause them to fly at a height that would potentially bring them into conflict with turbine blades⁵⁹.
218. The appellant notes that, "Unlike Woodmancott Down, there were no recorded barn owl flights, possible nest locations or indeed appropriate breeding habitat in the immediate vicinity of the turbine locations at Upper Vaunces." The Woodmancott Environmental Statement makes it clear in evidence from the appellant's own experts that there is behaviour exhibited by barn owls that might lead them to fly into the path of turbine blades, which is not site specific.
219. The appellant acknowledges that, "If left unmanaged the banks of the new reservoir could develop into rough, tussocky grassland with a deep litter layer which would support a range of small mammals such as field voles (Dr Holloway Proof of evidence paragraph 4.1.58). This type of habitat is optimal foraging habitat for barn owl and kestrel, but it is noted, "However, regular mowing of the reservoir banks would prevent this habitat from developing and therefore remove the potential for barn owl and kestrel to forage regularly around the reservoir."
220. The new reservoir and the Lonely Road reservoir (whose ecological interest is not disputed) establish a potential commuting route for birds with T1 directly in the straight path between them and there is no evidence to show this would not occur. Conceding a condition to require management of the tussocky grass adjoining the reservoir would be a tacit admission by the appellant that barn owl and kestrel are at risk from the turbines but, unlike in the previous appeal decision, it was the appellant's view that such a condition is unnecessary.

⁵⁸ Doc 4VD2 pages 14 and 15

⁵⁹ OD 18

221. There has been no owl or raptor survey by the appellants, at any time, (whether in 2008/9 or otherwise) and there is no survey data provided by the appellant of the numbers, location and flight paths of barn owls on the site. There is cogent direct and undisputed recent evidence supplied by 4Villages of significant numbers of barn owls breeding, nesting, hunting and living on and around the site. The best, most recent and most authoritative professional advice (Shawyer) indicates that barn owls are potentially at risk from collision with turbines of this size. This is corroborated by TCI's own ecologist at Woodmancote. The possibility of the development causing death, injury or disturbance/displacement of barn owls resorting to the site is a material consideration in the determination of the application.
222. Natural England and the county ecologist all continue to require surveys of birds before and after construction; 4Villages consider that the surveys and mitigation need to be carried out before permission is granted. The county ecologist⁶⁰ and Natural England⁶¹ have asked that conditions should be imposed (i) to carry out a "checking survey" to inform mitigation measures prior to construction; and (ii) to survey and monitor breeding birds and wintering birds post construction. It is reasonable to assume that, in both cases, they consider that such a condition would meet the tests set out in the conditions Circular 11/95, including considering whether the condition is "necessary". Circular 11/95 states: "In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed."
223. There is no valid condition that can be imposed to require surveys to be carried out after planning permission, if no baseline survey has been carried out previously. The kind of post construction monitoring condition referred to in EN3 paragraph 2.7.40 is for the purpose of validating the EIA and monitoring collision risk. If, as here, the EIA does not include any assessment or survey of certain species, such an exercise would be meaningless.
224. Any survey and mitigation that arises from it can only lawfully be required before the development is approved. Where no survey data in respect of a species have been obtained, planning permission should be refused.
225. The only environmental information in the Environmental Statement concerning the presence of bats on the site is five years old or more. It pre-dates the construction of the new reservoir and the current layout of the turbines did not inform that survey.
226. Since the time of the surveys the new reservoir has been constructed and has now had time to mature. It would be entirely possible for the appellant to have provided up-to-date survey material that would have indicated whether (i) there has been any change in the species and numbers of bats to be found within the site; (ii) whether the behaviour of bats and their patterns of commuting had changed; (iii) whether there were any flight paths (such as those between the two reservoirs, Lonely Road and the new reservoir) which could bring them into conflict with the new turbine positions; and (iv) whether there was any significant insect life on the new reservoirs which could have caused a change in numbers.

⁶⁰ Doc 4VD1 Position Statement

⁶¹ Letters of 7 September and 31 March 2013 from NE to the council.

Notwithstanding the hedges and other commuting routes, there is particular concern about potential conflict with T1, which lies directly in line between the two reservoirs.

227. The Environmental Statement states that, "As it develops as a habitat the new agricultural reservoir could enhance the attractiveness of this part of the site to foraging bats. Open water provides habitat for certain insects on which some species of bats feed, and possibly a source for drinking water. The majority of bats usually follow and forage along hedges, woodland edges, watercourses and open water. The value of the existing hedge and woodland features to the west and north, away from the turbines, may therefore be augmented by the new reservoir."
228. The new reservoir has had two years to mature yet there is no information presented to establish whether what is predicted in the Environmental Statement⁶² has happened and if so to what extent. Further evidence from the Norfolk Bat Survey has been submitted. This survey, carried out in July and August of 2013 indicates 9 species of bat present around the site and some of them in significant numbers. This contrasts with the position recorded by Atkins in the 2008 survey. If the counts in the Norfolk Bat Group survey of over 1300 common pipistrelles on a single recorder on a single evening are compared with the very limited recorded calls in the October 2008 survey it is clear that they are of a very different order.
229. 4Villages accept that, in the light of the previous appeal decision, any objection based on ETSU-R-97 is not sustainable as a reason for refusal. That is not to say that noise is not one of the adverse effects that the development would have on living conditions which should be included in the balance.
230. The purpose of the application of a standard methodology is to protect those whose amenity is likely to be unacceptably affected. Even where ETSU-R-97 is met, there is likely to be adverse effects. However, 4Villages' main concern is the question of excessive amplitude modulation. The issue has been given greater emphasis by the Renewables UK Report. For years the turbine industry has sought to paint amplitude modulation as something whose existence was more in the minds of those who complain than any direct effect. It is now recognised by the industry and is being taken very seriously indeed.
231. The approach of the appellant is one which fails to recognise the extent and scale of the problem. The direct evidence of Mr Howarth and the statement of Andrew Reynolds, Environmental Manager at neighbouring Waveney District Council describe the reality of the impact of amplitude modulation on people's lives at Kessingland, a location which is close to the site. There is no evidence to indicate that the meteorological conditions here are significantly different.
232. There is no reason why a condition cannot provide for monitoring after the turbines commence operation and, in the event that there is a problem with amplitude modulation, steps are then required to be taken, as described by Mr Davis.

⁶² Environmental Statement Vol 1 page 186 para 8.4.112 and ES Vol 2 Part 2 page B40

233. Shadow flicker has not been the subject of extensive discussion in this appeal. However, it is something to add into the balance. The industry maximum is 30 hours⁶³ p.a. and, for example, Barnacres will have, by the appellant's own calculations, 19.4 hours⁶⁴. Shadow flicker should be strictly controlled by a condition if it is not the adverse effects on living conditions are compounded, when considered with the visual impacts.

Written Representations

234. Written representations are with the main folder. Representations were also made at the inquiry and written copies of these, where provided, are in the ID documents, particularly ID17-ID31, ID33, ID36, ID39, ID40, ID41, ID48, ID57 and ID61. Further representations were received after the inquiry and these are found at OD24 and OD25. The appellant's comments on the further correspondence are at OD26. The main thrust of the representations relates to the main issues that have been identified by the three main parties. There is considerable opposition to the proposal, but also considerable support. A poll in the nearby village at Pulham showed a tie of about 115 for the proposal and 115 against. A petition in support of the turbines at ID35 has also been handed in. This was completed by canvassing members of the public not particularly close to the appeal site.

235. Mr Blacker⁶⁵ was concerned that the views to other listed churches should also be taken into consideration and particularly wanted the views from public footpaths beyond Pulham St Mary towards the appeal site to be taken into consideration.

236. Mr King⁶⁶ is concerned about land contamination related to the previous use of the airfield and potential ordnance and radiation.

237. Those supporting the scheme put forward arguments for the benefits of renewable energy supporting the government aims in relation to the harm caused by climate change.

Conditions and Obligations

Proposed conditions and reasons for them are at annexe A. A list of proposed conditions is also at Doc ID65 with the parties comments on each condition. Interested parties proposed Table 2 for the noise condition is at ID51 and Mr Davis noise conditions at ID14.

Commencement

238. The appellant would like the commencement period (Condition 1) to be 5 years rather than 3 years. I consider that 3 years is a reasonable period to allow for conditions to be approved and see no reason why the commencement period should be changed from 3 years, particularly as much of the justification for the proposal is the need for the energy provided.

⁶³ Environmental Statement Vol 1 page 292 para 14.5.10

⁶⁴ Environmental Statement Vol 1 page 292 para 14.5.14

⁶⁵ Doc ID57

⁶⁶ Doc OD24

Noise

239. It was common ground between the parties that the turbine has been properly assessed in relation to noise against advice contained in ETSU-R-97 and demonstrates that the wind farm can be operated such that operational noise levels will fall within the relevant limits of acceptability as advised by ETSU-R-97 [106] [230]. LP Policy IMP10 indicates that development, including the use of land, will not be permitted if, because of the noise it would create, the occupants of housing or other noise sensitive uses would be exposed to a significant noise disturbance.
240. 4Villages are concerned that noise would be experienced because of the effects of amplitude modulation. A report into amplitude modulation has been prepared for RenewableUK and this was produced, with summary, by 4Villages. This divides amplitude modulation into normal amplitude modulation [NAM] as that commonly occurring typical characteristic of wind turbine noise that occurs persistently for long periods and Other Amplitude Modulation [OAM], whose characteristics cannot be described by the normal source generation mechanisms of NAM. Many risk factors have been considered for OAM, but no single item or specific combination of items have been found to be the controlling factors whereby the occurrence, duration and intensity of OAM at a particular location can be reliably predicted in advance of wind turbines being installed. Even where OAM has been reported as an issue its occurrence tended to be relatively infrequent.
241. Evidence was considered in relation to the potential effects of amplitude modulation and whether there is a need for a condition to control this. Statistically the incidence of amplitude modulation causing problems at wind farms is low and government advice has seen no reason to move away from using the ETSU-R-97 methodology. I note one interested party indicated noise effects that he was experiencing at another wind farm were noticeable by him at certain times in certain wind conditions [232]. However, there was no distinct evidence to indicate that this was OAM. Although I accept that was his understanding of the situation and take it into consideration.
242. I acknowledge that a 'standard' condition related to OAM is being looked into, based on the study. If this proves to be an acceptable condition it could provide reassurance to those concerned about the potential effect of OAM. However, the condition is at an early stage and various values to be used in the condition have not been settled. It is suggested the condition could be used and values modified later in accordance with any changes agreed. This would not be acceptable as the condition would not be precise, and there cannot be certainty that the finally recommended condition would end up in the form now proposed. Given the very low occurrence of OAM, I consider that it is reasonable to rely on ETSU-R-97 and the need for the proposed condition has not been demonstrated as being reasonable or necessary.
243. I have also taken into consideration the report of Mr Reynolds an Environmental Protection Manager. He has had over 370 individual complaints related to turbines at Kessingland. While his department was not able to respond to all complaints, of the times visited there were only 3 occasions of concern, when noise likely to be associated with OAM was experienced in properties near to the turbines, and it was with the window open. Even then, the times the noise was audible was fluctuating, but still in his opinion a significant interference.

While in his view statutory nuisance proceedings could be followed, this would be unlikely to succeed because of possible defence being put forward. However, I also note from the report that the turbine operator responded to the noise complaint and commissioned acoustic consultants to investigate. I cannot see how a specific and currently not 'approved' condition related to OAM, without agreed detail, would be beneficial in this situation.

244. 4Villages is also concerned about the different 'standard' values in ETSU-R-97 for existing background noise level values at day and night. An operator could potentially operate a turbine at a reduced noise mode in certain wind conditions during the day and then operate at a higher noise mode at night, as apparently occurs at Fullabrook in North Devon. This could result in higher turbine noise at night than in the day. While I note the concern, I can see no reason to not follow the accepted guidance in ETSU-R-97 and the recommended background noise levels. I conclude the proposal would accord with LP Policy IMP10 without these proposed conditions.
245. The appellant has submitted a unilateral undertaking that would require some landscaping to be provided in the grounds of nearby properties of Lowbrook Farm and Barnacres, if those owners wished to have it. While I have taken this into consideration, I attach very little weight to it, as those owners may not wish to have the landscaping provided, and in any case new landscaping is likely to take a considerable time to provide any reasonable screening.
246. I have considered whether there is a need for further ecological survey work after the permission is granted and before/after construction (See ID65 Condition 20, 21 and 22). 4Villages considers this should be for the duration of 10 years. In my view, this is unreasonable and not necessary. The Environmental Statement is adequate to assess the potential effects of the turbines in ecological terms. While further information might be informative for the future, the siting of the turbines will be set by the permission and it is not reasonable to require the appellant to provide information unnecessarily. TIN051 indicates in relation to bats that post installation monitoring should be considered in high risk situations. The survey evidence does not indicate that this is a high risk situation. In my opinion, considering the findings of the survey work already undertaken, it would be disproportionate to the development proposed to require additional follow up survey work before or after construction and therefore unreasonable.
247. The period of non-operation of a turbine before requiring schemes to be submitted related to repair or removal was confused in the proposed conditions, part suggesting 12 months and part suggesting 6 months. It seems to me reasonable that a period of 9 months be set, which together with the period for submission of the scheme would be 12 months overall.
248. I consider that it is reasonable to control working areas, with the working day concluding at 19.00. The conditions as proposed appear to exclude much of the works, such as concreting and turbine installation. In my view, that is not reasonable. I appreciate that there can be difficulties with shipping and holding areas for the large components involved. However, these operations will need to be very well planned and any likely difficulties should be capable of being anticipated and it takes little time to inform the local planning authority of changes.

249. The application drawings show the maximum overall height to the tips of the blade as 126m with the hub height of 80m shown to be approximate. I accept that there should be some flexibility in terms of the hub height to allow consideration of different models of turbines. However, as the hub is a distinct feature in my view, the height should be limited to 82m and in order to ensure consistency all three turbines should be the same (Condition 11).
250. My assessment of the scheme is on the basis of the proposed siting of the turbines and, in my view, the possibility of moving the turbines 30m through micro-siting could potentially lead to a change of that assessment in relation to the nearest properties and Rushall Church (Condition 20). I therefore consider that a restriction on micro-siting in their direction is reasonable.
251. It is reasonable that a survey should be undertaken of hedgerows (Condition 21) between 1 March and 31 July to ensure that no breeding birds are present. I think 6 weeks before work commences is too long and that 2 weeks is more reasonable to ensure that nesting does not occur in between. I do not consider that it is necessary to report to the local planning authority and get its approval for any mitigation, as there is a legal duty not to disturb birds. However, it is reasonable to ensure the work is by a suitably qualified ecologist and that a report is undertaken and produced to the local planning authority if requested.
252. Alternative archaeology conditions were proposed. I acknowledge that there is a need for some survey and recording work. The Environmental Statement does not indicate any particular cause for concern in relation to archaeology and, in my view, the condition attached adequately meets the needs for this project, requiring a written scheme of investigation to be approved in writing (Conditions 24 and 25).
253. It is reasonable that construction traffic shall be controlled to ensure highway safety is maintained. In my view, that can be achieved with the condition requiring a Construction Traffic Management Plan to be submitted to and approved in writing by the Local Planning Authority (Conditions 6 and 7).

Conclusions

[In this section the numbers in parentheses [n] refer to the preceding paragraphs.]

Main Issues

254. The main issues are:

- The effect on the character and appearance of the surrounding landscape.
- The effect on the significance and special architectural and historic interest of heritage assets, in particular, setting.
- The effect on the living conditions of neighbouring occupiers with particular reference to visual impact.
- Whether there have been significant changes that would alter previous assessments made in relation to ecology and ornithology.
- Planning balance and whether any harm identified would be outweighed by the national objective of promoting renewable energy generation, taking into consideration latest government advice

Character and Appearance

255. The area does not have any special landscape designations associated with its landscape qualities [4][7], but the appeal site is part of an attractive rural landscape that is appreciated by local people and any development must be ensured to fit reasonably into it. The council has commissioned a study of the landscape within its area to inform proposals for wind turbine developments and assist in formation of appropriate policies – The South Norfolk Wind Turbine Landscape Sensitivity Study 2006 (Final Report) [WTLSS] [24]. This has made assessment of various identified character areas and the ability of those areas to accommodate wind turbines of various sizes and numbers. However, this study has not been subject to public consultation or adoption, but there are indications that it could be referred to in future policy. The council indicates that it should carry significant weight [123]. However, in policy terms at this stage it does not have great weight.

256. While the study may identify a particular area to be appropriate in principle for some form of turbine development it makes clear that the study is to provide strategic guidance to inform decision-making at the general landscape type level, but that local variation in character will also need to be considered in relation to individual applications and locations.

257. The appeal site is in the B4: Waveney Tributary Farmland. It is set between A5: Waveney Rural River Valley and E2: Great Moulton Plateau Farmland. The overview for the B4: Waveney Tributary Farmland indicates, in relation to small groups of turbines, that the area has moderate sensitivity to the location of a small group of turbines (2-6 turbines). It notes that site and setting of churches is a key sensitivity, but that there may be some limited opportunity for the lower end of a small scale group (no more than 2 – 3) to be located on more open, flatter ground where such a development could form a landmark feature [125] [184] [71].

258. The appeal site was formerly part of an old airfield and is a relatively flat area in the landscape, which the guidance indicates would be more appropriate. However, the guidance also requires respect of the site and setting of key landmark features such as churches and consideration of views across the landscape with attention, amongst other things, to views in relation to adjoining character areas.
259. Wind turbines are very large, modern aerodynamic structures that are of a substantially different scale and appearance to most other features that are found anywhere in the countryside, and their introduction in any part of the country would, in my opinion, have a significant impact on the appearance of the immediately surrounding countryside. Government policy has been consistent for a significant period, and continues with the Coalition, that inland wind turbines are a necessary part of providing a reasonable part of our energy requirement on a low carbon basis.
260. Therefore, it is inherent with the current policy to provide inland wind turbines that there will be, to some extent [48] [117], a change to the appearance of the countryside and some conflict with policies aimed at protecting the countryside. However, wind turbines are a modern solution to address climate change and needs arising through the development and growth of the country and this is an important material consideration when considering policies for landscape protection.
261. I consider the turbines, with their aerodynamic structures of slender form, would have relatively little physical impact on the surrounding countryside, allowing views of the countryside to remain in front of, between and beyond the turbines. The use of the surrounding land would also be little changed. The essential existing rural character and agricultural use of the countryside would be retained and continue.
262. Having looked around the landscape of the appeal site and taking into consideration the Wind Turbine Landscape Sensitivity Study, I consider that the appeal site is appropriate in principle for a small group of turbines, subject to detailed consideration of the impact on its surroundings [71] [125].
263. The turbines would be located in a large scale landscape that, in my view, is capable of accommodating wind turbines and in views from around the area appear of a scale and appearance appropriate to that large scale landscape. I acknowledge there is a smaller scale landscape beyond the Harleston Road near Rushall [71, 74, 75] [130] [186, 189], which is characterised by a network of narrow lanes and small fields bounded by hedges to which LP Policy ENV10 relates. The Daphne Buxton memorial common – St Clement's Common - is located in this area.
264. The three turbines will be seen together from along the Harleston Road. However, this is along the boundary between the larger scale landscape and smaller scale landscape. The views to the turbines from the Harleston Road would be seen in the context of the large scale landscape and, in my opinion, would not cause harm to the adjacent small scale landscape. There would also be some views towards the turbines from within the small scale landscape, but mainly limited to the ends of the various lanes close to the Harleston Road. However, until close to the Harleston Road, and from within the small scale landscape, views would be significantly restricted by vegetation, particularly

hedges, so the number of opportunities for views of the turbines would be limited. In addition, the nearest turbine is a considerable distance away, and would not dominate or significantly impact on the scale of this area.

265. I do not consider that the proposal would conflict with LP Policy ENV10. I appreciate that the previous inspector found harm from the impact of the previous scheme in relation to this area [130], including because of the contrast in scale of the turbines and the scale of the area. I agree with that view in relation to the previous scheme, but the proposed scheme has moved the nearest turbine considerably further away, substantially reducing the effect of its size and scale in relation to the adjacent small scale landscape.
266. The turbines will also be seen in views associated with a number of churches that are in the area [75]. Seen from beyond the Pulham villages, the turbines would appear as part of the large scale landscape and considerably in the distance, so appearing relatively small features against the horizon. The turbines would be distinct modern features, completely different from the churches, and in my view, the churches would remain distinctive dominant features seen in the context of the wider rural agricultural landscape and views between the various adjoining character areas would not be harmfully affected.
267. Rushall church is closer to the turbines and part of the adjacent small scale landscape. The church has significant vegetation in its vicinity, so distant views of the distinctive and important round tower are limited from the majority of approaches. However, there is a public right of way across the nearby field, which has a very open aspect, contrasting with the small scale landscape beyond the church. From this footpath the church and tower is an important and prominent feature in views when approaching the church and there are also views towards properties interspersed with vegetation in the village.
268. The presence of the turbines would be apparent in the views along the path, but even when approaching close to the end of the path and corner in the road, the nearest turbines would be seen to be well to one side of the church and would not compete with it in terms of dominance [71] [132, 133] [206]. This is not only because the turbines would be a reasonable distance to one side, but because the nearest turbine would be a substantial distance away, ensuring its scale and presence would not be unduly intrusive or overbearing. The church would remain the most important and dominant feature in these views.
269. I acknowledge that in relation to the previous appeal the inspector found that the church tower would appear to have turbines situated at either end and that the dominating height and position of the proposed turbines as perceived from this part of the public right of way would diminish the visual prominence of the church in the landscape. That would detract from the simple pastoral scene because of the jarring relationship of the turbines and tower [76]. Although related to a particular view point and pedestrian route, the change to the character of this part of the landscape was identified as significant and harmful. In my opinion, the appeal proposal has substantially changed the situation. The church tower would no longer have turbines appearing on either side of the tower, but the nearest turbine would be moved a considerable distance further away. The changes to the layout have reasonably addressed the concerns identified by the previous inspector in relation to the previous proposal.

270. With each introduction of wind turbines, there is the possibility of some cumulative change in the appearance of the countryside. The Environmental Statement notes other turbines in the area, some with planning permission and some in the early stages of the planning process. Objectors also refer to other turbines. No case has been made by the main parties in relation to cumulative impacts. The nearest main turbine cluster is at Eye, which is a considerable distance away. There are also two smaller turbines about 1km from the appeal site, but these would not be readily visible in combination with those at the appeal site. The turbines at Eye were visible from the vicinity of the appeal site, but they appear as very small features on the distant horizon and would have no significant cumulative impact with the appeal site or other nearby turbines [38].
271. I conclude that the proposed turbine would be reasonably located in relation to other turbines. I have taken into consideration those journeying through the landscape and again there would not be a sequence of turbines passed or viewed from nearby roads that would result in an unacceptable cumulative impact (see paragraph 7.19 of statement of common ground Doc ID64).
272. Some agricultural land would be taken up by the turbine bases and access tracks, that surrounding land would continue in agricultural use. In my view the extent of removal of agricultural land is de-minimis and there would not be a conflict with LP Policy ENV21 in this respect.
273. Overall, I conclude that, because of the impact on the appearance of the immediate area there would be some conflict with LP Policy ENV8. CS Policy 1 promotes addressing climate change as well as protecting the environment. The proposal promotes climate change and helps protect the environment in terms of future harm to it from climate change, but also clearly causes some visual harm to the environment in conflict with the policy. I consider the proposal maintains landscape character and accords with CS Policy 3 in this respect. The proposal also accords with the principles of the guidance in the Wind Turbine Landscape Sensitivity Study. Overall, weight associated with non compliance of policies in relation to Section 38(6) of the Town and Country Planning Act needs to be weighed in the balance against benefits of the proposal in terms of this issue.

Heritage Assets

274. When considering applications that may affect a listed building or its setting, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. (See documents OD 21, 22 & 23 for comments on Barnwell Case.) The Framework notes that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The Framework describes the setting of a heritage asset as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
275. In enacting section 66(1), Parliament intended that the desirability of preserving the setting of listed buildings should not simply be given careful

consideration by the decision-maker for the purpose of deciding whether there would be some harm, but that it should be given 'considerable importance and weight' when the decision-maker carries out the balancing exercise. Therefore, even where 'less than substantial' harm is identified, Section 66(1) requires considerable importance and weight to be given to the desirability of preserving the setting of a listed building when carrying out the balancing exercise.

276. LP Policy IMP15 notes that, when considering proposals for development within the setting of a listed building, special attention will be given to the design, scale and impact of the proposals, and this reflects section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

The Church of St Mary, Rushall

277. The Church of St Mary, Rushall is a grade I listed building, which indicates the importance of the church in terms of its intrinsic architectural and historic interest and rarity in national and local terms. It has a distinctive round tower dating from the 12th century or earlier, with a polygonal 15th century upper part. The church has been altered over time. The church makes an important contribution to the community and to the character of the area. Round tower churches are also a distinctive feature of the district [133].

278. The setting of the church includes its immediate setting of the churchyard and nearby road and buildings and the wider setting includes the village and fields, with some more distant views to and from the church. However, the trees near the church form a relatively strong degree of enclosure and these limit more distant views to and from the church. The council identifies that the churchyard creates an area of peace and tranquillity [152] and forms the immediate setting of the church, making an important contribution to its significance, and I concur with that.

279. The church also has a strong presence in the rural landscape, particularly because of the tower, although only seen from limited view points because of trees and vegetation. The wider setting is not a 'designed' landscape directly associated with the church, but the church will always have been purposefully and directly associated with the nearby landscape and the relationship with that land and parish is important in terms of setting. The visibility of the church as a landmark is important.

280. To my mind, a major part of the significance of the church will relate to its age and design, with the immediate setting of the churchyard making a greater contribution to significance. The importance of the wider area to the significance of the church is that it is the area/parish to which it relates and the land provides the context for viewing the church and viewing out from the church. As noted above, the wider setting is not a 'designed' setting and clearly it will alter with change to the surrounding land, such as with the old airfield coming and going. To my mind, it is the rural character of the area that is important and in this respect, while turbines would be visible, they would not have a significant material effect on the rural and agricultural character of the area, but on the appearance of a small part of the large panorama surrounding the church. To my mind, the wider setting makes an appreciably lesser contribution to the church's significance than the age and design of the church and the immediate setting.

281. In terms of the age and design of the church, the proposal would have no impact on significance. There is potential to see a small part of the turbines from within the churchyard, and even these limited views would be greatly restricted by adjacent buildings and vegetation, particularly in the summer months. Given the distance of the nearest turbine T2, I do not consider that the views that would occur from here would be harmful to the setting or the significance of the church [97].
282. As noted above under character and appearance, the turbines would be visible in views approaching the church along the right of way, and this will impinge on views, mainly to the church, and affect the setting. However, the nearest turbine would not be seen directly next to the church, and it would be about 1.25km from the church, considerably further away than with the previous scheme. It would be identifiable as a large feature, but because of the distance its apparent size in relation to the church would be much reduced and, in my view, would not unacceptably compete with the church for significance in those views.
283. The church is a very imposing historic structure and its dominance and importance mean that it would continue as a landmark feature in the landscape. Overall, I do not consider the impact of the turbines on the setting would be great, and the effect of this change on the overall significance of the listed building would be small. Nevertheless, I conclude that the harm to the significance of the church, in terms of the Framework, would be 'less than substantial' and the setting would not be preserved. The court of appeal has recently confirmed that section 66(1) requires considerable importance and weight to be given to the desirability of preserving the setting of a listed building when carrying out the balancing exercise in relation to public benefits and that will be carried forward into the balance with public benefits.
284. English Heritage has considered the proposal and noted that the scheme still contains elements harmful to the setting and significance of the church and recommended permission be refused [89] [145] [204]. However in terms of Rushall Church, English Heritage stated that although the turbines have been repositioned, they will still be seen in combination with the church, an effect which the previous inspector found to have a harmful impact. I identify below why I consider that there has been a material change in relation to the previous inspector's decision, so in my view the previous inspector's opinion about the previous proposal should not be transposed to the new proposal. While the turbines would still be seen in the context of the church, the nearest turbine would be much further away and with a much lesser impact than the previous scheme. English Heritage went on to note that the Framework requires local planning authorities to weigh any public benefit against harm to the historic environment.
285. The previous inspector found in relation to the church that the harm to landscape setting applies equally to the setting of the church. That harm was *the relationship of the turbines to St Mary's Rushall in terms of its landscape setting will vary and from some viewpoints that visual relationship would be harmful, because of the degree of separation and the position of the turbine group in relation to the church. However, the public footpath to the south of St Mary's Rushall has views in which the church, with its locally distinctive round tower, would appear to have turbines situated at either end, concluding the dominating height and position of the proposed turbines as perceived from this part of the*

public right of way would diminish the visual prominence of the church in the landscape. This would detract from the simple pastoral scene because of the jarring relationship of the turbines and tower. She went on to confirm that the comments related to a particular viewpoint and pedestrian route.

286. Under heritage assets, she confirmed that it was the position of the turbines when seen from the footpath that would diminish the status of the building (church) in the landscape and be visually jarring and compete with the round tower. As noted above, I have found that the present application has addressed the harm that the previous inspector identified. The turbines would not be seen either side of the tower, but a reasonable distance to one side, and the nearest turbine would be moved considerably further from the church, so it would not have a dominating presence, but would comply with policy aims to site the turbines away from churches and settlements. Nevertheless, I have taken into consideration English Heritage comments and observations on harm to the setting and significance.

Residences

287. The assessments relating to the significance of the various heritage assets are similar for the dwellings [148] [95]. The setting of these assets generally is their gardens and then the wider historical agricultural relationship and association with the surrounding land, including views in and out. The significance of these assets generally relates to their listing status, age and design of the buildings. The council identifies key attributes of the settings to include openness, green space, trees, vegetation, land use, views to, from and across the heritage assets. There is common ground between the appellant and council that any of the harm that has been identified would, in terms of the Framework, be 'less than substantial'.

Seamere Cottage and Barnacres (grade II)

288. I have noted above under character and appearance that the turbines would not have a material adverse effect on the character of the countryside, its rural character stemming substantially from the agricultural use would remain. So the character of the listed buildings' setting would not be affected. The main effect on setting would, in terms of visual intrusion, be to views in and out. However, simply because a turbine or turbines are visible does not mean that the impact on the listed building's significance would be unacceptable.

289. Turbines would be visible when looking out from the gardens that form the immediate setting of the listed buildings. The turbines are reasonably closely spaced, so they do not impose on a significant or dominant part of the wider landscape surrounding the cottages. It is argued that the closer spacing causes more harm in relation to the more widely spaced turbines of the previous proposal. In my view, the overall outcome in terms of spacing is little different whether closely spaced or widely spaced. With the wider spacing there are more gaps between, but the turbines would still be perceived as a group taking up a wider panorama. With the narrower spacing the turbines would be a tighter group, but would take up a much lesser part of the wider panorama. While there will be potential to see one turbine behind another, that is always going to be the case, even with the wider spacing, and will depend on the view point [176].

290. The main approach to each of the properties is along private drives from the road and in views on approach to the cottages, turbines, principally T1 and T2, would be visible and would to some extent compete for attention with the cottages. With Barnacres, T1 in particular would be seen to be located behind the listed building, appearing above the thatched roof.

291. However, the turbines would be a considerable distance away and for that reason would not be overbearing or unacceptably dominant in relation to the listed buildings. I consider that the impact on their setting would be small and that the overall impact on the special architectural and historic interest and significance of the listed buildings would be small, with little weight to be carried into the overall balance against public benefits in addition to that associated with Section 66(1).

Semere Green Farmhouse (grade II)

292. The situation for this asset is similar to Seamere Cottage and Barnacres. The nearest turbine would be about 735m away (T1). The principal view of the building would be from the north-west and the turbines would be seen in the background and would attract attention in the views. The turbines would be a considerable distance away and T2 and T3 would be partially screened behind trees. Turbines would be visible when looking out from the gardens that form the immediate setting of the listed buildings. The turbines are reasonably closely spaced, so they do not impose on a significant part of the wider landscape surrounding the cottages.

293. In my view, because the turbines would be a considerable distance away they would not be overbearing or unacceptably dominant in relation to the listed building. I consider that the impact on its setting would be small and that the overall impact on the special architectural and historic interest and significance of the listed building would also be small with little weight to be carried into the overall balance against public benefits, in addition to that associated with Section 66(1).

Other Listed Buildings located around the appeal site

294. There are a number of other listed residences around the appeal site that have been identified in the Environmental Statement (inner study area) and by the council that will have turbines in views out from the properties and with views to the properties where turbines would form part of the background. I have taken this into consideration and find that similar factors arise as for the above residences, and in these cases the turbines are a similar or a further distance away. I acknowledge that the visibility of the turbines will have an effect on the setting of these buildings, but again the effect when considered in relation to the overall significance of the listed buildings would be small and that for each little weight should be carried through to the balance against public benefits, in addition to that associated with Section 66(1).

295. I have also taken into consideration the grade I listed church of St Mary, Pulham St Mary, Church of St Mary Magdalene, Pulham Market and Church of All Saints, Dickleburgh. These are located in their respective villages and generally screened from view in the wider landscape. However, the towers of the churches in the Pulham villages are tall and these are conspicuous in the landscape and allow them to be focal points of the parish. These can be seen from a

considerable distance from some directions [236]. There will be some views from and to the Pulham churches where these turbines would be visible, diminishing the experience of the church. However, given the considerable spacing of the churches from the turbines, the impact would be limited and I agree with the Environmental Statement assessment of slight adverse impact to a high sensitivity asset and this goes into the balance.

Living Conditions

296. LP Policy IMP9 relates to residential amenity, indicating that planning permission will only be granted where the development does not have a significantly adverse impact on nearby residents by damaging their amenities. I acknowledge that for wind turbine schemes, the 'Lavender' test [80] [134] [191] has been generally 'adopted', involving determining whether turbines are so close, of such a size and in such numbers that their presence makes a property an unattractive place to live. In my view, that is not in conflict with LP Policy IMP9, as if the Lavender test were 'failed' clearly the proposal would have a significant adverse impact, and vice versa.
297. In relation to the 'Lavender Test' in a previous decision, it was noted *that, 'the planning system is designed to protect public rather than private interests, but both interests may coincide where, for example, visual intrusion is of such magnitude as to render a property an unattractive place in which to live. This is because it is not in the public interest to create such living conditions where they did not exist before. Thus, I do not consider that simply being able to see a turbine or turbines from a particular window or part of the garden of a house is sufficient reason to find the visual impact unacceptable (even though a particular occupier might find it objectionable). However, when turbines are present in such number, size and proximity that they represent an unpleasantly overwhelming and unavoidable presence in main views from a house or garden, there is every likelihood that the property concerned would come to be widely regarded as an unattractive (rather than simply less attractive, but not necessarily uninhabitable) place in which to live.*
298. While this is often referred to as a 'test' I accept that there is no statutory or policy basis for it. In my view, it simply sets out a reasonable way in which to approach consideration of the harm that might be experienced by occupiers from any particular proposal. I also note that simply because any assessed harm 'passes' the Lavender 'test', that does not mean that there is no harm to be carried through to the planning balance in relation to the impact the proposal still might have in relation to that property or properties.

Barnacres and annex

299. The local planning authority identifies that Barnacres is the closest of the properties on Semere Green Road. The nearest turbine would be T1 at about 703m, with T2 at about 955m and T3 at about 722m.
300. The majority rear outlook from the garden and property of Barnacres is towards open countryside, but intervening in those views, particularly from ground level, are a number of significant outbuildings, particularly the large barn

structure [137] [197]. Even where there are distant views to the countryside, including from upper floor windows, the outbuildings form a close and prominent aspect of the views. The turbines are a reasonable distance from the property, but given their size, they will also be prominent in views and would be visible over and around the outbuildings.

301. While all three turbines would be visible in some views, they would be reasonably spaced and allow views of the countryside beyond and between the turbines. The turbines, as noted under character and appearance, would not change the character of the countryside. Quite clearly the outlook would be changed and the turbines would be prominent features, but given their spacing and distance away, I do not consider that these would cause an unpleasantly overwhelming presence in main views from the house or garden, and the property would not come to be widely regarded as an unattractive place in which to live. Nevertheless, I acknowledge the findings of the Environmental Statement that the impact on the ground floor living room/kitchen, parts of the garden and on the approach drive would still be substantial, with other lesser impacts around the property. This is to be taken through to the planning balance.
302. I have taken into consideration the condition of the main barn and that it is possible it could be removed. That would open up views of the countryside, which would, in my opinion, be likely to be beneficial in terms of improving views, even with the turbines in place, as the barn is a particularly dominant and utilitarian feature when seen from the house and garden at the moment.
303. The previous appeal noted that on balance this property would not become an unpleasant place to live because of the visual effect of the proposed turbines. T3, which was the closest at that time at about 650m and which the previous inspector considered would be the more significant impact in terms of turbines seen from within the property, would be in a similar position to the current T3, but the current T3 would be further from Barnacres by about 70m. T1, although moved considerably, ends up a very similar distance from Barnacres and while T2 would be much closer than the previous T2, it still would be the furthest turbine at about 955m distance. The main change in terms of impact is the angle of view to the turbines and the closer spacing. However, as noted above, I consider that the spacing would be acceptable and the fact that the turbines would be closer spaced than previously proposed has not made the arrangement unacceptable.

Seamere Cottage

304. The local planning authority identifies that the distance of turbines from Seamere Cottage would be T1 at about 714m, T2 at about 1019m and T3 at about 841m. The three turbines would be visible from the house and garden, with all three turbines visible in some views, particularly from the gardens. However, the turbines would be seen at some distance and would generally be seen behind reasonably tall trees and vegetation. The views from the upper floors, particularly from the attic study would be more direct, with less screening from the trees. However, the impact on the occupiers would not be unreasonable, given the distance. The study window behind the desk would only have a direct view of one turbine, with other turbines only likely to be visible very close to the window as oblique views. Views of the turbines from the velux windows would be reasonably mitigated by the trees, clearly putting the turbines in the background [84] [132].

305. The property has a relatively long drive to the cottage and turbines would be seen in the distance with the house in the foreground, but again because of the intervening vegetation and distance the impact would be reasonable.
306. Overall, I do not consider that the presence of the turbines would cause an unpleasantly overwhelming presence in main views from the house or garden, and the property would not come to be widely regarded as an unattractive place in which to live. Nevertheless, I acknowledge the findings of the Environmental Statement that there would be a high magnitude of change to some views, with the resulting impact on some parts of the dwelling being moderate. The impacts in the Environmental Statement are to be taken through to the planning balance.
307. In relation to the previous appeal, the inspector noted that the development would not have an unacceptable visual impact when seen from within the dwelling. Nor did she consider that there would be visual harm on the approach to the cottage. Some greater harm was identified to the patio area, but this was not sufficient to resist the proposed development, but with that harm going forward into the planning balance. With this scheme, the nearest turbine T1 would be about 80m further away and T3 would be about 50m further away. T2 would be about 131m closer, but the distance to this turbine is still the greatest at about 1010m. The spacing would be closer than would have been previously the case, but the turbines would still be well spaced, so together with the intervening vegetation and the greater distance to two of the turbines, the now proposed position of the turbines would not be unacceptable.

Semere Green Farm [83] [192] [134]

308. The Environmental Statement identifies that the distance of turbines from Semere Green Farm would be T1 at about 715m and T3 at about 879m. T2 would be over a kilometre away. The situation is similar for this property as for Seamere Cottage, which is close by. The three turbines would be visible from the house and garden, with all three turbines visible in some views, particularly from the gardens. However, the turbines would be seen at some distance and two of them would generally be seen behind trees and vegetation. Particular concern has been raised about the large glazed annexe at the rear.
309. The rear ground floor room of the house is used for various purposes and is clearly seen as an important room of the house by the occupiers, as indicated by its furnishing. The room is glazed on two sides and has a glazed roof. However, the glazing is in small panes and there are many glazing bars/frames interrupting views from the conservatory and these would interrupt views of the turbines. It would be possible to see all three turbines from within the room, but generally one or two of the turbines would be viewed out of the side and one or two out of the rear. In these views, turbines T2 and T3 would be mainly seen behind the vegetation to the south east. Given the distance away of the turbines, their reasonable spacing and the intervening vegetation between some of the turbines, I do consider the impact on this room would be unreasonable.
310. I accept that there would be more open views from the upper floor levels, but with the distance and spacing, I do not consider the impact would be unreasonable.
311. I do not consider that the presence of the turbines would cause an unpleasantly overwhelming presence in main views from the house, drive or

garden, and the property would not come to be widely regarded as an unattractive place in which to live. Nevertheless, I acknowledge the findings of the Environmental Statement that the impact on the ground floor garden room, kitchen and living room would be substantial, with other moderate and significant impacts to other rooms and moderate impacts in relation to the annexe. The impacts identified in the Environmental Statement are to be taken through to the planning balance.

312. The previous inspector appreciated that the turbines would represent a substantial change in the outlook as acknowledged by the Environmental Statement, but that did not mean that the living conditions of the occupiers of the dwelling or annexe would be harmed to such an extent that either would become an unacceptable place to live. In relation to the previous scheme, T1 would be about 125m further away and T3 about 61m further away. T2 would be about 119m closer, but it would still be over a kilometre away. While the spacing of the turbines would be closer than the previous scheme, they would remain reasonably spaced. T1 and T2 would be seen with much closer spacing than between T2 and T3, but T2 would be seen as a more distant structure and in my view, the relationship of these two turbines would not cause unacceptable harm.

Lowbrook Farm [85] [132] [195]

313. The local planning authority identifies that the distance of turbines from Lowbrook Farm would be T1 at about 1045m and T2 at about 1365m. T3 would be about 1410m away. The outlook from the house and garden would be relatively open. There is some distant intervening vegetation, but the three turbines would be prominent in views from the garden and main sitting area, which has a gallery over. While I note that unfortunately a hedge on the boundary, which in the last appeal was found to provide some screening, has been recently lost in a fire, the substantial distance to all three turbines and spacing of the turbines would ensure that the impact on the occupiers would be reasonable when viewed from within the house or its grounds, even without the hedge. The appellant has offered via an undertaking to provide some planting at this boundary if the owner agrees to it.

314. I do not consider that the presence of the turbines would cause an unpleasantly overwhelming presence in main views from the house, drive or garden, and the property would not come to be widely regarded as an unattractive place in which to live.

315. I note that the previous inspector found that T1 would be a dominating feature in views from the sitting area and from the gallery, occupying a large part of the view from the window, leading to the turbine appearing to be ever present. When considered in relation to the garden it was found that T1 would be overwhelming and result in unacceptable living conditions for the occupiers, with the view of the turbine from the drive exacerbating this situation. However, it was also noted that turbine T2 at about 1270m and T3 at about 1409m would be sufficiently distant that they would not be particularly obtrusive. With the revised scheme the nearest turbine would be about 1045m. In my view, the major change in distance to T1 has plainly overcome the harm identified in relation to the previous proposal. While the turbines would be more closely grouped than the previous scheme, given the distance and still reasonable spacing, I do not consider that the changes would result in significant harm to the occupiers of

Lowbrook Farm or any additional harm to that identified in relation to the overall character and appearance of the area.

Baithentwaits Farmhouse

316. The Environmental Statement indicates that T3 would be about 886m away and T1 and T2 each over a kilometre away. Baithentwaits has a very large hedge to one side together with an outbuilding and this would screen many of the potential views of the turbines from much of the garden and a lot of the windows in the property. Nevertheless, there would still be some views to the turbines, particularly upper parts, from upper floors. However, given the significant distant away of all three turbines, I consider the effect on the occupiers would not be unacceptable. The turbines would be reasonably spaced, although I note that T2 and T3 would appear closer together than T1 and T2, with some small visual overlap of blades possibly occurring in certain wind directions, but this would be at considerable distance. Even with this spacing and the screening available, I consider that the impact on the occupiers of Baithentwaits would be acceptable. I have also taken into consideration Gothic House, which is a little further away and across the road from Baithentwaits. This also has significant vegetation and, given the distance, the impact would not be unacceptable. I note that the nearest turbine to this property (T3) would be a little further away than T3 of the previous scheme.

317. However, I acknowledge the findings of the Environmental Statement that the impact on parts of the property and garden would be moderate and significant. These impacts are to be taken through to the planning balance.

2 The Cottages, Air Station Lane

318. The Environmental Statement indicates that T2 would be about 672m away, T1 about 965m away and T3 about 983m away. While there would be views towards the turbines from the property, many of these views are in the context of intervening conifers and hedge and large buildings. Given this and the distance of the turbines I do not consider that the impact would be unacceptable. I note that views from some parts of the garden would be more open, but even here the turbines would be seen in the context of the hedge screening the lower parts of the turbines and still seen in the context of the large buildings adjacent. Nevertheless, I acknowledge that the Environmental Statement identifies the level of effect on the garden as substantial, which needs to be taken through to the planning balance. I note that T2, the closest turbine, would be a little further away than T2 in the previous scheme.

5 and 6 Semere Lane

319. The Environmental Statement indicates that T3 would be the closest turbine to both of the cottages, being about 877m away from No 6 and 881m away from No 5. T1 and T2 would be over a kilometre away from both the properties. There would be views of the turbines from the sun room, but these would be partially filtered by vegetation and the hedge around the property. The Environmental Statement identifies the effect as moderate and significant, which needs to be taken into the overall balance. The effect from the rear garden of No 5 was assessed as substantial.

320. Given the distance of the turbines from the property, the impact on the occupiers would not be unacceptable and there are some intervening trees and vegetation. I note that T3, the closest turbine, would be a little further away than T3 in the previous scheme.
321. I have also taken into consideration the other properties around the appeal site, particularly noting that the Environmental Statement indicates the effect on Damson Cottage and 1 Waterworks Cottages to be moderate.
322. Overall, in terms of visual impact, the proposed turbines would be visible over a wide area and some residents would get some clear views of the turbines from their homes and gardens. Those that spoke at the inquiry and would be near to the turbines were opposed to the development, explaining why they chose this area to live, the tranquillity and open aspect of the countryside. I understand why they consider that the introduction of turbines would impact on the views from around their homes and gardens. The effects that have been identified will be carried forward into the planning balance.

Ecology [95] [173, 206]

323. LP Policy ENV14 relates to habitat protection and LP Policy ENV15 notes that planning permission will not be granted for development that would be likely to cause demonstrable harm to a species of animal or plant which is protected under European or British law or identified in a National or Local Biodiversity Plan, unless appropriate conditions can be imposed. LP Policy ENV13 seeks to protect sites of importance for nature conservation.
324. The EIA Directive and the Regulations require applicants/appellants to provide an assessment of the significant environmental effects of the development and it has to be up-to-date.
325. A Phase I habitat survey was carried out in 2008 and was reasonably thorough and found to meet the requirements for the original application and appeal. The objectors say that the work done for the update Phase I survey was not comprehensive and not adequate to be considered sufficient to meet the objectives of the EIA Directive. It is accepted that the appellant's survey for this proposal was not a complete survey of the land, and that was never the intention. The intention is to generally rely on the original survey work, with the further survey work to check the validity of the previous work. While the original survey dated back to about 2008, in my view it was not unreasonable to generally rely on it. However, in addition to the original survey work the appellant's expert visited the site for a further inspection to see if there were any significant changes that would need further consideration or make the previous survey results invalid. It was looking for changes that might lead to species change.
326. It is argued by 4Villages that the new reservoir was not considered. While this was not originally considered in relation to the original application and appeal, the decision in that appeal was postponed until additional work was done and the presence of the reservoir considered and that consideration carries through to this application and appeal. In addition, English Nature notes that the design of the reservoir is unlikely to support wildfowl and waders because of its steep sides, which are likely to restrict birds within the reservoir and unlikely to

increase wildfowl and waders or increase the site's potential to support birds during migration

327. There is rough grass around the reservoir, with some tufts forming, but there is no under-thatch that is likely to provide the right conditions for small mammals and, in my view, there is no change that would justify the need for further survey work. The previous inspector took a precautionary approach and considered that a condition could be attached to keep this maintained, but having viewed the area, which is small, I accept the appellant's expert view that it would not be necessary for such a condition.
328. I acknowledge that Natural England initially required a full habitat survey to be undertaken with bat and birds surveys included, requesting a Regulation 22 direction from the council. However, that was because they had mistakenly considered, from information provided, that there had been material changes in the circumstances at the site. Natural England later noted *we are now satisfied that the habitat has not changed sufficiently to warrant a further survey. When we submitted our advice in June 2013, we understood that habitat on and around the site had changed since the previous application. However, following detailed discussion with the applicant and submission of further information from SLR Consulting, it is clear that the reservoir in question was discussed at length at the previous appeal, with the appellant's team undertaking a further ecological desk study and report to satisfy the Planning inspector in 2010. Following a lengthy assessment of the reservoir at that time it was concluded that, despite the fact that the reservoir had not been considered when collecting the earlier survey data (2008/2009), habitat had not altered substantively to warrant further survey work. Following this clarification, in our view this issue has been considered to a sufficient level. The reservoir was not considered likely to increase presence of waterfowl and waders. The reservoir has not altered the habitat sufficiently to attract birds from the Broadlands Special Protection Area not previously on their migratory routes. Repeat ornithological surveys are not justified. While its standing advice is that surveys should not be over 2/3yrs old NE takes a pragmatic and flexible approach, particularly in this case, in its professional judgment there would be no material benefit for a further survey.*
329. Objectors are concerned that this view was determined without a visit to the appeal site. However, Natural England did view the appeal site for a considerable time with the appellant and objectors, and were able to see any changes for themselves. While I accept that this was after the letter was sent, I have no doubt that had Natural England seen anything at the site visit that affected its view it would have drawn attention to it. I acknowledge that much more survey work could be done; that must always be the case. However, what is important is that the survey work that is undertaken is appropriate to the project and allows suitable, impartial experts to reasonably assess the risk a proposal would pose to protected species. In this case that clearly has been achieved.
330. I accept that the crops at the farm will change from those that were present at the times of surveys, but that will occur regularly over the life of the turbines and that is not something that would be reasonable or necessary to control. The evidence does not indicate to me that there has been a significant change in the agricultural use at the site that would warrant further survey work.
331. In my view, the appellant's expert demonstrated at the hearing why the level of survey work that has been completed was more than adequate for an expert

- to fully identify the likely risk to bats and to advise appropriate mitigation measures. In this case, particularly relating to locating the turbine away from trees and hedgerows, and in this respect recommended set off distances are achieved and mostly exceeded. In relation to the previous scheme, which was also found acceptable in relation to ecology, where the turbines have moved they would generally be even further from hedges and trees, improving set off distances, and a change in the height of the trees would not affect the recommended distance to the turbine. It was also advised at the inquiry that in a phase I habitat survey, tree height would not be recorded. I conclude that the risk posed to bats by the proposed turbines has been adequately assessed and is reasonable.
332. TIN051 - Bats and Onshore Wind Turbines notes that for many cases risk could be minimised by locating turbines so that their blade tips are at least 50m from the highest part of hedges, tree-lines or woodland in the vicinity, as bat activity beyond this declines significantly. While bats are still active further away from linear features, the level of bat activity is likely to be so low that there is very little risk of impact. This accords with the survey findings and the additional survey information provided by objectors does not indicate any different conclusions.
333. Mrs King has undertaken a detailed study of barn owls, which provides further information. However, the presence of barn owls at the site is not new information, as these were clearly identified in the original survey along with the presence of raptors. The specialists were aware of them when considering the risk and potential harm to barn owls. Natural England are aware of information collected by 4Villages. While the site of any particular nest was not noted, the surveys indicated that there may well have been a nest within a tree or building in the vicinity of the Upper Vaunces Farm Buildings. The barn owls that were viewed on site were seen to be below 10m.
334. 4Villages considered there is some difference between experts on the risk to barn owls, particularly relating to flight height. 4Villages' evidence, from an acknowledged expert, indicates barn owls fly at 'considerable height', although the actual heights were not indicated. The appellant's expert, a licensed barn owl surveyor, noted that barn owls tend to fly low when foraging and higher when returning to their roosts or commuting. The average height for this in his experience is about 10m, but this can be higher, perhaps 15m over roads. The appellant's expert view was that even at that higher level the barn owls would not be a risk from the turbine blades and this assessment was based on his own considerable observations of barn owls. In my view, there is agreement between experts that barn owls will fly higher when not foraging, but the appellant's observations indicate that there would not be harm to the owls, and the 'considerable height' identified by 4Villages' expert does not demonstrate the proposed turbines would be harmful to barn owls.
335. Objectors identified a previous Environmental Statement associated with the company at another site which appears to indicate barn owls to be at significant risk from turbines. In that case no meaningful flight maps had been produced. However, the overall conclusion was that the potential effects during the operational phase are considered to be slight. In addition to this, the Barn Owl Trust indicates that barn owls are not at significant risk of impact with wind turbines.

336. While I acknowledge the various expert advice on this, on balance I conclude on the evidence that barn owls would not be at significant risk from the proposed turbines, and I also note that Natural England is not objecting on this basis.
337. I am satisfied that the requirements under the EIA Directive and the Regulations have been met and that the submitted ES is suitable to assess the development for its potential impacts on birds and bats. In coming to my decision I have taken into account the information submitted together with statutory consultations and further evidence submitted to the inquiry. The project has incorporated mitigation measures, particularly in relation to design following the previous application, re-siting the turbines closer together and further away from sensitive features, such as dwellings, heritage assets and vegetation. In addition, where there is potential harm, various conditions have been proposed as set out in Annex A to ensure the potential harm is adequately mitigated.

Other Matters

338. It was recorded in the statement of common ground between the main parties that sufficient environmental information has been provided in relation to land contamination. Conditions related to contamination and unexploded ordnance have been included. Other interested parties have made submissions related to contamination [237]. The ES notes that a detailed contamination assessment, including intrusive investigations and monitoring, has been undertaken, which included the potential for radium pollution. The investigation determined there was no unacceptable risk to human health resulting from radioactive materials. In relation to contamination of the water table, I accept that foundation design could change and to that effect I consider it would be reasonable to limit depth of excavation to 3m below ground level.
339. Shadow flicker has been raised by 4Villages and some parties [230]. The potential for an effect caused by shadow flicker is limited and relates to the orientation of the turbines to properties and the distance away. If an adverse effect is identified it is a matter that can be adequately mitigated by appropriate control of the turbine operation at the times the effect is experienced. This is a matter that can reasonably be controlled by condition.

Planning Balance

340. The Framework indicates that National Policy Statements should inform the approach to determining planning applications. EN-3 Renewable Energy Infrastructure indicates that the time-limited nature of wind farms, where a time limit is sought by an applicant as a condition of consent (in the appeal case it is 25 years), is likely to be an important consideration when assessing impacts such as landscape and visual effects and potential effects on the settings of heritage assets. Such judgements should include consideration of the period of time sought by the applicants for the generating station to operate and the extent to which the site will return to its original state may also be a relevant consideration.
341. While I acknowledge that the proposal would be conditioned to be removed at the end of the period, it seems to me likely that there would be a continuing substantial need for turbines at the site, and unless there were particular reasons, it is not unlikely that permission for replacement turbines would be granted. So while I have taken this matter into consideration, I have attached

little weight to it for the purpose of my decision, as the identified harm could be present for a substantial time period.

342. Representations relate to the ministerial statement made in June of last year. This mentioned, amongst other things, that the coalition government is making the planning process more accessible to local communities, because it works best when communities have the opportunity to influence decisions that affect their lives. It notes that current decisions for onshore wind are not always reflecting a locally-led planning system, referring to the previous government's top-down regional strategies, which the present government has abolished, and to the introduction of the National Planning Policy Framework. It notes that in order to ensure that decisions provide proper weight to environmental considerations such as landscape, heritage and local amenity, it must be ensured that decisions get the environmental balance right in line with the Framework and, as expected by the Framework, any adverse impact from a wind farm is addressed satisfactorily.
343. The minister noted that to help ensure that planning decisions reflect the balance in the Framework, his department would issue new planning practice guidance to assist councils and planning inspectors in relation to forming development plans and for individual planning applications. Shortly afterwards, Planning Practice Guidance for Renewable and Low Carbon Energy [PPG] was issued. That PPG has now itself been superseded by recent Planning Practice Guidance, but this does not introduce any material changes to the previous guidance. I have made this decision in the light of the Planning Practice Guidance, but I also refer below to references made by parties to the PPG, ministerial statement and the Framework.
344. The identification of the need for renewable energy was maintained in the PPG and now also in the new Planning Practice Guidance, noting that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.
345. The PPG identifies that the Framework explains that all communities have a responsibility to help increase the use and supply of green energy, but that does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. As with other types of development, it is important that the planning concerns of local communities are properly heard in matters that directly affect them and in relation to this decision local representations have been taken into consideration. However, equally there is nothing in the documents that indicate that local opposition is overriding and in this case there was also significant local support for the turbines. In this respect an interested party identified that a poll had been taken in the nearby village about the turbines and over 200 people voted with the result being a tie.
346. It is clear the PPG sees local and neighbourhood plans as the key to delivering development that has the backing of local communities. Identifying areas suitable for renewable energy in plans would give greater certainty as to where such development will be permitted. Local people should get involved in this process and actively identify where they want the wind turbines to be sited in their areas.

The PPG notes, in determining planning applications, that amongst other things, great care should be taken to ensure that heritage assets are conserved in a manner appropriate to their significance, including impact on views important to their setting and that local amenity is an important consideration which should be given proper weight in planning decisions.

347. 4Villages indicate that the amount of energy generated (2Mw produced, about enough for 4000 homes) is insignificant in relation to need. However, that is missing the point. Each turbine installed does produce a relatively small amount of energy in relation to overall need, but in combination with all the other turbines now installed, wind energy is an important energy source. In this respect, when considering energy produced, the Framework notes that when determining planning applications it should not be required for applicants to demonstrate the overall need for renewable or low carbon energy and it is recognised that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.
348. It was also noted that the output of the turbines will be reduced in relation to the previous application because of closer spacing and the effect of turbulence. The appellant acknowledges that would be the case and has undertaken more detailed investigations of output. These are based on a Nordex N90 HS 2.5MW with hub height of 80m and take account of wake loss. The capacity factor would be about 27.9%, with an annual output of about 17.8 GWh. Whether one takes that estimated by 4Villages or the appellant, this is an important supply of electricity and I attach substantial weight to it. The turbine would also have an economic benefit in terms of employment associated with its construction and maintenance and would provide benefit to the farmer in terms of farm diversification and the income to the farm provided from use of the land.
349. I acknowledge that the production of renewable energy by wind turbines is inherently sustainable, but that is only one aspect of sustainable development. In the terms of the Framework, sustainable development is that which conforms to its guidance and accords with the economic, social and environmental roles identified. In my view, the proposed turbines would meet all these roles in some respects, providing economic benefits in terms of energy production and diversification for the farm and some local benefit, particularly during construction. It would provide an important social role in the provision of renewable energy, available to feed in to the national grid and help to protect the environment in terms of climate change. I acknowledge that there is harm as identified above, to the local environment and neighbours etc and this needs to be taken into the balance together with the weight associated with Section 38(6) of the Town and Country Planning Act and Section 66(1) of the Listed Building and Conservation Areas Act.
350. The previous inspector's decision, which I agree with in relation to the scheme she was considering, is plainly relevant to this appeal, as the siting of the turbines is similar. However, I have explained in the various sections above why I consider that the now proposed siting of the turbines is materially different and has addressed the objections identified by the previous inspector. I conclude that the public benefits of the proposed turbines clearly outweigh the harm identified.
351. Representations were made to the effect that the adjoining neighbours could become victims in terms of the European Convention on Human Rights and that effectively their rights could be violated if the appeal were allowed. I do not

consider this to be well-founded as I have found the proposal to be acceptable overall. While I have found some harm in terms of the character of the area and neighbours' living conditions, that harm was not unacceptable and the degree of any interference would be insufficient to give rise to a violation of the adjoining neighbours' rights under the Human Rights Act.

Recommendation

352. It is recommended that the appeal be allowed and planning permission granted for the erection of three wind turbines and associated development for a period of 25 years, including control buildings, electricity transformers, underground cabling, access tracks, crane hardstandings and vehicular access at land east of Semere Green Road, (forming part of Upper Vaunces Farm), Pulham Market and Dickleburgh (with new access from the A140), Norfolk in accordance with the terms of the application, ref 2013/0275, dated 26 April 2013 and the plans submitted with it, subject to the conditions set out in annex A.

Graham Dudley

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr D Hardy LL.B (Hons) BCL (Hons)(Oxon)	Partner, Eversheds LLP
He called	
Mr B Denney BA (Hons) DipLA CMLI CENV MIEMA	Director, Pegasus Planning Group
Dr S Carter BSc PhD MifA FSAScot	Senior Heritage Consultant, Headland Archaeology (UK) Ltd
Mr D Stewart MA (Cantab) DipTP MRTPI	David Stewart Associates
Mr S Arnott BSc(Hons) MSc MIOA	Principal Associate Consultant, TNEI Services Limited
Dr S Holloway BSc PhD CMIEEM CEnv	Principle Ecologist, SLR Consulting Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr A Ranatunga	Of Counsel
He called	
Ms M Bolger BA Dip LA CMLI	Gillespies LLP
Mr D Edleston BA(Hons) Dip Arch RIBA IHBC	South Norfolk Council
Mr G Hancox BA (Hons) DipP MRTPI	South Norfolk Council

FOR 4Villages:

Mr J Clay	Of Counsel
He called	
Mrs S King	
Mrs J Oakes BSc Env An Mgmt, MSc Env Bus mgmt	Oakes Environmental
Mr R Davis MIA	Robert Davis Associates

INTERESTED PARTIES:

Mr M Hays	
Mr N Taxil-Webber	
Mr J Bradley BSc (Hons) CC FioD	
Mr J Holden	4Wind
Mr S Taylor	
Ms H Hardy	
Cllr M Wilby	District Councillor for Dickleburgh & Tivetshall
Mr B Boyle	

Mr G West
Mr B Potterham
Mr N Clissitt
Mr C Barnes
Rev J Roskelly
Mr T Webster Chairman of the Rushall Parochial Church Council
Mr A Jenkins
Mr K Ambrose Dickleburgh and Rushall Parish Council
Mr M Dooley
Mr M Tinsley
Mr M Stamford MSc Env Impact
Ass
Baroness Murphy of Aldgate
Mr R Hill
Mr R Howarth
Mr C Hudson
Miss A Rider
Mr T Blacker
Mr M Hubner
Ms K Heap
Ms C Irving Statement read by Mrs Melrose
Mrs L Melrose

DOCUMENTS HANDED IN TO THE INQUIRY

Document	ID1	Appellant's appearances
	ID2	Appeal decision APP/P1615/A/12/2184035
	ID3	Appeal decision APP/Y0435/A/10/2140401
	ID4	The Effect of Focal Length on Perception of Scale and Depth in Landscape Photographs – Implications for Visualisation Standards for Wind Energy Developments – Final Report
	ID5	Draft Undertaking
	ID6	Appellant's opening submissions
	ID7	Council's opening submissions
	ID8	4Villages' opening submissions
	ID9	Ms Bolger's appendix 1
	ID10	Visualisation Standards for Wind Energy Developments
	ID11	Notification letter
	ID12	Visual Representations of Wind Farms – Consultation Questions and Overview
	ID13	Email with Statement from Lord MacGregor of Pulham Market
	ID14	Noise statement and appendices from Mr Davies
	ID15	Set of Drawings
	ID16	Conservation and Design Observations 18 July 2013
	ID17	Statement and attachments from Mr J Bradley
	ID18	Statement of Chris Barnes
	ID19	Statement of Katie Heap
	ID20	Statement of Nick Clissitt
	ID21	Statement of Corinne Irving
	ID22	Statement of the Revd James Roskelly
	ID23	Statement of Alan Jenkins
	ID24	Statement of Tim Webster

- ID25 Statement of Dickleburgh and Rushall Parish Council
- ID26 Statement of Mark Hays
- ID27 Statement of Michael Tinsley
- ID28 Statement of Nigel Taxil-Webber
- ID29 Statement of Mike Stamford
- ID30 Statement of Baroness Murphy of Aldgate
- ID31 Statement of Cllr Martin Wilby
- ID32 32 draft conditions
- ID33 Statement of Richard Bacon M.P.
- ID34 Summary of Research into Amplitude Modulation of Aerodynamic Noise from Wind Turbines
- ID35 Petition produced by 4Wind
- ID36 Statement from Richard Hill
- ID37 Enlarged Fig 2, Fig 11 and Fig 12
- ID38 Letter from Natural England dated 13 September 2013
- ID39 Statement of Jack Holden
- ID40 Statement of Brendan Boyle
- ID41 Statement from Richard Hill
- ID42 Norfolk Bat Survey 2013
- ID43 Fig 27 and 28 from Environmental Statement for previous scheme
- ID44 Email from Francesca Shapland dated 25 November 2013
- ID45 Route of Natural England Site Visit on 7 November 2013
- ID46 Appellant's response relating to output in relation to turbine spacing
- ID47 Appellant's response to Mr Bradley's evidence
- ID48 Revised statement from Jeremy Bradley
- ID49 Amplitude Modulation Noise Research
- ID50 Qualifications and experience of Mr Davis
- ID51 Table 2 Proposed revisions to night time noise limits
- ID52 Three appeal decisions, Batsworthy Cross, Chiplow Site and Whiteleather Lodge
- ID53 Question and Answer in Parliament relating to ETSU-R-97
- ID54 Appeal decision Wormslade Farm Kelmarsh
- ID55 Development Management Committee – Update – 22/10/2013
- ID56 Evidence of Gary Hancox, errata sheet
- ID57 Statement of Terence Blacker
- ID58 Report of Andrew Reynolds concerning Noise at Wind Turbine Generators at Kessingland
- ID59 Email dated 16 January from Tim Stevens relating to 'wake loss'
- ID60 Barn owls – ES relating to another scheme, from 4Villages
- ID61 J Bradley – Statement in response
- ID62 Response to 4Villages barn owl information from appellant
- ID63 Draft non-noise conditions
- ID64 Statement of Common Ground
- ID65 Draft non-noise conditions with comments
- ID66 Statement of Common Ground
- ID67 Letter dated 17 May relating to ground contamination
- ID68 Bundle of appeal decisions
- ID69 4Villages' closing submissions
- ID70 Council's closing submissions

- ID71 Appellant's closing submissions
- ID72 Places to go to on site visit – 4Villages

Other Documents Submitted outside of the Inquiry

- OD1 Statement of Case - Appellant
- OD2 Letter from Sheila King dated Oct 2013
- OD3 Statement of Case 4Villages
- OD4 Statement of Common Ground - Draft
- OD5 Correspondence related to Phase I survey
- OD6 Correspondence from L Melrose 15 November 2013
- OD7 Email from Appellant dated 8 November 2013
- OD8 TIN051, Measurements to Bat Features and Phase I survey information
- OD9 Pre-Inquiry Meeting Note
- OD10 Emails - L Melrose dated 21 and 22 November 2013
- OD11 Emails – L Melrose dated 1 and 3 June 2013
- OD12 Email – H Nelson dated 26 November 2013
- OD13 Rebuttal proof of evidence of S King
- OD14 Statement by R Bacon MP, January 2014
- OD15 Draft non-noise conditions
- OD16 Environmental Agency Letter dated 4 June 2013
- OD17 Map route and properties to visit for site inspection
- OD18 Additional information relating to Barn Owls
- OD19 Appellant's response to Barn Owl information relating to Woodmancott Down
- OD20 Signed Undertaking
- OD21 Council's note relating to Barnwell Manor Wind Energy Ltd v Secretary of State
- OD22 4Villages' note relating to Barnwell Manor Wind Energy Ltd v Secretary of State
- OD23 Appellant's note relating to Barnwell Manor Wind Energy Ltd v Secretary of State
- OD24 Personal Statement of J King
- OD25 Email of S King 27 Jan 2014
- OD26 Appellant's comments on the correspondence
- OD27 Council's comments on Planning Practice Guidance
- OD28 4Villages' email relating to Planning Practice Guidance 27 March 2014
- OD29 Appellant's comments on Planning Practice Guidance 21 March 2014
- OD30 Call in letters

Appellant's Documents

- AD1 Proof of evidence of Mr S Arnott with summary proof
- AD2 Proof of evidence of Dr Holloway with summary proof and appendices 1 and 2
- AD3 Proof of evidence of Mr Carter with summary and appendices 1

- 4
- AD4 Proof of evidence of Mr B Denney with summary and appendices 1 – 3
- AD5 Proof of evidence of Mr D Stewart with summary proof and appendices 1 – 3

Council's Documents

- SND1 Proof of Evidence of David Edleston with Appendices
- SND2 Proof of Evidence of G Hancox with Appendices
- SND3 Proof of Evidence of M Bolger with Appendices
- SND4 Position Statement of Mr Bolton
- SND5 Position Statement of Ms Old

4Villages Documents

- 4VD1 Position Statement, Proofs of Evidence of Justine Oakand Sheila King
- 4VD2 RD/SK1 – Barn Owl Survey and Methodology and Techniques for use in Ecological Assessment
- 4VD3 RD/SK2 – Barn Owls and Rural Planning Applications
- 4VD4 RD/JO1 – The Code of Shooting Practice
- 4DV5 Contaminated Land Desk Top Study
Robert Davis Associates evidence is at ID14

Plans

- PL1 GB0008 – P101 Rev A – Site location
- PL2 GB0008 – P102 Rev A – Detailed site layout
- PL3 GB0008 – P104 Rev A – Typical turbine elevations
- PL4 GB0008 – P105 Rev A – Typical turbine foundation detail
- PL5 GB0008 – P106 Rev A – Typical transformer enclosure detail
- PL6 GB0008 – P107 Rev A – Typical access track cross-section
- PL7 GB0008 – P108 Rev A – Site entrance detail
- PL8 GB0008 – P109 Rev A – Semere Green Road, Crossing detail
- PL9 GB0008 – P1110 Rev A – Typical crane hardstanding
- PL10 GB0008 – P10111 Rev A – Control building plans and elevation
- PL11 GB0008 – P10112 Rev A – Detailed site layout

Core Documents provided prior to the Inquiry

1 Adopted Development Plan Documents

- APP CD1.1 South Norfolk Local Plan (adopted March 2003)
- APP CD1.2 Joint Core Strategy for Broadland, Norwich and South Norfolk (adopted March 2011)

2 National Guidance

- APP CD2.1 DCLG: National Planning Policy Framework (March 2012)
- APP CD2.2 Planning Practice Guidance for Renewable and Low Carbon Energy (July 2013)
- APP CD2.3 Government Response to the Communities and Local Government Select Committee Report: NPPF
- APP CD2.4 DCLG: Written Statement to Parliament, Local Planning and Onshore Wind, The Rt Hon Eric Pickles MP (6 June 2013)
- APP CD2.5 DECC: Written Statement to Parliament, The Rt Hon Edward Davey MP (6 June 2013)
- APP CD2.6 DECC: Press Release (6 June 2013)
- APP CD2.7 DECC: Written Statement to the Institute of Acoustics, The Rt Hon Edward Davey MP (20 May 2013)
- 4V CD2.8 Letter to Sir Michael Pitt from The Rt Hon Eric Pickles MP re Local Planning and Onshore Wind (published 10 June 2013)
- 4V CD2.9 Hansard Statement (10 October 2013)
- 4V CD2.10 DCLG: Press Release (16 November 2013)

3 Other Local Planning Authority Documents, Regional Renewable Energy Documents and Documents regarding Regional Spatial Strategies

- APP CD3.1 Ove Arup and Partners: Placing Renewables in the East of England (2008)
- APP CD3.2 AECOM and The Landscape Partnership: East of England Renewable and Low Carbon Energy Capacity Study (2011)
- APP CD3.3 Development Management Policies Development Plan Document (Proposed Submission Document, November 2013)
- APP CD3.4 South Norfolk District Wind Turbine Landscape Sensitivity Study (April 2006) (Final Amendments, January 2008)
- APP CD3.5 Guidance Note on Assessing the Landscape and Visual Impact of Large Scale Wind Turbine Developments, South Norfolk Council (June 2009)
- APP CD3.6 South Norfolk Landscape Assessment (2001)
- APP CD3.7 South Norfolk Place Making Guide (2012)

4 High Court Decisions

- APP CD4.1 R (Hulme) v Secretary of State for Communities and Local Government [2010] EWHC 2386 (Admin)
- APP CD4.2 Michael William Hulme v Secretary of State for Communities and Local Government and RES Developments Limited [2011] EWCA Civ 638
- APP CD4.3 R (Lee) v Secretary of State for Communities and Local Government, Maldon District Council, Npower Renewables [2011] EWHC 807 (Admin)
- APP CD4.4 (1) Derbyshire Dales District Council (2) Peak District National Park – v – (1)

		Secretary of State for Communities and Local Government (2) Carsington Wind Energy Limited [2009] EWHC 1729 (Admin)
APP	CD4.5	Sea & Land Power & Energy Ltd v Secretary of State for Communities and Local Government, Great Yarmouth Borough Council [2012] EWHC 1419 (Admin)
APP	CD4.6	(1) South Northamptonshire Council (2) Deidre Veronica Ward – v – (1) Secretary of State for Communities and Local Government (2) Broadview Energy Development Limited [2013] EWHC 11 (Admin)
APP	CD4.7	(1) East Northamptonshire District Council (2) English Heritage (3) National Trust v (1) Secretary of State for Communities and Local Government (2) Barnwell Manor Wind Energy Limited [2013] EWHC 473 (Admin)
APP	CD4.8	Colman v Secretary of State for Communities and Local Government and others [2013] EWHC 1138 (Admin)
APP	CD4.9	Bedford Borough Council v Secretary of State for Communities and Local Government, Nuon UK Ltd [2012] EWHC 4344 (Admin)
4V	CD4.10	Chernley Campaign Limited v Mole Valley [2013] EWHC 2582 (Admin)
4V	CD4.11	R v Cornwall County Council ex parte Jill Hardy [2001] (Official Transcript)
4V	CD4.12	Tegni Cymru Cyf v The Welsh Ministers [2010] EWCA Civ 1635
4V	CD4.13	Morge FC v Hampshire County Council [2011] UKSC 2

5 Various Wind Farm Appeal and Application Decisions

APP	CD5.1	Upper Vaunces (APP/L2630/A/10/2143349)
APP	CD5.2	Burnthouse Farm (APP/D0515/A/10/2123739 & APP/D0515/A/10/2131194)
APP	CD5.3	Cleek Hall (APP/N2739/A/12/2172629)
APP	CD5.4	Carland Cross (APP/D0840/A/09/2103026)
APP	CD5.5	Chelveston (APP/K0235/A/11/2160077 & APP/G2815/A/11/2160078)
APP	CD5.6	Enifer Downs (APP/X220/A/08/2071880)
APP	CD5.7	Watford Lodge (APP/Y2810/A/11/2153242)
APP	CD5.8	Church Farm, Southoe (Common Barn) (APP/H0520/A/12/2188648)
APP	CD5.9	Beech Tree Farm (APP/H3320/A/11/2151744)
APP	CD5.10	Earls Hall Farm (APP/P1560/A/08/2088548)
APP	CD5.11	Burnham-on-Sea (APP/V3310/A/06/2031158)
APP	CD5.12	Sixpenny Wood (APP/E2001/A/09/2101851)
APP	CD5.13	Masters Pit (APP/B1225/A/11/2161905)
APP	CD5.14	Busseys Loke, Hempnall (APP/L2630/A/08/2084443)
APP	CD5.15	Lilbourne (APP/Y2810/A/11/2164759)
APP	CD5.16	Newlands Farm (APP/E0915/A/09/2101659)
APP	CD5.17	Brightenber (APP/C2708/A/09/2107843)
APP	CD5.18	Cotton Farm (APP/H0520/A/09/2119385)
APP	CD5.19	Yelvertoft (APP/Y2810/A/10/2120332)

- APP CD5.20 Treading (APP/DO515/A/12/2181777 and APP/A2525/A/12/2184954)
- 4V CD5.21 Ellough Airfield (APP/T3535/A/13/2193543)
- APP CD5.22 Potato Pot (APP/G0908/A/12/2189934)
- APP CD5.23 Gayton le Marsh (APP/D2510/A/12/2176754)

6 Planning, Renewable Energy and Climate Change Documents

- APP CD6.1 DTI Energy White Paper "Meeting the Energy Challenge" (2007) [Extracts]
- APP CD6.2 DECC: The UK Renewable Energy Strategy (2009)
- APP CD6.3 DECC: Overarching National Policy Statement for Energy EN-1 (Designated Version, 19 July 2011)
- APP CD6.4 DECC: National Policy Statement for Renewable Energy Infrastructure EN-3 (Designated Version, 19 July 2011)
- APP CD6.5 DECC: UK Renewable Energy Roadmap (July 2011)
- APP CD6.6 DECC: UK Renewable Energy Roadmap Update (December 2012)
- APP CD6.7 Annual Energy Statement – Oral Statement by Edward Davey (29 November 2012)
- APP CD6.8 DECC: Annual Energy Statement (November 2012)
- APP CD6.9 The Energy Act 2008 [only available electronically unless requested]
- APP CD6.10 The Climate Change Act 2008 [only available electronically unless requested]
- APP CD6.11 The Energy Bill 2012 [only available electronically unless requested]
- APP CD6.12 Natural England: Sustainable Energy Policy (2008)
- APP CD6.13 Natural England: Climate Change Policy (2008)
- APP CD6.14 Natural England: Position on Wind Energy (2009)
- APP CD6.15 Natural England: Future Landscapes – draft policy for consultation (2009)
- APP CD6.16 Natural England: All Landscapes Matter (2010)
- APP CD6.17 Natural England: Making Space for Renewable Energy (2010)
- APP CD6.18 DECC: The UK Low Carbon Transition Plan White Paper (July 2009) (Executive Summary)
- APP CD6.19 The Coalition Government: Our Programme for Government (2010)
- APP CD6.20 Letter to Lord Turner re: "Increasing the Target for Energy from Renewable Sources" dated 29 July 2010 and Letter to Rt Hon Chris Huhne "The Level of Renewable Energy Ambition to 2020" dated 9 September 2010
- APP CD6.21 Committee on Climate Change: Renewable Energy Review (May 2011)
- APP CD6.22 DECC: White Paper – Planning our Electric Future – a White Paper for Secure, Affordable and Low Carbon Electricity (July 2011)
- APP CD6.23 The Carbon Plan: Delivering our Low Carbon Future (December 2011)
- APP CD6.24 DECC: Onshore Wind, Direct and Wider Economic Impacts (May 2012)
- APP CD6.25 DECC: Special Feature – Renewable Energy in 2011 (June 2012)
- APP CD6.26 DECC: Special Feature – Sub-national renewable electricity, renewable electricity in Scotland, Wales, Northern Ireland and the regions of England in 2011 (September

		2012)
APP	CD6.27	DECC: Electricity Market Reform: Policy Overview (November 2012)
APP	CD6.28	DECC: Press Notice "Government Agreement on Energy Policy sends clear, durable signal to investors" (November 2012)
APP	CD6.29	Committee on Climate Change: Next Steps on Electricity Market Reform – securing the benefits of low carbon investment (May 2013)
APP	CD.30	DECC: Energy Trends (June 2013)
APP	CD6.31	DECC: Onshore Wind Call for Evidence: Government Response to Part A (Community Engagement and Benefits) and Part B (Costs) (June 2013)
APP	CD6.32	DECC: Digest of UK Energy Statistics (DUKES) (July 2013)
APP	CD6.33	Moffat Centre: The Economic Impacts of Wind Farms on Scottish Tourism (March 2008)
APP	CD6.34	British Horse Society Advice on Wind Turbines 2013/1
APP	CD6.35	British Horse Society Scottish Wind Farm Advice Note
APP	CD6.36	The British Horse Society - Wind Turbine Experiences: 2012 Survey Results
APP	CD6.37	UK Renewable Energy Roadmap Update 2013

7 Landscape and Visual Effects

APP	CD7.1	The Landscape Institute, Institute of Environmental Management and Assessment: Guidelines for Landscape and Visual Impact Assessment, Second Edition (2002)
APP	CD7.2	The Landscape Institute, Institute of Environmental Management and Assessment: Guidelines for Landscape and Visual Impact Assessment, Third Edition (2013)
APP	CD7.3	Landscape Institute: Landscape Architecture and the Challenge of Climate Change (October 2008)
APP	CD7.4	Landscape Institute: Photography and Photomontage in Landscape and Visual Impact Assessment, Advice Note 01/11
APP	CD7.5	Scottish Natural Heritage: Guidelines on the Environmental Impacts of Windfarms and Small Scale Hydro Electric Schemes (2001)
APP	CD7.6	Produced for Scottish Natural Heritage by the University of Newcastle: Visual Assessment of Wind Farms: Best Practice (2002)
APP	CD7.7	Scottish Natural Heritage and Countryside Agency: Landscape Character Assessment Series: Topic Paper 9 Climate Change and Natural Forces – the Consequences for Landscape Character (2003)
APP	CD7.8	Scottish Natural Heritage: Visual Representation of Wind Farms – Good Practice Guidance (2006)
APP	CD7.9	Scottish Natural Heritage: Siting and Designing Windfarms in the Landscape, Version 1 (December 2009)
APP	CD7.10	Scottish Natural Heritage: Guidance Assessing the Cumulative Impact of Onshore Wind Energy Developments, Version 3 (March 2012)
APP	CD7.11	Department of Energy and Climate Change: DECC Public Attitudes Tracker – Wave 1 (July 2012)
APP	CD7.12	Ipsos Mori: Wind Power Omnibus Research (April 2012)
APP	CD7.13	Scottish Executive: Public Attitudes to Wind Farms (2003)
APP	CD7.14	Green on Green Public Perceptions of Wind Power in Scotland and Ireland (November 2005)

8 Noise

APP	CD8.1	ETSU-R-97: The Assessment and Rating of Noise from Wind Turbines (September 1996)
APP	CD8.2	Prediction and assessment of wind turbine noise - agreement about relevant factors for noise assessment from wind energy projects. D Bowdler at al,
APP	CD8.3	Institute of Acoustics, Acoustics Bulletin, Vol 34, No 2 March/April 2009 A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of

- APP CD8.4 Wind Turbine Noise, Institute of Acoustics (May 2013)
 Analysis of How Noise Impacts are Considered in the Determination of Wind Farm Planning Applications, HM:2293/R1 (6 April 2011)
- APP CD8.5 Wind Farm Noise Statutory Nuisance Complaint Methodology, Defra Report NANR 277, AECOM (April 2011)
- 4V CD8.6 Kessingland Wind Farm: Mitigation Scheme Noise Monitoring (Hayes McKenzie, HM: 2651/R1 [28 February 2013])

9 Cultural Heritage

- APP CD9.1 English Heritage: Wind Energy and the Historic Environment (October 2005)
- APP CD9.2 English Heritage: Conservation Principles, Policies and Guidance (April 2008)
- APP CD9.3 English Heritage: The Setting of Heritage Assets (October 2011)
- APP CD9.4 PPS5 Planning for the Historic Environment: Planning Practice Guide (March 2010)
- APP CD9.5 Draft Planning Practice Guidance – Conserving and Enhancing the Historic Environment [only available electronically unless requested]

10 Ecology and Ornithology

- APP CD10.1 Chartered Institute of Ecology and Environmental Management (CIEEM) Guidelines for Preliminary Ecological Appraisal (April 2013)
- APP CD10.2 Natural England, Bats and Onshore Wind Turbines: Interim Guidance (TIN051) (February 2012)
- APP CD10.3 Joint Nature Conservation Committee: Handbook for Phase 1 habitat survey (2010)
- APP CD10.4 SNH (2005)) Survey methods for use in assessing the impacts of wind farms on bird communities, Scottish Natural Heritage, Aberdeen
- APP CD10.5 Natural England (2010) Assessing the effects of onshore wind farms on birds – Natural England Technical Information Note TIN069, Natural England, Sheffield <http://publications.naturalengland.org.uk/publication/23024>
- APP CD10.6 SNH (2013) Recommended bird survey methods to inform impact assessment of onshore wind farms, Scottish Natural Heritage, Aberdeen <http://www.snh.gov.uk/docs/C278917.pdf>
- APP CD10.7 Cramp, S., [Ed] (1983) Bird of the Western Palearctic, Volume 3, Waders to Gulls, Oxford University Press.
- APP CD10.8 Bright, J. A., Langston, R. H. W., & Anthony, S., (2009) Mapped and written guidance in relation to birds and onshore wind energy development in England, RSPB, Sandy, Beds https://www.rspb.org.uk/Images/EnglishSensitivityMap_tcm9-237359.pdf
- APP CD10.9 Hötter, H., Thomsen K-M., & Jeromin, H. (2006) Impacts on biodiversity of exploitation of renewable energy sources: the example of birds and bats - facts, gaps in knowledge, demands for further research, and ornithological guidelines for the development of renewable energy exploitation. Michael-Otto-Institut im NABU, Bergenhusen.
<http://migratorysoaringbirds.undp.birdlife.org/sites/default/files/impacts%20on%20biodiversity%20of%20renewable%20energy.pdf>
- APP CD10.10 Nairn, R., (2012) http://www.cieem.net/data/files/Resource_Library/Conferences/2012_Autumn_Renewables/11_Richard_Nairn.pdf
- APP CD10.11 RPS (2012) <http://www.snh.gov.uk/docs/A698158.pdf>
- APP CD10.12 Balmer, D., Gillings, S., Caffery, B., Swann, B., Downie, I., & Fuller, R., (2013) Bird Atlas 2007-11: The Breeding and Wintering Birds of Britain and Ireland, British Trust for Ornithology, Norfolk
- APP CD10.13 Hardy, J., Crick, H., Werham, C., Riley, H., Etheridge, B., and Thompson, D., (2009) Raptors, A Field Guide to Surveys and Monitoring, The Stationary Office Ltd, Edinburgh.
- APP CD10.14 Barn Owl Trust (2013) Barn Owl Trust Wind Turbine Position Statement, Barn Owl Trust, Ashburton, Devon, http://www.barnowltrust.org.uk/content_images/pdf/BOT_Wind_Turbine_Position_St

atement_Feb_2013.pdf

11 Aviation

APP CD11.1 LEFT INTENTIONALLY BLANK

12 Planning Application and Appeal Documents

APP CD12.1 Planning Application and Supporting Documents [provided in the Appeal Bundle]

APP CD12.2 Environmental Statement (March 2013) [provided in the Appeal Bundle]

APP CD12.3 Upper Vaunces Wind Farm: Landscape and Visual Impact Assessment Review for South Norfolk Council (Gillespies)

APP CD12.4 Objection to Planning Application on behalf of 4Villages (July 2013)

APP CD12.5 Officer Report to South Norfolk Council Development Management Committee

APP CD12.6 Update to the Officer Report to South Norfolk Council Development Management Committee

APP CD12.7 Minutes of Committee Meeting on 22 October 2013

APP CD12.8 Statement of Case of the Appellant

APP CD12.9 Statement of Case of South Norfolk District Council

APP CD12.10 Statement of Case of 4Villages

APP CD12.11 Letter to the Planning Inspectorate from the Ministry of Defence dated 23 October 2013

APP CD12.12 Statement of Case of the Ministry of Defence

APP CD12.13 Agreed Statement of Common Ground [only available in hard copy]

APP CD12.14 Phase 1 Habitat Survey: Upper Vaunces Wind Farm – Statement by Dr Stephen Holloway CEnv CMIEEM

APP CD12.15 Upper Vaunces Wind Farm: Phase 1 Habitat Survey 2013 (TCI Renewables)

APP CD12.16 Upper Vaunces Wind Farm: TIN051 Measurements to Bat Features (TCI Renewables)

APP CD12.17 Upper Vaunces Farm, Norfolk: Geoenvironmental Site Assessment (RSK, November 2013)

Annex A

Conditions

Time Limits and Site Restoration

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission. Written confirmation of the commencement of development shall be provided to the Local Planning Authority no later than 14 days after the event.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: GB0008/P101A, 102A, 104A, 105A, 106A, 107A, 108A, 109A, 110A, 111A and 112A.

Reason: Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

3. The development hereby permitted shall be removed in accordance with condition 3 below, after a period of 25 years from the date when electricity is first exported on a commercial basis from any of the wind turbines to the electricity grid ("First Export Date"). Written notification of the First Export Date shall be given to the Local Planning Authority no later than 1 calendar month after the event.

Reason: In recognition of the expected lifespan of the wind farm and in the interests of safety and amenity once the plant is redundant.

4. Not later than 12 months before the expiry of the 25 year period referred to in condition 2, a decommissioning and site restoration scheme shall be submitted to the Local Planning Authority for its written approval. The scheme shall make provision for the removal of the wind turbines and the associated above ground equipment and foundations to a depth of at least 1 metre below the ground. The scheme shall also include the management and timing of any works, a traffic management plan to address likely traffic impact issues during the decommissioning period and restoration measures for the land where the turbines and any ancillary equipment and structures have been removed. The approved scheme shall be fully implemented within 12 months of either the expiry of the 25 year period referred to in condition 2 or the Local Planning Authority's approval of the scheme, whichever is the later.

Reason: For the avoidance of doubt and to establish the duration of the planning permission

5. If any of the wind turbines hereby permitted fail to operate for a continuous period of 9 months, a partial decommissioning scheme shall be submitted to the Local Planning Authority for its written approval, within 3 months of the end of that 9 month period. This shall be a scheme for the proposed repair or removal of the relevant turbine. The scheme shall include as relevant a proposed programme of remedial works where repairs to the relevant turbine are required;

a method statement and timetable for the dismantling and removal of the relevant turbine and associated above ground works and foundations to a depth of at least 1 metre below ground; a traffic management plan; and a method statement and timetable for any necessary restoration works following removal of the relevant turbine. The scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: In the interests of visual amenity and to ensure that the turbines produce electricity whilst in situ and that they are removed from the land if they cease to function.

Construction Traffic Management Plan and Construction Method Statement

6. No development shall commence on site until a Construction Traffic Management Plan ("CTMP") has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include proposals for the routing of construction traffic, scheduling and timing of movements, the management of junctions to and crossings of the public highway and other public rights of way, details of escorts for abnormal loads, temporary warning signs, temporary removal and replacement of highway infrastructure/street furniture, reinstatement of any signs, verges or other items displaced by construction traffic, provision for addressing any abnormal wear and tear to the highway and banksman/escort details. The approved CTMP, including any agreed improvements or works to accommodate construction traffic where required along the route shall be carried out as agreed in writing by the Local Planning Authority.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way.

7. No development shall commence on site until a Construction Method Statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the construction of the development shall be carried out in accordance with the approved CMS.

The CMS shall address the following matters:

- a) Details of the phasing of all construction works.
- b) Details of the construction and surface treatment of all hard surfaces and tracks.
- c) Details of the proposed storage of materials and soils and disposal of surplus materials.
- d) Dust management.
- e) Siting and details of wheel washing facilities.
- f) Details of the proposed temporary site compound for storage of materials and machinery (including areas designated for car parking).
- g) Temporary site illumination during the construction period.

- h) Cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway.
- i) Pollution control: protection of water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage.
- j) Proposals for post construction restoration/reinstatement of the temporary working areas.
- k) Details of emergency procedures and pollution response plans.
- l) A site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats.

Reason: To ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process.

Construction Hours

- 8. Construction work shall only take place between the hours of 0700 – 1900 hours Monday to Friday inclusive and 0700 – 1300 hours on Saturdays with no such work on a Sunday or Public Holiday. Works outside these hours shall only be carried out (a) with the prior written approval of the Local Planning Authority or (b) in the case of an emergency, including turbine erection and works delayed due to the weather, provided that the Local Planning Authority is notified by telephone and in writing as soon as reasonably practicable (and in any event within 2 working days) following the emergency first being identified, such notification to include both details of the emergency and any works carried out and/or proposed to be carried out, or (c) where they concern dust suppression or the pouring of wind turbine foundations.

Reason: In the interests of amenity to restrict noise impact and the protection of the local environment.

- 9. The delivery of any construction materials or equipment for the construction of the development, including (i) concrete for the wind turbine foundations and (ii) the turbine blades, nacelles and towers (referred to in this condition together as “abnormal load deliveries”), shall be restricted to the hours of 0700 – 1900 on Monday to Friday inclusive, 0700 to 1300 on Saturdays with no such deliveries on a Sunday or Public Holiday. Abnormal load deliveries may take place outside of these hours, subject to not less than 2 working days prior notice of any such deliveries and the associated traffic movements being given in writing to the Local Planning Authority.

Reason: In the interests of highway safety and the free flow of traffic.

Appearance

- 10. No wind turbine shall be erected on site until details of the finish and colour of the turbines and any external transformer units has been submitted to and approved in writing by the Local Planning Authority. No name, sign, symbol or logo shall be displayed on any external surfaces of the turbines or any external transformer units other than those required to meet statutory health and safety

requirements. The development shall thereafter be carried out and operated in accordance with the approved details.

Reason: For the avoidance of doubt and in the interests of visual amenity.

11. All wind turbines shall rotate in the same direction. The overall height of the turbines shall not exceed 126m to the tip of the blades when the turbine is in the vertical position as measured from original natural ground conditions immediately adjacent to the wind turbine base. The hub height of the turbines shall not exceed 82m as measured from original natural ground conditions immediately adjacent to the wind turbine base and all turbines shall be the same.

Reason: For the avoidance of doubt.

12. The construction of the control building shall not commence until details of the external appearance, dimensions, layout and materials for the building and any associated compound or parking area and details of surface and foul water drainage from the control building have been submitted to and approved in writing by the Local Planning Authority. The development of the control building and any associated compound or parking area shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity.

13. All cabling between the wind turbines and between the turbines and the control building shall be laid underground.

Reason: In order to ensure a satisfactory appearance in the landscape.

14. There shall be no illumination (apart from that required for aviation purposes) on the site other than lighting required during the construction period (as approved through the CMS referred to in condition 6), lighting required during planned or unplanned maintenance or emergency lighting and a movement sensor-operated external door light for the control building door to allow safe access.

Reason: In order to prevent unnecessary light pollution.

Aviation

15. No development shall commence on site until an Air Defence Radar Mitigation Scheme has been submitted to and approved in writing by the Local Planning Authority.
16. The Air Defence Radar Mitigation Scheme means a detailed scheme to mitigate the adverse impacts of the development on the air defence radar at RRH Trimingham and the air surveillance and control operations of the Ministry of Defence. The scheme shall set out the appropriate measures to be implemented to that end.

No wind turbines shall become operational until:

- a) The mitigation measures contained within the approved Air Defence Radar Mitigation Scheme have been implemented; and
- b) Any performance criteria specified in the approved Air Defence Radar Mitigation Scheme have been satisfied; and

- c) The implementation and satisfaction of the performance criteria specified in the approved Air Defence Radar Mitigation Scheme has been approved by the Local Planning Authority.

The developer shall thereafter comply with all other obligations contained within the approved Air Defence Radar Mitigation Scheme.

Reason: In the interests of aviation safety.

17. No development shall commence on site until a scheme of infra-red aviation obstruction lighting to be installed on all of the wind turbines has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and the lighting will remain operational until the site is decommissioned in accordance with the conditions.

Reason: In the interests of aviation safety.

18. No development shall commence on site until an agreement has been reached between the wind farm operator and Norwich Airport Limited with respect to a Radar Mitigation Solution and the existence of such an agreement has been confirmed by both the wind farm operator and Norwich Airport Limited and has been submitted to and approved in writing by the Local Planning Authority.

For the purposes of this condition a "Radar Mitigation Solution" means a technical solution put in place to fully mitigate the impact of the development upon the current radar equipment and replacement plot extracted radar equipment at Norwich International Airport and the air traffic control operations of Norwich International Airport that rely on this radar to provide a safe and efficient air traffic control service. The Radar Mitigation Solution shall take whatever form the wind farm operator and Norwich Airport Limited agrees and shall include measures for its retention and maintenance at all times during the lifetime of the development.

No wind turbines shall be operated until the requirements of the Radar Mitigation Solution have been implemented in full as confirmed in writing by the wind farm operator and Norwich Airport Limited to the Local Planning Authority.

Reason: In the interests of aviation safety.

19. The developer shall provide written confirmation of the following details to the Local Planning Authority at least 1 month prior to the date of commencement of development:

- a) final grid co-ordinates and tip height AOD of the wind turbines and meteorological mast;
- b) proposed date for the commencement of development; and
- c) the maximum extension height of any construction equipment.

Within 1 month of the First Export Date, the developer shall provide written confirmation of the following details to the Local Planning Authority:

- a) as built grid co-ordinates and tip height AOD of the wind turbines and meteorological mast

- b) date of completion of construction; and
- c) the position of that structure in latitude and longitude.

Reason: In the interests of aviation safety.

Micrositing

20. The wind turbines hereby permitted shall be erected at the following co-ordinates:

- T1 - 618862 283796
- T2 - 619191 283751
- T3 - 619148 284120

Notwithstanding the terms of this condition, but subject to the restriction set out below, the turbines may be micro-sited within 30 metres of the coordinates set out in this condition. For the avoidance of doubt, the consequential realignment of the access tracks between and to the turbines following micrositing of the turbines in accordance with this condition is permitted. A plan showing the position of the turbines and tracks established on the site shall be submitted to the Local Planning Authority within 1 calendar month of the First Export Date.

The following restriction will apply to this condition:

The turbines hereby permitted shall not be micro-sited in any direction so that the separation distance between each turbine blade tip and the nearest feature of ecological interest (which shall mean any tree or hedgerow) within the site to the relevant turbine is less than 50m (measured in accordance with Natural England Technical Information Note TIN051: Bats and onshore wind turbines).

The turbines shall not be micro-sited closer to Barnacres, Seamere Cottage, Semere Green Farmhouse or the Church of St Mary Rushall.

Reason: To enable some minor adjustments to the position of the turbines and access tracks to allow for site-specific conditions.

Ecology

21. Not earlier than two weeks prior to carrying out of any construction works or any clearance of vegetation between 1 March and 31 July in any year a detailed checking survey shall be carried out by a suitably qualified independent ecologist for nests currently in use by nesting birds in locations that would be affected by the works. A report detailing the results of the checking surveys shall be produced and if requested submitted to the Local Planning Authority.

Reason: To avoid the disturbance of and for the protection of nesting birds

22. No development shall commence on site until an Environmental Habitat Enhancement Plan ("EHEP") has been submitted to and approved in writing by the Local Planning Authority. The EHEP shall include but not be limited to a programme for and the provision of the following measures:

- a) A grassland strip along the access track;

- b) Planting of a field margin strip with wildlife mixture seed bearing crops along hedgerow H68 as marked on Figure 8.1 of the Environmental Statement;
- c) Improvements to ponds P7 and P25 as marked on Figure 8.1 of the Environmental Statement to increase the long-term viability of the great crested newt populations at these locations, to include planting of aquatic and marginal vegetation suitable for egg laying and cutting back of some trees;
- d) Creation of log piles (hibernacula) within W3 to provide additional terrestrial habitat for great crested newts and other amphibians;
- e) Provision of bat boxes on trees along hedgerows H17 and the eastern end of Lonely Road away from the wind turbines hereby permitted; and
- f) Provision of localised enhancement measures for harvest mice including provision of artificial nest sites in the existing and new margins along the field boundaries.

The EHEP shall be implemented as approved in writing by the Local Planning Authority.

Reason: In the interests of nature conservation.

Archaeology

- 23. No development shall commence on site until the developer has implemented a programme of archaeological work, in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority.
- 24. This written scheme of investigation shall include the following components: (i) an archaeological evaluation to be undertaken in accordance with the agreed written scheme of investigation; and (ii) an archaeological recording programme the scope of which will be dependent upon the results of the evaluation and will be in accordance with the agreed written scheme of investigation.

Reason: To ensure the potential archaeological interest of the site is investigated.

Shadow Flicker

- 25. No wind turbine shall become operational until a written scheme has been submitted to and approved in writing by the Local Planning Authority setting out a protocol for the assessment of shadow flicker in the event of any complaint alleging shadow flicker effects to the Local Planning Authority from the owner or occupier of any dwelling (defined for the purposes of this condition as 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 permission. The written scheme shall include remedial measures to alleviate any effects of shadow flicker attributable to the development. Operation of the turbines shall take place in accordance with the approved scheme.

Reason: In the interests of nearby residential amenity to restrict the impact of shadow flicker.

Unexploded Ordnance

26. No development shall commence on site until a Health and Safety Plan and a Method Statement dealing with the potential for buried unexploded ordnance to exist on the site has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: The site lies within an area of the borough that has been identified as being at potential risk from buried explosive ordnance due to wartime activities.

Access and Highways

27. No development shall commence on site until the Traffic Regulation Orders for the temporary 40mph speed limit and a no overtaking ban on the A140 in the vicinity of the site access have been secured by the Local Highway Authority.

Reason In the interests of maintaining highway efficiency and safety in accordance with Policy IMP8 of the South Norfolk Local Plan.

28. No development shall commence on site until a detailed scheme for the off-site highway improvement works as indicated in Figure 5.6 (site entrance detail) and Figure 5.7 (Semere Green Road crossing detail) has been submitted to and approved in writing by the Local Planning Authority. No turbine shall become operational until the off-site highway improvement works have been completed to the written satisfaction of the Local Planning Authority.

Reason: To secure an adequate and safe access to the development.

29. The vehicular access from the A140 shall be permanently closed upon the First Export Date and shall not be re-opened until the development is decommissioned in accordance with condition 3. Notwithstanding this, if during the lifetime of the development access to the site is required by heavy goods and/or abnormal load vehicles in order to maintain and/or undertake repairs to the development, use of this vehicular access shall be permitted.

Reason: In the interests of highway safety.

Contamination

30. If, at any time during the construction of the development, contamination not previously identified is found to be present on site it must be reported in writing immediately to the Local Planning Authority. Work will be halted on the part of the site affected and shall not recommence until:

- a) a report has been submitted to and agreed in writing by the Local Planning Authority which includes the results of an investigation and risk assessment together with a proposed remediation scheme to deal with the risk identified; and
- b) the agreed remediation scheme has been carried out and a validation report demonstrating its effectiveness has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination (which shall include unexploded ordnance, ground gas and radiation) to the future users of the land and

neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

31. No excavation shall be greater than 3m in depth.

Reason: to protect ground water from contamination.

Planting Scheme

32. Within 28 days from receipt of written notification from the Local Planning Authority of a request to it received no later than 56 days from the date on which the development is commenced from the occupants of the dwelling known as Semere Green Farm, Semere Lane, Dickleburgh IP21 4XA, a scheme comprising the provision and maintenance of tree, shrub and/or hedgerow planting on the eastern boundary of the property to mitigate the visual impact of the development at the dwelling shall be submitted for the written approval of the Local Planning Authority. The scheme shall be carried out as approved in writing by the Local Planning Authority within the first planting season after the First Export Date and shall thereafter be maintained in accordance with the approved details.

Reason: In the interests of visual amenity.

33. Noise

1. The rating level of noise immissions from the effect of the wind turbine (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

a) The wind turbine operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The wind turbine operator shall provide this information in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.

b) No electricity shall be exported until the wind turbine operator has submitted to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.

c) Within 21 days from receipt of a written request from the Local Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind turbine operator shall, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind turbine at the complainant's property in accordance with 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 the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Local Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was a disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind turbine operator shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.

f) The wind turbine operator shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

g) Where further assessment of the rating level of noise immissions from the wind turbine is required pursuant to Guidance Note 4(c), the wind turbine operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the Local Planning Authority.

Table 1— Between 07:00 and 23:00 — Noise limits expressed in dB LA90,10-minute

Location	Wind speed standardised at 10 meter height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Upper Vaunces Farm**	45	45	45	45	45	45	45	49	50	50	50	50
The Barns	35	35	35	36	38	41	44	49	50	50	50	50
Lonely Cottage*	35	35	35	36	38	41	44	49	50	50	50	50
Oak Farm	35	35	35	36	38	41	44	49	50	50	50	50
Barnacres	39	40	41	42	43	44	45	46	47	48	49	50

*The Barns Proxy Data, ** Financially involved

Table 2 — Between 23:00 and 07:00 — Noise limits expressed in dB LA90,10 minute

Location	Wind speed standardised at 10 meter height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Upper Vaunces Farm**	45	45	45	45	45	45	43	49	49	49	49	49
The Barns	43	43	43	43	43	43	43	49	49	49	49	49
Lonely Cottage*	43	43	43	43	43	43	43	49	49	49	49	49
Oak Farm*	43	43	43	43	43	43	43	49	49	49	49	49
Barnacres	43	43	43	43	43	43	43	45	45	45	45	45

*The Barns Proxy Data, ** Financially involved

Table 3: Co-ordinate locations of the properties listed in Tables 1 and 2

Property	Easting	Northing
Upper Vaunces Farm	619782	284458
The Barn	619814	284664
Lonely Cottage	619685	283304
Oak Farm	618451	282994
Barnacres	618474	284379

Note to Table 3: The geographical co-ordinate 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 notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed 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 turbine 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).

Guidance Note 1

(a) Values of the LA_{90,10 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). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) 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 turbine 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.

(c) The LA_{90,10 minute} measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the wind turbine 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 Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 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 determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter.

(e) Data provided to the Local Planning Authority in accordance with paragraphs (B), (E), (F), and (G) of the noise condition shall be provided in comma separated values in electronic format.

(f) A data logging tipping bucket rain gauge shall be installed at a suitable location at the property where any sound level meter is installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

(a) The noise measurements shall 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 specified by the local planning authority in its written request under paragraph (b) of the noise condition, but excluding any periods of rainfall measured in accordance with 1(f). These specified conditions shall include the range of wind speeds, wind directions, times of day and meteorological conditions and power generation. In specifying such conditions the local planning authority shall have regard to those conditions which prevail during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) Values of the LA_{90,10} minute noise measurements and corresponding values of the 10- minute wind speed, for those data points considered valid in accordance with Note 2 paragraph (b) 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, in accordance with the approved assessment protocol under paragraph (B) of the noise condition, 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 LA_{90,10} 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

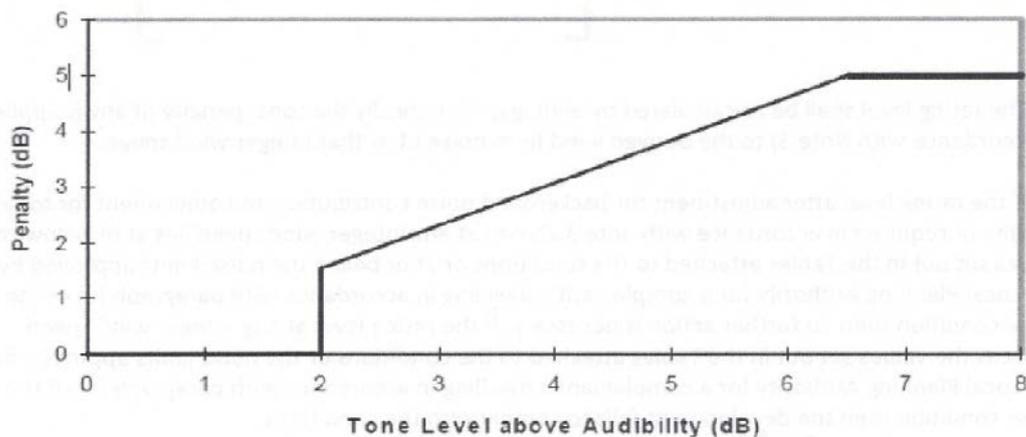
data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure shall be reported.

(c) For each of the 2 minute samples the tone level above or below 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 line 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 $\pm 0.5\text{m/s}$ 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 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 within the range specified by the Local Planning Authority in its written protocol under paragraph (d) of the noise condition.

(b) If no tonal penalty is to be applied 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 Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The wind turbine operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

(e). Repeating the steps in Guidance Note 2, with the wind turbine switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

(f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

(g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

Conditions proposed but not recommended to be included

34. Post construction monitoring for birds will be carried out for the duration of 10 years from the date of the first operation of the turbines: two breeding bird and two wintering bird surveys between year 1 and year 5, a review after year 5 with conditional surveys (breeding bird and wintering bird) in year 10. The report from

- these surveys must be submitted to the local planning authority and RSPB and other relevant organisations. The results will be used to guide the adaptive habitat management plan after 5 years.
35. No turbine shall be erected on site until a report on the status of breeding birds within a 500 metre distance, extending out from the Phase 1 habitat survey boundary, focusing on raptors, has been submitted to and approved in writing by the local planning authority.
36. No development shall take place on site until an Adaptive Habitat Management Plan has been submitted to and approved in writing by the local planning authority. This plan will be in place for the life of the scheme. The scope of the plan should cover the following points:
- Any mitigation needed to ensure no harm to wildlife during construction and operation of the development.
 - It would not include any enhancements that may cause bats or birds to forage in the direction of the turbines.
 - If post-construction monitoring reveals that adverse impacts have occurred during construction of the turbines and associated infrastructure, then appropriate changes to the plan should be submitted to and approved in writing by the local planning authority. The first review of the plan must occur after 5 years.
37. Following the written request of the local planning authority, following a complaint to it considered by the local planning authority to relate to regular fluctuations in the wind turbine noise level (amplitude modulation), the wind farm operator shall at its expense employ an independent consultant approved in writing by the local planning authority to undertake a noise assessment in accordance with a scheme to be submitted to and approved in writing by the local planning authority. In the event that the investigation confirms that the amplitude modulation is excessive, according to the agreed assessment procedure, then a scheme of mitigation, to be submitted to and approved in writing by the local planning authority, shall be put into effect and subsequently retained for the life of the planning permission. Amplitude Modulation is the periodic variation in the level of the aerodynamic noise created by the turbine, the frequency of the modulation (Hertz) being given by $(\text{rotor rpm}/60) \times \text{number of rotor blades}$.
38. Any wind turbine which, under particular wind conditions, is operated in a reduced noise mode during daytime hours (0700 – 2300), for the purposes of complying with the daytime noise limits set out in Table 1, shall be operated in the same mode under those same conditions of wind during the night hours (2300 – 0700).

Alternative archaeology conditions proposed

39. This written scheme of investigation shall include the following components: (i) an archaeological evaluation to be undertaken in accordance with the agreed written scheme of investigation; and (ii) an archaeological recording programme the scope of which will be dependent upon the result of the evaluation and will be in accordance with the agreed written scheme of investigation.

40. No development shall take place until a written scheme of investigation for a programme of archaeological works has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- An assessment of the significance of heritage assets present.
 - The programme and methodology of site investigation and recording.
 - The programme for post investigation assessment of recorded material.
 - Provision to be made for analysis of the site investigation and recording.
 - Provision to be made for publication and dissemination of the analysis and records of the site investigation.
 - Provision to be made of the archive deposition of the analysis and records of the site investigation.
 - Nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation.
41. No demolition/development shall take place other than in accordance with the approved written scheme of investigation.
42. The development shall not be operated until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the written scheme of investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Additions proposed to highway conditions

43. Prior to the commencement of any works within any phase of development a construction traffic management plan and access route which shall incorporate adequate provision for addressing any abnormal wear and tear to the highway for that phase shall be submitted to and approved in writing by the local planning authority.
44. For the duration of the construction period all traffic associated with the development will comply with the construction management plan and use only the construction traffic access route and no other local roads unless approved in writing by the local planning authority.
45. All access gates on the Haul Road shall be hung to open inwards, set back and thereafter retained a minimum of 15m from the near channel edge of adjacent highways.
46. No works shall commence on site until the details of wheel cleaning facilities for construction vehicles have been submitted to and approved in writing by the local planning authority. Construction vehicles shall use the approved wheel cleaning facilities.

Additional contamination condition proposed

47. No development shall commence on site until an investigation and risk assessment, in addition to any assessment already provided with the planning application, has been completed in accordance with a scheme to be first

submitted to and approved in writing by the local planning authority. The purpose of the assessment is to consider the potential impact of the proposal, along with the potential impact on residents, properties and businesses in the vicinity of the site from implementation of the proposal, as a result of the nature and extent of any contamination on or adjacent to the site, whether or not it originates on the site. The written report shall include:

- A survey of the extent, scale and nature of contamination (which shall include unexploded ordnance, ground gas and radiation).
 - A plan of the investigation site which shall include, the site of the proposed turbines the topple zone for each turbine and any other land that may be significantly impacted by the development (e.g. construction operation, access roads, or demolition activities)
 - An assessment of the potential risk to human health; property (existing and proposed; adjoining land; groundwater and surface water; ecological systems.
 - An appraisal of remedial options if required.
 - A detailed remedial scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme must include all work to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 - This must be undertaken by a competent person and a written report of the findings must be produced. The investigation must be conducted in accordance with DEFRA and the Environment Agency's Model Procedures for the Management of Land Contamination, CLR 11.
48. If contamination is found the development shall not commence until remediation has been undertaken in accordance with the approved scheme.



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.