



Department for Communities and Local Government

Roddy Macdonald
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Bridgewater Place
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Leeds LS11 5DR

Our Ref: APP/H0520/A/13/2207023
Your ref: MACDONR/181122.000006

11 February 2015

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY BROADVIEW ENERGY LTD
LAND TO THE WEST OF BICTON INDUSTRIAL ESTATE BETWEEN THE
VILLAGES OF KIMBOLTON, AND STOW LONGA, CAMBRIDGESHIRE
APPLICATION REF: 1300512FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Paul Griffiths BSc(Hons) BArch IHBC, who held a public local inquiry between 17 and 26 June 2014 into your client's appeal against the decision by Huntingdonshire District Council (the Council) to refuse planning permission to erect three wind turbines and associated infrastructure including access tracks, crane hard-standings, control building, construction compound and meteorological mast at land to the west of Bicton Industrial Estate between the villages of Kimbolton and Stow Longa, Cambridgeshire, in accordance with application ref 1300512FUL dated 8 April 2013.
2. On 13 February 2014, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to the Town and Country Planning Act 1990, because the appeal involves a renewable energy development.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and planning permission refused. The Secretary of State agrees with the Inspector's analysis and recommendation, except where stated, and he 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 into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 and the further landscape, visual, and cultural heritage information submitted by the appellant in July 2013. Having also had regard to the Inspector's comments at IR2.5, the Secretary of State considers that the ES, as amended and supplemented by the Further Environmental Information complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the proposals.

Policy considerations

5. In deciding the appeal the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 (PCPA) which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case the development plan consists of the saved policies of the Huntingdonshire Local Plan (1995); the saved policies of the Huntingdonshire Local Plan Alteration (2002); and the Huntingdonshire Local Development Framework Core Strategy (2009). The Secretary of State agrees with the parties that the most relevant development plan policies are those identified by the Inspector at IR4.1.
7. The Secretary of State has also taken into account Huntingdonshire's Draft Local Plan to 2036 and he agrees with the Inspector that policies LP5, LP15 and LP31 are the most relevant policies although they are at too early a stage of the process towards adoption to attract anything more than minimal weight (IR4.16).
8. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed structures potentially affected by the scheme or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas, as required by section 72(1) of the LBCA Act.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework); national policy documents identified by the Inspector at IR4.10 – 4.11; the Written Ministerial Statement and the Written Statement to Parliament referred to by the Inspector at IR4.12 and 4.13; the Government's planning practice guidance (IR4.14); the documents, including 3 Supplementary Planning Documents (SPDs), referred to by the Inspector at IR4.15; and the decision on appeal reference APP/H0520/A/11/2146394 (IR2.6).

Main Issues

10. The Secretary of State, like the Inspector (IR10.2), considers the main issue to be whether any benefits of the proposal are sufficient to outweigh any harmful

impacts on the surrounding landscape, the setting and thereby the significance of heritage assets, the living conditions of local residents through visual impact in particular, but also noise and shadow flicker, and various other matters.

The Previous Appeal Decision

11. The Secretary of State notes the Inspector's comments at IR10.3-10.4 and agrees with his conclusion that, whilst the previous appeal decision is a significant material consideration, the revised proposal needs to be considered anew, on its own merits (IR10.5).

Benefits

12. The Secretary of State agrees with the Inspector's assessment of the renewable energy and economic benefits of the scheme at IR10.6-10.11. He agrees that the renewable energy that the scheme would generate attracts significant weight in its favour (IR10.10). He also agrees that the economic activity and jobs that would be produced by the proposal carry strong weight (IR10.11).

Landscape

13. The Secretary of State has given careful consideration to the Inspector's analysis of landscape issues at IR10.12-10.46. Like the Inspector, he recognises that the appeal site lies wholly in a landscape character area (LCA), the Northern Wolds (IR10.12), which is regarded by many as being amongst the most attractive countryside in the district (IR10.15). In relation to the Council's Wind Power SPD, the Secretary of State agrees with the Inspector that the most important point is how he should use the various iterations of the SPD to inform an analysis of, and conclusion on, landscape impacts which feed into an assessment of the proposal, in landscape terms, against the requirements of Core Strategy Policy CS 1 (IR10.22). The Secretary of State further agrees with the Inspector that, in the Wind Energy Development in Huntingdonshire SPD (June 2014), the key pointers for the purposes of Core Strategy Policy CS 1 are the criteria against which proposals are intended to be analysed (IR10.23).

14. Dealing with the first of those criteria, to respect existing landmark features such as key views to church spires, the Secretary of State agrees with the Inspector that the ability merely to see wind turbines in the same field of view as a church spire or tower is not, necessarily, harmful. However, he agrees with the Inspector that where the two different elements are so close, or the juxtaposition so uncomfortable, that some harm, in landscape terms and in terms of setting and significance can occur (IR10.26). In the case before him, for the reasons given by the Inspector (IR10.25 -10.27), the Secretary of State shares his view that, in most cases, the separation distance involved would be too great for there to be any material tension or visual competition between the two (IR10.27). Having considered the Inspector's comments about the churches in Stow Longa, Tilbrook, and Kimbolton, he concludes with the Inspector that the wind turbines proposed would not interfere to any significant degree with any key views of the Church of St Botolph in Stow Longa (IR10.28) and nor would they supplant the landmark qualities of the spires of the Church of All Saints in Tilbrook or the Church of St Andrew in Kimbolton to any significant degree (IR10.28-10.30).

15. The Secretary of State has had regard to the second relevant criterion, which requires respect for the landform and the siting of turbines on the strong ridges and plateau, avoiding the more intimate landscape of the valleys, and valley crests where they will be out of scale with the landscape and settlements such as Kimbolton and the other matters considered by the Inspector at IR10.31-10.34. For the reasons set out in those paragraphs, the Secretary of State agrees with the Inspector that the wind turbines would not appear out of scale with the landscape, apart from when viewed very close-up (IR10.34). He also agrees with the Inspector that the array of turbines would, from most viewpoints, be well-spaced, in a linear arrangement, along a contour (IR10.34). The Secretary of State has had regard to the Inspector's remarks at IR10.35 and he sees no reason to disagree with the Inspector's conclusion that the criterion which requires applicants to seek opportunities to achieve wider landscape management objectives would be met (IR10.35).
16. The Secretary of State agrees with the Inspector's remarks about cumulative impacts (IR10.36 – 38) and he too concludes that there would be no harmful visual tension as a result of the proposal (IR10.38). He also agrees with the Inspector that there would be no sense of any individual LCA, or the wider area, being dominated or overwhelmed by wind turbines (IR10.38).
17. The Secretary of State shares the Inspector's view that the landscape here is a valued one (IR10.39). However, he agrees with the Inspector that as a result of the appeal scheme and other schemes, operational and permitted, wind turbines would not become such a pervasive feature of the landscape that the quality of the experience of those passing through it would be devalued to any significant degree (IR10.40). The Secretary of State concludes, in agreement with the Inspector, that while the proposal would cause some landscape harm, there would be compliance with the requirements of the Council's SPD: Wind Energy Development in Huntingdonshire (IR10.41).
18. The Secretary of State has given careful consideration to the Inspector's remarks about the fact that the proposal is promulgated on a temporary basis, and is reversible (IR10.42-10.46). He agrees that, in assessing the scheme's impact on the landscape, weight must be attached to that as a material consideration (IR10.45), and this is in accordance with the policy set out in paragraph 2.7.17 of EN-3. He agrees with the Inspector, for the reason given at IR10.46, that the potential for re-powering the turbines and the possible consequences of this attracts little weight.

Heritage Assets

19. In determining this appeal, the Secretary of State has paid special regard to the desirability of preserving those listed structures potentially affected by the scheme or their settings or any features of special architectural or historic interest which they may possess, as required by section 66(1) of the LBCA. He has also taken into account the Court of Appeal judgment in Barnwell Manor Wind Energy –v- East Northamptonshire District Council & Others [2014] EWCA Civ 137.
20. The Secretary of State has also had regard to paragraph 007 of the planning practice guidance on renewable and low carbon energy which states 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 and paragraph 019 of the same guidance, which states that, as the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of wind turbines on such assets; and 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.

21. The Secretary of State has also had regard to paragraphs 132, 134 and 135 of the Framework when considering the impact of the proposed development on the significance of designated and non-designated heritage assets, whether through alteration or destruction of the heritage asset or development within its setting.
22. Bearing these considerations in mind, the Secretary of State has paid particular attention to the Inspector's assessment of heritage matters at IR10.47-10.115, in addition to carefully considering all the evidence put to the inquiry in this respect.
23. The Secretary of State has carefully considered the Inspector's comments at IR10.62-63. He agrees with the Inspector (IR10.63) that s.38(6) of the PCPA 2004 sets out that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be in accordance with the plan unless material considerations indicate otherwise. However, he does not share the Inspector's view in the first sentence of IR10.64. Rather, he considers that the Framework is an important material consideration which falls to be considered under s38(6) of the PCPA 2004.
24. With regard to the Inspector's remarks at IR10.64-10.66, the Secretary of State refutes any implication that paragraphs 133 - 134 of the Framework are inconsistent with s66(1) of the LBCA. The Secretary of State observes that such a position is contrary to the High Court's decision in the recent matter of North Norfolk District Council -v- SSCLG & David Mack [2014] EWHC 279 (Admin) that the Framework, read as a whole, is consistent with the statutory duty in s66(1) LBCA.
25. The Secretary of State has given careful consideration to the Inspector's assessment of the impacts of the proposed development on the wide range of heritage assets surrounding the appeal site as set out in the ES, FEI and evidence of the parties, which includes: Grade I listed buildings in Kimbolton comprising the Castle, gatehouse, and the 13th Century Parish Church of St Andrew, with its spire, and surrounded by numerous Grade II and Grade II* buildings on the High Street set in a conservation area; the original Kimbolton Castle, a scheduled ancient monument; the rural settlement of Tilbrook designated as a conservation area and encompassing the Grade I listed Church of All Saints, again with a spire; the conservation area of Stow Longa, with several listed buildings grouped about its village green, and to its north, the Grade II* listed Church of St Botolph, with its tower (IR5.2-5.5); Grade I churches, the Parish Church of St James in Spaldwick, the Parish Church of St Peter in Easton, and the parish Church of St Leonards in Catworth (IR10.89), and the Grade II Parish Church of St Margaret in Covington (IR10.90); the Grade II* Warren House, and the Grade II Priory Cottage (IR10.81-10.82); an ensemble of Grade II and Grade II* assets around Kimbolton Castle/School (IR10.72); the Grade II Sheridans building (IR10.83); the Grade II Wornditch Farmhouse (IR10.92); Castle Hill scheduled ancient monument (IR10.99); and non-designated heritage assets namely Kimbolton cemetery, and the parkland

surrounding the current Kimbolton Castle/School IR10.47); and Park Farm and Park Lodge (IR10.84).

26. Having had regard to the Inspector's remarks (IR10.68 – 10.70), the Secretary of State shares his view (IR10.70) that the overwhelming majority of the listed buildings highlighted in the appellant's material, especially those concentrated in settlements, derive significance from their immediate rather than their extended settings. Like the Inspector and the Council, the Secretary of State considers that the appeal scheme would not have a harmful effect on the settings or significance of these buildings (IR10.70).
27. The Secretary of State has gone on to consider the Inspector's assessment of the scheme's impact on those listed buildings that draw a proportion of their significance from their extended setting (IR10.71 – 10.93). For the reasons set out at IR10.72 – 10.79, the Secretary of State agrees with the Inspector that the proposal would have a harmful impact on the setting, and thereby the significance of what the Inspector refers to as the Kimbolton Group, and the individual buildings that make it up (IR10.79). The Secretary of State sees no reason to disagree with the Inspector's analysis of the scheme's harmful impacts on the Grade II* listed Warren House, the Grade II listed Priory Cottage and Sheridans, the undesignated Park Farm and Park Lodge (IR10.81 – 10.84), and the undesignated grounds of the castle/school and the Kimbolton Cemetery (IR10.80). Having had regard to the Inspector's remarks about listed churches (other than St Andrews Church) at IR10.85 – 10.91, the Secretary of State shares his view that the degree of separation between the churches and the wind turbines, well over 3km in each case, means that the wind turbines would not diminish the landmark qualities of the churches to any material degree and he considers that there would be no harmful impact on the settings of the churches, or their significance, as a result of the proposal (IR10.91). In common with the Inspector, the Secretary of State takes the view that the appeal scheme would detract from the setting of the Grade II listed Wornditch Farmhouse and the contribution setting makes to its significance (IR10.92).
28. To conclude, the Secretary of State agrees with the Inspector that the settings of a number of listed buildings would undergo harmful change as a result of the proposal (IR10.93). He also agrees with the Inspector (IR10.93) that the statutory duty in s66(1) LBCA Act is, therefore triggered, and the Secretary of State gives considerable importance and weight to the desirability of preserving the settings of listed buildings. He also agrees with the Inspector that the proposals are contrary to LP policy En2 which requires that any development affecting a building of special architectural or historic interest has proper regard to the scale, form, design and setting of that building (IR10.93 and IR4.5).
29. Turning to the Inspector's assessment of the scheme's impact on conservation areas (IR10.94 – 98), the Secretary of State agrees with the Inspector (IR10.95) that the incongruous visual presence of the wind turbines proposed on the ridge top, in views within, and out of the conservation areas, would detract from the setting and, as a result, the significance, of the conservation areas at Kimbolton, Tilbrook, and Stonely. He further agrees that the anachronistic juxtaposition of the turbines would harm the contribution setting makes to the significance of the Stow Longa conservation area (IR10.97). Like the Inspector, he concludes that the proposal would fail to accord with LP Policy En9 (IR10.98).

30. The Secretary of State has given careful consideration to the Inspector's remarks at IR10.101 – 105. For the reasons given by the Inspector (IR10.103), the Secretary of State agrees that the harm to the significance of the Kimbolton Group that would be caused by the proposal is less than substantial. He also shares the Inspector's view (IR10.104) that the harm that would be caused to the Church of All Saints in Tilbrook and Wornditch Farmhouse is less than substantial. Like the Inspector (IR10.105), the Secretary of State considers that the harm that the scheme would cause to conservation areas would be less than substantial. He also agrees that the proposal's impact on the significance of Warren House, Priory Cottage and Sheridans would be less than substantial (IR10.108).

31. The Secretary of State does not agree with the view of Stop Bicton Wind Farm at Kimbolton that it would be very difficult for development within the setting of a designated heritage asset to cause substantial harm to its significance. The Secretary of State considers that this view is contrary to paragraph 132 of the Framework which provides that significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting. He notes that the Inspector goes on to give a number of examples of circumstances where substantial harm may be caused to an asset's significance by development within its setting (IR10.107).

32. The Secretary of State agrees with the Inspector's conclusion that the proposal would have a harmful impact on the setting and thereby the significance of a range of listed buildings and conservation areas (IR10.114). He agrees with the Inspector that considered individually, or, where appropriate, as a group, the harm to significance would be less than substantial (IR10.114). In accordance with s.66(1) of the LBCA Act, the Secretary of State gives considerable importance and weight to the desirability of preserving the setting of these listed buildings. As set out in paragraph 134 of the Framework, he has gone on to weigh the harm to the designated heritage assets against the public benefits of the proposal. The Secretary of State has also concluded (at paragraph 27 above) that the scheme would harm a number of non-designated heritage assets and, having taken account of paragraph 135 of the Framework, he has also gone on to weigh that harm in his planning balance.

Living conditions

33. The Inspector has carefully considered the Inspector's comments at IR10.116–10.134 and, in particular, his remarks about the scheme's impact on those four dwellings where there might be said to be a visual impact, as opposed to a change in the view (IR10.122). For the reasons given at IR10.123 – 10.125, the Secretary of State agrees with the Inspector that the visual impact of the wind turbines would have a significantly detrimental effect on the living conditions of the occupiers of Blackwell House (IR10.125) to the extent that it would become an unattractive place to live, and that this is a matter that weighs heavily against the proposal (IR10.133). The Secretary of State also sees no reason to disagree with the Inspector's reasoning (IR10.126 – 10.129) or with his conclusions that the harmful effect of the scheme's visual impact on the living conditions of occupiers of Highview House, Vicarage Farm, and Rookery Farm would be of much lesser magnitude (IR10.133). Like the Inspector, the Secretary of State

takes the view that while these dwellings would not become unattractive places to live, the scheme's harmful effect on living conditions, must be brought into the overall planning balance (IR10.133). He agrees with the Inspector (IR10.134) that the temporary nature of the appeal scheme is a matter of little weight in respect of living conditions.

Other Matters

34. The Secretary of State notes the Inspector's comments at IR10.135-10.137, and has taken account of the views of both objectors and supporters of the proposals in the planning balance.

Conditions

35. The Secretary of State has had regard to the suggested conditions at Annex D of the IR and the Inspector's comments on conditions (IR9.1 – 9.2 and IR10.142 – 10.160). He is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, he does not consider that these proposed conditions overcome his reasons for dismissing the appeal.

Planning balance and conclusions

36. The Secretary of State has had regard to section 38(6) of the PCPA 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. He has also given careful consideration to the Inspector's balancing exercise at IR10.138 – 10.141. He agrees with the Inspector that, while LP Policies En2 and En9 bear on the heritage aspects of the proposal, Core Strategy Policy CS 1 is the driver in this case (IR10.138). He also agrees with the Inspector (IR10.139) that significant weight needs to be attached to the benefits of the proposal, in respect of the renewable energy and economic activity it would generate. Against that he shares the Inspector's view that there would be some harm caused in landscape terms but not in isolation sufficient to render the proposal contrary to the Council's SPD, and as a consequence, Core Strategy CS 1 (IR10.139).
37. The Secretary of State agrees with the Inspector that more weighty is the harmful impact that would be caused to the setting, and thereby the significance, of heritage assets, both designated and non-designated, by the proposal (IR10.140). He has had regard to the fact that s66(1) of the LBCA Act requires considerable importance and weight to be given to the desirability of preserving the setting of a listed building. Further, he agrees with the Inspector that there would be a clear failure to comply with LP Policies En2 and En9 (IR10.40). For the reasons given above, in common with the Inspector, he also attaches significant weight to the harmful effect that the visual impact of the proposal would have on the living conditions of local residents, especially those at Blackwell House (IR10.140).
38. Taking the impacts on heritage assets and living conditions together with the landscape impact and weighing them against the benefits of the proposal, the Secretary of State agrees with the Inspector that the proposal is contrary to Core Strategy Policy CS 1 (IR10.141) and LP Policies En2 and En9 (IR 10.139 –

10.140). Accordingly, the Secretary of State concludes that the scheme is contrary to the development plan as a whole and he does not consider that there are any material considerations of sufficient weight for him to determine the appeal other than in accordance with the development plan (IR10.141).

Formal decision

39. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector that the proposed scheme should be refused. He hereby dismisses your client's appeal and refuses planning permission to erect three wind turbines and associated infrastructure including access tracks, crane hard-standings, control building, construction compound and meteorological mast at land to the west of Bicton Industrial Estate between the villages of Kimbolton and Stow Longa, Cambridgeshire, in accordance with application ref 1300512FUL dated 8 April 2013.

Right to challenge the decision

40. 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.

41. A copy of this letter has been sent to Huntingdonshire District Council and Stop Bicton Wind Farm at Kimbolton. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Christine Symes

Christine Symes

Authorised by Secretary of State to sign in that behalf



Report to the Secretary of State for Communities and Local Government

by Paul Griffiths BSc(Hons) BArch IHBC

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

Date: 17 November 2014

The Town and Country Planning Act 1990

Appeal by

Broadview Energy Ltd

Against the decision of

Huntingdonshire District Council

Inquiry held between 17 and 26 June 2014

Land to the West of Bicton Industrial Estate between the villages of Kimbolton, and Stow Longa, Cambridgeshire

File Ref: APP/H0520/A/13/2207023

Appeal Ref: APP/H0520/A/13/2207023

Land to the West of Bicton Industrial Estate between the villages of Kimbolton and Stow Longa, Cambridgeshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Broadview Energy Ltd against the decision of Huntingdonshire District.
- The application Ref.1300512FUL, dated 8 April 2103, was refused by notice dated 18 September 2013.
- The development proposed is to erect three wind turbines and associated infrastructure including access tracks, crane hard-standings, control building, construction compound and meteorological mast.

Summary of Recommendation: That the appeal be dismissed.

1. Procedural Matters

- 1.1 The Inquiry sat between 17 and 26 June 2014 when I heard the evidence from all parties and held the discussion on conditions. Representations on listed buildings, noise, and closing statements, were submitted in the aftermath, in accordance with an agreed timetable. The Inquiry was closed, in writing, on 21 July 2014. However, I accepted a final submission from the appellant¹ after that on the submissions of the Council², in response to the revised material produced by the appellant on listed buildings, to inform my site visits³.
- 1.2 The accompanied site visits were originally programmed for 27 June 2014 but, aside from an accompanied visit to Warren House, had to be abandoned on account of inclement weather. The remainder of the accompanied visits took place on 1 July 2014, in accordance with a schedule agreed by the main parties⁴. I also carried out unaccompanied visits in the area on the afternoon of 1 July 2014, 2 July 2014, and completed them on 15 September 2014.
- 1.3 The appeal was recovered by the Secretary of State on 13 February 2014. The reason given was because the appeal involves a renewable energy development.
- 1.4 Throughout the report, I have referred to the submitted documents through the use of footnotes. References thus [--] cross-refer to other paragraphs in the report that are especially relevant to the point at issue.

2. The Proposal

- 2.1 As set out in the Statement of Common Ground⁵, the proposal consists of three wind turbines up to 125 metres high to blade tip, a foundation and crane pad for each wind turbine; new and upgraded access tracks; a meteorological mast; a control building; underground electrical and communications cabling; and a site compound that would be in place for the duration of construction. The proposal is intended to operate for a period of twenty five years.

¹ ID26

² ID19

³ ID18

⁴ ID20

⁵ CD12.7 Referred to hereafter as SoCG

- 2.2 Each of the wind turbines would have an installed capacity of between 2 and 3 MW so the array would have an installed capacity of between 6 and 9 MW. The connection to grid is most likely to take place through an underground connection from the on-site substation to the existing primary Kimbolton substation, approximately 1 km to the south of the appeal site.
- 2.3 Access to the appeal site would be from Stow Road, opposite the Bicton Industrial Estate, utilising the existing access track, which would be upgraded, and extended to provide turning heads, to accommodate construction traffic.
- 2.4 The plans that give details of the scheme are set out in Annex C to this report. I have adopted the nomenclature on the Proposed Site Layout for the individual turbines proposed and they are referred to as RT1, RT2 and RT3 accordingly throughout this report.
- 2.5 This proposal constitutes EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and, as such, the original application was accompanied by an Environmental Statement⁶. In July 2013, following a request from the Council, the appellant submitted further landscape, visual, and cultural heritage information⁷. There has been no suggestion that the ES, as amended, and supplemented, fails to meet the requirements of the relevant regulations. On my analysis, it does, and should be taken fully into account in dealing with the appeal.
- 2.6 It is also relevant to note that the proposal follows a previous scheme that proposed four wind turbines, up to a maximum tip height of 125 metres, and ancillary infrastructure, on the same site, dismissed at appeal in March 2012⁸. The appellant maintains that scheme at issue in this appeal has been redesigned as a response to the conclusions drawn by the previous Inspector. In referring to the previous scheme, I have adopted the approach of the main parties and referred to the four wind turbines within it as PT1, PT2, PT3, and PT4. The previous scheme also included an anemometer mast.

3. Site and Surroundings

- 3.1 As set out in the SoCG⁹, the appeal site has two elements. The first consists of parts of a former World War II airfield to the west of the Bicton Industrial Estate which itself lies within the confines of what was the airfield.
- 3.2 This part of the appeal site lies between the villages of Kimbolton, around 1.4 km to the south, Tilbrook, approximately 1.8 km to the south-west, Catworth, approximately 2.3 km to the north-west, and Stow Longa, approximately 1 km to the north-east. The second element is a relatively small area at the junction of the B660 and Stow Road, to the south of the first element.
- 3.3 The main part of the appeal site is relatively flat and can be described as a broad ridge or narrow plateau. It lies at an elevation of between 70 and 75 metres AOD. It is used as arable land and there is, generally, a large scale field pattern with few boundaries.

⁶ CD12.2 Referred to hereafter as ES

⁷ CD12.3 Referred to hereafter as FEI

⁸ CD6.12 Appeal Ref: APP/H0520/A/11/2146394

⁹ CD12.7 Paragraphs 4.7 to 4.11 refer

- 3.4 The nearest dwellings to the site of the proposed wind turbines are Rookery Farm, about 802 metres away to the east, Highview House, around 831 metres away to the west, and Blackwell House, approximately 863 metres away to the west.
- 3.5 There are a number of other buildings in the immediate vicinity and a 5 MW installed capacity solar farm formed of 2 metre high ground-mounted photovoltaic panels has been built between the site of the proposed wind turbines and Rookery Farm to the north.
- 3.6 A bridleway that runs in an east-west direction to the north of the appeal site and a footpath links that bridleway with Bustard Hill to the south, passing through the appeal site. There is another footpath linking the bridleway to the Bicton Industrial Estate.
- 3.7 All this is shown on the helpful location plan appended to the SoCG¹⁰.

4. Planning Policy

- 4.1 The statutory development plan for the area includes the saved policies of the Huntingdonshire Local Plan (1995); the saved policies of the Huntingdonshire Local Plan Alteration (2002)¹¹; and the Huntingdonshire Local Development Framework Core Strategy (2009)¹². Amongst a range of policies referred to in the SoCG¹³, it is agreed that the most relevant development plan policies are Local Plan Policies En2, En5 and En9, and Core Strategy Policy CS 1.
- 4.2 Core Strategy Policy CS 1 deals with what it terms sustainable development in Huntingdonshire. All development proposals in the District are expected to contribute to the pursuit of sustainable development. Reflecting environmental, social and economic issues, the policy sets out a series of criteria that are to be used to assess how a development proposal will be expected to achieve that, including how the proposal would contribute to minimising the impact on, and adaptability to, climate change.
- 4.3 Those criteria include, of particular relevance, minimising the use of non-renewable energy sources and construction materials and resources and maximising opportunities for renewable and low-carbon energy sources; minimising and reducing greenhouse gas emissions; preserving and enhancing the diversity and distinctiveness of towns, villages and landscapes including the conservation and management of buildings, sites, and areas of architectural, historic or archaeological importance, and their settings; and promoting sustainable, well-designed and accessible places that respect the setting and character of the surrounding area.
- 4.4 With specific reference to proposals like that at issue, the reasoned justification to the policy states that development proposals for renewable energy will need to take into account the Council's SPD on Wind Power¹⁴ which, along with its various partner documents, I turn to below.

¹⁰ CD12.7 Appendix 1

¹¹ CD1.1

¹² CD1.2

¹³ CD12.7 Paragraph 5.4

¹⁴ CD1.2 Page 14 Paragraph 4.8

- 4.5 Local Plan Policy En2 sets out that the District Council will require that any development involving or affecting a building of special architectural or historic interest has proper regard to the scale, form, design, and setting of that building. Local Plan Policy En5 says that development within or directly affecting conservation areas will be required to preserve or enhance their character or appearance. Local Plan Policy En9 stipulates that development will not normally be permitted if it would impair important open spaces, trees, street-scenes, and views into, and out of, conservation areas.
- 4.6 Local Plan Policies En2 and En5 follow the statutory provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990¹⁵. Section 66(1) of the Act provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State, shall have special regard to the desirability of preserving the building or its setting or any features of special architectural and historic interest which it possesses.
- 4.7 In so far as it is relevant, a matter I return to in my conclusions, Section 72(1) of the Act maintains that in the exercise, with respect to any buildings or other land in a conservation area, of any functions under or by virtue of and of the provisions in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 4.8 The Court of Appeal in *R (Barnwell Manor Wind Energy Ltd) v East Northamptonshire DC, English Heritage, the National Trust, and Secretary of State for Communities and Local Government* [2014] EWCA Civ 137¹⁶ has held that the terms special regard and special attention are synonymous. Put simply, they require the decision-maker, in considering a development proposal, to attach considerable importance and weight to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest they possess, and the character or appearance of conservation areas. In essence, there exists a strong presumption against development that would be harmful in these terms. This conclusion has been underlined in subsequent cases, notably *North Norfolk District Council v Secretary of State for Communities and Local Government and David Mack* [2014] EWHC 279 (Admin)¹⁷ and most recently, *The Forge Field Society & Others, R (on the application of) v Sevenoaks DC* [2014] EWHC 1895 (Admin).
- 4.9 The SoCG sets out what the main parties agree to be the most relevant parts of the Framework¹⁸. Put very simply, the Framework says in paragraph 17 that planning should follow 12 core land-use planning principles. These include securing high quality design and a good standard of amenity for all existing occupants of land and buildings; recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; conserving heritage assets in a manner appropriate to their significance; and supporting the transition to a low carbon future in a changing climate by, amongst other things, encouraging the use of renewable resources (for example, by the development of renewable energy).

¹⁵ Referred to hereafter as the Act

¹⁶ CD5.12

¹⁷ CD5.13

¹⁸ CD3.1 The National Planning Policy Framework and CD12.7 Paragraphs 6.2-6.7

- 4.10 The SoCG also covers national energy policy in some detail¹⁹. In the light of that detailed summary it is necessary to highlight but a few matters. The UK Renewable Energy Roadmap²⁰ issued by DECC²¹ in July 2011 explains that the goal is to ensure that 15% of UK energy demand is met from renewable sources by 2020 but making it clear that the ambition extends beyond 2020 with reference to advice from the Committee on Climate Change that there is scope for renewable energy to meet 30-45% of all our energy consumed in the UK by 2030. Reflective of that onward path, the European Union has very recently agreed to cut greenhouse gases by *at least* 40% domestically by 2030 (my emphasis).
- 4.11 The Government has produced National Policy Statements: EN-1: *The Overarching National Policy Statement for Energy*²²; and EN-3: *The National Policy Statement for Renewable Energy Infrastructure*²³. The Framework²⁴ says that the approach set out in these documents should be followed when dealing with applications for wind energy development. In essence, that approach is to approve applications²⁵ if their impacts are (or can be made) acceptable.
- 4.12 On 6 June 2013, the Secretary of State issued a Written Ministerial Statement on Local Planning and Onshore Wind²⁶. This says that the need for renewable energy does not automatically override environmental protections and the planning concerns of local communities; decisions should take into account the cumulative impact of wind turbines and properly reflect the increasing impact on (a) the landscape and (b) local amenity, as the number of turbines in the area increases; local topography should be a factor in assessing whether wind turbines have a damaging impact on the landscape (that is, recognise that the impact on predominantly flat landscapes can be as great or greater than as on hilly or mountainous ones); and 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.
- 4.13 The Secretary of State for DECC published a Written Statement to Parliament on the same day²⁷. Amongst other things, the Statement makes clear that on-shore wind remains central to the Government's renewable energy policy as the most mature, least cost, option.
- 4.14 As presaged by the WMS, Planning Practice Guidance for Renewable and Low Carbon Energy was published on 29 July 2013. This has subsequently been replaced by the Government's Planning Practice Guidance. The advice therein follows much the same general path as the WMS but, importantly, confirms that depending on scale, design and prominence, a wind turbine within the setting of a (designated) heritage asset may cause substantial harm to the significance of the asset concerned. I return to this matter in my conclusions.

¹⁹ CD12.7 Paragraphs 6.1-6.12

²⁰ CD7.5

²¹ The Department of Energy and Climate Change

²² CD7.3

²³ CD7.4

²⁴ CD3.1 Paragraph 97 and Footnote 17

²⁵ Unless material considerations indicate otherwise

²⁶ Referred to hereafter as WMS CD3.3

²⁷ CD3.4

- 4.15 There are a number of other documents published by the Council that are of relevance to the appeal. These are set out in the SoCG²⁸. Of particular moment, are the Huntingdonshire Landscape & Townscape Assessment SPD, adopted in June 2007²⁹, the Huntingdonshire Wind Power SPD, adopted February 2006³⁰ (as referred to in the reasoned justification to Core Strategy Policy CS 1), and, most recently, the Wind Energy Development in Huntingdonshire SPD, which was adopted by the Council during the course of the Inquiry³¹.
- 4.16 Huntingdonshire's Draft Local Plan to 2036³² contains Policy LP5 that deals with renewable and low carbon energy, Policy LP15 which seeks to ensure high standards of amenity, and Policy LP31 covering heritage assets and their settings. These policies are at too early a stage of the process towards adoption to attract anything more than minimal weight.

5. The Case for the Council

- 5.1 The Council's case is fully set out in their Opening and Closing Statements to the Inquiry³³. It can be summarised under a series of headings:

Introduction

- 5.2 In simple terms, the scheme consists of three wind turbines, 125m to tip, which are proposed to be sited on the northern ridge above the intimate, largely rural, Kym Valley. The River Kym, at the bottom of the valley, runs at about 35-40m AOD, whilst two ridges, north and south of the valley, form its sloping sides. The ridge to the north is topped by a small plateau area at approximately 75m AOD. Running along the valley floor, close to the river, is the B645. This road passes along the High Street of Kimbolton, an attractive former coaching town with an historic core, designated as a conservation area.
- 5.3 At the eastern edge of Kimbolton, and within that conservation area, lie the formal gardens of Kimbolton Castle. Designed by Vanbrugh, it is now used as a school. It is separated from the village High Street by a fine gatehouse, designed by the Adams. At the western end of the High Street lies the 13th Century Parish Church of St Andrew, with its spire. The Castle, Gatehouse and Church are all Grade I listed buildings. The High Street contains numerous Grade II and Grade II* buildings. Kimbolton Castle is approximately 2.3 km and the Church of St Andrew about 2.1 km³⁴ from the nearest proposed turbine. The slope of the northern ridge forms the backdrop and skyline to the town as a whole, the Castle, and its parkland.
- 5.4 Further west, along the valley is Tilbrook, a small, loose knit, rural settlement, designated as a conservation area. Its major central building is the Grade I listed Church of All Saints, again with a spire. The slopes of the northern ridge rise above it. The nearest turbine would be around 1.8 km from the church.

²⁸ CD12.7 Paragraphs 6.26 to 6.38 (though amended by events during the Inquiry)

²⁹ CD2.4

³⁰ CD 2.3

³¹ ID9

³² CD2.1

³³ ID3 and ID23

³⁴ C5 Appendix 2

- 5.5 North-east of Kimbolton lies the village of Stow Longa, with several listed buildings grouped about its village green. Encompassing that area and extending along the Spaldwick Road, is the designated conservation area. Lying outside the village and to the north is the Grade II* listed, Church of St Botolph, with its tower. The nearest turbine is 1.1 km from the boundary of the conservation area, and 1.3 km from the church³⁵.
- 5.6 The appeal site itself, lying on the small plateau, is within large scale arable land. It was home to a World War II USAAF bomber airfield but was returned to agricultural use in 1964, after removal of all above ground built structures and most of the concrete tracks³⁶. The north eastern part of the old airfield has been developed as a 5 MW solar farm. RT1 and RT3 lie close to the 75 m contour, and thus close to the start of the valley slope, whilst RT2 is set in the centre of the small plateau, at this point approximately 1km in width³⁷. The turbines would break the skyline from Tilbrook, albeit the lower part of the towers would be screened, and from Kimbolton, from where the great majority of each turbine would be visible. They would be seen alongside church spires, and other heritage assets, to varying degrees, across a wide area.

Landscape Policy and Other Material Considerations

- 5.7 The Kym valley, the three villages, and the appeal site, lie within the Northern Wolds, the key characteristics of which are set out in the Huntingdonshire Landscape and Townscape Assessment SPD, as are the formative influences, landscape character, human response and the key issues looking forward³⁸. This analysis provides the basis for assessment.
- 5.8 The recently adopted SPD: Wind Energy Development in Huntingdonshire³⁹ advises that the Northern Wolds has a moderate capacity to accommodate a small scale group of between 2-5 wind turbines, noting that there is very little scope to accommodate more than one small group⁴⁰. The SPD gives details of a significant number of wind turbines in planning, permitted, and operational, across Huntingdonshire and adjoining districts⁴¹. The identified threshold for the Northern Wolds has already been reached⁴². However this does not automatically debar further development provided that the special quality of the area is not adversely affected.
- 5.9 To assist in identifying potential appropriate locations for a small group the SPD sets out a number of criteria which should be taken into account⁴³. The location should amongst other things: respect existing landmark features such as key views to church spires; respect the landform and relate turbines to strong ridges and plateau; avoid locating turbines within the more intimate landscape of the valleys and along valley crests where they will be out of scale
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³⁵ C4 Pages 90 and 93

³⁶ CD12.6 Paragraph 2.1

³⁷ S2 Page 38 Paragraph 6.3.8

³⁸ CD2.4 Pages 39-42

³⁹ ID9

⁴⁰ ID9 Page 34

⁴¹ ID 9 Figure 16.4

⁴² C1 Page 38 Paragraph 5.37

⁴³ ID9 Page 34

with the landscape and settlement such as Kimbolton; respect the site and setting of the historic villages which characterise the Northern Wolds; and seek opportunities to achieve wider landscape management and ecological objectives.

- 5.10 The appeal decision that assessed and rejected a previous proposal for the site is an important material consideration⁴⁴. That proposed four wind turbines of a similar height but in different locations on the site⁴⁵. The appellant takes the view that the reduction in the number of turbines, and their relocation, addresses the concerns of the previous Inspector, particularly the issues about PT2 and PT4 straddling the crest in direct contravention of the adopted guidance then in place. However, the criticisms of the previous Inspector went beyond that single point⁴⁶.
- 5.11 Most importantly, the overall conclusion was that the environmental and economic benefits of the scheme would be significantly outweighed by the harms to the landscape character of the Kym Valley and to the heritage assets affected⁴⁷. It is important to note in dealing with the revised scheme that the benefits of the previous proposal were much greater than that now at issue; there being four wind turbines proposed rather than three.
- 5.12 As set out, the Council accepts that the previous Inspector's decision, and the assessments that informed it, are material. However, it is unhelpful to seek to analyse the decision word by word, because the scheme before the previous Inspector was different. The scheme here at issue needs to be considered anew, on its own merits, in the light of the current policy position.
- 5.13 In terms of the development plan, Core Strategy Policy CS 1⁴⁸ requires all development to contribute to the pursuit of sustainable development. It sets out a series of criteria against which proposals will be assessed. No weighting is given to the factors, which correspond to the core planning principles set out in paragraph 17 of the Framework. Paragraph 4.8 of the reasoned justification sets out that renewable energy proposals will need to take account of the Council's SPD on Wind Power⁴⁹.

Landscape Impacts

- 5.14 In its evidence, the Council has carried out a detailed sensitivity and capacity assessment⁵⁰. Using the key characteristics of the Northern Wolds LCA, as set out above, it is concluded that the variations in landscape character over the LCA were particularly apparent in the area surrounding, and including, the Kym Valley, finding it of be of medium-high sensitivity. The value of the area is described and the impact of the proposal on those criteria set out in the SPD on Wind Power⁵¹ considered. A high magnitude of effects is found, extending south across the Kym Valley for a distance of 3-4 km.

⁴⁴ CD6.12

⁴⁵ C5 Appendix 2 gives details

⁴⁶ CD6.12 Paragraphs 25, 29, 30 and 49 in particular

⁴⁷ CD6.12 Paragraph 76

⁴⁸ CD1.2

⁴⁹ CD2.3

⁵⁰ Through Mr Billingsley C1 and C2

⁵¹ CD2.3 but unchanged in ID9

- 5.15 Considering those SPD criteria, despite the degrees of separation, visual competition with the landmark spires of the Church of All Saints in Tilbrook and St Andrew in Kimbolton, and the tower of the Church of St Botolph in Stow Longa, would result to the extent that these landmark features would no longer be the dominant element in the landscape.
- 5.16 Even though the turbines are now proposed within the plateau area, their scale, height and spread would still have a marked impact upon the Kym Valley and the setting of Kimbolton, being at 125 metres in height, some four times higher than the depth of the valley. In views from within, and across, the valley, the turbines would be located unsympathetically at the top of the slope, conspicuously out of scale with the intimate and sensitive Kym Valley landscape and the settlements.
- 5.17 In terms of the effects on settlements around the site, it is concluded that Tilbrook would be supplanted as a focal feature in the landscape by the turbines rising above it and that in local views the turbines would become the dominant feature in the valley. There would be a significant and adverse effect on the setting of Kimbolton in the landscape, most notably from the south. Stow Longa would be more influenced by views outwards, and in particular across the green where the distracting impact of turbines blades turning above the roofs of thatched cottages would be experienced.
- 5.18 The Council acknowledges that there would be a small amount of additional hedge planting but there are much wider opportunities to achieve landscape management objectives which could to a greater degree compensate for the harms that would be caused to the landscape.
- 5.19 The appellant claims⁵² that sensitivity to a development of this scale is low but this fails to take account of the value attributed to the LCA. It was conceded that LCAs vary in sensitivity, with parts of some LCAs being more sensitive than others⁵³. The main plank of resistance when challenged was to claim that the proposal at issue is an improvement on that previously promulgated. That is no demonstration that it is now acceptable.
- 5.20 It was further argued that the wind turbines are not on the crest of the valley and that the skyline above Kimbolton is not important. It was further observed that no key views to church spires were defined and the approach adopted was to require landmark structures to be visible on the skyline from a publicly accessible, well known, or well used vantage point⁵⁴.
- 5.21 The appellant considers that the various churches affected would still fulfil their waymark function and be appreciable for what they are. However, that their importance as high quality built features adding to landscape quality and character, or as the dominant vertical feature, would be challenged and diminished by the proposal does not appear to have been appreciated.
- 5.22 In terms of the Church of St Andrew in Kimbolton, it was opined that there are few locations in the village where the spire could be seen rising above the

⁵² Through Mr Denney A1, A2 and A3

⁵³ Denney x-e

⁵⁴ A2 Page 60 Paragraph 8.40

trees and rooftops from footpaths. That may be so but most important are more distant views from the south of the village where the spire would be dominated in the view by the wind turbines.

- 5.23 The Council suggests⁵⁵ that a common sense approach should be taken to the suggestion that the location of turbines on crests should be avoided. This issue is more about whether when viewed from within the valley, the wind turbines would dominate it, because of their scale in relation to the depth of the valley. Moreover, the question in terms of key views is whether the wind turbines would compete with, challenge, or dominate church spires as features in the landscape, in any view in which they were seen together with a spire.
- 5.24 The appellant⁵⁶ observed that there are very few locations in the Northern Wolds where one could site wind turbines without them being visible from a village. The Council considers the test not to be whether wind turbines could be hidden from view of villages, but about site specific factors to do with the landscape setting, and significance, of the historic villages.

Designated Heritage Assets

- 5.25 Local Plan Policy En2⁵⁷ sets out that the District Council will require that any development affecting a building of special architectural or historic interest has proper regard to the scale, form, design, and setting of that building. The Council has produced detailed and well documented evidence relating to all the heritage assets, designated and non-designated, that would be affected by the proposals⁵⁸. There can be no doubt that the appeal site is surrounded by heritage assets of major significance. In their assessment of the impact of the proposal on these assets, the Council followed the stepped process described in English Heritage Guidance⁵⁹.
- 5.26 In terms of the Kimbolton Group, whether the view which encompasses the Castle, the Robert Adam Gatehouse, and the spire of the Church of St Andrew is designed, or a fortuitous historical composite, is less relevant than its quality and sensitivity. The wind turbines, moving over the Gatehouse, or next to it, over the town roofs, depending on where the viewer stands, will cause harm to the setting and thereby the significance, of the group. Similarly, views from the lawns to the steps, will be seen with 3 turbines close to the right of the castle. The ZTVs⁶⁰ show that almost as large a proportion of the Castle grounds will be affected as was the case with the previous proposal.
- 5.27 The Council considered how setting made a contribution to the significance of the assets in the Kimbolton Group. The Castle has considerable historic, archaeological, architectural and artistic value. It is associated with figures of national importance including royalty and eminent architects. The significance of the asset and its setting is a complex multi-layered tapestry incorporating relationships to other heritage assets. It is much more than just its fabric.

⁵⁵ Through the evidence of Mr Arnold

⁵⁶ Through the evidence of Mr Denney

⁵⁷ CD1.1

⁵⁸ Through the evidence of Ms Brown C3, C4 and C5

⁵⁹ CD10.4 'The Setting of Heritage Assets'

⁶⁰ ID18

- 5.28 Views of, and from, the asset contribute to that significance, and the ability to appreciate. As a product of the Baroque aesthetic, a landmark overlooked by surrounding hills, and the surrounding parkland, the massing and scale of the castle, set in its open grounds, makes it prominent in a wide setting.
- 5.29 The Council considers the asset to be of high sensitivity to development within its setting. It would suffer moderate adverse harm, defined as a considerable reduction in the significance of the Castle, and a moderate/major effect. The intrusiveness of the proposal would harm the setting of Kimbolton Castle and the way in which it would be experienced.
- 5.30 The appellant says⁶¹ that the significance of Kimbolton Castle (a Grade I listed building) lies primarily in its fabric. The same approach is taken to the Gatehouse (Grade I), and the Church of St Andrew's (Grade I). The free standing step leading up the level from which the main flight to the Galilei portico springs is said to be integral to the Castle, despite being a separate Grade II* listed building.
- 5.31 It was acknowledged that is not the case for all buildings⁶². That must be right because otherwise, it would not be possible for substantial harm to arise through development in the setting of a designated heritage asset. The PPG notes that as the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of wind turbines on such assets. 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.
- 5.32 It was accepted that sensitivity relates to the vulnerability of the asset to change and that different types of asset are sensitive to diverse changes within their setting. It was further accepted that those appreciating an asset will come from a broad range of interests and expertise so that what an artist might draw from an asset when appreciating it would be very different to a historian or a simple tourist wanting to see how the nobility lived in the past or a resident drawing a sense of pride of place⁶³.
- 5.33 The appellant's methodology has changed since the analysis of the previous scheme, to align significance with sensitivity. A Grade I asset is undeniably important but it may be quite insensitive, or very sensitive, to a particular impact. Sensitivity is about vulnerability to change and the effect may be positive (beneficial), negative (adverse) or neutral. The appellant does not suggest the impacts in this case can be regarded as anything but adverse. As a result, the assessments of impact are hopelessly flawed.
- 5.34 The finding that the harm to the Castle would be slight, and to the Gatehouse negligible, suggests a total misunderstanding of the values of the assets and their sensitivity to proximate wind turbine construction. Such construction close to heritage assets intended to dominate their surroundings or which act as landmarks, is expressly deprecated by English Heritage guidance⁶⁴.

⁶¹ Through the evidence of Dr Carter A5 Paragraph 5.26 Page 32 in particular

⁶² Carter x-e

⁶³ Carter x-e

⁶⁴ CD10.2 Wind Energy and the Historic Environment

- 5.35 The appellant sought to denigrate that guidance document on account of age but the appellant's own evidence is that the wind turbines would challenge the castle's status as the dominant building in its setting and intrude on the visual relationship between the castle, its gatehouse and the village beyond, including the view to the spire of the church⁶⁵.
- 5.36 The appellant was not taken through every other major asset affected but the Castle was treated as an example to highlight the differences in approach to that of the Council. Comparison of the very different assessments, and the methodology followed, is informative. For example, the appellant, in two instances, but not in all, introduces the concept of reversibility to further reduce the minuscule impacts found. However, reversibility should be considered as part of the overall balancing exercise.
- 5.37 A comparison of the assessments of degree of harm (magnitude) is particularly interesting: the Castle: appellant: slight; Council: moderate; the Steps: appellant: not separately assessed; Council: moderate; the Gatehouse: appellant: negligible; Council: moderate; the Church of St Andrew: appellant: negligible; Council: moderate; Warren House: appellant: no harm; Council: negligible; The Church of All Saints: appellant: slight; Council: moderate; and the Church of St Botolph: appellant: negligible; Council: negligible.
- 5.38 As can be seen, the appellant finds the same degree of harm to the Church of St Botolph to the Castle Gatehouse. In respect of the Church, both assessments accept that visual change would be limited and the harm slight. However for the Gatehouse, designed to be seen from both sides, and to at once enhance the Castle outlook, and exclude the bustle of the town, and which the appellant accepts⁶⁶ can be seen from within the grounds as a notable architectural achievement, over and alongside which, the rotating turbines will appear, is regarded as only sustaining slight harm. With that in mind, it is submitted that the careful, well documented and logical assessments of the Council should be preferred to those of the appellant.
- 5.39 Paragraph 132 of the Framework says 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 more important the asset, the greater the weight should be and as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.
- 5.40 In a similar vein, s.66(1) of the Act requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 5.41 The parties have sought to identify those listed buildings, other than those already addressed, where setting and significance might be affected by the proposed development⁶⁷. Although development within a view has potential to

⁶⁵ A5 Paragraph 5.45 Page 38

⁶⁶ A5 Paragraph 5.48 Page 38

⁶⁷ ID18, ID19, and ID26

affect either the significance of an asset or the ability to appreciate it, simply being visible may cause no harm. It may be that the building is not designed to have a view in that direction at all, or that such views as it can achieve are in no way relevant to any of its heritage interests, or the views of the asset do not include views of the turbines so that appreciation of the asset is not affected. Equally the contrary may be true and, for instance, the rural setting of a farmhouse is changed from an agrarian to an industrial picture.

- 5.42 In the light of the considerable importance and weight to be placed on the desirability of preserving the setting, when weighing it in the balance with other material considerations not having that statutory weight, and the strong presumption against⁶⁸, it would be ill advised to ignore any harm to the setting of a listed building.
- 5.43 The Council does not say that any of the harms identified constitutes substantial harm, in the parlance of the Framework. However the harm caused to the setting and thereby the significance of a great number of heritage assets would be considerable in degree.
- 5.44 Local Plan Policy En5⁶⁹ states that development within or directly affecting conservation areas will be required to preserve or enhance their character and appearance. A visual effect is a direct effect which may have an impact on character. Although it is perhaps doubtful that s.72(1) of the Act can be applied to development which takes place outside the bounds of a conservation area, in a rural conservation area the intrusion of turbines into a previously clear skyline view or over roof tops is capable of affecting character and appearance.
- 5.45 In any event, Local Plan Policy En9 states that development will not normally be permitted if it would impair important open spaces, trees, street scenes and views into and out of conservation areas. Conservation areas have a setting and views into and out of such areas, as well as views across them, allow appreciation of the asset in its setting. The previous Inspector found harm to the setting of both Tilbrook and Kimbolton Conservation Areas, and also harm to their character and appearance⁷⁰. The scheme at issue would have much the same harmful impact but again, in the parlance of the Framework, it would be less than substantial.
- 5.46 Paragraph 134 of the Framework requires less than substantial harm to the significance of a designated heritage asset to be weighed against public benefits. The Council accepts that climate change is a serious threat; that reducing carbon emissions is part of the global endeavour to deal with the threat; and that renewable energy generation is one of the means of reducing carbon emissions. It is acknowledged that the UK is committed to increasing the provision of renewable energy and that onshore wind is one of the renewable energy technologies expected to contribute to that provision. The only issue between the Council and the appellant is whether the appeal site is, in the light of Government and local policy, an appropriate location in which to meet this need. It is clear that Government and local policy only supports such

⁶⁸ CD 5.12 Paragraphs 10 and 28

⁶⁹ CD1.1

⁷⁰ CD6.12 Paragraphs 36, 40, 43 and 44

development where the benefits are not outweighed by the harm occasioned. This is not such a site.

- 5.47 The listed buildings in Kimbolton are of the highest significance. They are interlinked with overlapping settings, the major components of a conservation area of particular quality, rich in numerous other listed buildings. There can be few collections of listed buildings with such rich associations. The Kimbolton Group is a crown jewel, in the top echelon of the built heritage of the nation. Any harm to the setting, significance, or appreciation of the group, must carry very great weight. The benefits associated with the development are not sufficient to warrant a finding that they carry more weight.

Benefits

- 5.48 The benefits claimed need to be examined. As the Council pointed out⁷¹, the UK Renewable Energy Roadmap 2011⁷² confirmed that there was a healthy pipeline of renewable electricity developments, despite uncertainty as to what would go ahead, and therefore the urgent need was for new large scale projects to come forward, as set out in EN-1⁷³.
- 5.49 The Roadmap indicated that the central range of deployment for onshore wind development was about 10-13 GW. The 2012 Update⁷⁴ again showed a healthy pipeline of onshore wind projects at 2012. By June 2013, installed capacity had risen to 7.06GW, with 1.3GW under construction, 5.2 GW awaiting construction, and 6.0 GW in the planning system, that last figure allowing that only 50% (3GW) might be consented. As can be seen, permissions for the top end of the central range already exceeded target. The RESTATS figures produced by the Council⁷⁵, and not queried by the appellant, show a further increase. The appellant accepted the UK had achieved its interim target⁷⁶.
- 5.50 All that must be borne in mind in an assessment of the weight to be attached to the benefits of the proposal.

Residential Amenity

- 5.51 There has been a degree of increase to residential amenity impacts arising from the new layout. The appellant agrees that significant effects on residential property which do not reach 'Lavender Test' proportions should go into the overall planning balance.
- 5.52 The Council says⁷⁷ that the visual impact of the proposal on residents of Rookery Farm, and Blackwell House, would fail the 'Lavender Test' and the effect on other properties, most notably Highview House and Vicarage Farm should also go into the planning balance.

⁷¹ Through the evidence of Mr Arnold

⁷² CD7.5

⁷³ CD7.3

⁷⁴ CD7.6

⁷⁵ ID16

⁷⁶ Mr Bell x-e

⁷⁷ Through the evidence of Mr Billingsley

The Policy Approach

- 5.53 The appellant and the Council agree that the development plan is in accord with the Framework. It was agreed that the development plan is neither absent, silent nor out of date. Paragraph 14 of the Framework does not, therefore, apply and the determination should be made on the basis of the development plan policies referred to.
- 5.54 The Framework is a material consideration, obviously. Paragraph 98 indicates that development proposals for renewable energy should be approved if the impacts are (or can be made) acceptable. It is the Council's case that the impacts are not acceptable and cannot be made so.
- 5.55 Paragraph 97 indicates that all local communities should recognise their responsibility to contribute to renewable energy generation. It is relevant to note that the local community is already host to a 5MW solar array and Huntingdonshire to numerous wind energy developments.
- 5.56 Paragraph 132 requires great weight to be given to conservation of designated heritage assets and any harm to be clearly and convincingly justified. Where the harm is less than substantial the harm should be weighed against the benefits of the proposal. A key principle is that heritage assets be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
- 5.57 The test for development leading to less than substantial harm to heritage assets does not imply that some weighting preference should be given to renewable energy proposals. Rather the harm should be weighed against the public benefits of the proposal. That implies an equal balance between the two. However, when listed buildings and their settings enter that weighing exercise, s.66(1) of the Act requires considerable importance and weight to be attached to the desirability of preserving the building or its setting. That must depress the scales heavily against the development proposal.

The Balancing Exercise

- 5.58 The harm to landscape character of the Northern Wolds, the historic settlements within them, the conflicts with the development plan, and the objectives and criteria of the relevant SPDs, and the considerable harm that would be caused to numerous heritage assets of national and local importance, together with impact on local visual and residential amenity, means that the benefits of the proposal are far outweighed. The proposal falls contrary to Core Strategy Policy CS 1 and the Framework.

Conclusion

- 5.59 On that basis, the Council submits that the appeal should be dismissed.

6. The Case for SBWF

- 6.1 This is set out in full in SBWF's opening and closing statements to the Inquiry⁷⁸.

⁷⁸ ID2 and ID22

6.2 While SBWF raised no case during the Inquiry about it, submissions were also made about noise⁷⁹. I have dealt with these points and the response to them by the appellant⁸⁰, as part of my analysis of conditions because they go to that, rather than the principle of development.

6.3 The case for SBWF can be summarised under a series of headings.

Preliminary Matters

- 6.4 The appellant seeks planning permission for three wind turbines on the ridge between the Kym and Ellington Brook valleys, above the villages of Kimbolton, and Tilbrook, and near to the village of Stow Longa.
- 6.5 The appellant has previously sought permission for a four turbine wind farm on Kimbolton Hill. This earlier application was refused by the Council in 2011, and the appellant's appeal against the refusal was dismissed in 2012⁸¹.
- 6.6 Stop Bicton Wind Farm at Kimbolton (SBWF) is a voluntary organisation formed in 2009 with the aim of representing the views of the significant portion of the local community who had grave concerns over the previous proposal. Those concerns remain. The group has some 300 members and a larger mailing list and operates through the time freely given by its members.
- 6.7 SBWF favours the objective of increasing the proportion of our energy which is derived from renewable sources, and reducing carbon emissions. It recognises the importance of wind energy as part of the mix of renewable energy sources and is supportive of appropriate renewable energy, carbon reduction, and energy efficiency projects. SBWF had no objection to the solar farm which was approved and built on land adjacent to the appeal site.
- 6.8 Put very simply, its objection to this development is that, striking a balance between the benefits of the development and the adverse effects it will cause, this is an inappropriate place for a wind farm.

Landscape Context

- 6.9 The application site is in a prominent position in the Northern Wolds, a landscape which the Huntingdonshire Landscape and Townscape Assessment SPD⁸² regards as attractive and tranquil, with the valleys having an intimate pastoral landscape, and in an area especially rich in cultural heritage assets.
- 6.10 The Council's latest SPD: Wind Energy Development in Huntingdonshire⁸³ concludes that there is very little scope for the Northern Wolds to accommodate more than one small-scale group of turbines and that the sensitive ridge dividing the Kym Valley and the Ellington Brook valley should be respected and retain a predominantly rural, wooded skyline. It also recommends that there should be no wind turbines along valley crests where they will be out of scale with the landscape and settlements such as Kimbolton.
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⁷⁹ ID21

⁸⁰ ID24

⁸¹ CD6.12

⁸² CD2.4

⁸³ ID9

- 6.11 It is therefore pertinent to begin by noting the scale of the development in comparison with the landscape and settlements. The Kym valley is some 35-40 metres deep. The height of the wind turbines will be more than three times the depth of the valley and they will appear incongruous and out of scale with its intimate pastoral landscape. Church spires are a characteristic feature of this landscape. The wind turbines proposed will dwarf the spires of the two Grade I listed parish churches.
- 6.12 It may be argued that this sort of height is not untypical of modern turbines but that will be why the SPD, considering the susceptibility of the landscape to development of this character and scale, concluded that this was a place where wind turbines ought to be avoided.
- 6.13 Notwithstanding the previous appeal decision⁸⁴, the proposal at issue needs to be considered on its own merits. However, the appellant has put its case on the basis that the revised scheme meets the previous Inspector's objections and so the relationship between the two schemes requires analysis.
- 6.14 It should be noted as a starting point though that the previous Inspector concluded not merely that the benefits of the scheme would be outweighed by its adverse impacts, but that they would be *significantly* outweighed⁸⁵. The benefits of the new proposal will be significantly less than those of the original scheme, which included four wind turbines.

Whether the Law or Policy has changed?

- 6.15 Planning decisions must be made in accordance with the development plan, unless material considerations indicate otherwise⁸⁶. Moreover, in considering whether to grant planning permission for development that affects a listed building or its setting, the decision-maker must have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest it possesses⁸⁷. Recent case law has underlined those general principles⁸⁸.
- 6.16 The Secretary of State in the WMS of June 2013⁸⁹ expressed concern that planning decisions did not always reflect a locally-led planning system, and stressed the need to ensure that protecting the local environment is properly considered alongside the broader issues of protecting the global environment. He also expressed it by saying that meeting our energy goals should not be used to justify the wrong development in the wrong place. The PPG contains a similar emphasis. In April 2014, the Secretary of State said that the Government appreciated the concerns of communities and stated that it is important that local communities have confidence that the expected environmental balance is reflected in decisions.
- 6.17 The appellant has more than once returned to two, connected, themes. One is that there has been no change in the law or in policy, and the other is a

⁸⁴ CD6.12

⁸⁵ CD6.12 Paragraph 76

⁸⁶ Section 38(6) of the Planning and Compulsory Purchase Act 2004

⁸⁷ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

⁸⁸ CD5.5, CD 5.6, CD5.9 and CD 5.12 in particular

⁸⁹ CD3.3

criticism of the Secretary of State's decisions as 'political'. The reasoning appears to be that without an explicit change in law or policy, the Secretary of State must be wrong if he changes the emphasis from what went before. It is said that a recent judgment of the High Court⁹⁰ supports this criticism.

- 6.18 SBF invites attention to the fact that the Secretary of State has expressed concern that planning decisions did not always reflect the proper legal and policy principles. To conclude that he must be wrong because there has been no legal or policy change involves an assumption that things were right before. The second matter is that it is true, in a sense, that the law has not been changed by recent decisions⁹¹ just clarified.
- 6.19 That the developers thought it worth appealing the decision of the judge at first instance in the Barnwell Manor case, and that other judgements⁹² have taken a different view of the import of the words "special regard" in the legislation, illustrates that the law, as it now stands following the Court of Appeal's decision in Barnwell Manor, was not universally accepted.
- 6.20 There is nothing in the Lark Energy judgement that supports the kind of criticism of the Secretary of State that has been made by the appellant.

The Law in relation to Heritage Assets

- 6.21 The duty in Section 66(1) of the Act is to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. The corresponding duty in Section 72(1) to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Preserving, in both Sections 66(1) and 72(1) means doing no harm⁹³.
- 6.22 As the Court of Appeal has recently found, the statutory duties require more than that the decision maker must give careful consideration to the matter and must treat it as a material consideration in the planning balance⁹⁴. The extent of the harm is a matter of planning judgment for the decision maker, but *any* harm to a listed building, or its setting, or the character or appearance of a conservation area must be given considerable weight and importance.
- 6.23 A finding of harm to the special interest of a listed building, or its setting, or to the character or appearance of a conservation area gives rise to a strong presumption against the grant of planning permission, and the cases in which the presumption may be overridden on the ground of some other public interest will be exceptional⁹⁵.

⁹⁰ *Lark Energy Ltd v Secretary of State for Communities and Local Government and Waveney DC* [2014] EWHC 2006 (Admin) ID15

⁹¹ CD5.12 for example

⁹² CD5.10 and CD5.11 for example

⁹³ *South Lakeland District Council v Secretary of State for the Environment* [1992] 2 AC 141 at 150A-G

⁹⁴ CD5.12

⁹⁵ *South Lakeland District Council v Secretary of State for the Environment* [1992] 2 AC 141 at 150A-G

The Setting of a Conservation Area in the light of policy and Section 72(1) of the Act

- 6.24 Some recent decisions of the Secretary of State⁹⁶ appear to have treated the statutory principles in Section 72(1) of the Act as having application to development affecting the setting of a conservation area.
- 6.25 Section 72(1) of the Act expressly refers to the exercise of any functions 'with respect to any buildings or other land in a conservation area', and it is accepted that there is some difficulty in treating that as directly applicable to development which affects, but is outside, a conservation area. However at least in the present case this may be a distinction without a difference.
- 6.26 The conservation of heritage assets is a core principle in paragraph 17 of the Framework and paragraph 132 of the Framework requires that *great weight* be given to the conservation of a designated heritage asset. There is a presumption in favour of the asset's conservation. Those matters are expressed in similar terms to the statutory presumptions in Sections 66(1) and 72(1) and are material considerations in the planning judgment.
- 6.27 Second, the development plan includes Core Strategy Policy CS 1, one of whose criteria refers to heritage assets and their settings. Local Plan Policy En5 provides that development within or *directly affecting* conservation areas will be required to preserve or enhance their character or appearance. The term '*directly affecting*' clearly includes development that is not within the conservation area. The development plan attracts the presumption in section 38(6) of the 2004 Act. The setting of a conservation area enjoys protection n policy terms, therefore.

Energy Policy and Progress towards Targets

- 6.28 The response of the Government to climate change includes an aim to increase the proportion of energy consumption derived from renewable sources. The policy which flows from the implementation of the Renewable Energy Directive is that 15% of total energy *consumption*, including electricity, heat and transport, should come from renewable sources by 2020.
- 6.29 That objective includes not only producing energy, but also saving energy by reducing consumption. The appellant accepts that estimates for total consumption in 2020 continue to come down⁹⁷.
- 6.30 To achieve the objectives in relation to total energy consumption the expectation is that 30% of electricity consumed should by 2020 be from renewable sources, that is, from *all* renewable sources. Government and industry are both confident that this can be achieved, and the appellant accepts that⁹⁸. That confidence is based not on hope but on reason.
- 6.31 Figure 2 of the UK Renewable Energy Roadmap 2011⁹⁹ gives a breakdown of how it is thought that different technologies will contribute to the totals required. There are no targets as such for different technologies. The central

⁹⁶ CD6.15 and CD6.41

⁹⁷ Bell x-e

⁹⁸ Bell x-e

⁹⁹ CD7.5

range for onshore wind is 24-32 TWh, while those for offshore wind and biomass are respectively 33-58 and 32-50 TWh. It is expected that both offshore wind and biomass will produce more than onshore wind.

- 6.32 The Overarching Energy National Policy Statement EN-1¹⁰⁰ similarly says that offshore wind is expected to provide the largest single contribution to the 2020 targets. Accordingly, whatever may have been the position at some time in the past, current Government policy has for some time envisaged that onshore wind will make a significant contribution to meeting renewable energy targets, but in no way the predominant one.
- 6.33 The Renewable Energy Strategy¹⁰¹ envisages that the target of 30% (of electricity) will be delivered by 38 GW of renewable capacity. It is expected that onshore wind will contribute between 10-13 GW to that. The Government identified in the Roadmap four matters which have held up the development of renewables but these have either been dealt with, or are being addressed.
- 6.34 In order to achieve the 2020 target the Government set interim targets. That for 2011-12 was 4.04%. In 2012 renewable energy accounted for 4.1% of consumption, ahead of the interim target. The average for 2011-2012 was, at 3.94%, slightly below that figure, but the Government is satisfied that this is within the margin of error for an interim target. The appellant accepts that¹⁰².
- 6.35 As of May 2014, statistics showed 21.3 GW of renewable energy operational, with a further 4.2 GW under construction, and 14.3 GW consented and awaiting construction, giving a total of 39.7 GW. This exceeds the indicative figure of 38 GW by 2020. There is, in the planning pipeline, a further 21.0 GW.
- 6.36 For onshore wind, the figures for May 2014 showed 7.4 GW operational, 1.5 GW under construction, and 5.2 GW consented and awaiting construction. That totals 14.2 GW, which again exceeds the range of 10-13 GW expected to be achieved by 2020. There is a further 6.4 GW of onshore wind in the pipeline. A comparison with earlier statistics shows that the increase in renewable capacity has been significant, and that the figures continue to increase year on year, and also month on month.
- 6.37 While allowance must be made for the fact that not everything proposed will eventually be constructed, the figures plainly indicate that the Government's confidence that the target will be achieved is justified.

The significance of Energy Policy and Present Capacity for the Decision

- 6.38 There is no dispute that Government energy policy is a material consideration which should be accorded significant weight. Neither is there any dispute that the development would provide a worthwhile amount of renewable energy and that this would make a contribution towards meeting targets, though it may be that it will not be as much as the appellant claims. Significant weight should be attached to that contribution as a point in favour of the proposal.

¹⁰⁰ CD7.3

¹⁰¹ C7.2

¹⁰² Bell x-e

- 6.39 However, the appellant emphasises the shortfall of renewable energy generation against targets¹⁰³ with the implication that because of the shortfall the benefits of the scheme are entitled to some sort of super-added weight, so that what would otherwise be inappropriate judged by existing planning criteria, becomes appropriate. There is no merit in that suggestion as was subsequently accepted by the appellant¹⁰⁴.
- 6.40 In any event, the Government is confident, and justifiably so, that the 2020 target will be achieved and that satisfactory progress is being made towards it. The appellant's shortfall appears to consist simply in the fact that, as of today, the 2020 target has not yet been reached. It would hardly be a realistic target if it could be readily achieved six years in advance.

The Benefits of the Development

- 6.41 The appellant appends¹⁰⁵ a report estimating the electricity likely to be generated by the development. Two features stand out from it. One is that the candidate turbine rated at 3 MW would generate less electricity than one of the lower rated turbines. The appellant accepted that the reason was that this is a comparatively low wind area and so the 3 MW turbine would not be operating in its optimal design conditions¹⁰⁶. The capacity of the development is referred to as being up to 9 MW¹⁰⁷. That may be a little misleading when the output of a 9 MW installation will be effectively the same as a 6 MW one.
- 6.42 The other feature is that report produces an estimate of output higher than was claimed in the ES¹⁰⁸, and a predicted load capacity for each of the three candidate turbines greater than the United Kingdom average. It is agreed by the appellant¹⁰⁹, that the appeal site lies in a low-wind area. It is surprising that in the case of one turbine the predicted load capacity was 37.7%, when the national average is 26%.
- 6.43 While SBWF is not in a position to adduce contrary technical evidence, it observes that the way the report treats gearbox degeneration (which reduces the load capacity of the machine with time) is unclear. The figures should at least be treated with caution.
- 6.44 For the avoidance of doubt, SBWF does not suggest that this would not be a desirable amount of electricity to have, or that the appellant must provide an energy justification for the site, or that the mere fact that it is a small scale development is in itself a reason for refusal. The point is simply that when the benefits of the development come to be balanced against its adverse impacts, those benefits may not be as great as is claimed, and they are not in any way exceptional. The benefits of electricity generation would on any view have been some 33% greater with the previous four turbine scheme than with this present scheme.

¹⁰³ A8 Paragraph 5.5.6

¹⁰⁴ Bell x-e

¹⁰⁵ A9 Appendix 3

¹⁰⁶ Bell x-e

¹⁰⁷ In CD12.7 for example

¹⁰⁸ CD11.1

¹⁰⁹ Bell x-e

- 6.45 The appellant claims additional economic benefits in the form of jobs and investment, but agreed¹¹⁰ that this is not a particularly depressed area and it is not a situation where agriculture would cease to be viable without the income from the wind farm. It was accepted that any local jobs would be very modest in number indeed¹¹¹. It is submitted that these factors have little bearing on whether this is an appropriate site for the proposed development, and that the weight to be attached to them is slight.

Landscape and Visual Impact

- 6.46 The landscape around the appeal site is highly valued for its unspoilt quality and harmonious character, and regarded by many as the most attractive part of Huntingdonshire. It was an Area of Best Landscape before local landscape designations were withdrawn in Cambridgeshire, and remains recognised in the SPD as a distinctive and valued landscape. Kimbolton is treated in all iterations of the SPD as a place where wind turbines along the valley crest should be avoided, because they would be out of scale.
- 6.47 A valley crest is a matter of perception. An observer looking from the Kym valley would see the wind turbines proposed on the crest above the valley. There would be conflict with the views to the landmark church spires of both the Church of St Andrew in Kimbolton and the Church of All Saints, Tilbrook, and with the setting of the historic villages of Kimbolton, Tilbrook, and Stow Longa. It should be difficult to dispute that this development will be out of scale with the valley and settlements.
- 6.48 The appellant contends that the previous Inspector's decision¹¹² has formed a blueprint for the redesign of the scheme and that the revised scheme has answered the objections. The Secretary of State will need to consider the previous decision in a sensible way and form a view as to whether the conclusions reached were intended to point to a rearranged scheme or whether it raised in-principle difficulties.
- 6.49 The appellant continues to contend that the wind turbines proposed would not be along the valley crest or within the landscape of the valleys. In the previous scheme, two of the turbines were above the break of slope, one was virtually on the break of slope, and another was on the valley side below the break of slope. Whatever a 'valley crest' is taken to mean, it is not surprising that the previous Inspector did not accept the contention. It is also not surprising that the previous Inspector pointed out that the whole development straddled the valley crest and that one turbine was down the side of the valley, plainly contrary to the guidance. It does not follow that a revised scheme where two turbines are on higher ground, and one turbine is in essentially the same place, as before, has avoided conflict with the issues previously identified.
- 6.50 The evidence of SBWF¹¹³ is that the landscape has high sensitivity to turbine development and that the impact of the proposal on the landscape would be major and adverse.

¹¹⁰ Bell x-e

¹¹¹ Bell x-e

¹¹² CD6.12

¹¹³ S1, S2, S3, S4 and S5

Cultural Heritage

- 6.51 The area affected by the proposals is unusually rich in heritage assets. They are part of what makes Kimbolton and the Kym valley a very special place. There are a large number of listed buildings which the images of the Zone of Theoretical Visibility show may be affected¹¹⁴.
- 6.52 Kimbolton Castle and the associated Gatehouse are both Grade I listed buildings. Kimbolton Castle has its genesis in the mediaeval period, then as a Jacobean country house, and later as the present edifice built by Vanbrugh and Hawksmoor in the early 18th century.
- 6.53 He designed for the landscape, and the artistry with which the Castle rises from the ground was remarked on by Reynolds. The building has elements by Archer and Galilei, and contributions by others such as Pelligrini and Joseph Spence. Its history includes being the final residence of Katherine of Aragon, and the seat of the Montagu Earls and Dukes of Manchester. It is the setting for a scene in Shakespeare's King Henry the Eighth.
- 6.54 The Castle stands at one end of the High Street, the focus of temporal authority, with the church of St Andrew, the focus of spiritual authority, at the other. The surrounding park was at one time extensive and Warren House on the skyline on the northern side of the valley, Priory Cottage further east, and Park House on the southern side of the valley, served as eye-catchers.
- 6.55 The Gatehouse was designed by Adam as a conscious tribute to Vanbrugh. Its function was as a buffer between the Castle and the village, excluding the populace, but retaining the views from the castle and its environs over the roof-scape to the country, and to Windmill Hill (the application site) beyond. The Castle and Gatehouse are not merely listed buildings with the highest designation, they are cultural assets of enormous importance to our national heritage.
- 6.56 Their settings are relevant to the architectural, the aesthetic and the historic elements of their heritage value. The appellant accepted that the setting of the Castle and Gatehouse made a major contribution to their cultural value¹¹⁵. That was consistent with the finding made at the previous Inquiry. This does not stand easily with conclusions drawn in the ES and in the appellant's evidence¹¹⁶.
- 6.57 The reasons for the conclusions reached by the various experts on the magnitude of the harm caused by the development are set out. There are a range of photomontages and other visualisations that show the effect that the development will have¹¹⁷. It is common ground that the development would have an adverse effect on the Castle and Gatehouse. SBWF regard the impact on the Castle and Gatehouse, and the Galilei steps which are listed separately at Grade II*, as major adverse.

¹¹⁴ ID18

¹¹⁵ Dr Carter x-e

¹¹⁶ CD 12.2, CD 12.3 and A4 and A5

¹¹⁷ C3, C4, C5, S1, S2, S3, S4, S5, A4, and A5

- 6.58 The proposal would impact on all four facades of the castle and in many views, would challenge its dominance in the landscape. The movement of the turbines would also draw the eye and be incongruous in the context of the qualities of solidity and permanence which characterise the Castle.
- 6.59 By contrast, the appellant finds that the harm to the Castle would be slight, and that to the Gatehouse, it would be negligible. This is in marked contrast to the views of SBWF, and, for that matter, the Council. This may have something to do with the appellant's methodology, which emphasises the contribution that setting makes to the significance of the asset. While that sounds reasonable at first glance, it has the corollary that it is only that contribution which is adversely affected by development which harms the setting.
- 6.60 Although when this was explored in oral evidence, the appellant denied that there was any mathematical relation between the contribution and the magnitude of assessed harm¹¹⁸, the method does seem to lead to the result that the more important the heritage asset is in other respects, the more dilute the harm caused *to the asset* by a given impact *on its setting*. It may also distort the assessment where, as here, the setting is interrelated with the architectural, aesthetic and historic elements of the asset's heritage value. The appellant maintains that the heritage significance of the Castle lies primarily in its fabric¹¹⁹. However, in evidence it was accepted that, as at the previous Inquiry, the contribution made by setting is a major one¹²⁰.
- 6.61 Whatever the explanation, it is submitted that in relation to major assets such as the Castle and Gatehouse, the appellant's judgments are unsound. A comparison with cases where similar judgments are reached is instructive. The impact on the Church of St Botolph at Stow Longa, where the building is relatively enclosed, is assessed as negligible. The impact on the Stow Longa Conservation Area, where from certain positions it will be possible to see blade flick over the tops of buildings, is assessed as slight. Professional judgments are not a precise science, and in relation to those two assets the assessments are substantially similar. However the assessment of the impact on the Castle is slight - the same as on Stow Longa Conservation Area; and on the Gatehouse negligible - the same as on the Church of St Botolph. Both an examination of the relevant viewpoints and photomontages¹²¹, and a consideration of the alternative evidence adduced by SBWF and the Council, suggest that the appellant's assessments that the harm caused to the Castle is the same as that caused to the Stow Longa Conservation Area, and that to the Gatehouse is the same as that to the Church of St Botolph, cannot be right.
- 6.62 In the circumstances, in relation to the harm caused to heritage assets, the Secretary of State is asked to prefer the evidence of SBWF, and the Council. The development will not be in accordance with the provisions of the Act and the development plan which deal with the preservation of the settings of listed buildings, and of conservation areas, and with the distinctiveness and character of historic villages.

¹¹⁸ Carter x-e

¹¹⁹ A5

¹²⁰ Carter x-e

¹²¹ Within S3, S4 and S5 in particular

- 6.63 The previous decision has been subjected to extensive analysis by the appellant. The obvious point is that decision letters have to be read sensibly and not taken to pieces in this manner, and that in any event this is a different scheme that was not before the previous Inspector. However as the appellant puts its case on the basis that the redesign of the scheme has removed 'the lion's share' of the harm, it is of some interest that all three cultural heritage witnesses are broadly in agreement that in relation to the impact on heritage assets any change from the previous scheme is slight.

Recreational Users

- 6.64 The area has a network of well-used public rights of way and small country lanes. It is apparent from the visualisations and the landscape evidence that owing to the location of the turbines above the Kym valley there is a high degree of visibility from rights of way, and that because of the height of the turbines relative to the depth of the valley they will tend to overwhelm the valley and the small-scale features within it. The circular route up the valley side from the castle and then down Pound Lane and back along the Duchess's Walk, for example, would be dominated by views of turbines on the opposite side of the valley, and other rights of way such as those coming down the southern side of the valley will at times have the turbines directly ahead. This is not a large scale landscape and the turbines will not be seen as part of a wide panorama, but as located above the intimate Kym valley.
- 6.65 SBWF regards the impact on the visual amenity of recreational users as major and adverse¹²². There has also been evidence from local people concerning public rights of way and the use made of them. There are a number of relevant visualisations in the evidence¹²³. The view of SBWF is that the impact upon users of them will be considerable and adverse.

Cumulative Impacts

- 6.66 The nine turbines at Chelveston¹²⁴ are prominent in the landscape and when built the Common Barn¹²⁵ and Woolley Hill¹²⁶ schemes will also be visible from the higher ground. The Cotton Farm¹²⁷ turbines are already visible from the road passing the application site. The six Molesworth turbines, if permitted, will be on the same ridge as Woolley Hill. SBWF is concerned that the current proposals would result in wind turbines becoming a defining characteristic of the Northern Wolds, contrary to local guidance which seeks to preserve the distinctive character of the area.
- 6.67 The evidence for the appellant is that the concentration of wind farms in the area is not unknown in other parts of the country. That may be so, but Kimbolton and the Kym valley are not typical places. The Northern Wolds are a character area recognised in local guidance as a particularly attractive and tranquil part of the district largely unspoiled by modern development, and as a

¹²² S1 and S2

¹²³ Within S3, S4 and S5 in particular

¹²⁴ CD6.4 (I was the Inspector who made the decision on the appeals)

¹²⁵ CD6.11

¹²⁶ CD6.16

¹²⁷ CD6.37

result the guidance expresses caution as to whether it is able to accommodate more than one small group of commercial size turbines.

- 6.68 In addition, the latest SPD¹²⁸ is especially concerned about the character of Kimbolton and the Kym valley. It gives Kimbolton as the paradigm of where turbines along the valley crest should be avoided as they will be out of scale with the valley and the settlements, and separately advises that turbines should be avoided on the ridge between the Kym and Ellington Brook valleys. Against the background that there are now a number of wind turbine developments, operational or consented, which are (or will be) visible in the locality, the appellant is making its second attempt to put a wind farm on Kimbolton Hill, the very place that the guidance singles out for special mention as somewhere turbines should be avoided.
- 6.69 While there will be places from which more than one group of wind farms will be seen, for example from places north of Bustard Hill, or from the road south of Stow Longa, in considering the significance of the potential cumulative impact of wind turbines it is necessary to have in mind not merely the points from which it may be possible to see more than one wind farm from one particular place, but the change to the character of the area from sequential effects. There will be sequential cumulative visual effects on users of the Three Shires Way, with wind farms spaced every 5-10 km. There would be a wind farm within 3km along virtually the whole of the route. The proposal would be inserted in the last remaining gap of any length and the route will pass within 1.3km of it. For residents of the area around the proposal, it would become very difficult to escape views of wind turbines.

Residential Amenity

- 6.70 Having regard to the evidence produced for the Inquiry, SBWF invites attention to the following particular points about the effect on houses in the area generally and on the examples of Blackwell House and Vicarage Farm. The turbines would be large-scale structures on elevated ground. While the landform would provide screening for some, it would provide virtually none for others. In Tilbrook, for example, houses on the eastern side of the village such as 65 Station Road would see the turbines on the high ground above them. Houses at the top of Bustard Hill, including not merely Blackwell House and High View House but also those in Station Row, will have more or less full on views of the turbines at about the same level as the house.
- 6.71 Many will also have views of the nine Chelveston turbines, which although some 7km away are surprisingly conspicuous, and of smaller, but closer, turbines at Catworth Lodge, and Tilbrook Grange. Houses on the southern side of Stow Longa, particularly those to the west such as Ringleton, will again, except for any local screening, see the full height of the turbines on a similar level to themselves. Because of the prevailing wind they will also be the worst affected by turbine noise, the appellant's noise report finding that Ringleton will suffer a level of noise that is noticeable and obtrusive for some 40% of the time. At houses on the northern edge of Kimbolton, there would be persistent blade flick as the blades rise over the skyline, with the hubs and blades of all three turbines breaking the skyline in views from the first floor. On the

¹²⁸ ID9

southern side of the development, houses in the Kym valley will, because of the depth of the valley, see the turbines rise to some 155m above them.

- 6.72 One of the features of the proposal is the sheer extent of the residential impact. The appellant and the Council have agreed that there would be significant adverse impacts on the visual amenity of residents and users of the countryside typically over a radius of up to 4km, and major to major/moderate adverse effects on properties in all three villages of Kimbolton, Tilbrook and Stow Longa.
- 6.73 Blackwell House is one of the closest homes to the proposed wind turbines and the Council¹²⁹ regards it as one of the worst affected. It has open views over the countryside to the east and south east and that was one of reasons the residents moved there. The house has two lounges, both of them double aspect, and it has open views to the west from all main living rooms and bedrooms on that side. With the exception of a small cloakroom window all windows, including bathrooms, are of plain glass, and the two lounges have full size patio doors on the east side which would face the proposed array.
- 6.74 The dwelling is some 850m from the nearest wind turbine proposed. Except for the small cloakroom the development would be prominent from every window on the east side. From the main lounge and the garden, there will be unobstructed views of essentially the full height of all three wind turbines. The views will be direct rather than oblique. There will be the discordant effect of blade clash. The wind farm will become the focal and dominant feature in views out in that direction. The Chelveston wind farm is seen from all windows on the west side of the house. If the proposal goes ahead, the occupants will see wind turbines from everywhere. From the two double aspect lounges, wind turbines will be seen from both the east and west windows.
- 6.75 The appellant agrees that the impact will be significant but does not regard it as overbearing. It is suggested that views would remain over the curtilage and the open rural landscape. However, it was conceded¹³⁰ that the wind turbines would be dominant in direct views.
- 6.76 In assessing Blackwell House, and High View House, the appellant's assessments¹³¹ make no mention of the Chelveston wind farm. The Inquiry was told¹³² that it was taken into account but would only give rise to a cumulative issue if its impact approached dominant or overbearing which it did not. In substance that appears to mean that the cumulative effect was in his view not something that entered into the planning balance at all.
- 6.77 Vicarage Farm and Cobwebs, next door, appear to be the closest houses to the southern side of the proposed development. At Vicarage Farm the living room, play room, master bedroom, first floor hallway and some other bedrooms, and front garden will face the wind turbines. The full spread of turbines, occupying about 31 degrees of view, will be seen from all windows on the front elevation, only marginally less than with the previous scheme.

¹²⁹ Through the evidence of Mr Billingsley

¹³⁰ Denney x-e

¹³¹ A1, A2 and A3

¹³² Bell in evidence

- 6.78 Screening in that direction is limited to one medium size tree. Although the nearest turbine would be further away than that in the previous scheme, the array would be sited at a higher level. There are also a greater number of habitable rooms looking towards the proposed wind farm than before.
- 6.79 It is common ground that an adverse impact on residential amenity must be taken into account in the planning balance, even if it does not reach the level where a property would come to be regarded as an unattractive and thus unsatisfactory (but not necessarily uninhabitable) place in which to live.
- 6.80 The Council¹³³ has formed the view that Blackwell House and Rookery Farm would be regarded as unattractive and unsatisfactory places to live. SBWF agrees with that view. The Council also takes the view that High View House and Vicarage Farm would be significantly less attractive places to live. The Council regards the development as in conflict with local and national policy and guidance in relation to the protection of local amenity.
- 6.81 The impact on residential amenity, both generally and in relation to the four properties identified in the Council's evidence, should have significant weight in the overall planning balance.

Reversibility

- 6.82 The appellant places emphasis on the reversible and time-limited nature of the development. The fact that the wind turbines will be removed after 25 years means that the impact is not irreversible in the sense that it would be if, for example, a housing estate was proposed on the site. If planning permission was granted for the development and it took say two years to construct, it would be taken down some 27 to 28 years later. That is a long period of time relative to the human lifespan. Inspectors have pointed out that 25 years cannot be described as temporary in any ordinary sense¹³⁴.
- 6.83 There is also the possibility of repowering. Although it is possible that other technologies may one day make wind development redundant, a number of decisions¹³⁵ have pointed out that there is no guarantee that the turbines will in fact be removed after 25 years.

Local and Other Opinion

- 6.84 There is significant concern about the proposed development, both among local people and more generally. In a survey outside Broadview's exhibition in March 2013, all of those who expressed an opinion were opposed, with 7% undecided and no-one in support. In a door-to-door survey in Tilbrook later that year, over 97% of the local people who expressed an opinion were against the development. Objections were made by all four Parish Councils surrounding the site, and also by other parishes, by SBWF, and by consultees such as English Heritage.
- 6.85 On the grounds of harm to the Kym valley and of cumulative impact the development was opposed by East Northamptonshire District Council, in the

¹³³ Through the evidence of Mr Billingsley

¹³⁴ CD6.26 Paragraph 18 and CD6.22 Paragraph 90 for example

¹³⁵ CD 6.28 Paragraph 26

next county. During the consultation process, the Council received some 385 letters of objection; and 9 letters of support. The Development Management Panel voted unanimously against the proposal.

- 6.86 As was apparent from the evidence presented by SBWF¹³⁶, the appellant's consultation with residents was limited. It did not consult, as opposed to inform, the Parish Councils of Tilbrook and Stow Longa. At the meeting which Broadview held in Kimbolton, the visualisations on display were highly selective. SBWF explained in evidence¹³⁷ that the presentation involved ignorance of the issues and no attempt to address the impact on the community and its heritage assets.
- 6.87 PINS has received a number of pro-forma letters in favour of the development gathered on behalf of the appellant by the lobbying group Yes2Wind, in Huntingdon town centre, some 16 km from the site. They contain statements which support wind development generally, but (apart from figures such as the number of wind turbines proposed and the predicted output) the contents of the pro-forma could be used for any wind development in the country. The only reference to the suitability of the particular site is in the last bullet point which simply asserts that it is an appropriate location and adds that while the 3 turbines will be visible this is not an issue.
- 6.88 As it is common ground that these wind turbines will have harmful impacts on the landscape, on heritage assets and on residential amenity, the dispute being only one of degree, the bald assertion in a pro-forma that they will be visible but this is not an issue again suggests an all-purpose statement that could be used anywhere rather than a genuine understanding of the issues relating to the particular site.
- 6.89 A conversation with those managing the Yes2Wind stall in Huntingdon¹³⁸ was that they were encouraging wind power in general rather than the specific merits of the application. They knew little of the castle and other heritage assets and did not outline the impact on the landscape. The pro-forma letter carried the name 'Bicton Wind Farm'. Bicton is not the name of a village: it is the name of an industrial estate near the application site. Analysis of the post codes of those completing the pro-forma letters shows an average distance of over 16 km from the site, with only 9 supporters living within 5 km of the site.
- 6.90 By contrast the letters to the Planning Inspectorate in opposition to the development are individually written, are from local people living an average of 2.6 km from the site, and demonstrate informed opinion about the issues with regard to this scheme as it applies to the local area. There are also, in spite of the efforts of Yes2Wind, more of them.
- 6.91 It is often said that planning decisions are objective and are not made by plebiscite. SBWF agrees. As Lindblom J stated in dismissing ground of appeal (4) in his judgment in the Lark Energy case¹³⁹, it is unsurprising that the guidance requires the decision-maker to have regard to local views: they are

¹³⁶ S13, S14, S15, S16, S17 and S18

¹³⁷ Through the evidence of Mr Paull

¹³⁸ As outlined by Mr Murphy in evidence

¹³⁹ ID15

the views of the people who will have to live with the development if it goes ahead.

- 6.92 The objections of the Parish Councils, of SBWF, and of the many local people who have written personally to object to the development express considered views concerning this development and its impacts. They are entitled to weight. Pro-forma letters, unrelated to the issues created by the particular scheme, and from people who will not have to live with the development, should carry little weight.

Conclusion

- 6.93 A judgment of the planning balance should take account of the total of all adverse impacts, whether or not they would be determinative individually. In this case it is common ground that there are adverse impacts on the landscape, on heritage assets, and on the living conditions of residents, and the disputes are ones of degree. We invite the Secretary of State to prefer the evidence of the witnesses called on behalf of the Council and of SBWF to those called on behalf of the appellant.
- 6.94 There is also evidence of major adverse impacts on recreational amenity in the area and of significant cumulative impacts on the character of the landscape and on recreational users. There is evidence of significant local concern about the development and in accordance with PPG, and the authority of the Courts¹⁴⁰ the views of local people on material questions are entitled to weight. The development will be reversible and that must properly be taken into account, but the weight that carries should be limited.
- 6.95 There are two statutory presumptions in play. The first is that the appeal must be decided in accordance with the development plan unless material considerations indicate otherwise. The appellant's planning witness has disclaimed any position that the development plan is silent or absent or its policies out of date. It is also common ground that there is a degree of conflict between the application and the development plan. The question to ask is whether the application is in accordance with the development plan read as a whole? It is not.
- 6.96 The second statutory presumption is that any harm to the setting of a listed building gives rise to a strong presumption against the grant of planning approval and the highest court has said that, while there will be cases where the presumption may be overridden on the ground of some other public interest, that will be exceptional. The combination of statute and policy, together with the high proportion of listed buildings found locally, has the result that, in the present case, effectively the same presumption protects the setting of conservation areas.
- 6.97 The more significant the asset the stronger the presumption. This development would cause harm to the setting of heritage assets of the highest importance. It is accepted by the appellant¹⁴¹ that they are assets whose setting makes a major contribution to their cultural value; and that since the

¹⁴⁰ ID15

¹⁴¹ Through the evidence of Dr Carter

previous, rejected, scheme there has been no change in the magnitude of impacts sufficiently material for assessments to be changed.

- 6.98 The development would make a useful contribution to meeting renewable energy targets, but there is nothing exceptional about it. The previous scheme would have produced a third as much energy again.
- 6.99 In the light of all that, SBWF says that the appeal should be dismissed.

7. The Case for the Appellant

- 7.1 The case for the appellant is fully set out in their Opening and Closing Statement to the Inquiry¹⁴². It can be summarised under a series of headings:

Introduction

- 7.2 Proper planning is about a transparent, development plan led system. The statutory duty of the Secretary of State is to determine the appeal in line with the development plan. This duty has recently been restated by the High Court¹⁴³. This requires a fair and objective assessment against the adopted development plan, and other material considerations in a transparent, balanced and reasonable way. Determination in any other way would be improper and unlawful.
- 7.3 Most significant amongst those other material considerations is the decision of the Inspector on the previous appeal¹⁴⁴. The focus of the detailed evidence at this Inquiry has properly been on how the amended scheme has successfully addressed what were discrete shortcomings identified last time¹⁴⁵. In particular, the harm that would occur to the attractive countryside in landscape terms by reason of the location of the turbines on the valley crest, in direct contravention of the then adopted guidance, was identified as the most important factor¹⁴⁶. Overall, harm to heritage assets was assessed as being of less importance than harm to the landscape but again, the location of the turbines on the valley crest was said to be the most serious contributor to the harm that would occur to the settings of heritage assets¹⁴⁷.
- 7.4 In the view of the appellant, the previous Inspector was clearly of the opinion that an acceptable scheme was possible on the appeal site. The lion's share of the harm found by the previous Inspector, that is the location of PT2, PT4 and the anemometer mast, straddling the valley crest, in direct contravention of then adopted guidance, has been removed.

SBWF

- 7.5 It is important to disentangle the planning concerns raised by local objectors from the more general points aimed at fending off change of any sort to the locale. Of course local residents identify the local landscape as unique, and valued by them. There is nothing unusual about that.

¹⁴² ID1 and ID25

¹⁴³ ID15

¹⁴⁴ CD6.12

¹⁴⁵ CD6.12 Paragraphs 28, 29, 32, 57 and 64 in particular

¹⁴⁶ CD6.12 Paragraph 76

¹⁴⁷ CD6.12 Paragraph 76

- 7.6 The key is to ensure that the location and design of a wind farm are such that any inevitable effects do not give rise to unacceptable impacts. With this re-designed scheme, they would not.
- 7.7 The High Court has dealt with the weight to be attached to local views in the Lark Energy case¹⁴⁸. The views of the third party objectors to proposals for development of any kind will always be material in the decision on the application or appeal, so long as they are relevant to the planning issues involved. Sometimes the general public interest in permitting or rejecting a proposal which is opposed or supported by a local community will override the views of that community.
- 7.8 The fact that objections have been made by local people does not compel the decision maker to accept these objections. There will be many occasions when a planning permission is properly granted despite strong local opposition. The PPG reminded the decision-maker to pay attention to local views. It did not give those views a significance they would not otherwise have had.
- 7.9 Accordingly, it is clear that it is land use planning matters that should be accorded due weight. The raw number of objections is not relevant; as it has always been, it is the substance of such objections which must be considered.

Benefits

- 7.10 The benefits weighing in favour of the proposal are firstly, 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.
- 7.11 On top of that, there is the contribution that the scheme would make to mitigating climate change; energy security through contributing to a mix of renewable resources in Huntingdonshire; the provision of renewable energy at lowest cost to the consumer; direct economic benefit in terms of some local new employment; indirect economic benefits; and local community benefits in the form of tangible community projects which can be enabled through 25 years of local community funding support. It must also be borne in mind that the proposed development is wholly reversible and will leave the landscape character and visual resource intact.
- 7.12 In his Ministerial Statement of 6th June 2013¹⁴⁹, Secretary of State Davey reaffirmed that appropriately sited onshore wind, 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 Planning Policy Framework

- 7.13 The development plan is made up of the saved policies of the Huntingdonshire Local Plan and the Huntingdonshire Local Development Framework Core Strategy¹⁵⁰.

¹⁴⁸ ID15

¹⁴⁹ CD3.4

¹⁵⁰ CD 1.1 and CD1.2

- 7.14 The conflicts alleged by the Council revolve around LP Policies En2, En5 and En9 and Core Strategy Policy CS 1. The appellant says¹⁵¹ that the proposed development would accord with those policies of the adopted development plan which are up to date and consistent with the Framework.
- 7.15 LP Policy En2 is referred to in the reason for refusal. Regard has been had to the design of the proposed development and there would be no conflict. LP Policy En5 would only apply to the development if the proposed development was judged to be 'within or directly affecting Conservation Areas'. There is no balancing provision in this policy and the weight attached to any breach should be tempered accordingly.
- 7.16 LP Policy En9 appears to be aimed more at situations where development within a conservation area could impact on the matters referred to in the text of the policy rather than dealing with renewable energy developments in a wider landscape context. The policy contains an element of flexibility for a decision maker to take into account if some harm were to result.
- 7.17 The dominant policy in the adopted development plan is Core Strategy Policy CS 1. This does not make Policy En2, En5 and En9 irrelevant but they are subservient to the dominant policy. The proposed development would comply with Policy CS 1 when read as a whole. Were there judged to be an element of non-accordance with the cultural heritage criterion in LP Policy En2, then any such breach would be tempered by the absence of a balancing provision required by the approach now set out in the Framework. This would also apply to LP Policy En5.
- 7.18 On that overall basis, pursuant to s.38(6) of the Planning and Compulsory Purchase Act 2004, and bullet point 1 of the second part of paragraph 14 of the Framework, planning permission should be granted for the proposal without delay, unless material considerations would dictate otherwise.

Other Material Considerations

- 7.19 The Framework makes clear its support for renewable energy proposals in particularly trenchant terms. Encouraging the deployment of renewable energy is explicitly included within the core principles set out at paragraph 17. Paragraph 93 urges that the planning system should play a key role in supporting the delivery of renewable energy - delivery of renewable energy is said to be central to the economic, social and environmental dimensions of sustainable development.
- 7.20 Paragraph 96 states the responsibility on 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.

¹⁵¹ Through the evidence of Mr Bell

Ministerial Statements and Planning Guidance

- 7.21 In terms of the WMS on Local Planning and Onshore Wind¹⁵², and the PPG, it is very important to actually read the actual product rather than just focus on the reported Ministerial aspirations that pre-dated finalisation of that product.
- 7.22 In respect of the PPG, the final wording must be the definitive document for policy purposes, and not the prior indications of what it was hoped might be included within it. It is important not to read words and motives into the PPG which aren't there, something which the Council¹⁵³ appears to do. Other elements of Ministerial Statements, have not been superseded by new policy documents in this way, and remain highly relevant, including the parallel statement from the Secretary of State at DECC¹⁵⁴.
- 7.23 That makes clear that on-shore wind remains central to renewable energy policy as the most mature, least cost option. Both Ministerial Statements¹⁵⁵ were published together with the Government Response to the Onshore Wind Call for Evidence. The updated and streamlined advice now in the PPG was being prepared according to the Taylor Review. It is also the case that it was a useful place to gather together legal principles from the various High Court cases, all of which were known and being acted on anyway, but could usefully be translated into policy.
- 7.24 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 they signal any diminution in the need for onshore wind. Nor did the Ministerial Statements direct the decision maker to actually do anything differently, or at all. They gave notice of, and looked forward to, the PPG itself.
- 7.25 When the PPG actually arrived, a number of matters were highlighted as requiring careful consideration: the need case; cumulative matters; topography; heritage assets; national designations; and 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 that each and every issue raised demands careful attention.
- 7.26 There is a difference between a reminder and a re-calibration. In paragraph 69 of his judgement, Lindblom J in the Lark Energy case¹⁵⁶ specifically made the point that the PPG hardly needed to say what it did about local opposition. It was a reminder of what everyone knew. Precisely the same could be said about the other bullet points and topics. There is nothing in the PPG that does or should 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 PPG which suggests that a recalibration of harm, explicit or implicit, had taken place.

¹⁵² CD3.3

¹⁵³ Through the evidence of Mr Arnold

¹⁵⁴ CD3.4

¹⁵⁵ CD3.3 and CD3.4

¹⁵⁶ ID15

- 7.27 None of the recent Secretary of State decisions¹⁵⁷ specifically state that any additional weight has been applied to any finding of harm by reason of the Ministerial Statements, or the PPG.
- 7.28 There is reference 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, as has always been the case. 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 as should always be, and indeed has always been, the case.
- 7.29 There is no exhortation to give such concerns any special or extra weight, indeed it would not be lawful to do so. Such concerns are to be properly heard and, it might be added, properly weighed in the balance.
- 7.30 The PPG, meanwhile, exhorts local authorities to design their policies – and, by extension, interpret them when making planning decisions – in a way that maximises renewable energy development (obviously subject, as always, to the caveat of the impacts being acceptable). This is an important sentence to remember when dealing in detail with the interpretation of documents such as the Council's latest SPD¹⁵⁸.
- 7.31 In terms of this specific proposal, whilst the need case does not automatically override environmental protection, and the concerns of the community, it is an important material consideration which should be afforded significant weight in the planning balance¹⁵⁹. Further, the appellant has properly assessed the potential effects on heritage assets in line with national planning policy and guidance, taking account of recent judicial authority¹⁶⁰. The impact on residential amenity has been assessed in line with the benchmark case of Burnthouse Farm¹⁶¹, decided by the Secretary of State.
- 7.32 In summary, the considerations set out in the Ministerial Statements were those that would already be applied under the Framework and EIA procedures and were considerations properly addressed by the appellant in its evidence. Whilst helpful and welcome, the PPG does not require the appellant or decision-maker to do anything more, or different.

Energy Policy Context

- 7.33 This is clear through a range of Government policy documents¹⁶². When they are read together, there is no reasonable room for dispute about the threat of climate change and its potential attendant effects; the gravity of the need to cut carbon dioxide emissions; or the seriousness of the Coalition Government's intentions regarding deployment of renewable energy generation facilities.
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¹⁵⁷ CD6.15 and CD6.41 for example

¹⁵⁸ ID9

¹⁵⁹ As established by the High Court in CD5.5

¹⁶⁰ CD5.12 and CD 5.13

¹⁶¹ CD6.1

¹⁶² CD7.2, CD7.3, CD7.4, CD7.5, CD7.6 amongst others

- 7.34 It is wrong for the Council and SBWF to suggest that the need case for onshore wind has abated and that it is necessary that a scheme should do less harm than in circumstances when need was more urgent. EN-1¹⁶³ makes it crystal 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 accepted that it remained a very important factor¹⁶⁴.
- 7.35 The Council does not take any sort of 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.

Huntingdonshire Draft Local Plan to 2036

- 7.36 The appellant accepts that the emerging draft Local Plan is a material consideration but it does not form part of the adopted development plan at this time. Accordingly, it should only be afforded limited weight at this stage.

Huntingdonshire Landscape and Townscape Assessment SPD¹⁶⁵

- 7.37 Adopted as SPD in 2007, the document has been used by the Council to provide it with an understanding of the natural and built environment. The appeal site lies within the Northern Wolds LCA6.
- 7.38 In terms of the protection of key views there would be several locations within the landscape context of the site from which there would be views of church spires in conjunction with the proposed turbines. Whilst some may be deemed to be key views, at none of these locations would there be an unacceptable visual relationship such that the wind turbines proposed would prevent an appreciation of the church spires, or significantly affect their role as landmark features.

Wind Turbine Development in Huntingdonshire¹⁶⁶ and Huntingdonshire Wind Power SPD¹⁶⁷

- 7.39 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. Local variations in character (within a landscape type) were identified as a factor to be considered in relation to individual applications.
- 7.40 Assessment of key characteristics within the LUC prepared report¹⁶⁸ concludes with a landscape sensitivity overview, noting that the Northern Wolds generally has a low sensitivity to a small scale development of up to 5 turbines and consequently a high capacity to accommodate it, subject to the consideration of accompanying guidance on siting and design.

¹⁶³ CD7.3

¹⁶⁴ CD6.21

¹⁶⁵ CD2.4

¹⁶⁶ CD2.2

¹⁶⁷ CD2.3

¹⁶⁸ CD2.2

- 7.41 Inexplicably, that guidance reduces the conclusion drawn in that it defines a small scale group as up to 4 or 5 turbines but when the summary table is reached for the Northern Wolds is recorded as having a high landscape capacity for 2-3 turbines and a low capacity for anything more, albeit that the summary is intended as a quick guide which should not be read in isolation.
- 7.42 Whilst the LUC report does not have the formal status of the Wind Power SPD¹⁶⁹, as concluded in the Woolley Hill appeal decision¹⁷⁰, it would be wrong to confine it to history. The summary table at the end of the LUC report was then carried forward into the early part of the Wind Power SPD. The 'quick guide' warning was repeated and it was made plain that the table should be read with the background material including the full detail of the LUC report. There are apparent anomalies and a seeming lack of transparent explanation and justification in the LUC report. It is not clear how conclusions were carried forward in to the Wind Power SPD. Resultant ambiguity is compounded by the inherent link between the two documents made plain by the instruction in the Wind Power SPD to refer to research material in the preceding report.
- 7.43 The Wind Power SPD was approved in February 2006. It stated that decisions will need to be taken on a case by case basis and it does not preclude multiple wind farms in the Northern Wolds. The Inspector at the Woolley Hill inquiry¹⁷¹ decided that: '*For my part, neither the Supplementary Planning Document, nor the LUC report, provides anything more than a starting point in decision making. Irrespective of whether there might be high capacity for 2-3 turbines in a particular landscape type, and a low capacity for 4 turbines in that general area, the tipping point is abrupt; and, in any event, proposals should be assessed against site specific considerations in light of the key characteristics of the landscape type.*'

SPD: *Wind Energy Development in Huntingdonshire (2014)*¹⁷²

- 7.44 It is clear from the officer report to committee¹⁷³ that the Council has rushed through the two-part SPD: Wind Energy Development in Huntingdonshire so that it can be used against this proposal. There may not be anything wrong with this procedurally, as a matter of law, but after a long period of dormancy, the Council has not paused for breath since the consultation exercise and is in danger of adopting a troubled document, particularly in relation to Part II, which is dealt with below in the context of cumulative effects.
- 7.45 Paragraph 1.5 of the new SPD states that Part I is intended as a revision and extension of the February 2006 Wind Power SPD, whilst the officer report to committee talks about replacement. The Council's view is that the 2006 SPD has now gone and need not be considered at all. The procedural history has been convoluted but the appellant is prepared to accept that wholesale replacement of the 2006 SPD was what was intended. Even so, the position is different with regards to the LUC report. Paragraph 1.10 of the SPD continues to suggest that the LUC Study is of relevance and the detail of it should be
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¹⁶⁹ CD2.3

¹⁷⁰ CD6.16

¹⁷¹ CD6.16

¹⁷² ID9

¹⁷³ ID4

read as part of the background to any assessment. In other words, the umbilical cord between the underlying study and supplementary guidance remains in place.

- 7.46 As Appendix B to the officer report to committee demonstrates¹⁷⁴, the text relating to the Northern Wolds was viewed as the focus of the main inconsistencies between the LUC Study and also between that study and the subsequent SPD. It is very interesting that the Council did not do the simple thing and go back to ask LUC why there was an inconsistency between the detailed analysis and the summary table.
- 7.47 Rather than do that, it instructed Liz Lake Associates¹⁷⁵ to rewrite the section, altering the capacity assessment in a way which was never required by what the LUC study actually had to say. A representation was submitted to the Council proffering an alternative way of overcoming the abrupt change in capacity judgment for different sized schemes but this was rejected¹⁷⁶.
- 7.48 SBWF¹⁷⁷ went so far as to accept that there would be greater capacity for a scheme towards the smaller end of what is defined as a small-scale group of 2-5 turbines than towards the larger end. This 3 turbine scheme is clearly towards the smaller end.
- 7.49 The locational criteria have been transferred verbatim in to paragraph 8.3 of the new SPD¹⁷⁸. The same approach to interpretation of the document should apply as to the 2006 iteration. The guidance criteria within the Wind Power SPD should not be interpreted in an absolute way; rather, interpretation should be a matter of fact and degree and each scheme should be assessed on its merits. The Council¹⁷⁹ indicated that a common sense approach had to be applied.

Landscape Character and Visual Amenity

- 7.50 Consideration of the proposal at issue must be informed by a careful analysis of the previous decision¹⁸⁰ and the conclusions reached therein¹⁸¹. The location of the proposed wind turbines on the crest, in direct contravention of then adopted SPD was the most important factor in landscape terms and the most serious contributing factor to the harm that would occur to the settings of heritage assets.
- 7.51 With the revised scheme, there would be no precipitous siting whether in the case of any individual turbine or the scheme as a whole. All three turbines would be within the plateau of the former airfield and none would be located directly contrary to the advice in the current SPD¹⁸². The lion's share of the harm inherent in the previous scheme has been removed.
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¹⁷⁴ ID4

¹⁷⁵ In the guise of Ms Bolger who appears for SBWF

¹⁷⁶ CD2.10

¹⁷⁷ Through the evidence of Ms Bolger

¹⁷⁸ ID9

¹⁷⁹ Through Mr Arnold

¹⁸⁰ CD6.12

¹⁸¹ CD6.12 Paragraphs 20, 28, 29, 30, 31, 32 and 76 in particular

¹⁸² ID9

- 7.52 In terms of the SPD criteria¹⁸³, the wording of the first is curious in that it seems to identify 'key views to church spires' as 'existing landmark features'. However, the SPD does not contain any definition of what constitutes a 'key view'. Due to the frequency of church spires across the Northern Wolds, all agree that the ability to be able to see a proposed wind farm in conjunction with landmark church spires does not render such a proposal unacceptable in principle. There has to be something more to it in order for the threshold of acceptability to be breached.
- 7.53 In the Woolley Hill appeal¹⁸⁴, the Inspector considered this question and recognised a number of locations where both church spires and turbines would be seen in the same view from a range of viewpoints. However, he went on to conclude that: '*In summary, the proposed turbines would manifestly contrast in scale with the valley churches and their presence would be reinforced by the movement of their blades and the manner in which they would sometimes stand entirely above Ellington Church. However, for the most-part, they would be perceived as separate and dissimilar elements emphasised by the distinction of their hill-top setting and the valley location of the churches. All in all, I firmly believe that the proposal would have limited impacts on the perception of church spires in the landscape and in this regard, conflict with criterion (a) of the Supplementary Planning Document would be minimal.*'
- 7.54 In the Chelveston case¹⁸⁵, the Inspector noted the importance of church spires in landscape character terms: '*The wind turbines proposed would be much higher than the towers and spires of the Churches. Notwithstanding that, those Church towers and spires would still remain present in the landscape. Anyone travelling through the landscape would not be prevented from using them as wayfaring landmarks by the presence of the wind turbines proposed. Neither would the punctuation provided by the Church towers and spires be lost.*'
- 7.55 The Council and SBWF agreed¹⁸⁶ that this criterion focuses on views of church spires from the surrounding landscape. It is concerned with church spires as a landscape characteristic and not as cultural heritage features or in close-up views. The appellant submits that a key view might properly be defined as a view of the landscape containing a landmark structure which is visible on the skyline available from a publicly accessible, well known or well used vantage point or location which affords a view of particular note, quality, distinctiveness or composition.
- 7.56 It is the position of the appellant that the degree of visual juxtaposition is such that the key views of the Church of St Andrew, Kimbolton, and the Church of All Saints Church, Tilbrook would not be significantly harmed and would be satisfactorily respected. Accordingly, whilst there would be several locations where there would be views of church spires in conjunction with the proposed turbines and a small number of these might properly be identified as key view, at none of these should the new visual relationship be considered unacceptable.

¹⁸³ ID9 Page 34 Paragraph 8.3

¹⁸⁴ CD6.16

¹⁸⁵ CD6.4 (I was the Inspector who dealt with the appeals)

¹⁸⁶ Mr Billingsley and Ms Bolger x-e

- 7.57 In terms of the next criterion, the previous Inspector concluded¹⁸⁷ that '*There was a debate about what a crest means where, as in this case, there is frequently a gradual change between ridges, plateaux and valleys. I consider the word should be understood in its normal sense as the top part of something that slopes or rises upwards. Thus a slope would have a distinct horizon, the position of the crest changing depending on the position of the viewer.*'
- 7.58 In the Woolley Hill decision¹⁸⁸, the Inspector concluded that Woolley Hill itself would be most appropriately categorised as a valley crest and that: '*Inevitably, turbines on the crest of Woolley Hill, some 2.5 times higher than the landform itself, would be perceived as evidently out of scale with the small rolling hill when seen from near vantages. However, in the wider landscape Woolley Hill itself is not particularly distinct in that it forms part of a much more expansive landscape with an open character and broad views.*'
- 7.59 As set out, the three turbines proposed would be located on the plateau, on which, the previous Inspector indicated that the four turbine scheme would have an acceptable effect on landscape character¹⁸⁹. The revised position of the proposed wind turbines would relate well to the strong ridges and plateaux, set back from the crest of the valley slopes. The turbines would not be in the Kym Valley nor on the valley crest of the Kym Valley. They would not straddle the crest. The siting of the new scheme would not be precipitous
- 7.60 The positions adopted by the Council and SBWF¹⁹⁰ drive them to a point where commercial scale wind turbines would be unacceptable in any part of the Northern Wolds. Wind turbines could not be set back sufficiently far on the plateau so that no part of them could be seen from the Kym Valley and if they were any further back, they would intrude on the settlement of Stow Longa and cause a problem by being located on the slope of the next valley to the north. What has been done strikes an acceptable balance; the appellant does not say that the wind farm would cause no harm. Rather, the Appellant submits that scheme sufficiently respects the second criterion and is manifestly better than the previous scheme.
- 7.61 Criterion (d) does not say that wind turbines should not be seen from a historic village. Rather, it states that wind turbine development should respect the site and setting of such a village. The appellant submits that again this is primarily a landscape character based assessment and is not aimed at amenity for those living within a historic village. Both the Council and SBWF¹⁹¹ seemed unsure as to what was meant by the setting of a village in the context of this criterion, and if they did allege harm it was not clear on what grounds such harm would be caused, to what interests, and how the quantum of harm might be judged.
- 7.62 The appellant also submits that it would be impossible to site a single or small group of commercial turbines anywhere in the Northern Wolds in such a way that they would never be seen from within or near historic villages. However,

¹⁸⁷ CD6.12

¹⁸⁸ CD6.16

¹⁸⁹ CD6.12

¹⁹⁰ Through the evidence of Mr Billingsley and Ms Bolger

¹⁹¹ Mr Billingsley and Ms Bolger x-e

for all of the detailed reasons set out by the appellant¹⁹² in respect of Kimbolton, Tilbrook and Stow Longa, the proposed development is sufficiently set back from the villages identified to satisfactorily respect their respective sites and settings.

- 7.63 Criterion (j) is not like criteria (a), (b) or (d). It is not a criterion which can be passed or failed. Interestingly, the Council¹⁹³ does not carry any breach of criterion (j) through to his planning balance. It is clear that the Council had failed to read the environmental enhancement measures brought by the proposed development and as encapsulated in the Environmental Statement in the first place. Taken at its highest, the argument from the Council is that the appellant has done something, but could have done more. This is simply rejected. SBFW¹⁹⁴ fairly accepts that landscaping would do little to mitigate the impacts of a commercial wind turbine and takes a sensible, pragmatic approach.
- 7.64 In terms of cumulative impacts, it is clear from the officer report to committee¹⁹⁵ that the Council has rushed through the two-part SPD: Wind Energy Development in Huntingdonshire so that it can be used against this proposal. There may not be anything wrong with this procedurally as a matter of law but after a long period of dormancy, the Council has not paused for breath since the consultation exercise and is in danger of adopting a troubled document, especially Part II.
- 7.65 The mathematical, percentage based approach to capacity is a very blunt tool which is entirely dependent on fixed thresholds for what are termed 'prominent' and 'conspicuous' zones and it was accepted by the Council¹⁹⁶ that the calculations are all based on the outer edges of the respective theoretical zones. Actual impacts from turbines of whatever size will inevitably be less than the theoretical effects which are predicted by reason of topography, built form and vegetation.
- 7.66 Notwithstanding the SPD, the Council¹⁹⁷ accepted that there was no need to rethink their evidence on this matter as a result of the SPD concluding that there would be nothing more than moderate cumulative impact. It was reiterated that each scheme needs to be considered on its merits and even on the express wording of the SPD, exceeding a mathematical threshold was the point at which the underlying key landscape characteristics would begin to be affected due to cumulative influence of wind turbine development. Interestingly, the Council did not object to the Molesworth wind farm¹⁹⁸ on grounds of cumulative impact which is an indicator that it does not itself place significant weight on the thresholds, which would have been breached by the Molesworth scheme.

¹⁹² Through the evidence of Mr Denney

¹⁹³ Mr Arnold x-e

¹⁹⁴ Through the evidence of Ms Bolger

¹⁹⁵ ID4

¹⁹⁶ Mr Billingsley x-e

¹⁹⁷ Mr Billingsley x-e

¹⁹⁸ Currently with the Secretary of State for decision-making

- 7.67 In summary, the proposed development is of an appropriate form and scale that can be satisfactorily accommodated within its local and wider landscape context. Interestingly, the proposed development corresponds very strongly with the illustrative drawings within the guidance text for the Northern Wolds within the previous iteration of the SPD¹⁹⁹. Nowhere did the SPD contemplate a developer having to hide wind turbines from views obtainable from the valleys.
- 7.68 The local landscape is of an open, arable character and the scheme would achieve a satisfactory relationship with the identified key characteristics. It would not give rise to any unacceptable impacts on views from publicly accessible locations, including the network of public rights of way within the local landscape, and there would be no unacceptable cumulative effects.

Visual Component of Residential Amenity

- 7.69 The views of the previous Inspector on this issue are instructive²⁰⁰. The separation between what is a private interest and what should be protected in the public interest is clear; it has been the subject of particular focus in wind farm cases since the decision at Enifer Downs in April 2009²⁰¹. However, the so-called 'Lavender Test' should not be applied mechanistically.
- 7.70 In this case, the Council originally contended that there would be an unacceptable impact on Highview House and Blackwell House²⁰². However, it is now contended²⁰³ that Blackwell House and Rookery Farm would become unattractive places in which to live as a result of the proposal while Highview House and Vicarage Farm would suffer harm, but to a lesser degree.
- 7.71 As was pointed out in the Burnthouse Farm decision²⁰⁴ there can be no substitute for site visits to individual properties so that any likely impacts can be judged in the particular and unique circumstances of each. Nevertheless, it is helpful to consider the factors and thresholds of acceptability which have guided decision-makers in other cases.
- 7.72 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 such an unattractive a place to live that planning permission should be refused. The public interest is engaged because it would not 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.
- 7.73 The test is concerned with an assessment of living conditions as they would pertain with the wind farm built, irrespective of the starting point. At Burnthouse 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?*'

¹⁹⁹ CD2.3 Page 32

²⁰⁰ CD6.12 Paragraphs 54, 58, 59, 61, and 67

²⁰¹ CD6.6

²⁰² In the Council's reason for refusal

²⁰³ Through the evidence of Mr Billingsley and Mr Arnold

²⁰⁴ CD6.1 The Secretary of State's Decision Letter refers

- 7.74 Precisely the same position was adopted by the Secretary of State in the more recent Nun Wood decision²⁰⁵. The visual impact in this case does not come close to the level of impact which the Secretary of State found to be acceptable there. The test of what would be unacceptable in this context should be objective. There needs to be a degree of harm over and above an identified substantial adverse effect on a private interest to take a case into the category of refusal in the public interest.
- 7.75 At Blackwell House, there would be a worst case substantial/moderate effect on views from the ground floor rear (eastern) facing living room and kitchen windows and from parts of the garden; and a moderate effect on views from first floor bedroom windows. Views from the western facing front and northern facing side facades would be unaffected and views from the southern facade would be barely perceptible.
- 7.76 At Rookery Farm, there would be a worst case substantial/moderate effect on views from the ground floor rear facing conservatory; a moderate effect on the ground floor facing study window and from first floor rear and side facing bedroom windows; and a substantial effect on views from parts of the garden. Views from the south eastern facing front facade would be unaffected.
- 7.77 At no dwelling would the turbines be visually overbearing, overwhelming or oppressive such that they would be rendered unattractive places in which to live. Given the scale of the development, spacing of the turbines, separation distances involved, orientation of properties and amenity space, and openness of view, any effects on outlook would not cross the public interest line.

Cultural Heritage

- 7.78 On a fair reading, the previous decision concluded that the harm caused to the landscape was more of a factor than the harm caused to heritage assets, and that the harm to heritage assets in Tilbrook was the most serious²⁰⁶. The revised proposal has addressed many of the concerns raised by the previous Inspector.
- 7.79 The Council²⁰⁷ has largely limited itself to their reason for refusal and the seven heritage assets set out therein are those that are said to suffer the most harm. However, findings of harm are also made in relation to four heritage assets not mentioned in the reason for refusal: Stow Longa Conservation Area, the Church of St Botolph, Stow Longa, Warren House, and listed buildings in Kimbolton High Street²⁰⁸.
- 7.80 SBWF²⁰⁹ appear to be assessing impact on setting and not impact on significance²¹⁰. The magnitude criteria all specify the level of harm in terms of ability to understand/appreciate the asset. Several of the assessments find the highest level of harm (major) which is described as total loss or major alteration to key elements or features of the pre-development conditions, such

²⁰⁵ CD6.14

²⁰⁶ CD6.12 Paragraphs 11, 33-53 and 76 in particular

²⁰⁷ Through the evidence of Ms Brown

²⁰⁸ ID19 sets out in detail the listed buildings whose setting would, it is said, be harmed

²⁰⁹ Through the evidence of Ms Bolger

²¹⁰ S2 Paragraph 7.1.9 Table 1

that post-development, their character or composition and our ability to understand/appreciate the asset would be fundamentally changed. This repeats the common mistake of overstating the magnitude of harm, and tends to focus on where there would be visual change in a particular view, rather than a judgement on overall harm to significance. Moreover, SBWF²¹¹ make a basic mistake of equating harm to setting, with harm to significance. That only a proportion of significance is derived from the contribution made by elements of setting is denied.

- 7.81 Further, it is suggested²¹² that while the harm to individual heritage assets would be less than substantial, taken collectively, it would amount to substantial harm. This is based on an incorrect reading of what the Secretary of State actually said and did in the Asfordby decision²¹³ and is simply wrong. Substantial harm relates to a specific asset and refers to the loss of a certain (high) proportion of heritage significance. If assets are added together to make one 'super asset' then any collective harm must be set against the much greater reservoir of heritage significance present in the assets when taken together. The proportion of total significance lost does not become greater if individual assets are added together.
- 7.82 In terms of Section 66(1) of the Act, the Barnwell Manor litigation²¹⁴ has made plain the statutory duty is separate to the planning policy position. The assessment of harm remains a matter of planning judgment. However, once the decision-maker finds some harm to a listed building, or its setting, the effect of s.66(1) is that the harm must be given considerable weight in the balance, creating a strong presumption against the grant of planning permission where such harm is found.
- 7.83 In striking the balance, it is not enough simply to ask whether the advantages of the scheme outweigh the harm in a loose or general sense, but whether they outweigh harm in a manner sufficient to rebut that strong presumption.
- 7.84 With regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, because no development would take place within a Conservation Area, the appellant submits that section 72(1) is not engaged in this appeal.
- 7.85 In terms of policy, the relevant heritage policies in the development plan lack any balancing provision and accordingly, should be given limited weight. The Framework supersedes most previous national policy in this area. One of the core planning principles is the conservation of heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations.
- 7.86 Moreover, significance is defined as something that is experienced through an understanding of the heritage asset and which should be expressed in terms of archaeological, architectural, artistic or historic interest.

²¹¹ Through the evidence of Ms Bolger

²¹² Through the evidence of Ms Bolger

²¹³ CD6.15

²¹⁴ CD5.9 and CD5.12

- 7.87 Significance is not the same thing as general visitor amenity and nor is it the same as a contemporary landscape and visual amenity assessment. Any assessment of the significance of a heritage asset should include the contribution made to it by setting. Any heritage asset will have a setting. Any assessment should recognise that elements of 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.
- 7.88 Setting is not a heritage asset in itself and nor is it a heritage designation. Its importance lies in what it contributes to the significance of a heritage asset. The key question to understand is 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 any proposed development, would affect the significance of the asset. Change in itself does not constitute harm to setting, or significance.
- 7.89 When a heritage 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 information about the asset) than others but an assessment must not be restricted merely to views in which a development may have an effect.
- 7.90 The Framework does not provide clear guidance on where the line between substantial harm and less than substantial harm should be drawn. However, the PPG makes plain that the threshold is a high one. Importantly however, the Courts have held an Inspector to be correct in finding that for harm to be substantial, the impact on the significance of a designated heritage asset must be so serious that very much, if not all, of that significance was drained away²¹⁵.
- 7.91 In terms of reversibility, paragraph 2.7.17 of EN-3²¹⁶ directs that when undertaking an assessment of the likely impacts of wind turbines on both the landscape, and cultural heritage assets, the decision-maker should take reversibility into account. This echoes English Heritage's own guidance²¹⁷.
- 7.92 The reason for refusal refers to seven assets. These, and the appellant's assessment of harm to their significance²¹⁸, are: Kimbolton Conservation Area: slight; Kimbolton Castle: slight; Steps to eastern portico of Kimbolton Castle: no harm; Kimbolton Castle Gatehouse: negligible; Church of St. Andrew, Kimbolton: negligible; Tilbrook Conservation Area: slight; and Church of All Saints, Tilbrook: slight. The appellant has also considered²¹⁹ a further seven assets that appear also to exercise the Council and SBWF: Stoneley Conservation Area: negligible; Stow Longa Conservation Area: slight; Warren House: negligible; Church of St. Botolph, Stow Longa: negligible; Gates to Kimbolton Castle: negligible; Kimbolton Cemetery: negligible; and Kimbolton Castle Parkland: negligible.

²¹⁵ CD5.11 Bedford BC v Secretary of State for Communities and Local Government and NUON UK Ltd [2012] EWHC 4344 (Admin) (I was the Inspector concerned)

²¹⁶ CD7.4

²¹⁷ CD10.2

²¹⁸ Through the evidence of Dr Carter

²¹⁹ Through the evidence of Dr Carter

- 7.93 In order to comply with the statutory duty in section 66(1), it is necessary for the decision maker to identify each and every listed building and setting which is affected by the proposed development. In order to assist the decision maker, the Appellant has prepared what is considered to be a comprehensive list which the Council has commented upon²²⁰. The appellant has commented upon those submissions²²¹.
- 7.94 Dealing with the assets in more detail, in terms of the Kimbolton Conservation Area, the majority of important views within the conservation area would be unaffected. Wind turbines would be partially visible from areas around Kimbolton Castle, and would diminish to some degree, the historic character of this part of the conservation area. Views towards Kimbolton from the south would be changed with the wind turbines providing a new focal point in the view. Given the limited presence of the conservation area in these views, this change does not weigh heavily in the assessment.
- 7.95 The presence of the turbines would constitute an adverse impact of slight magnitude on the heritage significance of the Kimbolton Conservation Area constituting less-than-substantial harm in terms of the Framework. This slight adverse impact on an asset judged to be of medium sensitivity would be reversed on the decommissioning of the wind farm and is considered to be an effect of minor significance.
- 7.96 In terms of Kimbolton Castle (including the steps to the east portico), the impact of turbine visibility on informal views of the castle from the south-east in the school grounds should be set against the low level of change in the designed axial views that are a key feature of the setting of Kimbolton Castle. The wind farm would be located over 2.4 km away, remote from land formerly associated with the castle as parkland, and the key designed views from the south, east and north facades would be unaffected. Public views of the Castle from the High Street, and the London Road, (the viewpoints from which the castle is generally appreciated), would also be unaffected.
- 7.97 The greatest visual change would be experienced from selected viewpoints on the west façade and in the school grounds immediately to the southeast of the castle. The wind turbines would challenge the status of the Castle as the dominant building in its setting and intrude on the visual relationship between the Castle, the Gatehouse, and the village beyond, including the view to the spire of the Church of St Andrew.
- 7.98 All this would constitute an adverse impact of slight magnitude on the heritage significance of Kimbolton Castle as a whole, constituting less than substantial harm in terms of the Framework.
- 7.99 Opportunities to experience wind turbines and the Gatehouse in the same view would be limited and most encounters with the building would be unaffected. The visual prominence of the Gatehouse at the end of the High Street would be unaffected. Its role as a physical barrier between the Castle and village is best appreciated from the western front and looking towards the Castle from

²²⁰ ID18 and ID19

²²¹ ID26

the High Street. This designed relationship would be preserved and valued views of the gatehouse would be affected to a limited extent.

- 7.100 The presence of the turbines would constitute an adverse impact of negligible magnitude on the heritage significance of Kimbolton Castle Gatehouse. This does not constitute harm in terms of the Framework.
- 7.101 The immediate setting of the Church of St Andrew, Kimbolton would remain largely unaltered, as would the close-range views from within the village. The proposal would introduce large structures on the skyline that would be prominent in the view over Kimbolton from the south, but the church is rarely a prominent feature from this direction²²². Other views of the spire from the north-west and north-east would be unaffected and there would be little effect on the heritage significance that derives from its landmark role at the centre of the Parish. The presence of the turbines would constitute an adverse impact of negligible magnitude on the heritage significance of the Church of St Andrew, Kimbolton. This does not constitute harm in terms of the Framework.
- 7.102 Most views looking north-east from the Tilbrook Conservation Area into the surrounding landscape, would be changed by the presence of the proposed array. However, the wind turbines would be at least partially screened by intervening vegetation from most viewpoints, reducing the degree of visual change. However, large rotating structures would be out of character with the existing landscape setting.
- 7.103 With the closest turbine at least 1.5 km from the conservation area, the immediate rural, agricultural setting would be unchanged and the hamlet would continue to appreciated in an open agricultural landscape, albeit one with wind turbines present in some views. The wind turbines would only occupy a narrow arc of view to the north-east. In those locations where wind turbines were visible in views out they would be prominent, but not visually dominant, and the Church of All Saints would remain the visual focal point.
- 7.104 Overall, the setting of the Conservation Area would only be slightly degraded. The presence of the wind turbines would constitute an adverse impact of slight magnitude on the heritage significance of Tilbrook Conservation Area; this constitutes less than substantial harm in terms of the Framework.
- 7.105 In terms of the Church of All Saints, Tilbrook, the immediate setting of the church would be slightly altered by introduction of large, modern, moving structures in views to the northeast that are out of keeping with the character of Tilbrook. However, the relative size of the wind turbines and the church²²³ would allow the church to remain the dominant feature in these close range views.
- 7.106 The wind farm would also result in large structures on the skyline that would be prominent in the view over Tilbrook from the south-west, competing for attention with the church spire, and diminishing its landmark quality. There are few viewpoints available in this sensitive south-west sector however. They

²²² CD12.2 Figure 7.8 Viewpoint 8

²²³ CD12.2 Figure 8.15 Viewpoint CH7

include the B645 as it approaches Tilbrook from the west and the two public rights of way that join the road here from the north and south²²⁴.

- 7.107 Views of the spire from other directions would not be changed and its landmark status would not be affected. Setting contributes to the heritage significance of the church in both long and short-range views of it. There are no key views out from the church to other heritage assets or landscape features. Views likely to be affected by the wind farm are therefore all north-east-facing views. The predicted visual change in these views is limited by screening within the village and confined to one sector of views towards the church at longer-range. The fabric of the church would be unaffected and the church would still be appreciated as a medieval stone building, located at the heart of an historic village. The role of the church spire as a landmark would be diminished in views from the south-west for the duration of the operational life of the wind farm.
- 7.108 The presence of the turbines would constitute an adverse impact of slight magnitude on the heritage significance of the Church of All Saints, Tilbrook; this constitutes less than substantial harm in terms of the Framework.
- 7.109 In terms of the Stonely Conservation Area, the Council²²⁵ finds an adverse effect of negligible magnitude to its significance, primarily due to the presence of the wind farm in the view to the north from the B645²²⁶. The potential for harm to the significance of Stonely Conservation Area was considered²²⁷ and it was concluded that the very limited visual change predicted for the designated area would not materially affect its heritage significance. There would be no harm in Framework terms, therefore.
- 7.110 The Council²²⁸ finds an adverse effect of slight magnitude to the significance of the Stow Longa Conservation Area due to the predicted visibility of wind turbines from within it²²⁹. This Conservation Area has been the subject of a detailed assessment by the appellant²³⁰. The assessment found that the immediate rural landscape setting of the conservation area would be unchanged but wind turbines would be visible in some views towards the south-west, out of character with the current intimate and enclosed nature of the conservation area.
- 7.111 The wind farm would be at least partially screened by intervening buildings and vegetation, reducing considerably the degree of visual change. The wind turbines would not be visually dominant, and the significance of the conservation area, which is only experienced from within it, would only be slightly degraded, meaning that the harm would be less than substantial.
- 7.112 The Council²³¹ found an adverse effect of negligible magnitude to the significance of Warren House due to the predicted visibility of wind turbines on
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²²⁴ CD12.2 Figure 8.16 Viewpoint CH8 and Figure 7.8.20 Viewpoint 20

²²⁵ Through the evidence of Ms Brown

²²⁶ CD12.2 Figure 7.8.05 Viewpoint 5

²²⁷ CD12.2 Section 8.6.3.3

²²⁸ Through the evidence of Ms Brown

²²⁹ CD12.2 Figure 8.17 Viewpoint CH9

²³⁰ CD12.2 Section 8.6.3.4

²³¹ Through the evidence of Ms Brown

the periphery of the designed view from the north façade of Kimbolton Castle towards this 'eye-catcher' building²³².

- 7.113 This listed building was the subject of a detailed assessment by the appellant²³³. The contribution that setting makes to the significance of Warren House is very much determined by this role that the building acquired, probably in the late 18th century. Warren House lies at the outer end of the principle north axis of Kimbolton Castle, enhancing the view on the skyline when observed from the castle and providing an elevated and sheltered viewing platform from which to admire the castle and its landscape setting²³⁴.
- 7.114 This axis is critical to understanding the setting of Warren House. The impact of the array on the axial relationship has been set out²³⁵. The wind turbines would not be visible from Warren House as the view to the north-west would be screened by woodland. The principal axis north from Kimbolton Castle would not be changed as the wind turbines would lie well to the west of this alignment. The vista from Warren House over Kimbolton would also be unchanged. This visual relationship would not affect the heritage significance of Warren House. The immediate setting of the house would remain unaltered and its role as vista house and eye-catcher would be unaffected. There would therefore be no harmful effect on the heritage significance of Warren House as a result of the proposal.
- 7.115 The Council²³⁶ finds an adverse effect of negligible magnitude on the Church of St Botolph, Stow Longa due to the enclosed nature of its setting, and the limited degree of visual change²³⁷. This church was the subject of a detailed assessment by the appellant²³⁸ which concluded that the limited level of visual change would not materially affect the significance of a heritage asset where prominence of the asset in views is not a relevant factor. There would be no harm caused to the significance of the church as a result of the proposal.
- 7.116 SBWF refers to the gates to Kimbolton Castle²³⁹ but does not indicate the predicted level of harm that it would experience. The main gates to Kimbolton Castle are located in the castle park boundary wall on London Road and provide access to a driveway that leads to the east portico of the castle. This gateway was created in the mid-18th century when the main access to the castle was moved from the outer end of the east avenue on Park Lane to its present position. The early 18th century wrought iron gates, now part of the London Road entrance, are believed to have been re-used from that earlier gateway. The gates are only experienced as the main entrance to the castle at close range, either approaching along London Road, or leaving along the driveway from the castle. The positive contribution made by setting to the significance of the gates includes the local relationships with the approach along the London Road, the high brick park wall which the gateway penetrates,

²³² CD12.3 Figure 8.20 Viewpoint CH12

²³³ CD12.2 Section 8.6.3.4

²³⁴ CD12.2 Figure 8.5 and ID17

²³⁵ CD12.3 Figure 8.20 Viewpoint 12

²³⁶ Through the evidence of Ms Brown

²³⁷ CD12.2 Figure 8.18 Viewpoint CH10

²³⁸ CD 12.2 Section 8.6.3.4

²³⁹ CD12.9

and the landscaped grounds within. The wider landscape setting and longer-range views make no material contribution to significance of this asset.

- 7.117 The proposed turbines would be located at least 2.5 km from the gates and their presence would not affect an appreciation of the gates in their setting. When standing outside the park and looking away from the gates, the wind turbines might be noticed in winter through a screen of vegetation on the north side of the London Road but this level of visual change would have no effect on the heritage significance of this asset.
- 7.118 The Council²⁴⁰ considers that the visibility of wind turbines from Kimbolton Cemetery will affect its significance as a non-designated heritage asset. The appellant considers that any harmful impact as a result of inter-visibility would be very minor. The same is true of the parkland around Kimbolton Castle, another non-designated heritage asset.
- 7.119 The thrust of the heritage protection in the Framework is about managing change responsibly, not about avoiding harm altogether. Paragraph 132 highlights the importance of the irreplaceable nature of heritage assets, and that is why the reversible nature of a development like that proposed, is a relevant factor to be taken into account when assessing the acceptability of impacts. Reversibility inevitably works in favour of a grant of permission.
- 7.120 Paragraph 134 of the Framework applies in relation to the various designated heritage assets set out. Accounting for s.66(1) of the Act, the modest degree of harm identified in this case should be weighed against the wider benefits of the proposal in terms of mitigating the effects of climate change. While considerable importance and weight must be given to the harm that would be caused to the settings of listed buildings, it is clear that the benefits of the scheme outweigh any harm.
- 7.121 To conclude, whilst this is a complex case, it is not that the interests of renewable energy trump those of cultural heritage. Rather, the materially improved design of the proposed development represents an acceptable solution in which both important interests can satisfactorily co-exist.

Other Material Considerations

- 7.122 In terms of noise, the assessment was carried out in accordance with the IoA Bulletin Article²⁴¹ and the recently published Good Practice Guide²⁴² and demonstrates that predicted wind turbine immission levels, using a candidate wind turbine, meet the ETSU-R-97²⁴³ derived noise limits under all conditions and at all locations for both quiet daytime and night-time periods. Because downwind propagation conditions are assumed, the use of warranted sound power levels coupled with a ground roughness factor of 0.5 produces a realistic worst case.
- 7.123 Excess or Other Amplitude Modulation (OAM) has been discussed at length in a number of inquiries. There remains no consensus amongst the acoustic

²⁴⁰ Through the evidence of Ms Brown

²⁴¹ CD9.2

²⁴² CD9.3

²⁴³ CD9.1

community regarding the definition, causes, mechanics, frequency, duration or seriousness of amplitude modulation.

- 7.124 Government policy and guidance has not changed. As recorded in the recently published IoA Good Practice Guidance²⁴⁴, current best practice is not to attempt to impose an amplitude modulation condition. The IoA website advice indicates that the Renewables UK template condition should not be used.
- 7.125 In the recent decision at Asfordby²⁴⁵ issued in March 2014 and all other decisions since, the Secretary of State expressly stated that in the absence of study and endorsement by the IoA, he did not consider the Renewables UK material or template condition to require him to seek consultation responses from the main parties. This is a clear and up to date statement by the Secretary of State that given the current state of knowledge, he does not consider the research or template condition to constitute a material consideration.
- 7.126 The situations at Turncole²⁴⁶ and Dunsland Cross²⁴⁷ were both markedly different because, for whatever reason, based on local circumstances, the principal parties agreed that a condition to control OAM was necessary and the wording was found to be compliant with the requirements of Circular 11/95. No such agreement is made here. For the detailed reasons given by the appellant²⁴⁸, the Appellant submits that it is not possible, given the current state of play, to construct a lawful condition to control OAM. Precisely because the causal mechanism is not known, it is not possible to devise a scheme to predict and abate it.

Conclusion

- 7.127 The shortcomings of the previous scheme were discrete and particularised. Written into the re-design of the proposed development has been an acknowledgement of his findings and a desire to materially improve it. This has been achieved and improvements are manifest in all regards and the balance has now shifted in favour of a grant of planning permission.
- 7.128 The proposal will involve change. However, 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 Huntingdonshire countryside which the Council itself has encouraged, and still wishes to encourage²⁴⁹. The general landscape and visual effects of this scheme are precisely what the Council can expect to see.
- 7.129 In that overall context, the appellant has shown that the environmental, economic and social impacts of the proposed development would be acceptable. There is compliance, as a result, with Core Strategy Policy CS 1 and the Framework. Planning permission should therefore be granted in the form in which it has been sought.

²⁴⁴ CD9.3

²⁴⁵ CD6.15

²⁴⁶ CD6.39

²⁴⁷ CD6.40

²⁴⁸ Through the evidence of Mr Arnott supplemented by ID24

²⁴⁹ Through ID9

8. Interested Persons

- 8.1 The views of many local residents were expressed through SBWF. However, a number of people spoke under their own auspices. Their transcripts are attached as Inquiry Documents for further perusal. In that context, I have but briefly summarised the submission of each contributor.
- 8.2 **Councillor Jonathan Gray**²⁵⁰ represents Kimbolton and Staughton on the District Council and is also a Governor of Kimbolton School. Objection was raised on a number of counts notably the impact the proposal would have on the landscape and heritage assets. Doubt was cast over whether, once the site is developed with wind turbines, it would ever return to its current state. Concerns were also raised about community engagement and the point made that public opinion is overwhelmingly against the scheme.
- 8.3 **Rosemary Lloyd**²⁵¹ is a member of Kimbolton and Stonely Parish Council and appeared on their behalf. Concerns were raised about potential landscape and heritage impacts and attention was drawn to the solar farm near the appeal site that the Parish Council supported. It was suggested that significant weight should be given to the views of local people and the appeal dismissed.
- 8.4 **Michael Hayes**²⁵² is a resident of Stow Longa and spoke about the impact the proposal would have on the village and residents thereof. Attention was drawn to the conservation area and the potential for noise and shadow flicker. The view of residents was said to be very much against the scheme and planning permission should not be granted for it.
- 8.5 **Councillor Simon Bywater**²⁵³ represents the Sawtry and Ellington Ward on the County Council. Questions were raised about the conduct of the appellant in pursuing a revised scheme and the expense this has involved, and their methods for garnering support. The point was made that the benefits of the proposal would be significantly outweighed by the harmful effects on the landscape and heritage assets. Safety and the potential impact of noise on human health also weigh against. The appeal should be dismissed.

9. Conditions

- 9.1 A series of lists of conditions discussed, and to a large degree, agreed, between the appellant and the Council was submitted to the Inquiry²⁵⁴. These deal with time limits, the approved plan, and site restoration (nos.1 to 5), issues around construction and associated traffic (nos.6 and 7), hours of working and deliveries (nos.8 and 9), appearance and design issues (nos.10 to 14), micro-siting (no.15), archaeology (no.16), ecology and wildlife (nos.17-20), aviation lighting (no.21), air safeguarding (no.22) potential interference with televisions (no.23), shadow flicker (no.24) and, finally, noise (no.25). There is also a series of guidance notes that provide information relating to the noise condition.
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²⁵⁰ ID6

²⁵¹ ID12

²⁵² ID13

²⁵³ ID14

²⁵⁴ ID10

- 9.2 I have analysed these conditions, and issues raised by the Council and SBWF around noise and OAM, as part of my conclusions below.

10. Inspector's Conclusions

- 10.1 As set out above, the appeal was recovered by the Secretary of State on 13 February 2013. The reason given was because the appeal involves a renewable energy development. [1.3]
- 10.2 While the reason given for recovery is not specific as to detailed matters requiring attention, the cases put forward by the main parties to the Inquiry, and others who made representations to it, concentrate on a number of discrete areas. With those in mind, the main issue can be succinctly expressed as whether any benefits of the proposal are sufficient to outweigh any harmful impacts on the surrounding landscape, the setting and thereby the significance of heritage assets, the living conditions of local residents through visual impact in particular, but also noise and shadow flicker, and various other matters.

The Previous Appeal Decision

- 10.3 Unsurprisingly perhaps, the parties made much of the previous appeal decision²⁵⁵. The appellant says that the proposal has been put together in response to that decision, suggesting that it has formed a blueprint for the revised proposal and removed the 'lion's share' of the harmful impacts previously identified. The Council and SBWF take a rather different view of it suggesting that it offers no basis for an acceptable revised proposal.
- 10.4 My reading of it, illuminated by some details of the previous scheme provided by the parties, did not cause me to align myself with either extreme. Amongst a series of findings on many aspects, the most telling conclusion drawn by the previous Inspector is that the environmental and economic benefits of the scheme would be significantly outweighed (by the harmful impacts on the landscape, and the heritage assets, in particular)²⁵⁶. This suggests that, all other things being equal, any redesign of the scheme would have to significantly reduce harmful impacts in order for any benefits (and it is important to note that the scheme at issue here contains three rather than four wind turbines) to outweigh them.
- 10.5 In that context, the previous appeal decision is a significant material consideration, obviously, but the revised proposal needs to be considered anew, on its own merits. [2.6, 5.10-5.12, 6.5, 6.13-6.14, 6.63, 7.3-7.4]

Benefits

- 10.6 One of the core planning principles of the Framework is that planning should support the transition to a low carbon future in a changing climate and encourage the use of renewable resources (for example, by the development of renewable energy). Reflective of wider Government energy policy²⁵⁷, paragraph 93 of the Framework explains that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions,

²⁵⁵ CD6.12

²⁵⁶ CD6.12 Paragraph 76

²⁵⁷ CD7.3 and 7.4 in particular and as outlined in CD12.7 (SoCG)

and minimising vulnerability, and providing resilience, to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. Paragraph 98 says that applicants for energy development are not required to demonstrate the overall need for renewable or low carbon energy. Moreover, it must be recognised that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

- 10.7 As set out, each of the wind turbines would have an installed capacity of between 2 and 3 MW so the array would have an installed capacity of between 6 and 9 MW. Helpfully, the appellant has produced a Report on Energy Potential²⁵⁸ which assesses the potential net annual energy production on the basis of a series of candidate turbines. This varies between 20,300 and 21,450 MWh per year which would power between 5,000 and 5,250 homes in the UK, or between 4,600 and 4,900 homes in the East of England. The total Carbon Dioxide savings over the lifetime of the project are estimated at between 84,200 and 88,800 tonnes. There is no convincing evidence that would justify using depressed versions of those figures to inform the weight to be attached to the renewable energy that would be generated by the proposal.
- 10.8 The UK Renewable Energy Roadmap Update 2012²⁵⁹ confirms that the UK is legally committed to delivering 15% of its energy demand from renewable sources by 2020 contributing to our energy security and decarbonisation objectives. The UK appears to be on track to meet that target and SBWF draw attention to that²⁶⁰. However, the figure of 15% is not a ceiling and it cannot reasonably be suggested that if the 2020 targets are met, the problems around climate change, and maintaining energy security, in an increasing unstable world, will somehow disappear. For these reasons, Government energy policy clearly expects renewable energy schemes to have a pivotal role to play in the UK energy mix in the decades beyond that²⁶¹.
- 10.9 The Climate Change Act requires the UK to reduce greenhouse gas emissions by at least 80% below 1990 levels by 2050²⁶². On that overall basis, EN-1 states that it is necessary to bring forward new renewable energy generating projects as soon as possible and the need for new renewable energy generation projects is therefore urgent²⁶³. While there are other ways in which renewable energy can be generated, EN-1 is clear that onshore wind is the most well-established and currently the most economically viable source for renewable electricity available for future large-scale deployment in the UK²⁶⁴.
- 10.10 In that context, that the 2020 targets look like being met provides no justification for reducing the weight to be attached to the benefits in terms of renewable energy that would be produced by the proposal. Against this background, and bearing in mind the approach of the Framework, reflective of

²⁵⁸ A9 Appendix 3

²⁵⁹ CD7.6 Paragraph 1.1

²⁶⁰ ID16

²⁶¹ CD7.6 Ministerial Foreword

²⁶² CD7.6 Paragraph 1.3

²⁶³ CD7.3 Paragraph 3.4.5

²⁶⁴ CD7.3 Paragraph 3.4.3

wider Government energy policy, the renewable energy that the scheme would generate attracts significant weight in its favour.

- 10.11 On top of that, there would be economic benefits in the construction work involved in the project and associated direct and indirect economic effects²⁶⁵. I accept that as SBWF point out the area is not one that is struggling economically. Moreover, the number of jobs produced by the proposal, during, and beyond, the construction period would be very small. However, paragraph 18 of the Framework makes plain the Government's commitment to securing economic growth in order to create jobs and prosperity all over the country, not just in areas that might be struggling. In that context the economic activity and jobs that would be produced by the proposal carry strong weight on the positive side of the balance. [2.2, 5.48-5.50, 6.28-6.45, 7.10-7.12, 7.19-7.20, 7.33-7.35]

Landscape

- 10.12 The appeal site lies within National Character Area (NCA) 88: Bedfordshire and Cambridgeshire Claylands. Within 6 km to the west, is NCA 91: Whittlewood Ridge and to the north-west NCA 89: Northampton Vales²⁶⁶. More useful for an analysis of the landscape impacts of the proposal are the district-scale Landscape Character Areas (LCAs)²⁶⁷. The appeal site lies wholly within LCA6: Northern Wolds. Huntingdonshire LCA8: Southern Wolds lies to the east and south-east, as does Huntingdonshire LCA7: Grafham Water. Northamptonshire LCA 9a: Chelveston and Caldecott Claylands lies to the west while Bedford LCA1B: Riseley Clay Farmland lies to the south and south-west. All this is illustrated in the ES²⁶⁸.
- 10.13 In assessing the impact of the proposal on the landscape, the parties concentrated on the Northern Wolds. Given the degree of separation from other LCAs, that seems to me correct. The Huntingdonshire Landscape & Townscape Assessment SPD provides a reasonable analysis of the key characteristics²⁶⁹. These are said to be: a strong topography of ridges bisected by pronounced valleys; valleys are well vegetated and intimate in scale, while ridges plateaux feel more open; an historic landscape, containing many mediaeval features; dispersed pattern of historic villages, with little modern development; and distinctive square church towers topped with spires form characteristic features.
- 10.14 Landscape character is said to be achieved through the distinctive and repeated pattern of ridges, valleys and settlements. The ridges are identified as being in arable production, generally, and have a relatively open feel, with long views and few hedgerow trees. In contrast, the valleys have a higher proportion of land in pastoral use and feel more enclosed and intimate in scale due to the lack of views out, and the smaller field sizes.

²⁶⁵ A8

²⁶⁶ CD12.2 Figure 7.3

²⁶⁷ As identified in CD2.4

²⁶⁸ CD12.2 Figure 7.4

²⁶⁹ CD2.4 Page 39

- 10.15 In terms of what it calls 'human response', the SPD says that the LCA generates a very positive response from visitors, and is regarded by many as being amongst the most attractive countryside in the district. This is said to be due, in the main, to the harmonious character and relative tranquillity of much of the area, the varied topography (particularly the sense of enclosure and elevation), and the traditional villages. Having spent a lot of time in the area during the Inquiry itself, and in the course of my site visits, all that seems to me an apposite summary of the Northern Wolds.
- 10.16 The SPD also identifies some key issues for the LCA²⁷⁰. These include, of particular relevance: protection and enhancement of the distinctive characters of the valley and plateaux landscapes through the protection of smaller fields and meadows in the valleys, and the maintenance of long views from the upland areas; and protection of key views towards the distinctive skyline of ridge tops, church towers, and woodland.
- 10.17 These have been used to feed into the approach to the Northern Wolds LCA in the Council's Supplementary Planning Document: Wind Power of February 2006²⁷¹; the document referred to in the reasoned justification to Core Strategy Policy CS 1. It is based on a research undertaken for the Council by Land Use Consultants dated March 2005²⁷².
- 10.18 With reference to the Northern Wolds, the Wind Power SPD says that the landscape has high capacity to accommodate a small-scale group (which it defines as between 2 and 12 turbines) at the lower end of the range (up to 2 or 3 turbines). It goes on to say that although such a group would be a more obvious and dominant feature in the landscape, a small-scale development could respond well to the landscape structure and land cover pattern. Key sensitivities relate to the more intimate valleys, historic villages, and valued elements, particularly with respect to historic features and the distinctive church spires.
- 10.19 It continues that the location of a small-scale group should take account of a range of criteria. These include, of particular relevance: respect existing landmark features such as key views to church spires; respect the landform and relate turbines to the strong ridges and plateau; avoid locating turbines within the more intimate landscape of the valleys and along valley crests where they will be out of scale with the landscape and settlements such as Kimbolton; respect the site and setting of the historic villages which characterise the Northern Wolds; relate to the land cover pattern, in particular the woodland edges and field patterns with a consistent and repetitive spacing between turbines; consider a linear arrangement along contours as opposed to crossing contours; and seek opportunities to achieve wider landscape management objectives.
- 10.20 During the course of the Inquiry, the Council adopted a further SPD: Wind Energy Development in Huntingdonshire²⁷³. The introduction and summary explain that Part 1 of the guidance is a revised and extended version of the

²⁷⁰ CD2.4 Page 42

²⁷¹ CD2.3

²⁷² CD2.2

²⁷³ ID4, ID5 and ID7 refer to draft iterations of the document; ID9 is the final version

Wind Power SPD referred to above while Part 2 originated from a position statement 'Cumulative Landscape and Visual Impacts of Wind Turbine Development in Huntingdonshire' prepared by The Landscape Partnership in May 2013²⁷⁴. However, there is no indication that the Wind Power SPD is cancelled, or to be otherwise disregarded.

- 10.21 The most recent SPD²⁷⁵ adopts a broadly similar approach to the wind energy development as the previous Wind Power SPD, repeating, for example, the criteria set out above, and the preamble to the analysis of those. However, it does take a subtly different approach to the 'small-scale group' setting out that the landscape has a moderate capacity to accommodate a small-scale group defined this time as 2-5 turbines.
- 10.22 Debates about the reasons behind the adoption of the most recent SPD and the basis for the change in the nature of a small-scale group, and landscape capacity, seem to me somewhat arid. The most important point is how the decision-maker should use the various iterations of the SPD to inform an analysis of, and conclusion on, landscape impacts which feed into an assessment of the proposal, in landscape terms, against the requirements of Core Strategy Policy CS 1. **[4.2-4.4, 5.7-5.13, 6.9-6.14, 7.33-7.49]**
- 10.23 To my mind, notwithstanding largely figurative points made about capacity, and cumulative impacts, in the SPD, the key pointers for the purposes of Core Strategy Policy CS 1 are the criteria against which proposals are intended to be analysed. That must be correct given that the introduction to the latest SPD²⁷⁶ says '*The SPD is intended to set out a positive approach to guide development rather than absolute thresholds. It should help to guide proposals to the most appropriate locations and ensure that the key features and values of Huntingdonshire's landscapes are safeguarded*'.
- 10.24 Turning to those criteria, the first is to respect existing landmark features such as key views to church spires. From what I saw, there are a series of churches, with spires, and indeed towers, that punctuate the Northern Wolds and surrounding LCAs. Many have a landmark quality identifying the position of settlements in the landscape.
- 10.25 I would observe first of all that church spires or towers and wind turbines are very different in character and appearance. The former are readily identifiable by any reasonable observer as places of worship, and/or reflection that have sat in the landscape for centuries, at the centre of the settlements which have grown up around them. In the same way, any reasonable observer understands that a wind turbine is a modern, functional machine, designed to capture energy from the wind, having no spiritual connotations, and no connection with settlement patterns.
- 10.26 In that context, the ability merely to see wind turbines in the same field of view as a church spire or tower is not, necessarily, harmful. However, I can see, where the two different elements are so close, or the juxtaposition so

²⁷⁴ CD2.7

²⁷⁵ ID9

²⁷⁶ ID9 Page 1

uncomfortable, that some harm, in landscape terms, and indeed in terms of setting and significance, matters I turn to below, can occur.

- 10.27 There are many places where the churches that punctuate the landscape would be seen in conjunction with the wind turbines proposed. However, having regard to what I say above, in most cases, the separation distance involved would be too great for there to be any material tension or visual competition between the two. In most cases, the church spire or tower would remain the dominant element in any key view and to that end, their position in the landscape would be respected by the proposal²⁷⁷.
- 10.28 There are several churches that are much closer to the appeal site however. The Church of St Botolph in Stow Longa has a tower rather than a spire and is surrounded by mature trees. It offers little punctuation in landscape terms. As a consequence, while relatively close, the wind turbines proposed would not interfere to any significant degree with any key views of the church.
- 10.29 The Church of All Saints in Tilbrook and the Church of St Andrew in Kimbolton both have spires that point forcibly to positions of Tilbrook and Kimbolton in the landscape, in particular from the rights of way on the southern slopes of the Kym valley, and those to the west of Tilbrook.
- 10.30 In the wider of these views, the proposed array would be seen on the ridge beyond the church spires²⁷⁸. However, they would not be perceived as part of the settlements but as separate landscape elements, set well apart from them. The spires would, in the main, retain their prominence as foreground elements. As such, even in the most extreme juxtaposition illustrated²⁷⁹, the wind turbines would not supplant the landmark qualities of the church spires to any significant degree. On that basis, those qualities would be respected.
- 10.31 The second relevant criterion requires respect for the landform and the siting of turbines on the strong ridges and plateaux, avoiding the more intimate landscape of the valleys, and valley crests where they will be out of scale with the landscape, and settlements such as Kimbolton. Bound up with an analysis of that are others, notably the need to respect the site and setting of the historic villages which characterise the Northern Wolds and relate to the land cover pattern, with a consistent and repetitive spacing between turbines and considering a linear arrangement along contours as opposed to crossing them.
- 10.32 In making that assessment, it seems to me first of all that the wind turbines would be sited in a way that would make it plain that they are on the ridge top and plateau, above the valley. There would be no sense of them being part of the Kym Valley itself. However, much was made of the fact that given their height, the wind turbines would rise above the Kym Valley to an extent much greater than the depth of the valley. As such, it is said that they would appear out of scale with the landscape, and the settlements of Kimbolton and Tilbrook, in particular.

²⁷⁷ I take that to include the churches at Easton, Spaldwick, Catworth, Covington, Pertenhall and Ellington

²⁷⁸ CD12.2 Viewpoints 8, 16, 19, 20 and S3 Figures 8 and 10 and S4 Viewpoints 2, 3 and 8

²⁷⁹ S4 Viewpoint 8 and CS12.2 Viewpoint 20

- 10.33 I find that analysis rather simplistic. Views of the wind turbines from the southern side of the valley, in particular, but also from the bottom of the valley, would take in much more than the vertical dimension. The openness of views across the ridge and the plateaux is highlighted in the Huntingdonshire Landscape & Townscape Assessment SPD. There is a functional logic too in the placement of wind turbines on top of a ridge.
- 10.34 On that overall basis, there are the other dimensions to consider. In the context of the broad sweep of the views across the landscape, where the horizontal breadth of the views, and their depth, are readily evident²⁸⁰, the wind turbines would not appear out of scale with the landscape, apart from when viewed very close-up. Neither as objects in the landscape that would be readily identified with the ridge and plateau, would they detract from the landscape settings of Kimbolton and Tilbrook, which are clearly identified with the valley floor. Moreover, the array would, from most viewpoints, be well-spaced, in a linear arrangement, along a contour.
- 10.35 The SPD also requires applicants to seek opportunities to achieve wider landscape management objectives. Ecological impacts are intended to be dealt with through conditions, and as part of that mitigation, new hedgerow planting is proposed to replace that removed, and more besides. This criterion would be met, therefore. **[5.14-5.24, 6.46-6.50, 7.50-7.63]**
- 10.36 In terms of cumulative impacts, the latest SPD²⁸¹ sets out that there is very little scope for the Northern Wolds to accommodate more than one small-scale group so capacity for cumulative development is low. However, it goes on, sensibly in my view, to say that decisions will need to be taken on a case-by-case basis. Part 2 of the latest SPD gives details of existing arrays and single wind turbines in the District, and details of those in planning. There is also an analysis of current and schemes in the planning system, based on what are termed 'Prominent and Conspicuous Zones'²⁸². There is also a useful range of cumulative wireframes in the ES²⁸³.
- 10.37 From that, it is clear that while there would be locations where the proposal would be seen in conjunction with permitted arrays at Wooley Hill (currently under construction), Common Barn, Cotton Farm (in operation), and even those at Chelveston (in operation). There are smaller single turbines too at Catworth Lodge, Tilbrook Grange, Brook Farm and Glebe Farm. There is a proposal near RAF Molesworth too but that is currently with the Secretary of State and it is not known whether it will be permitted.
- 10.38 However, simply being able to see one array in conjunction with another is not analogous with a harmful cumulative impact. The array at issue here would be well-separated from other existing and permitted schemes and those still in the planning system, and there would be no harmful visual tension as a result of it. The grand scale and wide sweep of the landscape is such that there would be no sense of any individual LCA, or the wider area, being dominated or overwhelmed by wind turbines.

²⁸⁰ CD12.2 Viewpoints 4, 5, 8, 11, 16, 18, 19, 20 and S4 Viewpoints 5, 7 and 8

²⁸¹ ID9 Paragraph 8.4

²⁸² ID9 Figure 16.7

²⁸³ CD12.2 Figures 7.8.12_CW to 7.8.25_CW inclusive

- 10.39 That conclusion bears on the point made by SBWF about recreational users. I have no doubt that, as the Huntingdonshire Landscape & Townscape Assessment SPD sets out, the landscape is an attractive one for those who enjoy spending time in it walking, cycling, boating, or driving through it for leisure, or indeed other, purposes. There can be no doubt that, in the parlance of paragraph 109 of the Framework, it is a valued landscape.
- 10.40 However, having said that, I do not believe, as a result of the proposal, and other schemes, operational and permitted, that wind turbines would become such a pervasive feature of the landscape that the quality of the experience of those passing through it, would be devalued to any significant degree. **[6.64-6.69, 7.64-7.66]**
- 10.41 Bringing those points together, I conclude that while the proposal would cause some landscape harm, as any wind farm must, there would be compliance with the requirements of the Councils SPD: Wind Energy Development in Huntingdonshire. That conclusion needs to be fed in to a consideration of Core Strategy Policy CS 1. **[6.50, 7.67-7.68]**
- 10.42 While it is not covered in any great detail in any of the Council's policy documents, there is another factor to consider too. That is the fact that the proposal is promulgated on a temporary basis, and is reversible.
- 10.43 SBWF have referred in this regard to the Sillfield decision²⁸⁴ where the Inspector attached no weight to that consideration. The Secretary of State has, on occasion²⁸⁵, taken a similar view, commenting that '*the scheme duration of 25 years would be a substantial period for those who would have to endure and adverse effects and that the reversibility of the scheme should not be an influential factor in determining this appeal*'.
- 10.44 However, EN-3, which paragraph 97 of the Framework in footnote 17 tells us should be used when assessing the likely impact of wind energy development, including the determination of applications, says, in essence, that the time-limited nature of wind farms is likely to be an important consideration when assessing impacts such as landscape and visual effects and on the settings of heritage assets²⁸⁶.
- 10.45 The scheme is promulgated on a temporary basis and it would be reversible. In assessing the impact on the landscape (and on heritage assets, and living conditions, matters I turn to below), weight must be attached to that as a material consideration.
- 10.46 SBWF have also raised the issue of the potential for re-powering and whether this would extend the period when wind turbines would be present on the site. It is a possibility, clearly, but any such proposal would need to be dealt with on its merits in the light of National and Local energy policy at the time. It is not possible to sensibly speculate about what path that might take as far as 25 years ahead. This consideration attracts little weight, therefore. **[6.82-6.83, 7.91]**

²⁸⁴ CD6.22

²⁸⁵ For example in paragraph 12 of the Decision Letter on APP/D0840/A/12/2189476

²⁸⁶ CD7.4 Paragraph 2.7.17

Heritage Assets

- 10.47 As set out in the ES²⁸⁷ and FEI²⁸⁸, the evidence of the main parties²⁸⁹, the appeal site is surrounded by a wide range of designated heritage assets, mainly listed buildings (at Grade I, II* and II), but also conservation areas. The listed buildings are set out, most accessibly, in the material prepared by the appellant during the Inquiry²⁹⁰. The conservation areas requiring consideration are those at Kimbolton, Stonely, Tilbrook, and Stow Longa. There is also the original Kimbolton Castle, a SAM²⁹¹ which lies to the south of the current Kimbolton Castle, to consider, and non-designated heritage assets namely Kimbolton Cemetery, and the parkland surrounding the current Kimbolton Castle/School.
- 10.48 In considering the impact of the proposal on this extensive range of heritage assets, it is important to start from the right place, in policy terms. None of the listed buildings involved would be physically affected, and the same is true of the SAM. The development proposed would not take place within the confines of any of the conservation areas referred to, and the same is true of the non-designated heritage assets set out. Nevertheless, there is the potential effect on the setting of these heritage assets to consider.
- 10.49 The Framework defines the setting of a heritage asset as the surroundings in which it 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. EH guidance²⁹² is that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. It continues that construction of a distant but high building may extend what might previously have been understood to comprise setting.
- 10.50 From all that, it can be concluded that if the wind turbines at issue could be seen from, or in conjunction with, any of the heritage assets that surround the appeal site, then there would be an impact on their settings. In the case of the listed buildings so affected, that would bring s.66(1) of the Act into play. The situation in relation to SAM is different in that the setting of a SAM does not enjoy any statutory protection. The same is the case, obviously, for non-designated heritage assets.
- 10.51 The approach to conservation areas requires analysis however. My attention was drawn to the approach taken by the Secretary of State in dealing with proposed wind farms in Asfordby²⁹³ and Thornholme Fields²⁹⁴. In the former decision letter, it appears that the Secretary of State has applied s.72(1) of

²⁸⁷ CD12.2

²⁸⁸ CD12.3

²⁸⁹ C3, C4, C5, S1, S2, S3, S4, S5 and A4, A5 and A6

²⁹⁰ ID18

²⁹¹ Scheduled Ancient Monument

²⁹² CD8.4 Paragraph 2.2

²⁹³ CD6.15

²⁹⁴ CD6.41 (I was the Inspector who dealt with this case)

the Act to the proposal there at issue. In the latter decision letter, it is very clear that the Secretary of State has done so.

- 10.52 In both cases, the wind farm proposed lay outside the confines of the conservation area said to be affected. There would no doubt have been an impact on the settings of those conservation areas, but s.72(1) does not endeavour to protect setting. The application of s.72(1) is limited to the assessment of development proposals that lie within the boundaries of conservation areas.
- 10.53 Given that the proposal at issue here lies outside the confines of any of the conservation areas referred to, s.72(1) of the Act is not engaged by the proposal. The main parties considered this matter in the course of the Inquiry, at my behest, and all agreed that to be the case. [4.7, 5.44, 6.24-6.27, 7.84]
- 10.54 In terms of the way s.66(1) of the Act must be applied, it suffices to say that considerable importance and weight should be attached to the desirability of preserving the settings of the listed buildings affected. The Courts have long held that preserving, in that context, means protecting from harmful change, rather than any change²⁹⁵. [4.8, 5.40, 6.21-6.23, 7.82]
- 10.55 The approach of the Framework is central too. Paragraph 132 sets out 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 more important the asset, the greater the weight should be. There is no definition of the term 'conserve' in the Framework but having said that, no indication either that it should not be treated as synonymous with the term 'preserve' as used in the Act. I have proceeded on that basis.
- 10.56 It is important to record too that the Framework talks of the need to attach great weight to the asset's conservation. That sets it apart from the approach of s.66(1) of the Act where the presumption is that not only the asset (the listed building) will be preserved (or conserved), but also its setting. That distinction is a matter that needs to be addressed in concluding on this issue and I return to it below.
- 10.57 Paragraph 132 goes on to note that significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting and that as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a Grade II listed building should be exceptional, and substantial harm to or loss of designated heritage assets of the highest significance, like SAMs or Grade I or II* listed buildings, should be wholly exceptional.
- 10.58 Significance is defined in the Framework as the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance, we are told, derives not only from a heritage asset's physical presence, but also from its setting.

²⁹⁵ South Lakeland District Council v Secretary of State for the Environment [1992] 2 AC 141 at 150A-G

- 10.59 Paragraph 133 of the Framework continues, of relevance, that where a proposed development would lead to substantial harm to or total loss of significance of a designated heritage asset, consent²⁹⁶ should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Paragraph 134 says that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 10.60 Paragraph 135 of the Framework says that the effect of an application on the significance of a non-designated heritage asset should be taken into account. In weighing applications that affect directly, or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
- 10.61 As well as the reference in Core Strategy Policy CS 1, there are specific development plan policies that relate to the heritage aspects of the proposals namely LP Policies En2, En5, and En9. I would observe that while cited by the Council, LP Policy En5 appears to have limited applicability given that the proposal does not lie within a conservation area. It is stretching credulity, in my view, to suggest that the term 'directly affecting' can apply to development proposal outside, but visible from, a conservation area. That aside, these policies drew criticism from the appellant on the basis that the lack of an integral balancing exercise renders them incompatible with the Framework.
[4.5, 6.27, 7.15-7.16]
- 10.62 Paragraph 215 of the Framework says that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). I would observe first of all that the weight to be attached to the policies of the development plan cannot be reduced in the way the Framework suggests.
- 10.63 S.38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. The Framework cannot, and does not, change the statutory basis, and the weight to be attached to, the development plan.
- 10.64 However, it might be reasonable to conclude that the Framework is a material consideration that carries more weight than the development plan. In that context, the presence of integral balancing exercises in paragraphs 133 and 134 of the Framework suggest a different approach to that in LP Policies En2 and En5. However, it is fair to observe that LP Policies En2 and En5 follow, relatively closely, the requirements of s.66(1) and s.72(1) of the Act.
- 10.65 The Barnwell Manor judgements²⁹⁷ make it very clear that where listed buildings and/or their settings and the character or appearance of conservation areas are affected by proposals, the statutory provisions of the Act mean that

²⁹⁶ I take that term to include permission

²⁹⁷ CD5.9 and CD5.12

any failure to preserve a listed building and/or its setting, and/or to preserve or enhance the character or appearance of a conservation area, cannot be treated as mere material considerations to be balanced against public benefits, in the way the Framework suggests.

- 10.66 On that basis, while the proposal needs to be considered in the light of the Framework, obviously, the statutory presence of the Act standing above policy means that the Framework cannot be reasonably used to override the approach of the development plan.
 - 10.67 Against that overall statutory and policy background, I turn to the heritage assets involved. As set out above, there is a plethora of listed buildings, several conservation areas, a SAM, and two non-designated heritage assets, that are said to be affected by the proposal.
 - 10.68 Dealing with the listed buildings first of all, the material prepared by the appellant during the Inquiry²⁹⁸ makes plain that very many listed buildings would have their settings affected, or changed, through the visibility of the wind turbines proposed from, or in conjunction, with them. However, it does not follow that a harmful impact to setting, or the contribution setting makes to significance, would follow from *any* change to the setting of a listed building. The approach of the Courts to the term 'preserve' outlined above makes that plain. For s.66(1) of the Act to be engaged, there must be *harmful* change. Moreover, in Framework terms, for the contribution setting makes to significance to be undermined, there must be a *harmful* impact on setting, and thereby significance.
 - 10.69 As a precursor to the analysis, it is helpful to consider the concept of setting in a wider sense. EH guidance²⁹⁹ sets out that while they should not be regarded as having any formal meaning, reference is sometimes made to the 'immediate' and 'extended' setting of heritage assets. It goes on to say that while many day-to-day cases will be concerned with the immediate setting of an asset, development within the extended setting may also affect significance, particularly where it is large scale, prominent or intrusive.
 - 10.70 With that in mind, it is clear that the overwhelming majority of the listed buildings highlighted in the appellant's material³⁰⁰, especially those concentrated in settlements³⁰¹, derive significance from their immediate rather than their extended settings. In that way, while the relatively distant wind turbines might well be visible from, or in conjunction with, some or all of these listed buildings, there would be no harmful effect on their settings, or their significance, as a result. Helpfully, the Council takes a similar view³⁰².
 - 10.71 However, there are listed buildings that the wind turbines would be seen from, or in juxtaposition with, that do draw a proportion of their significance from their extended setting. In the case of these listed buildings, s.66(1) of the Act, relevant development plan policies, and the Framework, are engaged.
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²⁹⁸ ID18

²⁹⁹ CD10.4

³⁰⁰ ID18

³⁰¹ The listed buildings on Kimbolton High Street are good examples

³⁰² ID19

- 10.72 The first of these is what can be termed the Kimbolton Group. This is made up of Kimbolton Castle (now a school), largely the work of Vanbrugh and Hawksmoor in the early 18th Century, and a Grade I listed building, the stone steps to the eastern front of the castle/school, the work of Galilei in the early 18th Century, and a Grade II* listed building, the Grade I listed Gatehouse to the castle/school, the work of Robert and James Adam in 1764 or thereabouts, and a conscious nod to the work of Vanbrugh and Hawksmoor, and St Andrews Church, Kimbolton which dates as far back as the 13th and 14th Centuries and is a Grade I listed building. There are other parts of the ensemble too notably the steps to the south front of the castle/school, listed Grade II, the main and side gates and piers to the south-east of the castle/school, listed Grade II*, the wall and gate piers to the south-west of the Gatehouse, listed Grade II, and the boundary wall to the north of the castle/school, listed Grade II.
- 10.73 The significance of these listed buildings, as designated heritage assets, has been amply covered in the evidence³⁰³ and there is no need to repeat all that here. Suffice to say that some of the individual buildings that make up the group, notably the castle/school, the Gatehouse, Galilei's steps, and St Andrews Church, are designated heritage assets of the highest order of significance, considered individually. However, on top of that, all the assets set out are part of a coherent group that is in the top echelon of the national heritage. The relationship between the castle/school, the gatehouse, and St Andrews Church, is particularly important.
- 10.74 Obviously, an appreciation of the coherence of the group requires an observer to take in views of it that are relatively distant. The relationship between the castle/school, the gatehouse, and the church, has to be experienced that way to be appreciated. Moreover, the evidence is that the elevations of the castle/school were designed to be taken in from some distance away, with angled views taking in two separate elevations, and their differing treatments, considered important by the architects. All that makes it clear that the castle/school as an individual building, and the overall group, derives significance from the extended as well as the immediate setting.
- 10.75 There are many views towards and from within the group where the wind turbines would not be present. However, there are important views within and without the complex where the wind turbines would represent an anachronistic modern intrusion, over and above those already present like outbuildings and parked cars, that would further distract from an appreciation of the individual buildings, and the overall group.
- 10.76 The presence of the wind turbines in views of the east front of the castle/school³⁰⁴, of the south front of the castle/school in conjunction with the gatehouse and the church³⁰⁵, of the gatehouse and the church from the west front of the castle/school³⁰⁶, from the sports pitch to the south of the castle/school³⁰⁷ where RT3 is visible but RT1 and RT2 might well be visible

³⁰³ C3-C5, S1-S5 and A4-A6

³⁰⁴ S3 Viewpoints 1A, 1B, and 1C in particular

³⁰⁵ S3 Viewpoints 2A, 2B, and 2C in particular

³⁰⁶ S3 Viewpoints 3A, 3B, and 3C in particular

³⁰⁷ S3 Viewpoints 4A, 4B, and 4C in particular

over the castle/school roof, and from the Chapel within the castle, towards the Church³⁰⁸, would make that particularly apparent.

- 10.77 There are also footpaths within the grounds, and outside of them, to the south-west of the castle/school, towards the former castle, where the wind turbines would appear as part of the backdrop to the ensemble. The effect there would be similar³⁰⁹.
- 10.78 On top of that, in several views from within the settlement, the Church of St Andrew has a landmark quality, rising above the more modest buildings of Kimbolton. This quality is a constituent of its significance. In some views from the High Street, the wind turbines would be seen rising above the church, in the background to close-up views of it³¹⁰. While it would be obvious to the observer that the wind turbines were not part of the settlement, their competing visual presence would detract, to an extent, from the landmark quality of the church.
- 10.79 On that overall basis, the proposal would have a harmful impact on the setting, and thereby the significance, of the Kimbolton Group, and the individual buildings that make it up. The extent of that harm is a matter to which I turn below.
- 10.80 The grounds of the castle/school makes up a non-designated heritage asset. They form the immediate setting to the group and the buildings within it. For much the same reasons as those set out above, the visual presence of the proposed wind turbines in views out from the grounds would have a harmful impact on their setting, and, as a consequence, their significance. I reach a similar conclusion in relation to Kimbolton Cemetery, also a non-designated heritage asset, from where there would also be views of the wind turbines proposed³¹¹. **[5.26-5.36, 6.52-6.60, 7.96-7.101, 7.116-7.118]**
- 10.81 Warren House dates from the late 18th Century and was designed as an eye-catcher within the original parkland of Kimbolton Castle and lies on the axis of the north-east front³¹². It is a Grade II* listed building. The relationship with, and views towards Warren House from, Kimbolton Castle are clearly important facets of its significance.
- 10.82 When looking towards Warren House from the castle/school, and its grounds, particularly on the axis, the wind turbines proposed would be on the wide, left-hand, periphery of the view. Their manifestation would interfere with an appreciation of the relationship between the castle/school and Warren House but to no great extent. On that basis, the impact of the proposal on the setting, and thereby the significance, of Warren House would be harmful, but to a limited extent only. For the same reasons, I reach a similar conclusion in relation to Priory Cottage, a Grade II listed building to the south-east of Warren House, that also functions as an eye-catcher. **[7.112-7.114]**

³⁰⁸ CD12.3 Viewpoint CH11

³⁰⁹ S4 Viewpoints 1, 2, 3 and 4, S3 Figure 10 and CD12.2 Viewpoint 8

³¹⁰ ID18 Map Ref: HZTV-04 refers

³¹¹ ID18 Map Ref: HXTV-02 refers

³¹² ID17 refers

- 10.83 There is a Grade II listed building known as 'Sheridans' on an axis with the south-west front. It also appears to have been designed as an eye-catcher, of sorts. However, in views towards it from the castle/school, the wind turbines would be behind the observer and as a consequence, they would have no impact on an appreciation of the axial relationship.
- 10.84 The wind turbines would have a visual presence in views of the castle/school from 'Sheridans' but well to the left, away from the axis. Axial views from 'Sheridans' back towards the castle do contribute something to its significance but not so much as the view in the opposite direction. The presence of the wind turbines would interfere with an appreciation of that relationship but to a very limited degree only. There would be a harmful impact on the setting, and thereby the significance, of 'Sheridans' as a result of the proposal, but one very small in magnitude. The same is true of Park Farm and Park Lodge which lie to the west of 'Sheridans' that may also have functioned as eye-catchers. On the basis of the information provided³¹³ these are undesignated heritage assets and must be considered in that light.
- 10.85 The next group of listed buildings to consider is churches. I have already considered St Andrews Church in dealing with the Kimbolton Group but there are others that require analysis too.
- 10.86 First, the Church of St Botolph in Stow Longa dates from the 13th, 14th and 16th Centuries and is a Grade II* listed building. It is surrounded by mature trees and, as a result, relatively inconspicuous in the village, and the wider area. It has very little in the way of landmark quality and, as such, derives no significance from anything beyond its immediate setting. While there might be glimpsed views of the wind turbines from the grounds of the Church, or snatched views of the wind turbines and parts of the Church together, these would have no materially harmful effect on its setting, or significance. [7.115]
- 10.87 Other Churches in the vicinity of the appeal site have different qualities. The Church of All Saints in Tilbrook, dates mainly from the 13th and 14th Centuries and is a Grade I listed building. It has a tall spire that gives the church a distinct landmark quality, marking the position of the settlement in the bottom of the Kym Valley.
- 10.88 There would be views of the wind turbines proposed from within the immediate setting of the church. More important however, are more distant views of All Saints where its landmark quality can be better appreciated. In views from the public footpaths to the west and south of the church, the wind turbines proposed would be seen on the ridge beyond, rising above the spire in relatively close proximity. They would compete, to an extent, with the spire for supremacy as the dominant feature of the view³¹⁴. However, the closer proximity of the spire to the observer and its ready identification with the settlement, would allow it to largely retain the landmark qualities that contribute to its significance. The juxtaposition would cause a very limited degree of harm to the setting, and thereby the significance, of the church. [7.105-7.108]

³¹³ ID18

³¹⁴ S4 Viewpoints 6, 7 and 8 and CD12.2 Viewpoint 20

- 10.89 There are other churches in the vicinity too and in the course of my unaccompanied site visits, I took in the Parish Church of St James in Spaldwick, a Grade I listed building, the Parish Church of St Peter in Easton, another Grade I listed building, and the Parish Church of St Leonards in Catworth, also a Grade I listed building. All have relatively tall spires and a landmark quality, marking the position of the settlements they serve, similar to the Church of All Saints in Tilbrook.
- 10.90 The Parish Church of St Margaret in Covington, a Grade II listed building, that I also visited, is different in that it has a tower. Nevertheless, unlike the Church of St Botolph, referred to above, the area around it is largely open so it retains something of a landmark quality.
- 10.91 It is apparent from the material produced by the appellant³¹⁵ that there would be views of the wind turbines proposed from areas immediately around the churches and points where the churches would be seen in juxtaposition with the wind turbines. However, the degree of separation between the churches and the wind turbines, well over 3 kilometres in each case, means that the wind turbines would not diminish the landmark qualities of the churches to any material degree. As such, there would be no harmful impact on their settings, or their significance, as a result of the proposal.
- 10.92 Wornditch Farmhouse is a Grade II listed building that lies to the west of Kimbolton. It nestles into the Kym Valley and the pleasingly designed frontage is seen against the backdrop of the ridge beyond. The setting of the building in the landscape thereby contributes something tangible to its significance. The wind turbines would sit on the ridge behind the farmhouse and introduce a prominent man-made feature into views of the attractive frontage set in the landscape³¹⁶. This would detract from the setting of the farmhouse and the contribution setting makes to its significance.
- 10.93 Bringing those points together, it is clear that the settings of a number of listed buildings would undergo harmful change as a result of the proposal. S.66(1) of the Act is triggered therefore and considerable importance and weight needs to be attached to the desirability of avoiding that harmful impact. The proposals also fall contrary to LP Policy En2. I deal with the implications of that conclusion in terms of the Framework below.
- 10.94 In terms of the impact of the proposal on the settings of conservation areas, as outlined above, s.72(1) of the Act has no application. However, it is axiomatic that a harmful impact on the setting of a conservation area, or, expressed alternatively, views into, or out the area, can undermine its significance as a designated heritage asset, bringing into play LP Policy En9, and the Framework.
- 10.95 The Kimbolton Conservation Area, the Tilbrook Conservation Area and the Stonely Conservation Area share similar qualities. All are settlements that are set along the course of the River Kym, contained by the valley sides, with the ridges beyond. Despite some more recent interventions, all three, and the Kimbolton Conservation Area especially, contain important historic buildings

³¹⁵ ID18 Maps HZTV-08, HZTV-09, and HZTV-11

³¹⁶ S3 Figure 09 demonstrates

that range from the humble vernacular, to more architecturally sophisticated edifices. In that context, the incongruous visual presence of the wind turbines proposed on the ridge top, in views within, and out of the conservation areas, would detract from the setting and, as a result, the significance, of the conservation areas. Similarly, views across the conservation areas from higher ground to the south would also take in the alien presence of the wind turbines. This would have a similarly harmful impact.

- 10.96 The Stow Longa Conservation Area is somewhat different. The settlement is on the other side of the ridge at a level similar to that of the wind turbines proposed. It derives less significance from its setting in the landscape as a result. As a result, the presence of the proposed wind turbines in the foreground or background of wider views of the conservation area would not undermine the contribution setting makes to significance to any telling degree.
- 10.97 Notwithstanding that, Stow Longa has an attractive collection of vernacular buildings and the ensemble around the War Memorial³¹⁷ is particularly pleasing. In views to the south-west, the sweeping blades of the wind turbines would be visible above the roofs of the thatched cottages that make up part of the ensemble. This anachronistic juxtaposition would harm the contribution setting makes to the significance of the conservation area. [7.102-7.104, 7.109-7.111]
- 10.98 As a consequence of all that, the proposal would fail to accord with LP Policy En9. I deal with the implications of that in terms of the Framework below.
- 10.99 The significance of Castle Hill which is a SAM is largely archaeological but as the site of what was a Motte Castle, it does derive something of its significance from its setting. The setting of a SAM enjoys no statutory protection but as a designated heritage asset, there is policy protection from the Framework.
- 10.100 An appreciation of the reason why the site was chosen as a defensive position depends to a large extent on the landscape setting. However, the presence of the wind turbines in views from or in conjunction with the mound, on the opposite side of the valley, would not interfere with an appreciation of that at all. As such, the proposal would not undermine at all the contribution setting makes to the significance of the SAM.
- 10.101 In terms of the way the Framework needs to be applied, there was a significant degree of debate at the Inquiry about the terms 'substantial' and 'less than substantial'. There is no definition of the terms in the Framework. The PPG assists to a degree in setting out that substantial harm is a high test that may not arise in many cases³¹⁸. It is the degree of harm to the asset's significance that is to be assessed. That harm may arise from works to the asset or from development within its setting. The last point is repeated in advice elsewhere in the PPG³¹⁹ on how heritage should be taken into account in assessing wind turbine applications. This asserts that depending on scale, design and prominence, a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset. [6.59-6.60, 7.80]

³¹⁷ S4 Viewpoint 9A

³¹⁸ PPG Reference ID: 18a-017-20140306

³¹⁹ PPG Reference ID: 5-019-20140306

10.102 Helpfully, the Courts have held that substantial harm is an impact which would have such a serious effect on the significance of an asset that its significance was either vitiated altogether, or very much reduced³²⁰. [7.90]

10.103 With that in mind, I turn to the designated assets affected in this case. In terms of the Kimbolton Group, as set out above, the listed buildings therein derive a proportion of their significance from their immediate and wider settings. In causing harm to their extended settings, the wind turbines proposed would undermine the significance of the designated heritage assets that make up the group. However, most of the significance of the listed buildings lies in their fabric, architectural design, artistic qualities, and historical associations. Those would remain intact. As a consequence, it cannot reasonably be concluded that the significance of these designated heritage assets would be vitiated or even very much reduced. The harm to significance that would be caused by the proposal must, therefore, be less than substantial.

10.104 For much the same reasons, I reach similar conclusions in relation to degree of harm that would be caused to the significance of the Church of All Saints, Tilbrook, and Wornditch Farmhouse.

10.105 Turning to the conservation areas affected, these derive something of their significance from their setting in the landscape. The alien presence of the wind turbines proposed would harmfully dilute that contribution. However, the buildings and spaces that make up the conservation areas themselves, and make up an overwhelming proportion of their significance as designated heritage assets, would be unaffected. Again, it cannot reasonably concluded that the significance of the conservation areas would be vitiated or very much reduced. The harm caused would be less than substantial, therefore. [5.36-5.38, 6.61, 7.92]

10.106 It is suggested by SBWF in particular that, contrary to the assertion in paragraph 132 of the Framework that significance can be harmed or lost through alteration or destruction of the heritage asset, or development within its setting, such an approach means that it would be very difficult for development within the setting of a designated heritage asset to cause substantial harm to its significance. In the majority of cases, that, it seems to me, is correct. [4.14, 6.59-6.60]

10.107 However, there are types of heritage asset, follies, eye-catchers, and lighthouses for example, that derive a very large proportion of their significance from their setting. Development within such a setting could conceivably cause a degree of harm to significance that could be considered substantial. It is not impossible for substantial harm to significance to be caused by development in the setting of a heritage asset, therefore, and there is no contradiction between the conclusion drawn by the Courts, paragraph 132 of the Framework, and the WMS. [4.14]

10.108 The situation at Warren House, Priory Cottage and 'Sheridans' are illuminating in this regard. As a result of their function as eye-catchers, these listed

³²⁰ *Bedford Borough Council v Secretary of State for Communities and Local Government and NUON UK Ltd* [2012] EWHC 4344 (Admin) CD5.11

buildings derive a good deal of their overall significance from their settings. If the wind turbines proposed interfered to a significant extent, or obliterated, the axial relationship they enjoy with the castle/school, it might well be concluded that substantial harm to significance was thereby caused. However, as set out above, the array proposed would not have an impact of that magnitude. As a consequence, the harmful impact of the proposal on their significance would again, be less than substantial. [7.112-7.114]

10.109 Another point was made about the Kimbolton Group that requires analysis. My attention was drawn to the decision on the Asfordby Wind Farm where, in the Decision Letter³²¹, the Secretary of State set out that '*each of these assets may well suffer from less than substantial harm if considered separately as being the only asset of any significance, he takes the view that, looking at the sum total of the impact on so many and varied assets, the harm caused is arguably greater than the sum of its parts*'. The suggestion made is that the situation is similar here.

10.110 It is fair to say that part of the significance of the listed buildings that make it up, and indeed of the conservation area that the group lies within, and the relationship with the grounds of the castle/school and the cemetery, lies in the coherence of the group, and the pleasing relationships between the various elements of the group.

10.111 The incongruous presence of the wind turbines proposed viewed from within and over the group would have a disruptive impact on an appreciation of it. However, they would not prevent that appreciation completely and the major part of the significance of the heritage assets that make up the group would remain intact. In that context, while the degree of harm is magnified because of the impact of the proposal on a group of assets, it does not reach the level of substantial harm, as defined by the Courts.

10.112 Moreover, there is no merit in the suggestion that a series of less than substantial degrees of harm to the significance of individual assets that form part of a group can be added together to result in substantial harm to the significance of the group overall. If one is adding up the harm to the significance of each individual asset to provide a sum total of harm, logically, one would also need to add up the significance of each individual asset to provide a sum total of significance. In that way, if the finding of harm to the significance of each individual asset was less than substantial, the finding would be the same if the total harm to significance was reckoned against the totality of significance. [7.81]

10.113 There is also the temporal nature of the proposal and reversibility to consider. As set out above, in dealing with the landscape issue, the fact that after a limited period of time, the harmful impacts would be removed, must carry weight in favour. There is no justification for treating a development that would cause harm to the setting and thereby the significance of heritage assets for a temporary period, in the same way that one would treat a development that caused permanent harm. [6.82-6.83, 7.91]

³²¹ CD6.15 Paragraph 17

- 10.114 To conclude, the proposal would have a harmful impact on the setting and thereby the significance of a range of listed buildings and conservation areas. Considered individually, or, where appropriate, as a group, the harm to significance caused would be, in the parlance of the Framework, less than substantial. Paragraph 134 of the Framework requires less than substantial harm to the significance of a designated heritage asset to be weighed against the public benefits of the proposal.
- 10.115 However, while paragraph 134 of the Framework fails to acknowledge the fact, s.66(1) of the Act requires considerable importance and weight to be attached to the desirability of preserving (that is not harming) the setting of listed buildings and that needs to be acknowledged in carrying out the balancing exercise set out in paragraph 134. Harm would be caused to the significance of several non-designated heritage assets too and this also needs to be fed into the balancing exercise. I return to these matters below. [5.46-5.47, 6.62, 7.120-7.121]

Living Conditions

- 10.116 The main area of concern in this regard relates to the impact of the proposal on the living conditions of local residents through the visual impact of the wind turbines proposed.
- 10.117 Points were made about the basis on which an assessment of visual impact should be made with reference to the so-called 'Lavender Test'. This states '*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 and thus unsatisfactory (but not necessarily uninhabitable) place in which to live. It is not in the public interest to create such living conditions where they did not exist before*'.
- 10.118 The appellant pointed to an iteration that was accepted by the current Secretary of State in allowing a proposal for a wind farm³²² in August 2011. Paragraph 10 of the decision letter sets out that the Secretary of State agrees that when assessing the effect on visual outlook, it is helpful 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?*' In essence, there is little difference between the two approaches.
- 10.119 While not referred to explicitly, visual impact is a matter that Core Strategy Policy CS 1 can be said to concern itself with through the promotion of sustainable, well-designed, and accessible places that respect the setting and character of the surrounding area. It is important to note too that one of the core principles of the Framework set out in paragraph 17 is to always seek to secure a good standard of amenity for all existing occupiers of land and buildings.

³²² CD6.1

10.120 As a precursor to detailed analysis of this issue, it is important to understand the difference between a visual impact that is harmful to the living conditions of the occupiers of a property and a change in the outlook (or view) from a property. For a visual impact to have a significantly harmful impact on living conditions, in a case such as this, the wind turbines would need to have a domineering, oppressive effect.

10.121 A material effect of lesser magnitude may still need to be accounted for in a balancing exercise, but there does come a point, with more substantial degrees of separation, and relative orientation, when all that would happen is that a view from a property would change. It is a long-established planning principle that views are not inviolable.

10.122 With that in mind, of the dwellings in relatively close proximity to the appeal site referred to in evidence, and that I visited in the course of my site visits, there are but four where there might be said to be a visual impact, as opposed to a change in the view.

10.123 Blackwell House is a relatively large two storey dwelling that lies to the west of the appeal site³²³. The front elevation faces Bustard Hill (the B660) and from the front garden, and the west-facing windows, at ground and first floor levels, the Chelveston Wind Farm is visible in the far distance³²⁴. There is a single wind turbine at Tilbrook Grange, about 900 metres to the north of the property which is also visible, obliquely from the front of the dwelling. The windows in the rear elevation face towards the appeal site. There would be clear views of the wind turbines from them, and the rear garden. The closest wind turbine (RT1) would be about 863 metres from the rear elevation of the house with the others further away still³²⁵. There is a little screening on the eastern boundary of the garden.

10.124 At those sorts of separation distances, and given that there would be little height difference between the ground floor of the dwelling and the base of the wind turbines, with the effect of some screening, the wind turbines proposed would normally be far enough away from the property to prevent any sense of the outlook from it being dominated by them³²⁶. The narrow field of view would assist in that too. However, there is a complication in the narrowness of the field of view in that from some windows, and from areas of the rear garden, when the wind is blowing in certain directions, RT1 and RT2 would overlap in the view³²⁷. The stacking of the turning blades would be very disturbing on the eye, and accentuate the visual impact of the array.

10.125 For that reason, in my judgement, the visual impact of the wind turbines would have a significantly detrimental effect on the living conditions of the occupiers of Blackwell House. It would become an unattractive place in which to live.

³²³ C2 Photographs P, Q, R

³²⁴ The separation distance is of the order of 8 km

³²⁵ RT2 at about 1.15 kilometres and RT3 at about 1.45 kilometres away

³²⁶ A3 Appendix 3 Figure A 3.9b

³²⁷ C2 Figures JB06, JB07 and JB08

10.126 Highview House³²⁸ lies to the south of Blackwell House and also fronts Bustard Hill. Again, the wind farm at Chelveston is visible in the distance from west-facing windows. The nearest wind turbine RT1 would be about 830 metres away to the west, with RT2 just under 1.2 kilometres, and RT3 around 1.4 kilometres distant. At those degrees of separation the wind turbines would not appear dominant or oppressive, even when clearly in view³²⁹. They would be evenly spaced and there would be no stacking. Moreover, the curtilage of Highview House contains a number of outbuildings and some mature trees. From some viewpoints, and in particular from the east-facing patio to the rear of the dwelling, these would provide an effective screen³³⁰.

10.127 Taking those points together, the visual impact of the wind turbines would have no significantly detrimental effect on the living conditions of the occupiers of Highview House. It would not become an unattractive place in which to live.

10.128 Rookery Farm³³¹ lies to the north-east of the array, just to the south of Stow Longa. The nearest wind turbine RT3 would be around 800 metres away, with RT2 about 950 metres, and RT3 in the order of 1.3 kilometres away. The wind turbines proposed would be clearly visible beyond the existing solar farm from facing windows and from areas of the garden serving the dwelling. However, the wind turbines would be sufficiently distant from the dwelling and its garden, and the wind turbines so well-separated from each other, that there would be no sense of dominance³³² despite the existing presence of the solar farm. On that basis, there would be no significantly detrimental effect on the living conditions of the occupiers of Rookery Farm and it would not become an unattractive place in which to live as a result of the proposal.

10.129 Vicarage Farm³³³ lies to the south-west of the appeal site further down Bustard Hill from Blackwell House and Highview House, to the north-west of Kimbolton. The nearest wind turbine RT1 would be about 1.2 kilometres away and RT2 and RT3 would be between 1.25 and 1.3 kilometres distant. The wind turbines would be clearly visible from the front garden of the property, and the north-east facing (front) windows of the dwelling. However, the wind turbines would be a relatively significant distance away, and well-spaced³³⁴. On that basis their visual presence would not be oppressive and there would be no significantly detrimental effect on the living conditions of the occupiers of Vicarage Farm as a consequence of the array. Vicarage Farm would not become an unattractive place in which to live as a result of the proposal.

10.130 Concerns were also raised by SBWF, and others, about noise, shadow flicker, and health effects, and the effect these might have on the living conditions of local residents. Dealing with the latter point first, there is no good evidence to suggest that wind turbines have any general impact on human health. I accept that noise and shadow flicker could have a detrimental impact on living conditions and, as a result, well-being. However, shadow flicker is predictable

³²⁸ C2 Photographs S and T

³²⁹ C2 Figures JB17 and JB18

³³⁰ C2 Figures JB15 and JB16

³³¹ C2 Photographs W, X

³³² C2 Figures JB19–JB22

³³³ C2 Photograph Y

³³⁴ C2 Figures JB23–JB26

and can easily be dealt with by an appropriately worded condition, a matter I return to below.

10.131 Noise, and its potential impacts, is a more complex issue, and I recognise that the Council and SBWF have raised issues around it. However, these concerns bear more upon the imposition and enforcement of conditions. There is no sustained suggestion that the wind farm proposed would, or could, not operate within the parameters set out in ETSU-R-97³³⁵. In continuance of longstanding Government policy, the PPG³³⁶ says that ETSU-R-97 should be used when assessing and rating noise from wind energy developments.

10.132 It may well be that residents around the site might hear noise from the wind turbines, when the wind is blowing in certain directions, but ETSU-R-97 does not require wind turbines to be inaudible; only that they operate within a certain level not too far above prevailing background noise levels. If the wind farm operates within the ETSU-R-97 parameters, then there would be no impact on the living conditions of local residents that could weigh against the proposal. If for any reason it operated outside those parameters, or exhibited other noise characteristics, then any consequent detrimental impact on living conditions could be dealt with through conditions, or other legislative processes. I return to these matters below.

10.133 Bringing all those points together, the visual impact of the proposal would have a significant detrimental effect on the living conditions of the occupiers of Blackwell House, to the extent that it would become an unattractive place to live. This is a matter that weighs heavily against the proposal. The effect of visual impact on the living conditions of occupiers of Highview House, Vicarage Farm, and Rookery Farm would be of much lesser magnitude. While they would not become unattractive places to live, the harmful effect on living conditions, while not significant, must be brought into the overall planning balance. There is nothing in the issues raised around health effects, shadow flicker, or noise, that could not be dealt with by conditions, or other legislation.
[5.51-5.52, 6.70-6.81, 7.69-7.77, 7.122-7.126]

10.134 I regard the temporary nature of the proposal, and its reversibility, in a different light when living conditions are at issue. When living conditions are harmed, the recipient of the harm is a human being, not a landscape, and not a heritage asset. Twenty five years is a large proportion of the average human lifespan and a long time for anyone to have to suffer a harmful visual impact. On that basis, the temporary and reversible nature of the proposal carries little weight in considering this particular issue. **[6.82-6.83]**

Other Matters

10.135 SBWF produced an analysis of views that were expressed about the proposal concluding, accurately, that those who objected to the proposal tended to live closer to the appeal site than those who offered support. Questions were also raised about the methods employed to garner support. In simple terms, it is suggested that the views of those objectors who live closer should carry more weight than those supporters who live further away.

³³⁵ ETSU-R-97: The Assessment and Rating of Noise from Wind Farms CD9.1

³³⁶ Reference ID: 5-015-20140306

10.136 It is fair to say that the harmful impacts of the proposal would be felt more by those who live closer to it. However, the harmful effects of climate change, and a lack of energy security in an increasingly unstable world, are national (and indeed international) problems. It is very difficult to see how a Government could properly address matters of such importance, like the continued need for renewable energy projects, to meet international commitments on climate change, and to increase energy security, if objections by local communities were to rule out proposals, automatically.

10.137 There is no good reason, in my view, why the proposal should be treated any differently from any other nationally important projects such as those designed to boost the supply of housing, or improve transport infrastructure. In that context, it is important that the views of both objectors and supporters are taken account of in the planning balance, with appropriate weight given to the balance of the planning arguments put forward. [6.16-6.20, 6.84-6.92, 7.2-7.9, 7.21-7.32]

The Balancing Exercise

10.138 The development plan in this case is neither silent, absent, nor out-of date. As the parties accept, the development plan, and while LP Policies En2 and En9 bear on the heritage aspects of the proposal, Core Strategy Policy CS 1 is the driver in this case.

10.139 As set out, significant weight needs to be attached to the benefits of the proposal, in respect of the renewable energy and economic activity it would generate. Against that, there would be some harm caused in landscape terms but not in isolation sufficient, on my analysis, to render the proposal contrary to the Council's SPD, and as a consequence, Core Strategy CS 1.

10.140 More weighty is the harmful impact that would be caused to the setting, and thereby the significance, of heritage assets, both designated and non-designated, by the proposal. In terms of the setting of listed buildings, s.66(1) of the Act requires considerable weight and importance to be attached to the desirability of avoiding any such harmful impact. Moreover, there would be a clear failure to comply with LP Policies En2 and En9. The visual impact of the proposal would have a harmful effect on the living conditions of local residents, especially those at Blackwell House. This attracts significant weight too.

10.141 Taking those latter two harmful impacts together with the landscape impact, and weighing them against the benefits of the proposal, it is my conclusion that the scheme is unacceptable, and contrary to Core Strategy Policy CS 1. In the language of the Framework, the impacts of the proposal are not, and cannot be made, acceptable. [5.53-5.59, 6.93-6.99, 7.127-7.129]

Conditions

10.142 It is of course open to the Secretary of State to reach a different conclusion on the balance between harmful impacts and benefits and, in the event the appeal is allowed, and planning permission granted, it is necessary to deal with the issues around conditions.

10.143 As indicated, agreed conditions were submitted to the Inquiry by the appellant and the Council³³⁷. These, and others suggested by SBWF, were discussed in some detail, in the light of advice in Circular 11/95³³⁸, and paragraph 206 of the Framework. [9.1-9.2]

10.144 It is fair to record that most of the issues raised by the Council and SBWF about conditions, related to noise, in general, and questions around OAM³³⁹. The appellant addressed the matters raised in a written submission to the Inquiry³⁴⁰. I have treated the exchange on this matter as being confined to the content and operation of the noise conditions, not as fundamental objections to the proposal; the issue of noise in relation to living conditions having been covered above. [6.2, 7.122-7.126]

10.145 A condition is required to govern commencement and, while unusual, given the number of pre-commencement conditions, it would be reasonable to require the developer to inform the Council when the development has commenced.

10.146 The proposal is promulgated on the basis that it is temporary and reversible and these are matters that carry weight in the planning balance. To that end, conditions are required to limit the period of the permission to 25 years and to secure decommissioning when the period expires. There was some discussion over the depth to which the foundations would need to be removed but the most pragmatic way to deal with this is to require details of that to be put forward in the decommissioning scheme.

10.147 It is also necessary to attach a condition to cover what should occur in the event that one or more of the wind turbines fail to operate for a significant period. There was some discussion about whether that period should be 6 months, or 12 months. The temptation to split the difference should be avoided, in my view. If the appeal is allowed, that decision would be taken on the basis that the benefits of the proposal outweighed the harmful impacts. To require the operator to decommission and remove one or more wind turbines for what may be something as minor as the want of a part, or the need to replace a blade, after a period of inactivity of just 6 months, or even 9 months, seems to me overly harsh. A period of 12 months is more reasonable and would allow the best opportunity for the benefits of the scheme to be realised, rather than frustrated.

10.148 While it might be rendered superfluous by conditions dealing with micro-siting and details of the wind turbines, that I deal with below, to allow the developer the option of seeking a minor material amendment to the scheme, a condition is required to set out the approved plan. In the context of the other conditions suggested, there is no need for the condition to refer to anything beyond the Site Layout Plan.

10.149 The construction of a wind farm is a major logistic operation and has the potential to cause disruption to residents and businesses both in terms of works on the site itself and the delivery of components. To that end, conditions

³³⁷ ID18

³³⁸ Circular 11/95: *The Use of Conditions in Planning Permissions*

³³⁹ ID11 and ID21 refer

³⁴⁰ ID24

are necessary to require the submission and approval of a Construction Method Statement and a Construction Traffic Management Plan. Further, the hours when construction and/or decommissioning can take place need to be controlled as do delivery times. In both cases, however, the conditions need to provide some scope for flexibility.

10.150A condition is required to control the appearance and operation of the wind turbines. All are agreed about the need to limit the height of the wind turbines to 125 metres. However, there is a difference relating to hub height. I agree that the proportioning of a wind turbine is an important factor. If the hub height is set too low, relative to the rotor diameter, they can appear ill-proportioned and rather 'stumpy'.

10.151The Council suggests that the rotor diameter should be set at a maximum of 90 metres. Alternatively, the appellant suggests that the hub height should be set between 74.5 metres and 85 metres to allow capacity for a wider range of candidate turbines to be used. In my view, that approach is preferable and I am content that a hub height in that range, relative to a maximum height of 125 metres, would allow the turbines to appear well-proportioned.

10.152Details are also required of the colour and finishes of various elements of the wind turbines and the meteorological mast and to govern any signage. Similarly, to ensure it would have an acceptable appearance, details of the sub-station need to be submitted for approval. It would be necessary to apply conditions to ensure that all cabling on-site is laid underground, and to deal with general lighting.

10.153Notwithstanding the plans condition referred to above, there is a need to apply a condition to govern micro-siting. A number of changes to that originally proposed have been suggested by the Council ad SBWF which the appellant has accepted. I am content that the changes are reasonable.

10.154A condition is required to deal with archaeology and a series to cover ecological matters. All are necessary to ensure the potential impact of the development is effectively mitigated.

10.155For safety reasons, a condition needs to be applied to secure aviation warning lighting and to ensure that the operator informs the Council of various matters relating to the development, notably, the commencement date, and anticipated date of completion, the height above ground of the tallest structure and the exact positions of the wind turbines. It would then be for the Council to notify NATS, the MoD, and En-Route Plc.

10.156As referred to above, a condition is necessary to address the avoidance of shadow flicker. A similar condition is necessary to address any interference with television reception.

10.157As referred to above, both the Council and SBWF have raised issues around the suggested noise conditions. These can be split into two elements. In relation to the noise condition put forward, I do not share the concerns expressed about enforceability. The Council may have found it resource-heavy, and time-consuming, elsewhere, but that does not mean that the condition suggested does not meet the tests for conditions set out in the Framework. Neither is there any need for the condition to set out what must happen in the

event of a breach of the noise limits. The Council has a range of enforcement options open to it if a breach is detected.

10.158SBWF raise issues about the rounding up and down of the noise limits in the tables. It is a mathematical convention for 0.5 and above to be rounded up and 0.4 and below to be rounded down. I see nothing untoward or unreasonable in the appellant having done so. I am content too that on the basis of the information put forward by the appellant³⁴¹, there are no errors in the tables and no pressing need to adjust the detailed wording of the condition.

10.159The second area of concern relates to OAM. Both the Council and SBWF suggest that a condition to address OAM should be applied. However, there is no good evidence that the phenomenon, in so far as it is understood, would occur at this site. The application of the conditions suggested could only be precautionary, in that it would address something that might happen. I appreciate that other conditions, for example those that deal with shadow flicker or interference with televisions, or archaeology, have a precautionary element but in those cases, there is at least a reasonable, or predictable, likelihood of difficulties being encountered. That is not the case with OAM and, notwithstanding other cases where such a condition has been applied³⁴², a condition that is precautionary to that extent cannot, in my view, meet the test of necessity and should not, therefore, be applied.

10.160Moreover, in the event that OAM occurs, and causes difficulties for local residents, there are other options available. I recognise that pursuing an action in Statutory Nuisance might prove difficult and time-consuming but it would be possible, if the level of disturbance caused warranted it. [6.2, 7.122-7.126]

11. Recommendation

- 11.1 I recommend that the appeal be dismissed.
- 11.2 In the event that the Secretary of State disagrees with that recommendation, and decides to allow the appeal, the grant of planning permission for the proposal should be made subject to the conditions set out in Annex D.

Paul Griffiths

INSPECTOR

³⁴¹ ID24

³⁴² Most recently by the SoS at Turncole Farm APP/X1545/A/12/2174982, 2179484, and 2179225 CD6.39 (Condition 25)

Annex A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Tina Douglass of Counsel	Instructed by Mr A Moffat, Planning Service Manager, Huntingdonshire DC
She called Mr Jonathan Mark Billingsley MA BPhil CMLI	Director, The Landscape Partnership
Ms Louise Elizabeth Brown BSc BArch MTP	Conservation Team Leader, Huntingdonshire DC
Mr Steve Arnold MA (Cantab) MA (TRP) MRTPI MRICS	Planning Consultant
Tobias William Lewis ³⁴³	Environmental Protection Team Leader, Huntingdonshire DC

FOR STOP BICTON WIND FARM AT KIMBOLTON (SBWF):

Peter Jennings of Counsel	Instructed by Peter Webster of SBWF
He called Ms Michelle Bolger CMLI DipLA BA PGCE BA	Senior Associate, Gillespies LLP
Mr Nathan Hawkes MA	Local Resident
Mr Charles Paull	Chairman, Tilbrook Parish Council
Mr Richard Murphy	Chair of SBWF

FOR THE APPELLANT:

David Hardy LL.B(Hons) B.C.L.(Hons) (Oxon)	Partner in Eversheds LLP
He called Mr Brian Denney BA(Hons) DipLA CMLI CEnv MIEMA	Landscape and Environmental Planning Director, Pegasus Group
Dr Stephen Carter BSc PhD MifA FSA (Scot)	Senior Consultant, Headland Archaeology (UK) Ltd
Mr David Bell BSc(Hons) DipUD MRTPI MIHT	Director of Planning, Jones Lang LaSalle
Mr Tom Cosgrove ³⁴⁴	Broadview Energy Ltd

³⁴³ Took part in the discussion on conditions

³⁴⁴ Took part in the discussion on conditions

INTERESTED PERSONS:

Councillor Jonathan Gray	District Councillor for Kimbolton and Staughton Ward and Governor of Kimbolton School
Ms Rosemary Lloyd	Member of Kimbolton and Stonely Parish Council
Mr Michael Hayes	Local Resident
Councillor Simon Bywater	County Councillor for Sawtry and Ellington Ward

Annex B: DOCUMENTS

Huntingdonshire District Council

- C1 Summary and Proof of Evidence of Jonathan Billingsley
- C2 Appendices and Figures to Proof of Evidence of Jonathan Billingsley
- C3 Summary Proof of Evidence of Louise Brown
- C4 Proof of Evidence of Louise Brown
- C5 Appendices to Proof of Evidence of Louise Brown
- C6 Proof of Evidence of Steve Arnold including appendices

Stop Kimbolton Wind Farm

- S1 Summary Proof of Evidence of Michelle Bolger
- S2 Proof of Evidence of Michelle Bolger
- S3 Appendix 1 to Proof of Evidence of Michelle Bolger
- S4 Appendix 2 to Proof of Evidence of Michelle Bolger
- S5 Appendices 3-12 to Proof of Evidence of Michelle Bolger
- S6 Written Representation of Nora Butler
- S7 Appendices to Written Representation of Nora Butler
- S8 Written Representation of Diane Grant
- S9 Appendices to Written Representation of Diane Grant
- S10 Summary Proof of Evidence of Nathan Hawkes
- S11 Proof of Evidence of Nathan Hawkes
- S12 Appendices to Proof of Evidence of Nathan Hawkes
- S13 Summary Proof of Evidence of Charles Paull
- S14 Proof of Evidence of Charles Paull
- S15 Appendices to Proof of Evidence of Charles Paull
- S16 Summary Proof of Evidence of Richard Murphy
- S17 Proof of Evidence of Richard Murphy
- S18 Appendices to Proof of Evidence of Richard Murphy

Broadview Energy Ltd

- A1 Summary Proof of Evidence of Brian Denney
- A2 Proof of Evidence of Brian Denney
- A3 Appendices to Proof of Evidence of Brian Denney
- A4 Summary Proof of Evidence of Dr Stephen Carter
- A5 Proof of Evidence of Dr Stephen Carter
- A6 Appendices to Proof of Evidence of Stephen Carter
- A7 Summary Proof of Evidence of David Bell
- A8 Proof of Evidence of David Bell
- A9 Appendices to Proof of Evidence of David Bell
- A10 Summary Proof of Evidence of Stephen Arnott
- A11 Proof of Evidence of Stephen Arnott
- A12 Appendix to the Proof of Evidence of Stephen Arnott

Core Documents

- CD1.1 Saved Policies of the Huntingdonshire Local Plan (1995)
CD1.2 Relevant Policies of the Huntingdonshire Local Development Framework Core Strategy (2009)
CD1.3 Cambridgeshire and Peterborough Minerals and Waste Development Plan – Core Strategy DPD 2011
CD1.4 Relevant Policies of the Cambridgeshire and Peterborough Structure Plan 2003
- CD2.1 Relevant Policies of the Huntingdonshire Draft Local Plan to 2036: Stage 3
CD2.2 Wind Turbine Development in Huntingdonshire by Land Use Consultants (March 2005)
CD2.3 The Huntingdonshire Wind Power SPD (February 2006)
CD2.4 The Huntingdonshire Landscape & Townscape Assessment SPD (June 2007)
CD2.5 The Draft Huntingdonshire Landscape Sensitivity to Wind Turbine Development SPD (2012)
CD2.6 The Huntingdonshire Local Plan Proposed SPD: Landscape Sensitivity to Wind Turbine Development (June 2013)
CD2.7 The Cumulative Landscape and Visual Impact of Wind Turbines in Huntingdonshire: A Position Statement (Final Draft) (May 2013)
CD2.8 Huntingdonshire Draft SPD: Wind Energy Development in Huntingdonshire 2014
CD2.9 Letter from Jones LaSalle dated 26 July 2013 containing representations in relation to the Huntingdonshire Draft Local Plan to 2036: Stage 3
CD2.10 Letter from Jones LaSalle dated 9 May 2014 containing representations in relation to the Draft SPD: Wind Energy Development in Huntingdonshire 2014
CD2.11 Huntingdonshire Development Management DPD Proposed Submission 2010
CD2.12 Huntingdonshire Interim Planning Policy Statement 2007
- CD3.1 DCLG: National Planning Policy Framework (March 2012)
CD3.2 Government Response to the Communities and Local Government Select Committee Report: NPPF
CD3.3 DCLG: Written Statement to Parliament: Local Planning and Onshore Wind (6 June 2013)
CD3.4 DECC: Written Statement to Parliament (6 June 2013)
CD3.5 DECC: Press Release (6 June 2013)
CD3.6 DECC: Written Statement to the Institute of Acoustics (20 May 2013)
CD3.7 Planning Practice Guidance (Extracts)
CD3.8 Written Ministerial Statement by the Secretary of State for the Department for Communities and Local Government on Local Planning and Renewable Energy Developments (9 April 2014)
- CD4.1 Letter dated 6 July 2010 from the Secretary of State for Communities and Local Government to all Chief Planning Officers)
CD4.2 The East of England and Low Carbon Energy Capacity Study commissioned by DECC (AECOM) (April 2011)

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- CD5.1 R (Hulme) v Secretary of State for Communities and Local Government [2010] EWHC 2386 (Admin)
- CD5.2 Michael William Hume v Secretary of State for Communities and Local Government and RES Developments Ltd [2011] EWCA Civ 638
- CD5.3 R (Lee) v Secretary of State for Communities and Local Government, Maldon DC and Npower Renewables [2011] EWHC 807 (Admin)
- CD5.4 Derbyshire Dales DC & Peak District National Park v Secretary of State for Communities and Local Government & Carsington Wind Energy Ltd [2009] EWHC 1729 (Admin)
- CD5.5 Sea & Land Power & Energy Ltd v Secretary of State for Communities and Local Government & Great Yarmouth BC [2012] EWHC 1419 (Admin)
- CD5.6 South Northamptonshire Council & Deidre Veronica Ward v Secretary of State for Communities and Local Government & Broadview Energy Development Ltd [2013] EWHC 11 (Admin)
- CD5.7 Tesco Stores Ltd v Dundee City Council [2012] 2 P&CR 9
- CD5.8 City of Edinburgh Council v Secretary of State for Scotland [1997] 1 W.L.R. 1447
- CD5.9 East Northamptonshire DC, English Heritage and the National Trust v Secretary of State for Communities and Local Government and Barnwell Manor Wind Energy Ltd [2013] EWHC 473 (Admin)
- CD5.10 Colman v Secretary of State for Communities and Local Government and others [2013] EWHC 1138 (Admin)
- CD5.11 Bedford Borough Council v Secretary of State for Communities and Local Government & Nuon UK Ltd [2012] EWHC 4344 (Admin)
- CD5.12 R (Barnwell Manor Wind Energy Ltd) v East Northamptonshire DC, English Heritage, National Trust & the Secretary of State for Communities and Local Government [2014] EWCA Civ 137
- CD5.13 North Norfolk DC v Secretary of State for Communities and Local Government & David Mack [2014] EWHC 279 (Admin)
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- CD6.1 Burnthouse Farm (APP/D0515/A/10/2123739 and 2131194)
- CD6.2 Cleek Hall (APP/N2739/A/12/2172629)
- CD6.3 Carland Cross (APP/D0840/A/09/2103026)
- CD6.4 Chelveston (APP/K0235/A/11/2160077 & APP/G2815/A/11/2160078)
- CD6.5 Alaska Wind Farm (APP/B1225/A/11/2161905)
- CD6.6 Enifer Downs (APP/X220/A/08/2071880)
- CD6.7 Burnham-on-Sea (APP/V3310/A/06/2031158)
- CD6.8 Sixpenny Wood (APP/E2001/A/09/2101851)
- CD6.9 Beech Tree Farm, Goveton (APP/K1128/A/08/2072150)
- CD6.10 Watford Lodge (APP/Y2810/A/11/2153242)
- CD6.11 Church Farm, Southoe (Common Barn) (APP/H0520/A/12/2188648)
- CD6.12 Bicton (APP/H0520/A/11/2146394)
- CD6.13 Earls Hall (APP/P1560/A/08/2088548)
- CD6.14 Nun Wood (APP/Y0435/A/10/2140401, APP/K0235/A/11/2149434 & APP/H2835/A/11/2149437)
- CD6.15 Former Asfordby Mine (APP/Y2430/A/13/2191290)
- CD6.16 Woolley Hill (APP/H0520/A/11/2158702)
- CD6.17 Pentre Tump, Powys (APP/T6850/A/13/2198831)
- CD6.18 Chase Farm, Baumber (APP/D2510/A/10/2121089)
- CD6.19 Wormslade Farm, Kelmarsh (APP/Y2810/A/13/2200118)
- CD6.20 Airfield Farm, Podington (APP/K0235/A/09/2108506)

CD6.21	Treading (APP/D0515/A/12/2181777 & APP/A2525/A/12/2184954)
CD6.22	Sillfield (APP/M0933/A/09/2099304)
CD6.23	Brightenber (APP/C2708/A/09/2107843)
CD6.24	Upper Vaunces Farm, Land East of Semere Green Road (APP/L2630/A/10/2143349)
CD6.25	Strandle Farm, Stinchcombe (APP/C1625/A/11/2155923)
CD6.26	Bennington (APP/J1915/A/09/2104406 & APP/J1915/A/12/2175064)
CD6.27	Wigton (APP/G0908/A/13/2191503)
CD6.28	Boxworth (APP/W0530/A/05/1190473)
CD6.29	Linton (APP/W0530/A/09/2108277 & APP/C1570/A/09/2108275)
CD6.30	Ellands farm (APP/G2815/A/06/2019989)
CD6.31	Guestwick (APP/K2610/A/05/1180685)
CD6.32	Roos (APP/E2001/A/09/2113076)
CD6.33	Grange Farm (APP/A2525/A/10/2125075)
CD6.34	See CD6.25
CD6.35	New House Farm, Brineton (APP/C3430/A/11/2162189)
CD6.36	Palmers Hollow (APP/Y2430/A/09/2108595)
CD6.37	Cotton Farm (APP/H0520/A/09/2119385)
CD6.38	Silton (APP/N1215/A/11/2160839)
CD6.39	Turncole Farm (APP/X1545/A/12/2174982 & 2179225)
CD6.40	Dunsland Cross (APP/W1145/A/13/2194484)
CD6.41	Thornholme Fields (APP/E2001/A/13/2190363)
CD7.1	Blank
CD7.2	DECC: The UK Renewable Energy Strategy (2009)
CD7.3	DECC: Overarching National Policy Statement for Energy EN-1 (Designated Version 19 July 2011)
CD7.4	DECC: National Policy Statement for Renewable Energy Infrastructure EN-3 (Designated Version 19 July 2011)
CD7.5	DECC: UK Renewable Energy Roadmap (July 2011)
CD7.6	DECC: UK Renewable Energy Roadmap Update (December 2012)
CD7.7	Blank
CD7.8	Blank
CD7.9	Blank
CD7.10	Blank
CD7.11	Natural England: Sustainable Energy Policy (2008)
CD7.12	Natural England: Climate Change Policy (2008)
CD7.13	Natural England: Position on Wind Energy (2009)
CD7.14	Natural England: Making Space for Renewable Energy (2010)
CD7.15	DECC: The UK Low Carbon Transition Plan White Paper (July 2009) (Executive Summary)
CD7.16	Blank
CD7.17	Blank
CD7.18	Blank
CD7.19	DECC: Onshore Wind, Direct and Wider Economic Impacts (May 2012)
CD7.20	DECC: Special Feature – Renewable Energy in 2011 (June 2012)
CD7.21	DECC: Special Feature – Sub-national renewable energy, renewable electricity in Scotland, Wales, Northern Ireland and the regions of England in 2011 (September 2013)
CD7.22	Blank
CD7.23	Blank
CD7.24	Blank

- CD7.25 DECC: Energy Trends (June 2013)
- CD7.26 DECC: Onshore Wind Call for Evidence: Government Response to part A (Community Engagement and Benefits) and Part B (Costs) (June 2013)
- CD7.27 DECC: Digest of UK Energy Statistics (DUKES) (July 2013)
- CD7.28 Moffat Centre: The Economic Impacts of Wind Farms on Scottish Tourism (March 2008)
- CD7.29 UK Renewable Energy Roadmap Update 2013
- CD7.30 Blank
- CD7.31 HM Treasury: National Infrastructure Plan (December 2013)
- CD7.32 Climate Change: The UK Programme 2006
- CD7.33 The Energy Challenge 2006
- CD7.34 Energy Act 2010
- CD7.35 2nd Progress Report of the UK Committee on Climate Change 2010
- CD7.36 Renewable Energy Action Plan 2010
- CD7.37 Renewable and Low Carbon Energy Capacity Study 2011
- CD7.38 DECC: Public Attitudes Tracker Survey – Wave 9 (29 April 2014)
- CD7.39 Renewable Energy Capacity in Regional Spatial Strategies 2009
- CD7.40 Analysis of UK Wind Power Generation November 2009 to November 2009 (Stuart Young 2011)
- CD7.41 Renewable Energy Foundation: The Performance of Wind Farms in the United Kingdom and Denmark 2012
- CD7.42 Using Surveys for Consultation: Market Research Society 2005
- CD7.43 DECC: Annual Energy Statement 2013
- CD7.44 European Commission: A Policy Framework for Climate and Energy in the Period from 2020 to 2030 (22 January 2014)
- CD7.45 European Commission Press Release: 2030 Climate and Energy Goals for a Competitive, Secure and Low-Carbon EU Economy (22 January 2014)
- CD7.46 European Commission: Statement by President Barroso on the 2030 Energy and Climate Framework (22 January 2014)
- CD7.47 Statement by Secretary of State Edward Davey in response to the European Commission 2030 White Paper on Climate Change (22 January 2014)
- CD8.1 The Landscape Institute & Institute of Environmental Management and Assessment: Guidelines for Landscape and Visual Impact Assessment Second Edition (2002)
- CD8.2 The Landscape Institute & Institute of Environmental Management and Assessment: Guidelines for Landscape and Visual Impact Assessment Third Edition (2013)
- CD8.3 Landscape Institute: Landscape Architecture and the Challenge of Climate Change (October 2008)
- CD8.4 Landscape Institute: Photography and Photomontage in Landscape and Visual Impact Assessment (Advice Note 01/11)
- CD8.5 Scottish Natural Heritage: Guidelines on the Environmental Impacts of Wind Farms and Small-Scale Hydro-Electric Schemes (2001)
- CD8.6 Produced for Scottish Natural Heritage by the University of Newcastle: Visual Assessment of Wind Farms: Best Practice (2002)
- CD8.7 Scottish Natural Heritage and Countryside Agency: Landscape Character Assessment Series: Topic Paper 9 – Climate Change and Natural Forces – the Consequences for Landscape Character (2003)
- CD8.8 Scottish Natural Heritage: Visual Representation fo Wind Farms – Good

- CD8.9 Practice Guidance (2006)
Scottish Natural Heritage: Siting and Designing Wind Farms in the Landscape Version 1 (December 2009)
- CD8.10 Scottish Natural Heritage: Guidance Assessing the Cumulative Impact of Onshore Wind Energy Developments Version 3 (March 2012)
- CD8.11 The Countryside Agency: Landscape Character Assessment: Guidance for England and Scotland (2002)
- CD8.12 DECC: Public Attitudes Tracker Wave 8 (February 2014)
- CD8.13 Ipsos Mori: Wind Power Omnibus Research (April 2012)
- CD8.14 Scottish Executive: Public Attitudes to Wind Farms (2003)
- CD8.15 Green on Green Public Perceptions of Wind Power in Scotland and Ireland (November 2005)
- CD8.16 Tranquillity Mapping: Developing a Robust Methodology for Planning Support – Report to the CPRE (2008)
- CD8.17 CPRE: Tranquillity in Cambridgeshire (2007)
- CD8.18 Current Landscape Character Assessment: Northamptonshire County Council (2006)
- CD8.19 Placing Renewables in the East of England: Ove Arup & Partners Ltd (2008)
- CD8.20 Council of Europe: European Landscape Convention (2000)
- CD8.21 Landscape East: East of England Landscape Framework (<http://landscape-east.org.uk/map.html>)
- CD8.22 Countryside Agency Landscape Character Assessment Series: Topic Paper 6: Techniques and Criteria for Judging Capacity and Sensitivity (2004)
- CD8.23 Visualisation Standards for Wind Energy Developments: The Highland Council (2013)
- CD8.24 Bedford Borough Council Landscape Character Assessment: LUC (2007)
- CD8.25 Scottish Natural Heritage: Visual Representation of Wind Farms Consultation Draft – Consultation Responses from the Landscape Institute and the Landscape Institute Scotland (2013)
- CD8.26 University of Stirling: The Effect of Focal Length on Perception of Scale and Depth in Landscape Photographs
- CD9.1 ETSU-R-97: The Assessment and Rating of Noise from Wind Turbines (September 1996)
- CD9.2 'Prediction and Assessment of Wind Turbine Noise – Agreement about Relevant Factors for Noise assessment from Wind Energy Projects' – D Bowdler et al – IoA – Acoustics Bulletin Vol.34 No.2 (March/April 2009)
- CD9.3 A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise – IoA (May 2013)
- CD9.4 Analysis of How Noise Impacts are Considered in the Determination of Wind Farm Planning Applications HM:2293/R1 (April 2011)
- CD9.5 Wind Farm Noise Statutory Nuisance Complaint Methodology – DEFRA Report NANR 277 AECOM (April 2011)
- CD9.6 Noise Policy Statement for England (March 2010)
- CD9.7 Research into Aerodynamic Modulation – University of Salford (2007)
- CD9.8 Night Noise Guidelines – WHO Geneva 2009 (extract only)
- CD9.9 Hansard: HC Deb 9 January 2014 c291W
http://www.publications.parliament.uk/pa/cm210314/cmhansard/cm140109/text/140109w0001.htm#140109w0001.htm_wqn42
- CD9.10 Letter from Rt Hon Edward Davey MP to Prf B Shield IoA of 20 May 2013

- https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210013/130520_Institute_of_Acoustics.pdf
- CD9.11 Environmental Burden of Disease – European Countries project WHO Geneva (2011)
- CD9.12 Nissenbaum MA Aramini JJ Hanning CD: Effects of Industrial Wind Turbine Noise on Sleep and Health Noise Health 2012 14: 237-43 <http://noiseandhealth.org/text.asp?2012/14/60/237/102961> (accessed 28 November 2012)
- CD9.13 Ollson CA Knopper LD McCallum LC Whitfield-Aslund ML: Letter to Editor – Are the findings of 'Effects of Industrial Wind Turbine Noise on Sleep and Health' supported? Noise Health 2013 15: 148-50
- CD9.14 Barnard M: Letter to Editor: Issues of Wind Turbine Noise – Noise Health (serial online) 2013 [cited 2013 Oct 24] 15: 150-2. Available from <http://noiseandhealth.org/text.asp?2013/15/63/150/110305>
- CD9.15 Dr Jeffrey Ms Krogh and Mr Horner: VOL 59: September 2013 Canadian Family Physician
- CD9.16 Hume KI Brink M Basner M: Effects of Environmental Noise on Sleep: Noise Health 2012 14: 297-302
- CD9.17 Why Wind Turbine Noise Annoys? Bowdler D Proc. Fourth International Meeting on Wind Turbine Noise Rome (12-14 April 2011)
- CD9.18 Crichton F et al: Can Expectations Produce Symptoms from Infrasound Associated with Wind Turbines? Health Psychology 0278-6133/13 American Psychological Association <http://dx.doi.org/10.1037/a0031760>
- CD9.19 Energy, Sustainable Development and Health EUR/04/5046267/BD/8 Page 79 WHO (3 June 2004)
- CD9.20 Low Frequency Noise and Wind Turbines: BWEA (2005)
- CD9.21 A review of Published Research on Low Frequency Noise and its Effects: Report for DEFRA by Dr Geoff Leventhall assisted by Dr Peter Pelmear and Dr Stephen Benton (May 2003)
- CD9.22 Infrasound Emission from Wind Turbines: Jakobsen – Journal of Low Frequency Noise, Vibration and Active Control Pages 145-155 (17 August 2005)
- CD9.23 'In Home Wind Turbine Noise is Conducive to Vibroacoustic Disease' – Mariana Alves-Pereira, ERISA-Lusofona University, Lisbon (July 2007)
- CD9.24 <http://www.nhs.uk/news/2009/08August/Pages/Arewindfarmsahealthrisk.aspx> (last accessed 28 November 2012)
- CD9.25 Low Frequency Noise from large Wind Turbines: Project EFP-06 DELTA (30 April 2008)
- CD9.26 Moller H & Pederson C S: Low Frequency Noise from large Wind Turbines J.Acoust.Soc.Am 129 (6) (June 2011)
- CD9.27 Wind Turbine Sound and Health Effects An Expert Panel Review: Colby et al (December 2009)
- CD9.28 Location, Location, Location: UK Noise Association (August 2006)
- CD9.29 Noise Radiation from Wind Turbines Installed near Homes: Effects on Health – Barbara J Frey BA MA and Peter J Hadden BSc FRICS (June 2007) (www.windturbinenoisehealthhumanrights.com)
- CD9.30 Renewables UK Research into Amplitude Modulation <http://www.renewableuk.com/en/publications/reports.cfm/year/2013/>
- CD10.1 PPS5 Practice Guide: Planning for the Historic Environment Practice Guide (March 2010)

- CD10.2 English Heritage: Wind Energy and the Historic Environment (October 2005)
- CD10.3 English Heritage: Conservation Principles, Policies and Guidance (April 2008)
- CD10.4 English Heritage: The Setting of Heritage Assets (October 2011)
- CD10.5 Kimbolton Conservation Area Character Statement SPG
- CD10.6 Stonely Conservation Area Character Statement SPG
- CD10.7 English Heritage: Climate Change and the Historic Environment (2008)
- CD10.8 English Heritage: Understanding Place – Historic Area Assessments: Principles and Practice (June 2010)
- CD10.9 English Heritage: Understanding Place – Conservation Area Designation, Appraisal and Management (March 2011)
- CD10.10 English Heritage: Seeing the History in the View – A Method for Assessing Heritage Significance in Views (May 2011)
- CD10.11 The Historic Towns of Cambridgeshire – An Extensive Urban Survey – Kimbolton, Huntingdonshire – Draft Report by Cambridgeshire CC (3 March 2003)
- CD11.1 Bicton Wind Farm Volume 2 Environmental Statement (May 2010)
- CD11.2 Cultural Heritage Proof of Evidence of Stephen Carter, Headland Archaeology (15 July 2011)
- CD11.3 Appendices to Cultural Heritage Proof of Evidence of Stephen Carter, Headland Archaeology (15 July 2011)
- CD11.4 Cultural Heritage ZTVs and Visualisations attached to Cultural Heritage Proof of Evidence of Stephen Carter, Headland Archaeology (June 2011)
- CD11.5 Visualisations for the proposed Bicton Wind Farm by Michelle Bolger (Appendix 2)
- CD12.1 Planning Application and supporting documents
- CD12.2 Environmental Statement
- CD12.3 Further Environmental Information (July 2013)
- CD12.4 Development Management Panel Report and Minutes (16 September 2013)
- CD12.5 Appellant's Statement of Case
- CD12.6 Council's Statement of Case
- CD12.7 Statement of Common Ground
- CD12.8 SBWF's Statement of Case
- CD12.9 SBWF Statement of Objection (June 2013)
- CD13.1 Advice on Wind Turbines and Horses – Guidance for Planners and Developers – The British Horse Society (2013)

Inquiry Documents

- ID1 Appellant's Opening Statement
- ID2 SBWF's Opening Statement
- ID3 Council's Opening Statement
- ID4 Committee Report and Frontispiece dealing with Wind Energy in Huntingdonshire SPD for 2 June 2014 meeting
- ID5 SPD: Wind Energy Development in Huntingdonshire Proposed Adopted Version (May 2014)
- ID6 Statement made by District Councillor Jonathan Gray
- ID7 Colour Copies of Maps from SPD
- ID8 Note regarding rotational speed of wind turbines in the animations
- ID9 SPD: Wind Energy Development in Huntingdonshire Adopted Version (June 2014)
- ID10 Suggested Conditions (various iterations)
- ID11 Notes from Tobias William Lewis HDC
- ID12 Statement of Rosemary Lloyd
- ID13 Statement of Michael Hayes
- ID14 Statement of County Councillor Simon Bywater
- ID15 Copy of Judgement in *Lark Energy Ltd v Secretary of State for Communities and Local Government and Waveney District Council* [2014] EWHC 2006 (Admin)
- ID16 RESTATS data (May 2014)
- ID17 Visual Material Relating to Warren House
- ID18 Additional ZTVs for Listed Buildings
- ID19 Submission from Council on ID18
- ID20 Site Visit Itinerary
- ID21 Written Submission on Noise Conditions from SBWF
- ID22 SBWF's Closing Submissions
- ID23 Council's Closing Submissions
- ID24 Appellant's Notes on Noise Conditions with letter of 16 July 2014
- ID25 Appellant's Closing Submissions
- ID26 Letter from Appellant of 12 August 2014 concerning ID19

Annex C: PLANS

- A 7831-04-N-021 R2: Proposed Site Layout
- B 7831-04-N-016 : General Site Location

Annex D: SUGGESTED CONDITIONS

- 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.
- 2) The permission hereby granted shall endure for a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid (the First Export Date), after which the development shall be removed in accordance with condition 4 below. Written notification of the First Export Date shall be given to the local planning authority no later than 14 days after the event.
- 3) Subject to condition 15, the development hereby permitted shall be carried out in accordance with the layout as illustrated in Figure Number 5.1 (drawing number 7831-04-N-021 Rev 2).
- 4) Not later than 12 months prior to the end of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the local planning authority. The scheme shall make provision for the removal of the wind turbines, all associated above ground works approved under this permission and all turbine foundations (to a depth of at least 1m below original ground level). The scheme shall also include details of the management and timing of any works and a traffic management plan to address potential traffic impact issues during the decommissioning period, location of material laydown areas, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats and details of site restoration measures. The approved scheme shall be fully implemented within 12 months of the expiry of this permission.
- 5) If any wind turbine fails to provide electricity to the grid for a continuous period of 12 months the operator shall:
 - a) notify the local planning authority within one month of the expiry of that 12 month period;
 - b) if so instructed by the local planning authority, submit to the local planning authority for its written approval within 2 months of that instruction a detailed scheme for the repair or removal of that turbine. The scheme shall include as relevant a programme of remedial works where repairs to the relevant turbine are required. Where removal is necessary the scheme shall include a programme for removal of the relevant turbine and its associated ancillary equipment, including cabling (but excluding the turbine bases more than 1m below ground level) and how the disturbed areas will be restored; and
 - c) implement the approved scheme no later than 6 months from its approval, unless a longer period is agreed in writing by the local planning authority.
- 6) No development shall commence 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:
 - a) the routing of abnormal loads (including turbine blades, nacelles and tower components) and construction traffic;

- b) scheduling and timing of movements;
- c) the management of junctions to and crossings of the public highway and other public rights of way;
- d) timing and details of escorts for abnormal loads;
- e) temporary warning signs;
- f) temporary removal and replacement of highway infrastructure/street furniture;
- g) reinstatement of any signs, verges or other items displaced by construction traffic;
- h) the site access and banksman/escort details; and
- i) pre-wind turbine delivery road condition surveys for the route identified in Figure 13.1 (drawing number 7831-04-N-033) (excluding the section of the A6 included in the route) together with a timetable for post-construction re-survey and repair if necessary.

No vehicles transporting abnormal loads shall access the site until any identified and agreed works to accommodate abnormal loads along the delivery route have been carried out and measures put in place to maintain any such works for the period in which all abnormal loads will be delivered to the site. The approved CTMP, including any agreed repair, improvements or works to accommodate construction traffic where required along the route, shall be carried out as approved.

- 7) No development shall commence 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 only be carried out in accordance with the approved CMS, subject to any variations approved in writing by the local planning authority. The CMS shall include details of the following matters:
- a) the construction and surface treatment of all hard surfaces and tracks to include their decommissioning and subsequent reinstatement of the land;
 - b) the proposed storage of materials and disposal of surplus materials;
 - c) dust management;
 - d) siting and details of wheel washing facilities;
 - e) the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
 - f) areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
 - g) the construction of the site access, the erection of any access gates and the creation and maintenance of associated visibility splays;
 - h) cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to or from the site to prevent spillage or deposit of any materials on the highway;
 - i) pollution control measures in respect of water courses and ground water; bunding of fuel storage areas; surface water drainage; foul sewerage; and discharge of foul drainage.

- j) details and a timetable for post construction restoration or reinstatement of the temporary working areas and the construction compound;
 - k) details of emergency procedures and pollution response plans;
 - l) working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009;
 - m) temporary site illumination during the construction period including proposed lighting levels together with the specification of any lighting;
 - n) a site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats; and
 - o) the phasing of construction works.
- 8) All construction and decommissioning works shall only take place between the hours of 07:00 to 19:00 Monday to Friday inclusive and 08:00-13:00 Saturdays. No construction or decommissioning works shall take place on a Sunday or a Public Holiday. Works at the site outside these hours shall be limited to emergency works and dust suppression, unless previously approved in writing by the local planning authority. In the case of an emergency the local planning authority must be notified by telephone, in writing or electronically as soon as practicable (and in any event within 48 hours following the emergency's first being identified) such notification to include details both of the emergency and of any works carried out or proposed to be carried out.
- 9) The delivery of any construction materials or equipment for the construction of the development, other than turbine blades, nacelles and towers, shall be restricted to the hours of 07:00 to 19:00 Monday to Friday inclusive and 08:00 to 13:00 Saturdays. No such deliveries shall take place on a Sunday or Public Holiday unless previously approved in writing by the local planning authority having been given a minimum of 2 working days' notice of the proposed delivery.
- 10) The blades of all wind turbines shall rotate in the same direction. The overall height of the wind turbines shall not exceed 125m to the tip of the blades when the uppermost blade of the turbine is in the vertical position as measured from natural ground conditions immediately adjacent to the turbine base. The hub height of the wind turbines shall be between 74.5m and 85m.
- 11) No turbine shall be erected until details of the colour and finish of the towers, nacelles and blades and any external transformer units and of the finish and colour of the meteorological mast have been submitted to and approved in writing by the local planning authority. No name, sign, or logo, other than those required to meet statutory health and safety requirements, shall be displayed on any external surfaces of the wind turbines or any external transformer units or the meteorological mast. The approved colour and finish of the wind turbines and any external transformer units and the meteorological mast shall be implemented prior to the wind turbines becoming operational and shall not be changed without the prior approval in writing of the local planning authority.

- 12) The construction of the electricity substation shall not commence until details of the design and the external appearance, dimensions and materials for the building and any associated compound or parking area and details of surface and foul water drainage from the substation building have been submitted to and approved in writing by the local planning authority. The development of the substation building and any associated compound or parking area shall be carried out in accordance with the approved details.
- 13) All electrical cabling between (1) the individual turbines (2) the turbines and the on-site electricity substation and (3) the on-site electricity substation and the boundary of the application site shall be installed underground only.
- 14) There shall be no permanent illumination on the site other than a passive infra-red operated external door light for the substation building door to allow safe access; temporary lighting required during the construction period or during maintenance; emergency lighting; and aviation related lighting.
- 15) Notwithstanding Condition 3, and subject to the restrictions below, the turbines and meteorological mast hereby permitted shall be erected at or within 30 m of the following grid co-ordinates:

RT1	509601	270291
RT2	509905	270168
RT3	510135	269989
Met Mast	510135	269989

The access tracks forming part of the development shall be constructed at or within 30m of the positions shown on Figure Number 5.1: Proposed Site Layout (drawing number 7831-04-N-021 Rev 2).

The restrictions on micro-siting are as follows: (a) Turbine RT1 shall not be erected in any position which is farther to the east of the above coordinates or in any position which is closer than the above coordinates to Blackwell House or High View House; (b) Turbine RT2 shall not be erected within less than 100m from the line of the T-mobile micro-wave link which crosses the site or to within 66m of the woodland to the west; (c) Turbine RT2 shall not be erected in any position which is closer than the above coordinates to Vicarage Farm; and (d) Turbine RT3 shall not be erected in any position which is closer than the above coordinates to Rookery Farmhouse. A plan showing the position of the wind turbines, meteorological mast and access tracks established on the site shall be submitted to the local planning authority within 1 month of the First Export Date.

- 16) No development shall commence until a written scheme of investigation including a programme of archaeological work and a timetable for carrying out this work has been submitted to and approved in writing by the local planning authority. Work shall be carried out in accordance with the approved programme of archaeological work and approved timetable.
- 17) No development shall commence until an Ecological Mitigation Strategy (EMS) has been submitted to and approved in writing by the local planning

authority. The EMS shall contain measures to prevent or reduce potentially adverse impacts on ecological receptors; and provide the framework for the engagement of a project ecologist or ecological clerk of works in relation to the implementation of the EMS. The EMS shall be implemented as approved.

- 18) No development shall commence until a Habitat Management and Enhancement Plan (HMEP), including a timetable for its implementation and proposals for subsequent management and maintenance, has been submitted to and approved in writing by the local planning authority. The HMEP shall: a) contain measures to reduce the risk of damage to retained habitats and aid their recovery; b) make provision for hedgerow planting to fill the gaps within the existing Hedgerow H1 which connects Woodland W1 and Woodland W2, all as identified on Figure 9.2 (drawing number 16102/HB/002a), in the position shown in Figure 9.11 (drawing number 16102/HB/007a); and c) make provision for approximately 550m of new hedgerow planting along the extent of the application site boundary with Stow Longa Road. The HMEP shall be implemented as approved.
- 19) A specification for a badger survey to be carried out shall be submitted to the local planning authority for its written approval. The survey shall be undertaken by a suitably qualified ecologist in the last suitable season prior to the commencement of site preparation and construction work. No development shall commence until the survey results and a programme of any mitigation works required has been submitted to and approved in writing by the local planning authority. The approved programme of mitigation works shall be implemented in full.
- 20) No development shall commence until details of bird nesting boxes suitable for small passernines to be installed at the locations identified on Figure 9.11 (drawing number 16102/HB/007a) have been submitted to and approved by the local planning authority. The bird nesting boxes shall be installed on site in accordance with the approved details.
- 21) No turbine shall be erected until details of MoD accredited 25 candela omni-directional infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration, to be fitted at the highest practicable point on each wind turbine, have been submitted to and approved in writing by the local planning authority. The approved lighting shall be provided immediately following the erection of the wind turbines and retained in working order for the life of the development.
- 22) No turbine shall be erected until the developer has provided written confirmation to the local planning authority of the proposed date for erection of the turbines, the anticipated date of completion of construction of the turbines, the height above ground of the highest structure in the development and the position of each wind turbine in latitude and longitude.
- 23) No wind turbine shall export electricity to the grid until a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to television caused by the operation of the turbines has been submitted to and approved in writing by the local planning authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with

television reception at a dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission, where such complaint is notified to the developer by the local planning authority within 12 months of the First Export Date. The scheme shall provide for a qualified television engineer to investigate such complaint within 14 days of first notification of the complaint to the developer. Where impairment is determined by the engineer to be attributable to the wind farm, mitigation works shall be carried out in accordance with the scheme which has been submitted to and approved in writing by the local planning authority. All complaints properly received by the developer from the local planning authority shall be resolved and where relevant mitigation works completed by the developer within 42 days of first notification of the complaint to the developer.

- 24) No turbine shall be erected until a written scheme has been submitted to and approved in writing by the local planning authority for the avoidance of shadow flicker at any dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission. The scheme shall include remedial measures and shall provide for all complaints to be investigated and where relevant remedial works carried out and completed by the developer within 28 days of first notification of the complaint to the developer. Operation of the turbines shall be in accordance with the approved scheme which shall be followed unless the local planning authority gives its prior written approval to any variations
- 25) The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in or derived from Tables 1 and 2 attached to these conditions and:
 - (A) Prior to the First Export Date, the wind farm operator shall submit 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.
 - (B) Within 21 days from receipt of a written request of the local planning authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the local planning authority to assess the level of noise immissions from the wind farm at the complainant's property 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. Within 14 days of receipt of the written request of the local planning authority made under this paragraph (B), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the local planning authority in the format set out in Guidance Note 1(e).
 - (C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location

shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm 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 submission of the proposed noise limits to the local planning authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. 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.

(D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the local planning authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the local planning authority pursuant to paragraph (C) of this condition shall be undertaken at the measurement location approved in writing by the local planning authority.

(E) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (F) of this condition, the wind farm operator shall submit to the local planning authority for written approval a proposed assessment protocol setting out the following: (i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions; (ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

(F) The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the local planning authority under paragraph (B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the local planning authority and the attached Guidance Notes.

(G) The wind farm 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 made under paragraph (B) of this condition 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.

(H) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (F) above unless the time limit for the submission of the further assessment has been extended in writing by the local planning authority.

(I) The wind farm operator shall continuously log wind speed at a height of 10 metres and wind direction at the permanent meteorological mast erected in accordance with this permission and shall continuously log power production and nacelle wind speed, nacelle wind direction and nacelle orientation at each wind turbine all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine and the permanent meteorological mast shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the local planning authority on its request within 14 days of receipt in writing of such a request.

Note: For the purposes of this condition, a "dwelling" is a building within Use Class C3 or C4 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.

Table 1 – Between 07:00 and 23:00 - Noise level dB L_{A90}, 10-minute

Location (Easting, Northing grid coordinates)	Wind speed measured at 10 metres height (m/s) within the site averaged over 10 minute periods											
	L _{A90} Decibel Levels											
	1	2	3	4	5	6	7	8	9	10	11	12
Ringleton (510556, 270738)	35	35	36	37	39	41	44	47	51	54	57	59
Rookery Farm (510870, 270283)	35	35	35	36	38	41	44	47	50	52	55	56
Kimbolton (509879, 268524)	35	35	37	38	40	41	42	44	45	47	48	49
Cobwebs (509086, 269246)	35	35	37	39	41	42	44	46	48	50	51	53
Highview House (508780, 270371)	35	37	38	40	42	44	46	47	49	51	53	54
Molly Rose Cottage(509300, 271643)	37	37	37	39	40	42	45	47	50	52	54	56

Table 2 – Between 23:00 and 07:00 - Noise level dB L_{A90}, 10-minute

Location (Easting, Northing grid coordinates)	Wind speed measured at 10 metres height (m/s) within the site averaged over 10 minute periods											
	L _{A90} Decibel Levels											
	1	2	3	4	5	6	7	8	9	10	11	12
Ringleton (510556, 270738)	43	43	43	43	43	43	43	47	50	54	57	60
Rookery Farm (510870, 270283)	43	43	43	43	43	43	43	44	47	50	52	55
Kimbolton (509879, 268524)	43	43	43	43	43	43	43	43	43	43	44	46
Cobwebs (509086, 269246)	43	43	43	43	43	43	43	43	46	49	52	54
Highview House (508780, 270371)	43	43	43	43	43	43	43	45	49	52	54	55
Molly Rose Cottage(509300, 271643)	43	43	43	43	43	43	43	45	47	50	53	56

Note to Tables 1 & 2: The geographical coordinates references set out in these tables are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies. The wind speed at 10 metres height within the site refers to wind speed measured directly at 10 metres height.

Guidance Notes for Noise Condition

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 emissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

- (a) Values of the $L_{A90,10\text{-minute}}$ noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), 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 before and after each set of measurements, using a calibrator meeting BS EN 60945:2003 "Electroacoustics – sound calibrators" Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.
- (b) The microphone shall 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 shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the local planning authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The $L_{A90,10\text{-minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).

- (d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in metres from north in each successive 10-minutes period at the permanent meteorological mast erected in accordance with the planning permission on the site. Each 10 minute arithmetic average mean wind speed data shall be measured at a height of 10 metres. It is this measured 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated during each successive 10-minutes period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.
- (e) Data provided to the local planning authority in accordance with paragraphs (E) (F) (G) and (H) of the noise condition shall be provided in comma separated values in electronic format.
- (f) A data logging rain gauge shall be 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). The wind farm operator shall submit details of the proposed location of the data logging rain gauge to the local planning authority prior to the commencement of measurements.

Note 2

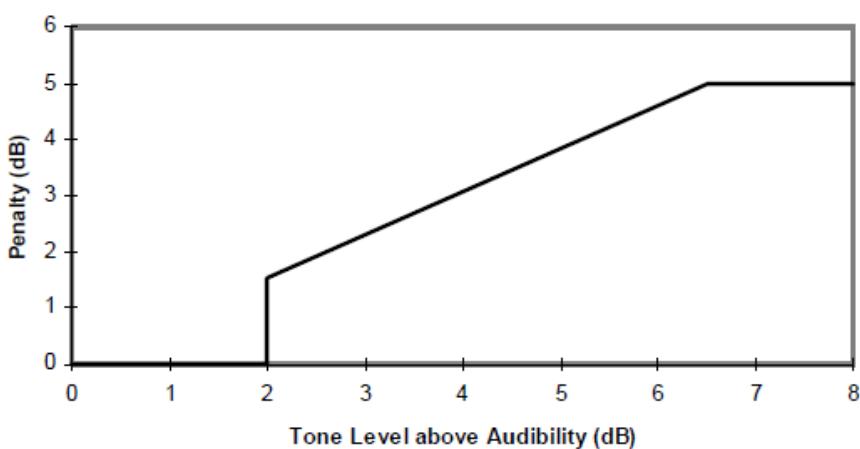
- (a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).
- (b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the local planning authority under paragraph (E) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).
- (c) Values of the $L_{A90,10\text{-minute}}$ noise measurements and corresponding values of the 10-minute measured ten metre height wind speed for those data points considered valid in accordance with Note 2(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) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (E) 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 shall be calculated and applied using the following rating procedure.
- (b) For each 10-minute interval for which $L_{A90,10\text{-minute}}$ data have been determined as valid in accordance with 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 audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.
- (d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- (e) A least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values. 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 derived from the average tone level above audibility for each integer wind speed.



Note 4

- (a) If a tonal penalty is to be applied in accordance with 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 Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol under paragraph (E) 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 Note 2.
- (c) If the rating level 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 (C) of the noise condition then no further action is necessary. 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 (C) 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 farm 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:
- i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (E) of this condition.
 - ii. The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.

If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) 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 (C) 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 (C) of the noise condition then the development fails to comply with the conditions.



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.