Department for Communities and Local Government

Ms Sophie Nioche
Development Manager
Wind Prospect Limited
7 Hill Street
Bristol BS1 5PU

Our Ref: APP/B3030/W115/3003130

30 June 2016

Dear Ms Nioche

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY WIND PROSPECT LTD
AT AGRICULTURAL LAND WEST OF NEWARK ROAD, HAWTON, NEWARK-ON-TRENT, NOTTINGHAMSHIRE, HG24 3RJ
APPLICATION REFERENCE 13/00889/FULM

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Graham Dudley BA(Hons) Arch Dip Cons AA RIBA FRICS who made a site visit on 2 October 2015 into your appeal against the decision of Newark & Sherwood District Council ('the Council') to refuse planning permission for the construction and operation of a wind farm consisting of four 130m high to blade tip wind turbines, an 80m anemometry mast and associated infrastructure at agricultural land west of Newark Road, Hawton, Newark-on-Trent, Nottinghamshire, NG24 3RJ in accordance with application reference 13/00889/FULM.

2. On 10 December 2015 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 it involves proposals which raise important or novel issues of development control and/or legal difficulties.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation. Therefore, the Secretary of State dismisses the appeal and refuses 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 submitted Environmental Statement (ES). Overall the Secretary of State is satisfied that the ES

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complies with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Policy and Statutory Considerations

5. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan consists of the Newark and Sherwood Local Development Framework Core Strategy Development Plan Document adopted March 2011 and the Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document. The Secretary of State considers that the development plan policies of most relevance to this appeal are those identified by the Inspector at IR11.

6. Other material considerations which the Secretary of State has taken into account include: the National Planning Policy Framework, March 2012 ('the Framework'); the National Planning Practice Guidance ('the guidance') and the Written Ministerial Statement ('WMS') on local planning of 18 June 2015. This is the planning policy and guidance referred to by the Inspector in IR227. Given its relevance to this case, the Secretary of State attaches substantial weight to the WMS as the most recent expression of government planning policy for onshore wind development. Like the Inspector (IR152), he has also taken account of the Wind Energy Supplementary Planning Document (SPD) (March 2014) and the English Heritage/Historic England guidance entitled "*The Setting of Heritage Assets*" as updated in July 2015.

7. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), the Secretary of State has paid special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance conservation areas, as required by section 72(1) of the LBCA.

Main Issues

8. The Secretary of State agrees with the Inspector that the main issue in this case is that set out at IR136. However, the Secretary of State reaches a different conclusion on that issue. The Secretary of State also considers that his Written Ministerial Statement on local planning is a significant issue.

Heritage

9. The Secretary of State notes and agrees with the Inspector's comments regarding St Mary Magdalene Church (IR160 - 168), that the significance of the Church would not be affected and the special architectural and historic interest would be preserved. He also notes and agrees with the Inspector regarding All Saints Church Hawton (IR169 - 174) that the landscape character of the surroundings would remain with the church as a main feature.

10. The Inspector notes and the Secretary of State agrees that there would be some harmful impact on the significance of the Church of St Michael, Cotham (IR175-183). He further agrees that this would be a 'less than substantial' level of harm. He agrees

that the harm to the setting would have some impact on the significance of the church through its impact on the way that the asset is appreciated from the footpaths.

11. The Inspector notes that there would be no harm to the Elston Chapel (IR 184-189), the Secretary of State agrees. The Inspector notes and the Secretary of State agrees that the significance of the various assets in the Sibthorpe Complex (IR 190-201) would not be harmed and that the special architectural and historic interest of the assets would be preserved. The Secretary of State also agrees with the Inspector that the setting of Newark Castle (IR 202-204) would not be harmed, noting that its special architectural and historic interest would be preserved.

12. The Secretary of State notes and agrees with the Inspector that although the development would generally accord with the Core Strategy policies 14, NAP 1C and DMD Policy DM9, it would not accord with these policies in respect of St Michael's Church, Cotham (IR205) and would not preserve its special architectural and historic interest.

Living Conditions

13. The Inspector notes (IR 212-213) and the Secretary of State agrees that the Environmental Statement acknowledges that there would be some magnitude of change to some views with the resulting impact on some occupiers and has included this consideration in the planning balance. He also notes the Inspector's comments regarding noise and shadow flicker (IR 214-221) and agrees that the impact from noise on the living conditions of neighbouring occupiers would be acceptable and that the potential effects from shadow flicker are limited and would not result in unacceptable harm to the living conditions of neighbouring occupiers.

Ecology

14. The Secretary of State agrees with the Inspector's findings that any potential effect of the development in ecology terms (IR222-226) would be reasonable or will be suitably mitigated and that the proposal would accord with CS Policy CS12 and DMD Policy DM7).

Landscape

15. Having noted the Inspector's analysis at IR156-239, the Secretary of State has carefully considered the impact of the proposed development on the character and the visual amenity of the landscape. He has also considered the potential cumulative impacts with other proposed and permitted turbines.

16. The Secretary of State has carefully considered the Inspector's assessment of cumulative impact at IR207-213. He agrees (IR207) that the additional turbines would appear as prominent man-made features within this localised landscape and would affect the appearance of the landscape and would not increase visual unity and so would not be in compliance with policy to protect the landscape. He further agrees (IR211) that there would be some impact, particularly locally, which weighs against the proposal. He affords moderate weight to the impact on character and appearance.

Other Considerations

17. In common with the Inspector (IR236), the Secretary of State attaches significant weight to the benefits of the proposal. The Secretary of State notes that the turbines would provide electricity to the local network from a renewable source. The Secretary of State agrees with the Inspector that these benefits are consistent with the

provisions of the NPPF to support a transition to a low carbon future and to promote the development of agriculture, and that this carries significant weight.

Written Ministerial Statement

18. The Secretary of State also takes account of, the WMS of 18 June 2015. As the appeal proposal predates the WMS and the development plan does not identify suitable sites, the transitional provision within the WMS is applicable. This states that '*local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing'*.

19. The Secretary of State notes that affected local communities have raised concerns in relation to heritage assets, character, appearance, shadow flicker, noise and visual amenity.

20. The Secretary of State notes the Inspector's comments on the Written Ministerial Statement (IR227-232). However, the Secretary of State's concludes, in agreement with the Inspector, that the siting of the proposed turbines will result in harm to the landscape, to the significance of St Michael's Church, Cotham, and to the visual amenity of neighbouring properties. While he finds that these impacts are limited, he concludes that they are such that some of the planning impacts identified by affected local communities have not been addressed in the circumstances of this case. Accordingly, he considers that the transitional provision within the WMS has not been satisfied, and he gives substantial weight to this conflict.

Conclusions

21. The Secretary of State has given very careful consideration to the Inspector's concluding remarks at IR233-239.

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out in this letter, the Secretary of State concludes that while the appeal proposal would not conflict with policies Core Policy 9 (Sustainable Design), Core Policy 10 (Climate Change), Policy DM4 (Renewable and Low Carbon Energy Generation) or Policy DM12 (Presumption in Favour of Sustainable Development), it would conflict with Core Policy 13 (Landscape Character), Core Policy 14 (Historic Environment), Area Policy NAP 1C DMD (Historic Environment), and DMD Policy DM 9 Protecting and enhancing the Historic Environment. As such the Secretary of State concludes that the proposed wind turbines would not therefore accord with the development plan when read as a whole. The Secretary of State has then gone on to consider whether there are any material considerations justifying determining the case other than in accordance with the development plan.

23. The Secretary of State accepts that the turbines would make a contribution to the attainment of national and local renewable energy policy objectives and targets and he gives significant weight to this.

24. However, the Secretary of State has taken account of paragraph 5-007 of the PPG which states that 'the need for renewable or low carbon energy does not automatically override environmental protections'. He therefore weighs the harms by way of harm to landscape, to which he gives moderate weight, and to the impact on the visual amenity

of neighbouring properties against the proposal, to which he affords moderate weight. In line with paragraph 132 of the Framework, and in agreement with the Inspector (IR238), the Secretary of State gives great weight to the impact on the setting of St Michael's Church, Cotham He disagrees with the Inspector in also weighing the conflict with the provisions of the WMS, to which he affords substantial weight.

25. Overall, the Secretary of State concludes that the balance is against granting planning permission for the wind turbines. He considers that the harm is not outweighed by the benefits of the proposal and the material considerations in this case do not justify determining the appeal other than in accordance with the development plan.

26. Given this, the Secretary of State does not agree with the Inspector's overall recommendation that the appeal should be allowed.

Conditions

27. The Secretary of State has had regard to the schedule of conditions at Annex A to the IR. He is satisfied that the Inspector's proposed conditions are reasonable and necessary and would meet the tests of the paragraph 206 of the Framework. However, he does not consider that they would overcome his reasons for dismissing this appeal.

Formal Decision

28. For the reasons given above, the Secretary of State dismisses your appeal and refuses planning permission for the construction and operation of a wind farm consisting of four 130m high to blade tip wind turbines, an 80m anemometry mast and associated infrastructure at agricultural land west of Newark Road, Hawton, Newark-on-Trent, Nottinghamshire, NG24 3RJ in accordance with application reference 13/00889/FULM dated 3 July 2013.

Right to challenge the decision

29. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

30. A copy of this letter has been sent to Newark & Sherwood District Council. A letter of notification has also been sent to all other parties who asked to be informed of the decision.

Yours sincerely

Phil Barber

Authorised by the Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

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

Date: 29 March 2016

Town and Country Planning Act 1990

Appeal by Wind Prospect Ltd

Newark & Sherwood District Council

Inquiry commenced on 29 September 2015

Agricultural land west of Newark Road, Hawton, Newark-on-Trent, Nottinghamshire NG24 3RJ

File Ref: APP/B3030/W/15/3003130

File Ref: APP/B3030/W/15/3003130
Agricultural land west of Newark Road, Hawton, Newark-on-Trent Nottinghamshire NG24 3RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Wind Prospect Ltd against the decision of Newark & Sherwood District Council.
- The application Ref 13/00889/FULM, dated 3 July 2013, was refused by notice dated 9 October 2014.
- The development proposed is for the construction and operation of a wind farm consisting of four 130m high to blade tip wind turbines, an 80m anemometry mast and associated infrastructure for a period of 27 years.

Summary of Recommendation: The appeal be allowed, subject to conditions

Procedural Matters

1. The inquiry occurred on 29 and 30 September and 1 October 2015 with the site visit on 2 October 2015.

2. This report includes a description of the application site and surrounding area, the gist of the cases made at the inquiry and my conclusions and recommendation. I have attached all documents, including proofs of evidence/statements and plans submitted to the inquiry. These are as originally submitted and do not take account of how the evidence may have been affected during the inquiry.

3. The appeal was recovered for decision by the Secretary of State by a direction, made under section 79 of the Town and Country Planning Act 1990, on 10 December 2015.

The Site and Surroundings

4. The proposal is described in the Environmental Statement[1]. A site location plan is attached to the Statement of Common Ground[2]. Construction access would be from the A1 via Valley Lane, Grange Lane and Newark Road with one entrance to turbine 1 and another entrance to turbines 2, 3 and 4. The anticipated operational turbine life is 27 years, after which the development would be decommissioned.

5. A Landscape Character Assessment has been adopted, identifying five landscape character types in the district. The turbines would be in the South Nottinghamshire Farmlands Regional Character Area. Within the section related to this area, the need for renewable energy schemes is recognised, noting that they have potential to change the landscape character of the area. Within this area there are two landscape character types, Meadowlands and Village Farmland, and the appeal site is within both types.

6. The Newark and Sherwood Capacity Study for Wind Energy Development examines the capacity and sensitivity of the district's landscape to wind turbine development. It was prepared to help inform planning application decisions. The

[1] Doc AP4 Chapter 2
[2] Doc CD8.27

council also commissioned land use consultants to provide advice on the proposal, particularly taking account of the now consented scheme at Hawton. The advice was that the study area defined by the LVIA, and the appellant's assessment of landscape sensitivity within the LVIA, have been conducted in a clear and transparent way, with sufficient detail to consider it reliable.

7. The Meadowlands and Village Farmlands areas have a moderate to high sensitivity to wind turbine development of the scale proposed, but the study indicates that where in the Meadowlands area sites are able to accommodate turbines, then the large scale landscape could potentially accommodate 8 to 10 turbines. In the Village Farmlands, depending on siting and sensitivity, up to 8 turbines might be accommodated.

8. The landscape advice to the council was that the landscape at the site overall is considered to be of low to moderate sensitivity, with the western part of the site of higher sensitivity (moderate) because of the woodlands, hedges and more enclosed nature. In relation to this appeal the key sensitive features include the tree lined roads and broadleafed woodland, rural villages and associated smaller-scale pasture and the River Devon Corridor.

9. The nearest residential property without a financial interest is over 1km away[3]. In relation to the main issue in this appeal the various heritage assets are identified in the Statement of Common Ground[4]. The assets which are agreed to be in dispute are listed in the Statement of Common Ground[5].

10. It is also relevant that the Secretary of State granted planning permission for Hawton Wind Farm comprising 3 wind turbines each about 126m high and located approximately 600m away and in a similar landscape context[6].

Planning Policy

11. The development plan includes Newark and Sherwood Local Development Framework Core Strategy Development Plan Document [CS] (March 2011)[7] and the Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document[8] [DMD]. The policies relevant to the proposal are set out in the Statement of Common Ground[9]. In relation to the main issue in this appeal the policies identified are CS Policy CS14 and DMD Policies DM4 and DM9. Also identified is the National Planning Policy Framework [the Framework]. The appellant draws attention to national energy policy and local policies relating to climate change, including CS Policy CS10. DMD Policy DM12 also has a presumption in favour of sustainable development, similar to that of the Framework.

Planning History

12. Planning permission was granted for the temporary provision of an anemometer mast for a period of 2 years, extended for another year, and there was a request

[3] Doc CD8.27, appendix 4 shows residential properties
[4] Doc CD8.27, appendix 5 shows the various heritage assets
[5] Doc CD8.27, Table 1, page 14 – lists relevant heritage assets
[6] Doc CD8.27, appendix 5 shows location
[7] Doc CD1.1 CS Policies
[8] Doc CD1.2 DMD Policies
[9] Doc CD8.27, Section 6, page 9

for a scoping opinion in November 2011. The planning application that is the subject of this appeal was refused in October 2014.

The Proposal

13. The proposal consists of 4 wind turbines, each of 130m maximum height to the blade tip, together with an anemometer and associated foundations. Ancillary works include a crane hard standing adjacent to each turbine, site access tracks, underground cables, switchgear house and temporary construction compound. The turbines would have an installed capacity of up to 2.5MW, giving a maximum installed capacity of 10MW.

The Case for Newark & Sherwood District Council

The case for the council is set out in documents LA1 and LA2. Opening submissions are at Doc3 and closing submissions are at Doc29. The council's statement of case is on the main file (purple) in the green folder. The material points are:-

Development Plan Policies

14. The Statement of Common Ground[10] lists a number of Core Strategy policies considered relevant to this appeal. Of particular note are Core Policy 10 (Climate Change); Core Policy 14 (Historic Environment); Area Policy NAP 1 C (Newark Urban Area – Historic Environment)[11].

15. CS Policy CS10[12] relates to the issue of climate change and states that the council is committed to tackling the causes and effects of climate change and to delivering a reduction in the district's overall CO2 emissions. The Local Development Framework (LDF), through its approach to development, will seek to encourage the provision of renewable and low carbon energy generation within new development, stressing the phrase 'where appropriate'. This Policy states that the council will produce guidance to assist developers in implementing the renewable and low carbon energy targets and the Supplementary Planning Document on Wind Energy (March 2014) is such a document[13].

16. CS Policy CS14[14] relates to the historic environment and states that the District's outstanding heritage contributes to providing a historic environment with its own distinctive identity. Paragraph 5.67 acknowledges that it may be necessary to accommodate historically appropriate, sensitive and sustainable changes. It continues that any proposals concerning heritage assets will secure their continued protection and enhancement, contributing to the wider vitality, viability and regeneration of an area, reinforcing a strong sense of place.

17. CS Policy CS14 states that the District Council will work with partners and developers in order to secure,

    'The continued preservation and enhancement of the character, appearance and setting of the District's heritage assets and historic environment, including Scheduled Monuments and other archaeological sites, Registered Historic

[10] Document CD8.27 Statement of Common Ground
[11] Document CD1.1 Core Strategy
[12] Document CD1.1 page 55
[13] Doc CD3.5
[14] Document CD1.1 page 65

Parks and Gardens, Listed Buildings and buildings of local historic importance, Conservation Areas and other cultural assets of significant value'

18. Policy NAP 1 C[15] (Newark Urban Area - Historic Environment) reflects this sentiment and seeks to protect and enhance the architectural, historical and archaeological character of Newark and its riverside, which is of particular relevance to the potential impact of the proposed turbines on the setting of Newark Castle.

Newark and Sherwood Allocations & Development Management Development Plan Document

19. The policies considered particularly relevant to this appeal are: DM4[16] Renewable and Low Carbon Energy, Policy DM9 Protecting and Enhancing the Historic Environment and Policy DM12 Presumption in Favour of Sustainable Development. Policy DM4 Renewable and Low Carbon Energy Generation provides a policy framework in which to assess applications for renewable and low carbon energy generation schemes. The policy indicates that the decision maker should take a balanced approach to the assessment, '*where its benefits are not outweighed by detrimental impact from the operation and maintenance of the development and through the installation process upon....*(*inter alia*)'

20. Policy DM9[17] Protecting and Enhancing the Historic Environment**,** in accordance with the requirements of the Core Policy states that, '*all development proposals concerning heritage assets will be expected to secure their continued protection or enhancement, contributing to the wider vitality, viability and regeneration of the areas in which they are located and reinforcing a strong sense of place.'*

21. Section 4 relating to Archaeology states that, 'Development proposals should take account of their effect on sites and their settings with the potential for archaeological interest. Planning permission will not normally be granted for development proposals which would destroy or detrimentally affect Scheduled Ancient Monuments.'

22. Policy DM12[18] Presumption in Favour of Sustainable Development states that 'A positive approach to considering development proposals will be taken that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework to secure development that improves the economic, social and environmental conditions within the district.

Newark and Sherwood Supplementary Planning Document: Wind Energy (March 2014) (CD3.5)

23. The Council has prepared a Wind Energy Supplementary Planning Document (SPD) which describes the approach that the Council will take to wind energy development within the District, setting out the relevant national and local policies that provide a context for the document. As part of the production of this SPD the Newark and Sherwood District Council Landscape Capacity Study (LCS) was carried out (see below). Under the SPD's criteria the turbines in this appeal are described as 'Very Large' in size (4.2.10).

[15] Document CD1.1 page 73
[16] Document CD1.2 page 112
[17] Document CD1.2 page 126
[18] Document CD1.2 page 132

24. Section 4.3.0 deals specifically with heritage assets and their setting. The SPD notes how the wealth of designated and non-designated heritage assets within the District makes a valuable contribution to the District's character and are valued by residents and visitors. It notes that the impacts upon these assets from wind energy schemes are a material consideration. Paragraph 4.3.3 notes that, '*Inappropriate wind energy developments have the potential to impair the setting of historic sites and can detract from historic character, sense of place, tranquillity and remoteness of the wider landscape.'*

25. *There is agreement between the parties that the proposal would be within the setting of the following identified designated heritage assets*[19]*.*

St Michael's Church, Cotham (Grade II listed)*[20]

26. This is a medieval parish church dating back to the C12, with fabric from the C14, C15, C18 and C19. The present church is a fragment of what was originally a much larger church. It may have had a tower as well as north and south aisles, but any such features were destroyed during the demolition of the west end in the 1890s. The porch was added in 1830 and the entire building restored in 1890. This building is notable for survival of medieval fabric, including interesting graffiti, alongside the wooden panelling of the Georgian box pews and C19 stained glass windows and is of high aesthetic, evidential and historical significance.

27. The church now typifies and complements the small, remote and rural community of Cotham. Despite its reduced size it still remains one of the dominant and significant structures in the parish, acting as a local landmark, imbuing the building with significant local communal value.

28. The church is set back within a field, with the only access over a stile and along a footpath. The adjacent paddock is lightly treed and sometimes grazed by horses, giving a real sense of rural idyll to the church's immediate setting. The church has a very pleasing relationship with the adjacent Manor Farm, itself an attractive and historic non-designated heritage asset[21].

29. The church sits on a ridge, overlooking the Devon Valley below to the north. From the graveyard extensive views open up between the boundary vegetation across this landscape, bringing the more extended setting right up the church[22]. This extended setting is a mostly attractive arable landscape, with only minor intrusions from the distant landmarks of Staythorpe Power Station, four other wind turbines and pylons. The churchyard itself is a very pleasant and informal setting for the church.

30. The intermediate setting of the church comprises the small and attractive village of Cotham. The built form of the village hides the church from view in most places in the village, but very attractive vistas are offered from the main road through the village and from a network of footpaths to the west of the church.

[19] Document CD8,7 SofCG page 14 paragraph 9.6
[20] Document LA1 Section 6 page 34
[21] Document LA1 Appendix 11 (See also AD2 supplementary environmental information Fig2a, 2b, 3
[22] Document LA1 Appendix 11

31. The setting of Cotham Church is remarkably attractive, mostly unspoilt and well insulated from some of the more unattractive features of the wider landscape of the Devon Valley.

32. While there is much to note about the interesting history and fabric of this church, it is its special and idyllic setting which is most instantly noted. The Churches Conservation Trust chooses to introduce the church on their web site as 'A church set in picturesque countryside'.

33. The church is designed so that internal views out into the graveyard and beyond are visible, bringing the attractive rural setting of the church inside, allowing one to appreciate its setting alongside its internal charms. This adds to the sense of tranquillity and peace felt at this church. It is relatively unusual to experience the world beyond the church alongside worship and internal features as most church windows are too high and/or too obscure to allow significant views out.

34. The external views, which would be altered by the proposed turbines, are rightly described as picturesque, in addition to being relatively unspoilt and unaltered. These views represent the most attractive elements of the church's setting and the most used and widely experienced elements of its setting. The views also exemplify what is so special and attractive about this small and unique church, being its unusual isolated and unaltered setting.

35. In the approach to the church across the field, the turbines would not be seen directly behind the church, but they would be significant distractions and an unwanted imposition into an otherwise rather idyllic approach. As one gets further up the hill towards the church, the visibility of the four turbines of this scheme will vary as they come in and out of sight behind buildings and trees. The Hawton turbines will compound the distraction in these approaches.

36. While the Council did not choose to advance substantial harm to Cotham church in the Hawton Inquiry (and for that reason withdrew Cotham church as a Reason for Refusal), the impact of the Fox Covert turbines on Cotham will be far in excess of the Hawton turbines. Additionally, there will also be cumulative impact from the now approved Hawton turbines in views of the church, compounding the amount of visual disturbance around the church and eroding its very pleasant, unspoilt and rural setting. Overall the impact on the significance of this heritage asset would equate to substantial harm.

All Saints Church, Hawton (Grade I listed)[23]

37. The church is an exceptional example of the evolution of medieval gothic architecture (from Early English, to Decorated, through to Perpendicular Gothic). The east window is thought to be one of the finest of its type in England. The quality, extent and high ranking detail of its window tracery, tower, battlements, and internal decoration, align it with the works of master craftsmen and there has been conjecture that masons and carpenters from York, Lincoln and Southwell may have worked on this church. Internally the C14 Easter Sepulchre is a rare and brilliant example, thought to be one of the finest in the country. The tower is the most significant external aspect (with a highly decorated profile of eight finials), intended to elevate the status of the building within the village and

[23] Document LA1 Section 5 page 30

surrounding landscape. The church is of very high aesthetic, evidential and historical significance, with a distinctive tower; it forms a local landmark within Hawton and holds a strong communal significance to its local community.

38. The immediate setting of the church includes the village of Hawton, the bridge over the River Devon and the immediate approaches into the village by road from the north, south and west. The intermediate setting of the church includes a broad radius of up to about 1km. This takes in the wider approach roads from the north, south and west, with trees and bends in the roads limiting longer views. The intermediate setting comprises various agricultural activities, which includes modern structures that are mostly neutral to slightly negative in the church's immediate setting.

39. The strategic setting of the church includes the wider area of land that opens up to the west towards Farndon and along the northern end of the A46 Fosse Road. To the south the strategic setting opens up along Newark Road to around 1.5km, whilst to the east, this extends across to Grange Lane and Staple Lane, where the tower of the church is visible at a greater distance. Spoil/slag heaps towards the northern end of Staple Lane limit the setting to the northeast.

40. The impression of this church in its setting is as much a part of its conscious design as the internal decoration, expressed here by external decorative features of a very high quality, notably the distinctive finials on the tower. The church presides over the village, with attractive and generally glimpsed views within the village, and longer views from the west, looking east, comprising an attractive vista of church and village set within an agricultural landscape. The church identifies Hawton and is a symbol of the dominance of Christianity over the parish. The setting of Hawton church is a key aspect of its aesthetic, historic, evidential and communal significance.

41. The turbines would impact on the wider setting of the church from the northeast and east. However, considering the existing degraded character of the landscape to the northeast through to the southeast, the introduction of the turbines, whilst harmful to some extent, is considered to cause harm at the lower end of 'less than substantial' harm in conjunction with the gypsum works, pylons and slag/spoil heaps.

42. More harm is caused to the strategic setting of the church as viewed from the west of the village by virtue of its more sensitive evolution, management and use. The turbines are also seen in conjunction with the church, within the village from the north looking south[24]. The new A46 and the spur leading towards Hawton offer very attractive views of the Church with its small village around it and its agricultural setting beyond. This is a wedge shaped view focusing on the church. As you widen out from this focal point modern sheds and pylons impinge upon the view, degrading its initially relatively unaltered and idyllic qualities.

43. Views of the church within the village are relatively intimate views, allowing the grandeur and interest of its architectural interest to be appreciated. Views from the north open up as the main road snakes through the village, offering a series

[24] Doc AD2 Figure 6.4.26 shows the impact of the Fox Covert turbines from the west, in addition to the Hawton Turbines. Figure 7 part 1 and 2 of Viewpoint 7 shows the impact of the Fox Covert turbines (alongside the Hawton turbines) from within the village.

of attractive and subtly changing views of the parish church within its historic village setting, the surrounding architecture and townscape complementing this rural parish church and marking the church out as the local landmark structure.

44. The Fox Covert turbines will compound the harm of the Hawton turbines in this view, presenting a large portion of skyline now dominated by wind turbines, altering the agricultural landscape to that of a wind farm. Considering the separation distance of the Fox Covert turbines to the church tower, the level of harm within this view is felt to be at the lower end of less than substantial.

45. The most harmful impact from the turbines on the setting of this church comes from views within the village itself. Landscaping largely obscures unattractive and modern features from the setting of the church within the village, but turbine 1 would be mostly visible behind the church and would be seen spinning with the blades half way up the tower height. A second turbine would be glimpsed immediately within the Church's roof profile. It is accepted that there is some screening of the turbines by trees, but this seems to rest principally on one or two specific trees, which not being in a conservation area or covered by Tree Preservation Orders currently have no known statutory protection. The overall impact is felt to be at the upper end of less than substantial harm.

St Mary's Magdalene Church, Newark (Grade I listed)[25]

46. The nearest turbine is about 4.1km away. The Church of St Mary Magdalene is a landmark building both within Newark's historic core and Conservation Area and in the surrounding landscape. The spire is by far the church's most significant external element and its height (the highest spire in the county) would have been designed to mark not only the building as a significant religious destination, but the town as an affluent and prosperous trading centre, giving the building in its setting significant communal value.

47. The church dates from the late C12 with four clear subsequent architectural phases. The quality in the delivery of the principles of gothic architecture makes the building an exceptional example of gothic architecture. The building has significant architectural, evidential and aesthetic value, appreciated internally as well as externally. The church has significant historical value with extensive mediaeval Royal patronage and strong associations with the English Civil War. The church tower served as a look-out point for the Newark garrison sieges, the spire still bearing a cannon-ball hole from the conflict, and Parliamentary soldiers are said to have stabled horses in the church.

48. The immediate setting of the church comprises the Market Place and surrounding mediaeval street pattern with many listed buildings. The more intermediate setting of St Marys extends to the Georgian, Victorian and Edwardian suburbs of the town, the spire visible in varying degrees along key arterial routes in all directions. Only the Castle, Corn Exchange and brewery sites comprise domes, spires and towers that break what is otherwise a well organised skyline. As such, the tower and spire of St Mary's dominate the skyline of the town and act as a way-finder into the town centre. Most aspects of the intermediate setting are positive to neutral.

[25] Document LA1 Section 4 page 26

49. Due to the broadly flat surrounding topography and the sheer height of the spire, St Mary's enjoys a large, extended setting, which starts from the perimeters of the built up area of the town and extends across the agricultural farmland and surrounding villages within a 3-4km radius of the town. It extends significantly further to the north and northeast by several km along the route of the A1, and substantially further in an easterly and southerly direction as the landscape opens up towards the flat plains of Lincolnshire. There are a number of significant structures in the wider setting, including the sugar beet factory works and Staythorpe Power Station and a number of wind turbines, largely located to the north and west of the church. All are considered harmful to the wider setting and compete with the spire of St Mary's for landmark status. However, from within the A46 ring road, where gaps in the vegetation allow, there are positive views of the church in a southern direction unharmed by these modern competing structures.

50. As a large church with a very tall spire, the church was specifically designed with its setting in mind. It is as impressive internally as it is externally and was designed to be so for many miles around. The use of a spire acts as a call to prayer and a conscious reminder of the Church's power and influence over society from medieval times onwards.

51. Within the town and across the wider setting the spire is by far the tallest structure. Given the large extent of the church's wider setting, other tall structures do intrude, but in many views the ancient view of the town is dominated by the spire.

52. In the case of views from the south, east and west, the turbines would either not be visible or would contribute to a further degraded setting. However, from the north west, much of the low scale industrial activity to the south of the town is not visible and the turbines would appear as new and intrusive structures in the landscape, competing with the historic and well-established profile of the church. The composition of this view is best observed from the elevated position on the A46, at the point the road crosses both the East Coast Main Line and then the River Trent[26].

53. This viewpoint captures the prominence of the tower and spire of the church over its natural setting (the river) and the town itself. This view presents an attractive composition of the historic town laid out around, and dominated by, the spire of St Mary's. The view is significant for immediately identifying the church as by far the tallest, most dominant and important structure in the town of Newark and its surrounding area and acting as local identifier for Newark. From this view the unattractive tall structures which impose upon the wider setting of St Mary's are absent, making this a relatively unspoilt and attractive composition.

54. At the Hawton inquiry there was extensive debate regarding the importance of this view to the overall setting of the Church. The Inspector and Secretary of State deal with this issue at paragraphs 166-170 of the Inspector's report (CD5.9). Without repeating these sections, it is noted that the Inspector concluded that this view is a modern viewpoint rather than a historic route which "*….is not a particularly important viewpoint in terms of the setting of the church*" (para 167). Nevertheless, this remains an important receptor route, offering first

[26] Doc AD2 Figure 1 part 2

impressions of the town and conveying information about the role St Mary's had, and still has, within this town and its wider area.

55. In views from the north the Fox Covert turbines would appear within this view in very close proximity to the church spire, actually flanking the spire on either side. While the turbines would not be taller than the spire in this view, they would reach up to the tower height. By surrounding the church, in combination with their kinetic quality and modern incongruous appearance, they would disrupt the strong relationship of St Mary's with its town and compete with St Mary's for landmark status. This impact is compounded by the proposed Hawton turbines, which present a significant distraction to one side of this heritage asset, increasingly placing St Mary's in a wind farm type landscape. The harm would be at the lower end of 'less than substantial harm'.

Newark Castle (Grade I listed and scheduled monument)[27]

56. The nearest turbine would be about 4.1km away. Newark Castle is arguably Newark's best known landmark and is a striking feature, especially from the riverside. The castle boasts the longest surviving curtain wall in Britain, the first gatehouse keep in Western Europe and the most complete Norman gatehouse in Britain today.

57. The structure comprises complex architectural remains dating back to the C12 with phases of construction. The castle was slighted and left as a roofless ruin following the Civil War siege of 1646 and the stonework on the underside of the gatehouse is still blackened by gunpowder blasts.

58. The castle gardens are now a careful restoration of a planting scheme designed by eminent Victorian landscape architect H.E. Milner and are a well-used public park. The gardens are Grade II listed on the Register of Parks and Gardens. The castle is one of Newark's best known landmarks and is a popular visitor destination, not only for its medieval remains, but also as a pleasant public park. Access to the castle's undercroft, dungeons and gatehouse are readily available through booked tours. Future plans for the castle include greater public access up the gatehouse.

59. Newark Castle has an extensive setting, strongly associated with the whole town of Newark as well as the wider Trent Valley. The castle itself offers extensive views over its setting in a broad arc to the west. While the immediate and most of the intermediate setting is positive or at least neutral, the extended setting inevitably brings into view several modern landmarks, the sugar beet factory and Staythorpe Power Station being particularly incongruous landmarks. The full sweep of the Castle's setting is well observed from the top of the gatehouse[28].

60. Newark Castle was designed to impose and intimidate and it is still a formidable sight, especially looking south east towards the castle and along the river. As a local landmark, it gives Newark a strong sense of place and is a cultural asset the town is proud of and keen to promote. The setting of Newark Castle, in common with most castles, was strategically significant and carefully chosen both to protect, observe and dominate the town and its surroundings.

[27] Document LA1 Section 9 page 48
[28] Doc AD2 Figure 6.4.36

61. The view which is affected by the proposed turbines is that enjoyed from the top of the gatehouse. From here one gets a great sense of the scale of the castle, and the way it is so carefully and strategically sited on higher land next to key transport routes. It also shows the extensive views across the flat lands of the Trent valley. Figure 6.4.36 shows that the turbines are seen from the top of the gatehouse tower. From here the turbines would be an incongruous and distracting feature and would be seen against one of the better preserved wedges of the wider view.

62. Punctuating the horizon in this wide vista are most noticeably the towers of Staythorpe Power Station and the sugar beet factory. In addition, the distant turbines at Eakring and Little Carlton are also visible. However, the direction of view in which the appeal scheme would be seen is free of these modern impositions. Given that the harm is limited to views only from the gatehouse battlements and the wider panorama is far from unharmed, the impact would be 'less than substantial'.

Elston Chapel[29]

63. The nearest turbine would be about 2.8km. The building is cared for by the Churches Conservation Trust and is Grade I listed.

64. The significance includes the attractive Norman doorway with chevron decoration indicating the ancient origins, although most of the fabric dates to the C14 and C16.

65. As well as this important medieval architectural and historical significance, the church is particularly special for its rare survival of a completely untouched poor village church interior of c1820. The building still retains its late C18 or early C19 gallery, which were a common feature in Georgian churches, but were often removed by the Victorians. Similarly, the late Georgian pews here escaped removal and replacement. Also of note are the surviving hat pegs for male parishioners to hang their hats on during services and the sturdy double-decker oak pulpit and reading desk incorporating C17 and C18 panelling. The chapel ceased to be used as parish church in 1870.

66. Elston Chapel is notable for its setting, being located on the edge of the settlement accessed across a field, giving a charming aesthetic quality to the church.

67. While associated with the village, the chapel is only really visible from Chapel Lane. It has an open aspect to the east over open countryside, complemented by the surrounding fields, but marred by the tall pylons. While tightly enclosed by a railing enclosure, the surrounding field is part of its setting. The more intermediate and strategic setting of this building is remarkably limited for a church, owing to the small, barn like proportions, lack of a tower, and tree cover. The building remains mostly hidden over longer distances by its surrounding hedgerows. A footpath leads out past the church into open countryside, linking the church by access, rather than views, to its wider setting.

68. The relatively isolated and rural setting of this church is notable and very attractive. While altered through enclosure and the modern imposition of the

[29] Document LA1 Section 7 page 38

pylons and electric fence, the church's setting is in many ways remarkably little altered and gives a real sense of the ancient to the approach to the church. Its setting contributes directly to the rustic charm and appreciation of this building. From the gallery inside it is possible to see out of the church so its rural setting is still felt from, and experienced alongside, the inside of this building.

69. The views of Elston Chapel that would be affected are the relatively intimate views of the chapel in its immediate rural setting. Not only are these attractive views which perfectly complement this small and rustic church, but they are also informative views, allowing one to see the Norman origins of the building, its unusual isolated position and its small size, which are all the product of this building's specific history. The view which will be impacted upon is the view from the edge of the village, which is also within the designated Conservation Area of Elston.

70. The turbines are sited and seen behind a boundary of hedgerow trees which enclose the paddock around the chapel[30]. The varied height of the tree belt means the blades, and in some cases the hubs, of the turbines would be visible to varying degrees, depending on the view point. Figure 5 part 2, which shows the position of the turbines relative to the church, as well as the level of visual protection provided by the tree screen, has the potential to vary. In some views it is likely that the turbines will be more visible alongside the church than has been shown in Figure 5 part 2.

71. The potential for cumulative harm with the Hawton approved turbines is also apparent, especially so in the winter months. Figures 5 Part 1 and Part 2 of the Cumulative & Photomontage Update (Jan 2015)[31] show that the Hawton turbines will be almost totally screened by the tree belt (although some impression of movement through the trees is likely), while the four Fox Covert turbines appear taller and have a readily discernible impact.

72. The harm is within the less than substantial category. It has not been specifically advanced as a reason for refusal, as the harm to the Conservation Area is felt most strongly through harm to the listed building, and this makes a more logical reason for refusal and the harm to the listed building would be at the upper end of less than substantial harm.

The Sibthorpe Complex[32]

73. Sibthorpe is an important historic settlement, with the Grade I listed medieval church of St Peter and two Scheduled Ancient Monuments [SAMs] comprising the buried and earthwork remains of a medieval village including monastic college, chapel, moat, fishponds, Grade I listed pigeoncote and open field system.

74. The pigeoncote is of an impressive form, being circular with a conical roof, with 1334 nesting holes. It is the earliest and largest dovecote in Nottinghamshire.

75. The earliest parts of St Peter's are the chancel and tower which date from the C13. The church has been the religious and civic focus of the parish of Sibthorpe

[30] Document AD2 Fig 5 Part 2 and Fig 6.4.24
[31] Document AD2 Fig 5 Part 2 and Fig 6.4.24
[32] Document LA1 Section 8 page 42

for over 800 years and is a local landmark structure, giving it substantial communal significance in itself and in relation to the pigeoncote and SAMs.

76. The Scheduled Ancient Monument which will be affected by the proposed turbines is located within the village, flanking the main road and including the dovecote and is described as a medieval village including monastic college, chapel, moat, fishponds, dovecote and open field system.

77. The church, pigeoncote and Scheduled Ancient Monument are all located close to one another and are all inter-visible and to a great extent enjoy a similar setting. The church is surrounded by a grassed churchyard with a thick boundary of yew trees. There are fields beyond, including the field containing the pigeoncote and the Scheduled Ancient Monument. The pigeoncote is a striking feature in the immediate setting of the church and vice-versa. Equally, the earthworks of the Scheduled Ancient Monument are visible within the immediate setting of both the church and pigeoncote. The immediate setting of these assets is very attractive and is only really intruded upon by distant pylons. The pigeoncote and church are the tallest structures in the village, but only really visible as the road emerges at the edge of the village. The distant setting is the wider agricultural landscape where there are distant views from the assets.

78. There is shared evidential and historical value embodied in the setting of these assets, with the church having views out through historic gravestones towards the pigeoncote, in a field of interesting earthworks, and makes a beautiful and attractive composition, one which the village of Sibthorpe is known for locally. The distant composition of the village is also attractive, with its two landmark heritage assets, set in a treed horizon, in a relatively unspoilt rural scene.

79. Figures 4a Part 2 and 4b Part 2[33] show that the impact of the turbines from the immediate setting of the pigeoncote, and to a similar extent the immediate setting of the church and scheduled ancient monument, will be mostly hidden by the tree belt. The greatest impact would be felt in views towards the heritage assets from the south, typified by views from Blackford Bridge in Figure 6.4.39 and 6.4.40[34]. It is also likely that the turbines will be seen in the same vista from points along Newfield Lane and the footpath which links Newfield Lane to Church Lane.

80. The view most altered would be from within the extended setting of the heritage assets, in views from the south west back north towards the village. Figure 6.4.40[35] shows that the turbines would be seen between the church tower and pigeoncote, taller and wider in diameter than both these structures. This completely alters the attractive and informative vista, eroding the close visual relationship between these two assets, vying for precedence with the dominance of these structures, confusing the interpretation of this landscape and greatly eroding the aesthetic charm of the view. The impact would be at the upper end of ‘less than substantial’ and with the Hawton wind farm more exaggerated still.

81. The government’s commitment to renewable energy targets is acknowledged and that this requires a mix of renewable energy projects and this is set down in

[33] Document AD2 Fig 4a part 2 and 4b part 2
[34] Document AD2 Figure 6.4.39 and 6.4.40[34].
[35] Document AD2 Figure 6.4.39 and 6.4.40[35].

the Core Strategy[36] and Allocations and Development Management DPD[37]. While the council has not opposed the development on character and appearance issues, it can be seen from above that there is serious conflict with CS Policy 14 in relation to heritage assets.

82. Historic England (Climate Change and the Historic Environment[38]) states that wind farms need to be carefully sited to avoid compromising the visual setting of important sites or buildings where the integrity of that setting is an important part of their significance. The location of the turbines conflicts with this. The proposal conflicts with Section 66 of the Planning (Listed Building and Conservation Areas) Act, CS Policy CS14, DMD Policies DM4 and DM9 and Section 12 of the Framework.

83. While this has to be balanced against the need for renewable energy production, Newark and Sherwood are making a significant contribution, with many schemes in the district[39]. The proposal does not have the backing of the local community so significant weight should be given to the written ministerial statement of Greg Clarke of 18th June 2015. Even though there is significant general support for the proposal this is not for this specific project but wind energy in general and overall it is the council's view that there is not the support of the local community.

84. It is noted that there would also be economic and social benefits flowing from the scheme. The temporary nature of the scheme has been considered, but 27 years is a long time for such harm to continue. On balance it is the council's view that the benefits would be considerably outweighed by the harm of the turbines to heritage assets.

85. It is agreed common ground that the council does not object to the proposal in terms of landscape character, visual amenity and residential amenity, either for this development alone, or cumulatively with other developments.

86. The council accepts the benefits as identified by the appellant[40]. While reversibility is material, the turbines would cause harm for a significant time and only provides mitigation and does not reduce harm, so weight should be limited. The Hawton wind farm permission is a material consideration, but the correct approach to the planning permission is that it is not a baseline and it may never be built and the proposal should be considered with and without it in place.

87. The written ministerial statement by Greg Clarke MP on 18 June 2015 is also material. The proposal does not have the support of the affected local communities and therefore does not meet the test set out. The council does not accept that it can be found to accord with this policy if the benefits outweigh the impacts; to adopt that approach would render the written ministerial statement pointless.

88. It is the council's view that the 'substantial' and 'less than substantial' harm identified by the council would not be outweighed by the benefits of the proposal, and this would be the case even if the harm were only 'less than substantial' as

[36] CD Document 1.1 Policy CS10
[37] CD Document 1.2 Policy DM4
[38] CD Document 7.2
[39] Document LA2, page 24 paragraphs 5.28 and 5.29
[40] Document 2 page 12 and Document 29 page 13

identified by the appellant. The appellant's witness's case is that there is only limited 'less than substantial' harm, but if there were substantial harm as identified by the council, the appellant's witness acknowledged in cross examination that the benefits of the proposal would not be wholly exceptional sufficient to outweigh 'substantial' harm.

The Case for the Wind Prospect Limited

The case for the appellant is set out in documents AD1 and AD2[41]. Opening submissions are at Doc2 and closing submissions are at Doc30 and Cultural Heritage is assessed in the Environmental Statement, Vol 2 page 155, Section 7. The appellant's statement of case is on the main file (purple) in the green folder. The material points are:-

89. Hawton Wind Farm was approved during the course of this application and appeal. Discussion with the developer indicates that it is going ahead, so it has been considered to be part of the baseline, when considering the cumulative impact of this development. The Fosse Road Turbine and Newark South Extensions were also considered. The proposed turbine at Brecks Lane[42] has also be taken into consideration.

90. The appeal focuses on churches. Historic England notes that churches make a huge contribution to the quality of towns and villages and guidance is given in its National Heritage Protection Plan (2012) where there is a particular emphasis on the interiors. This is further emphasised in Places of Worship Strategy 2013/2018 (EH2014). However, that is not to say that the exterior of churches, and relationship with their surroundings is in any way diminished, but rather that it is all too easy to focus solely on the way the church is designed to make a statement in the landscape. The role as a place of worship must be considered as an important part of its significance.

91. The reason for church towers and spires has never been fully understood[43]. Various explanations have included watchtowers, landmarks, architectural evolution, the desire to build upwards to the 'glory of god' and competition between communities. This is important to remember when assessing the contribution of towers to the asset's significance.

92. The presence of the approved scheme at Hawton Wind Farm is also an important consideration. The landscape assessment by the council assessed the landscape as being able to accommodate the appeal proposal without unduly affecting the landscape, either individually or cumulatively. The Secretary of State agreed with the Inspector and allowed the appeal, against the council's opposition that there would be harm to heritage assets[44]. The relationship to heritage assets is very similar in this case and therefore that decision is a material consideration. There is little difference between the parties in relation to the significance of the assets, the main difference being the effect the proposal would have on that significance and I have not repeated it here.

[41] Doc AD2 has attached at the rear supplementary heritage environmental information looking at supplementary views provided in relation to heritage assets
[42] Doc AD2 Figure 1 shows location
[43] Doc AD2 page 24, paragraph 5.41 and Appendix A page 54
[44] Doc CD5.9

*St Michael's Cotham[45], Grade II**

93. This is 1.1km away from the nearest turbine and the turbines would be located on slightly lower ground than the church. It is 12th century, but much altered at later dates. It does not have a tower, but a small turret from the late 18th century. The church has an interesting mix of windows in different Gothic styles, displayed most clearly in the south wall. A very limited degree of reversible harm is identified to the significance of the church, when it is seen from the footpaths to the south[46]. Turbine tips would be visible in the backdrop, where currently there is a lack of post medieval, industrial or modern features. However, this is not an 'original' or historic view, particularly as the surroundings are much changed with the area of the former village near the footpath now made to pasture, so the current view would not be feasible. The special interest is best appreciated from inside the church or at close proximity externally.

94. Views back from the north west towards the church would not be disrupted by turbines. Views within 1.1 km would not be altered and beyond the turbines the view is not clearly discernible because of the vegetation, so appreciation of the church is limited. In addition, the surrounding landscape is not 'unspoilt', there being other large forms of modern development.

95. The turbines would be largely screened in views of the church of users of the footpaths by the significant tree screening between the church and proposed turbines within the churchyard[47]. In this view, turbine 4 would only be partially visible, with the remaining 3 well screened, even in winter. In the summer even turbine 4 would have considerable screening. The blade of turbine 4 would not be seen above the tree cover and the turbine would not challenge the prominence of the church and its tower or challenge it as a focal point in the village. The visibility of turbine 4 in the winter views is considered to cause some harm to the significance of the church but that harm would be limited and only in terms of the appreciation from the south.

96. Any relationship between the Church of St Mary Magdalene, Newark and Cotham Church would not be materially affected by the proposal because there are no views between that could be affected by the turbines.

97. In terms of the inside of the church, the window cills are high and not in a position where you would be looking out of them during a service. The turbines would have no effect on significance from inside the church.

98. The views from Cotham Road, which would afford the most frequent views, would be unchanged, as would close up views from within the churchyard, with the turbines screened behind the vegetation behind the church. Any harm would be very limited and in terms of the Framework 'less than substantial' and at the lower end of this scale and not 'substantial harm' as identified by the council.

[45] Doc AD2 page 28, Section 6
[46] Doc AD2 Photomontage Fig 3 Part 2 attached to the proof
[47] Doc AD2 Photomontage Fig 3 Part 2 attached to the proof

All Saints Church Hawton[48], Grade I

99. The nearest wind turbine would be about 1.4km away. The church dates from the 13th century with later alterations at various dates. Its special architectural and historic interest is particularly embodied in the 15th century tower which can be seen from many locations in the landscape, the grand east window and the ornate three seat sedilia and Easter Sepulchre.

100. The wind farm would be completely screened by vegetation and built form within Hawton. The special architectural and historic interest of the church is best appreciated from within the church and in close proximity externally and most of the views to the church would be unaltered.

101. The wind farm would be visible approaching along Hawton Lane and partially visible approaching along the Newark Road[49]. The presence of the turbines does not affect the way in which the key elements of the church, particularly the tower, are experienced. Views of the grand east window would be unaltered as would the interior features. The turbines and the incidental views of them, which would not be in the best or most frequently experienced views, would not harm the experience of the church's significance or special architectural and historic interest.

102. The view of the church from the Hawton Lane flyover[50] would have the proposed wind turbines to the right of the church, but this view would now include the 3 wind turbines from the permitted Hawton wind farm, so the tower would not be the only prominent feature in the landscape and the Hawton turbines are closer to the church in this view and more dominant. There would be no harm to the significance of the church from the additional appeal turbines. On close approach to the village along Hawton Lane, the turbines would be at an oblique angle and at the fringe of any view, so would not cause harm to the significance or special architectural and historic interest of the church. It is acknowledged that if Hawton Wind Farm were not constructed this proposal would impact on Hawton Church in this view. However, that assumes Hawton Wind Farm would not be constructed and there is no evidence for that and in any case the proposed turbines would be seen to be further away in this view that Hawton, and have a lesser impact, and that impact has been found to be acceptable.

St Mary Magdalene Church[51], Newark-on-Trent, Grade I

103. The nearest wind turbine would be about 4.1km from the church. The church is separated from the wind farm by the significant urban form of Newark-on-Trent, so the appreciation of the church and spire would not be altered. From the A46 where it crosses the river Trent there would be views towards the turbines in the distance with the church spire in the foreground[52]. This would be a glimpse view for drivers as there is no stopping and the Secretary of State agreed with the previous inspector that this view point in terms of the setting of the church

[48] Doc AD2 page 31, Section 7 and Appendix B page 64
[49] Doc AD2 Fig 6.4.26 and Fig 7 Part 2 attached to the proof
[50] Doc AD2 Fig 6.4.26 attached to the proof
[51] Doc AD2 page 34, Section 8 and Appendix C page 70
[52] Doc AD2 Figure 1 Part 2

was not particularly important[53]. The visibility of the Hawton turbines was not considered by the Secretary of State or the previous inspector to harm the significance of the heritage asset.

104. There will be the Hawton wind turbines in these views, so the addition of these proposed turbines would make little difference to the setting. The church will remain a tall, visible and dominant structure within views of it, including from the A46 where it crosses the river Trent.

105. The proposed development would not harm the significance of the church.

Newark Castle, Newark-on-Trent[54], Grade I

106. The nearest wind turbine would be about 4.1km away. The wind farm would not be visible from most of the castle and its site. Only from the elevated vantage points of the upper storeys and the crest of the castle battlements would the proposed development be visible[55]. From this location all three of the Hawton turbines would be visible and only two of the appeal turbines. The visibility of these would not harm the significance of the heritage asset, which is located in a 21th century landscape, with other modern features that are more prominent, including the sugar factory and Staythorpe power station. The turbines were not found to be a cause for concern by the Secretary of State in the Hawton Wind Farm appeal decision.

Elston Chapel, Elston[56], Grade I

107. The nearest wind turbine would be about 2.8km away. Elston Chapel dates from the 12th century with later additions/alterations. It is diminutive in stature with typical Nottinghamshire square-headed windows. The 12th century zig-zag detailing around the door is a striking feature. The significance is primarily derived from the evidential, historical and aesthetic values of the medieval and later architectural components. The setting enhances appreciation of some aspects of the significance.

108. It is in an isolated location, with fields and hedgerows nearby. There are pylons and power cables in the views out towards the surrounding countryside. The proposed turbines would be partially visible from the chapel, but in the distance and seen beyond the pylons and above the intervening vegetation. Because of perspective the turbines would be dwarfed by the pylons. The important aspects of the significance of the church would not be affected by the turbines and even in winter the vegetation screens, to a large degree, the proposed development[57].

109. The proposal would introduce a relatively innocuous further modern element into the views towards the chapel, but with the limited visibility and other modern features would mean that no harm would be caused to the significance of the chapel.

[53] Doc CD5.9 Inspector decision paragraph 167
[54] Doc AD2 page 35, Section 9 and Appendix D page 74
[55] Doc AD2 figure 6.4.36
[56] Doc AD2 page 36, Section 10 and Appendix E page 77
[57] Doc AD2 Figure 5 Part 2

Sibthorpe Medieval Complex[58]

110. The nearest turbine would be about 3.8km away. The complex includes the Church of St Peter (Grade I), the pigeoncote (Grade I and scheduled) and scheduled earthworks.

111. St Peter's Church dates from the 13th century, with later additions and restorations. The north wall is interesting as it retains the original aisle windows in the blocked up former arches. The pigeoncote is a 13th century structure, restored in the 20th century and is the last surviving upstanding remains of the monastic college that was once here. From a very limited number of locations the tips of the four turbines would be visible, but these would be alongside the Hawton Wind Farm and electricity pylons that are about 1km away[59].

112. A main vantage point of the complex is from Church Lane, where there is a break in the hedgerow, but from here the development would be completely screened by vegetation in the foreground and even if that were removed the views of the development would be hidden by the hedgerow beyond the pigeoncote and would be barely distinguishable in the winter when vegetation dies back. The experience of the complex would not be affected by the proposal and would not affect the intervisibility between the church and pigeoncote.

113. When close up to the church or pigeoncote, where it is best appreciated, the proposed development would have no impact. The development would be visible from Longhedge Lane[60]. However, the distant view would include the Hawton Wind Farm, pylons and telegraph poles and other buildings and it is not considered the proposed development would harm the significance of these assets.

114. Overall, in summary, it is accepted that there is some level of harm to listed building setting and potential for conflict with development plan policies in relation to St Michael's Church, Cotham. While it is thought that CS Policy CS14 is inconsistent with the Framework in that it does not allow for balance with benefits, DMD Policies DM4 and 9 are broadly consistent with the Framework, so read as a whole the balance of harm against benefits is in line with the Framework.

115. It must also be borne in mind that the effects on setting are temporary (27 years) and reversible, so there is no permanent loss of cultural heritage features or value and the effects should be balanced accordingly. The matter is clearly set out in national planning policy NPS (EN3)[61] that the reversibility of wind farms is to be taken into account when carrying out landscape and cultural heritage assessments, so weight must be attributed to it.

116. The harm that is attributed to the setting/significance of cultural assets is 'less than substantial'. Taking this into consideration it is clear that the environmental and other benefits clearly outweigh the harm. Section 66(1) requires that considerable weight and importance be attached to it, but that it is directly relevant to the level of harm caused and the importance of the asset. There is

[58] Doc AD2 page 38, Section 11 and Appendix F page 81
[59] Doc AD2 Figures 4a part 2, 4b part 2, 4c part 2 and 6.6.39
[60] Doc AD2 Figure 6.4.40
[61] Doc CD2.3

still a clear weight in favour of the development that would outweigh the strong presumption against the grant of planning permission. Taking this balance into account, it would be sustainable development and accord with the Framework.

117. The landscape and visual assessment is set out in Section 6 of the Environmental Statement[62]. Landscape and visual impact is not a reason for refusal individually or on a cumulative basis. The proposal would not have an adverse landscape or visual impact effect, including in relation to residential amenity. It would accord with CS Policy CS13 and DMD Policies DM4 and DM5.

118. The Landscape Capacity Study[63] identifies the development to be in area E2 South Nottinghamshire Farmland:Village Farmlands. It identifies moderate levels of landscape sensitivity and in terms of turbine size it states that for very large turbines, as proposed, that the sensitivity is high-moderate. At paragraph 4.3.25 it states, 'it is considered that this landscape could be of relatively lower sensitivity to groups of up to eight turbines subject to careful siting and layout. The larger-scale landscapes in the south and east of the Character Area have the most potential for groups of larger turbines, while other areas will be sensitive to groups of more than two to three turbines'.

119. At Paragraph 4.3.27 it notes the sensitivity of the Character Area and the heritage and other values placed upon it, and indicates there is capacity for wind turbines. The large-scale, open areas of this landscape are of relatively lower sensitivity to the wind energy developments, particularly where modified by past mineral working. Capacity is reduced locally by the presence of heritage designations, and by the numerous pylons within the area.

120. The motivation of the written ministerial statement of June 2015 is to discourage large scale wind turbine projects if promoted in the teeth of legitimate land use concerns of third parties. The suggestion is that opposition in itself is material, which cannot be correct. The Secretary of State cannot by a statement of policy make an otherwise immaterial consideration material. It is well established that concerns relevant to land use determinations must be well founded on planning and land use concerns (West Midlands Probation Committee v Secretary of State (1998) 76 P & CR 589). Attention was drawn to Gateshead MBC v Secretary of State for the Environment [1994] 1 PLR 85. Local community must include the local communities around the site, Newark and probably even further afield. What is required is for the relevant land use concerns identified by the local community to be considered and for the decision maker to make a balanced planning judgement, taking into consideration those concerns.

Efficiency

121. An interested party has questioned the efficiency of the wind farm. The figures for the projected production from the turbine have not been formulated on average figures as suggested by Dr Hampshire, but from information gained from the anemometer on site. While Dr Hampshire would like to see this information, it is commercially sensitive and not normal for it to be released.

122. The provision of renewable energy accords with government policy and is recognised as an intrinsically good thing to be encouraged. National Planning

[62] Doc AP4
[63] Doc CD3.4

Policy Statement EN1 recognises this[64]. While the update report in June 2015 identified that Europe as a whole is achieving targets, the United Kingdom is not[65]. The benefits are reduction in carbon dioxide emissions, about 23,740 MWh of electricity per annum (about 5432 households), contribution to diversity and security of supply, economic benefit (direct and indirect) and a range of ecological habitat enhancement measures.

123. It is plain that the benefits of the proposal far outweigh the 'less than substantial' harm identified to Cotham Church and if the development were to occur without Hawton Wind Farm, to Hawton Church.

Written Representations

124. Written representations are with the main file. Representations were also made at the inquiry and written copies of these, where provided, are in the documents, particularly documents 4, 8, 9, 17, 18, 19, 20, 21, 22, 23, 24 and 27. Generally those objecting to the appeal support the council's case and opponents generally identify the need for turbines to counter climate change.

125. **Dr Hampshire** (document 4 and 27) has lived in Hawton for 40 years. The efficiency claimed by the appellant is questioned, particularly given the average wind conditions in this location compared with the country as a whole. He complains that the data from the anemometer has not been made public. He considers that the actual number of homes served would be more like 3940.

126. **David Sankey, Elston Parish Council** (document 8) effectively supported the council's case. The turbines are too close at 540m and there is concern there would be shadow flicker from the turbines and some noise experienced at Elston and Sipthorpe[66]. It is accepted that views to the turbines from the village would not be overbearing, or intimidating in scale, but would be visible. The parish council is concerned about the effect on house prices, birds and bats. It says that there are already many pylons spoiling the landscape and they do not want the addition of these turbines, which because of the rotation of the blades would be even more harmful. There would be no benefit to the local community and the output would be negligible, particularly when compared with the nearby power station at Staythorpe which is already doing its fair share for Nottinghamshire.

127. **John Elliott, Cotham Parish** (document 9) indicates that the community overwhelmingly do not want the wind farm because of visual intrusion, loss of amenity, damage to heritage assets and potential noise. There is no support in the village apart from those with an interest in the development. The parish council is not opposed to renewable energy, there being landfill gas generation, solar farms and Hawton Wind Farm already. The risk is creating 'turbine alley'.

128. **Norman Haigh, Lincoln Green Party** (document 17) acknowledges the benefits that wind generated energy would provide, particularly making a contribution to the carbon reduction targets.

129. **Mr Christopher Padley** (document 18) refers to the pressures on the landscape from various sources, including urban expansion and farming

[64] Document CD 2.2
[65] Document CD6.8 Fig 2 Pg5 and conclusions at page 16
[66] Elston is about 2.8km and Sibthorpe Complex 3.8km away from the wind farm

practices. The need to promote production of our own energy in a way that will protect the earth is identified, with each wind farm contributing to the overall need.

130. **Jonathan Lincoln** (Sustainable Energy Alliance) (document 19) was raised in Nottinghamshire and refers to the compelling argument that climate change is occurring, referring to various sources, including the United Nations. Official figures show that last December wind energy generated electricity sufficient to power the equivalent of 8.7 million homes and from April to June 2015 renewable sources generated 25% of energy needs and 42% of this was from wind generation. 741 people have indicated their support for the scheme. He has visited the site and considers it a suitable location for the turbines. While there is a need for subsidies, this is the case with other forms of energy production, including fossil fuels. Any impact that the turbines are perceived by some to have must be weighed against the impact that climate change will have.

131. **Graham Wyatt,** resident of Newark, (document 20) does not consider that the appeal was necessary at all. He identifies the pylons, power station and land fill spoil heaps noting that this is not a pristine natural landscape. Climate change is the most serious and significant problem and a solution is needed now. This is an opportunity to make a significant contribution. One reason is the impact on users of the footpath by Cotham Church. He has walked the path on a number of occasions and considering the simulations with the turbine in place does not consider there would be any negative experience.

132. **Wendy Guest,** resident of Cotham for 28 years, (document 21) would be able to see the four proposed turbines as well as another situated in Thorpe and three that are on land in Caunton, with the closest to her property at 1000m. This would be a huge, industrial construction in an agricultural landscape. The turbines would be much too large in relation to the heritage assets and would stand out like a sore thumb. I am not against renewable energy and supported a proposal for a solar farm.

133. **Michael Earl,** resident of Cotham for 58 years and Chairman of Cotham Parish Council and founder member of South Newark Oppose Wind Turbines (SNOW) (document 22) will be able to see spinning turbines behind the church from his home which would desecrate the heritage asset. Government now gives more weight to local communities and this should carry weight here. Amber Rudd, the Secretary of State for Energy and Climate Change, noted that we now have enough onshore wind energy schemes in the pipeline to meet the requirements comfortably, so these are not necessary.

134. **Ken Sutton,** Chairman of Hawton Parish Council (Document 23) has supported and embraced other renewable energy schemes, including solar farms and three turbines that are to be constructed soon. A further four turbines would be visually damaging. No local villages have supported the proposal. There is also the disruption on local roads, with large vehicle movements over 9 months.

135. **Dr Helen Tyler,** Church Warden, Hawton with Cotham (document 24) wants it noted that Cotham church does not just have one service a year, but 3, with the last having a congregation of 60. It is in a unique setting with a great sense of history and an extraordinary experience for those attending. The church is also open daily for visitors. Much of a service is conducted standing up and the window and its view would be seen by users.

Conditions and Obligations

A list of suggested conditions is put forward by the parties in the statement of common ground[67], and subsequently in Doc 28 relating to a proposed bond. A list of proposed conditions is attached at Annex A.

[67] Doc CD8.27, Appendix 2

Inspector's Conclusions

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

Main Issue

136. The main issue is the effect of the proposal on nearby heritage assets.

Policy Background

137. The development plan includes the Newark and Sherwood Local Development Framework: Core Strategy Development Plan Document [CS] and the Allocations and Development Management DPD [11] [14].

138. Spatial Policy 3 (Rural Areas) confirms that the countryside will be protected and schemes to increase biodiversity, enhance the landscape and, in the right locations, woodland cover will be encouraged.

139. Core Policy 9 (Sustainable Design) confirms that the council will expect new development proposals to demonstrate a high standard of sustainable design that both protects and enhances the natural environment and contributes to and sustains the rich local distinctiveness of the district.

140. Core Policy 10 (Climate Change) relates to the issue of climate change and states that the council is committed to tackling the causes and effects of climate change and to delivering a reduction in the district's overall CO^2 emissions. The local development framework, through its approach to development, will seek to encourage the provision of renewable and low-carbon energy generation within new development. The policy states that "the LDF, through its approach to development, will seek to (along with other things) ensure that the impacts on natural resources are minimised and the use of renewable resources is maximised".

141. Core Policy 12 (Biodiversity and Green Infrastructure) confirms that the council will seek to conserve and enhance the biodiversity and geological diversity of the district by working with partners to implement the aims and proposals of the Nottinghamshire Local Biodiversity Action Plan, the Green Infrastructure Strategy and the Nature Conservation Strategy.

142. Core Policy 13 (Landscape Character) confirms that the council will introduce a comprehensive landscape assessment of Newark and Sherwood which will identify the landscape character, condition and sensitivity of each Landscape Policy Zone. Landscape Policy Zones will be categorised.

143. Core Policy 14 (Historic Environment) relates to the historic environment. The council seeks, "the continued preservation and enhancement of the character, appearance and setting of the district's heritage assets and historic environment....including listed buildings....(and) Conservation Areas..." It indicates that the council will ensure that any proposals concerning these heritage assets will secure their continued protection and enhancement, contributing to the wider vitality, viability and regeneration of an area, reinforcing a strong sense of place.

144. Area Policy NAP 1C (Historic Environment) states that the council will protect and enhance the architectural, historic and archaeological character of Newark

and its riverside, identifying locations and sites to be the subject of conservation and sensitive redevelopment.

145. Newark and Sherwood Allocations & Development Management Development Plan Document [DMD] Policy DM4 (Renewable and Low Carbon Energy Generation) provides a policy framework in which to assess applications for renewable and low carbon energy generation schemes. The policy indicates that the decision maker should take a balanced approach to the assessment, where its benefits are not outweighed by detrimental impact from the operation and maintenance of the development and through the installation process upon heritage assets and/or their settings.

146. DMD Policy DM5 (Design) states that all proposals for new development shall be assessed against a series of criteria, including consideration of access; parking; amenity; local distinctiveness and character; trees, woodlands, biodiversity and green infrastructure; ecology; and flood risk and water management.

147. DMD Policy DM7 (Biodiversity and Green Infrastructure) states that new development should protect, promote and enhance green infrastructure to deliver multi functional benefits and contribute to the ecological network both as part of on site development proposals and through off site provision.

148. DMD Policy DM8 (Development in the Open Countryside) confirms that development away from the main built up areas of villages, in the open countryside, will be strictly controlled and limited to that identified.

149. DMD Policy DM9 Protecting and Enhancing the Historic Environment, in accordance with the requirements of Core Policy 14, states that “all development proposals concerning heritage assets will be expected to secure their continued protection or enhancement, contribute to the wider vitality, viability and regeneration of the areas in which they are located and reinforcing a strong sense of place.”

150. Policy DM10 (Pollution and Hazardous Materials) confirms that development proposals involving hazardous materials or the potential for pollution should take account of and address their potential impacts in terms of health, the natural environment and general amenity on neighbouring land uses, the wider population, ground and surface water, air quality and biodiversity.

151. DMD Policy DM12 (Presumption in Favour of Sustainable Development) states that, “A positive approach to considering development proposals will be taken that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. Where appropriate, the council will work pro-actively with applicants jointly to seek solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions within the district.”

Local planning guidance

152. The Wind Energy Supplementary Planning Document (SPD) (March 2014) [23] describes the approach that the council intends to take to wind energy development within the district. It sets out the relevant national and local policies that provide a context for this document and provides a policy framework as to how planning applications will be considered, including the pre and post

application stages. The SPD was adopted by the council on the 26th March 2014 and attracts considerable weight.

153. The document identifies the relevant national and local policy context in which applications should be considered and assessed. The document states that, "Visual amenity is an important concern when considering how to preserve or enhance heritage assets" and indicates that factors including visual dominance; scale; indivisibility; vistas and sight lines; movement, sound or light effects; and unaltered settings, should be considered when assessing the acceptability of developments within the setting of historic sites.

154. In enacting section 66(1), Parliament intended that the desirability of preserving the setting of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but that it should be given 'considerable importance and weight' when the decision-maker carries out the balancing exercise. Even where 'less than substantial' harm is identified, Section 66(1) requires considerable importance and weight to be given to the desirability of preserving the setting of a listed building when carrying out the balancing exercise.

155. The Planning Practice Guidance considers cumulative visual impacts noting, '*Cumulative visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views (or sequences of views), and the impact this has upon the people experiencing those views. Cumulative visual impacts may arise where two or more of the same type of renewable energy development will be visible from the same point, or will be visible shortly after each other along the same journey. Hence, it should not be assumed that, just because no other sites will be visible from the proposed development site, the proposal will not create any cumulative impacts*.'

Reasons

Heritage Assets

156. There was no dispute between the main parties that the turbines would be in the setting of the heritage assets and that setting can be an important aspect of a building's significance [25]. The main difference relates to the extent of the contribution of the setting to the assets and the way any effect on the setting impacts on the significance of the assets.

157. The terms 'substantial harm' and 'less than substantial' harm within the Framework categorise harm to heritage assets guiding decision makers on how to deal with applications. The Framework recommends refusal of applications causing substantial harm, unless it can be demonstrated that the substantial harm or loss is necessary to achieve public benefits that outweigh that harm. The Framework has also stated that substantial harm to Grade II listed buildings should be 'exceptional' and for Grade II* and Grade I be 'wholly exceptional'. The PPG indicates that substantial harm would occur where, 'the adverse impact seriously affects a key element of its special architectural or historic interest'. While various terms have been used in other decisions, the interpretation of serious impact is one of fact and degree for the decision maker but to find substantial harm is a high test.

158. The PPG notes *'*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.' I also acknowledge that harm to significance is not a matter of saying the effect is only on a small part of some aspect of the significance of an asset. If the harm to one part is 'substantial' or 'less than substantial' that still needs to be considered as great harm that needs public benefit to be weighed in the balance.

Churches

159. Many of the heritage assets are churches. Their setting can be both extensive and also important to their overall significance. In the case of most medieval parish churches, setting is often an important element of the asset's significance, with some of the architectural interest and symbolic and communal value expressed through their form, design and detailing. They were often designed and/or located to be visually dominant and prominent for some distance around. The special spiritual and communal value of churches is generally very high and to some extent benefits from a quiet setting, conducive to contemplation. Harmful developments within the setting of a church could potentially cause substantial harm.

Church of St Mary Magdalene, Newark (Grade I listed)[46] [103]

160. The Church of St Mary Magdalene is a very prominent building within Newark's historic core, conservation area and in the surrounding landscape. The spire is the church's most prominent external element and its height (the highest spire in the county) would identify the building as a significant religious destination, and the town as an important centre, giving the building in its setting significant communal value.

161. The building is also important through its age, design and detailing and history, particularly associated with the civil war, and is a fine example of Gothic architecture, so has significant architectural, evidential and aesthetic value appreciated internally and externally. The immediate setting of the church is the churchyard and surrounding town centre, with the wider countryside beyond, which because it is relatively flat, allows wide and distant views of the spire. The spire acts as a reminder of the Church's power and influence over society from medieval times onwards and is a marker for the town.

162. The church and its fabric, and its intermediate setting, would not be affected by the proposal. The historical associations would not be impacted upon [103].

163. The appeal site has no direct relevance to the setting of the church. Its contribution to the church's setting is as being part of the countryside that surrounds the town. The countryside around Newark has not been managed or 'preserved' in a way particularly to contribute to the setting of the medieval church, it is what has evolved over time. The countryside has developed and changed to meet changing modern needs, and has some notable modern features including the Sugar Beet Factory works, Staythorpe Power Station, a number of wind turbines and many electricity pylons. These are all large, notable features in the landscape.

164. The council consider these all to be harmful. They are large features of the landscape necessary for modern living and while they are prominent, to my mind they are only harmful if you consider that the countryside should be preserved as

in medieval times to complement the historic nature of the church. That is not a realistic proposition and the features represent changing modern needs for the use of the land. However, these features do not in themselves necessarily justify further features, but show that while new features are introduced into the surrounding area, the church is able to remain a significant and important feature in the landscape and town.

165. I accept that in some views across the town, you would be able to see the spire with the wind turbines in the distance, and this is illustrated from the by-pass bridge. However, because of the distance, the turbines would be seen to be relatively small in the landscape and would not unacceptably intrude into the panorama or take away the important role of the church within the town marking the location of Newark.

166. There will also be a number of views towards the town from the surrounding countryside where the turbines would be seen with the spire of St Mary's in the background [54] [55]. While the turbines are large structures, they are so different in design and construction from a church that they would not be confused with the church, particularly as they would be a long way away from town. The church would remain the important historic feature in the landscape, remaining the cultural marker, visible from many miles around and marking the town of Newark.

167. I therefore consider that the turbines would have little effect on the setting or on the significance of the church when looking out from, or into, the town with the church and turbines in view.

168. In forming this opinion I have taken into consideration the possibility that the permitted Hawton Wind Farm [55] may or may not be built and the potential cumulative impact. I conclude that the significance of St Mary Magdalene's would not be affected and the special architectural and historic interest would be preserved.

Church of All Saints, Hawton (Grade I listed)[37] [99]

169. The church is an exceptional example of the evolution of medieval gothic architecture (from Early English, to Decorated, through to Perpendicular Gothic). The east window is thought to be one of the finest of its type in England. The quality, extent and high ranking detail of the church, window tracery, tower, battlements, and internal decoration align it with the works of master craftsmen. Internally the C14 Easter Sepulchre is a rare example, thought to be one of the finest in the country. The tower is the most significant external aspect (with a highly decorated profile of eight finials), intended to elevate the status of the building within the village and surrounding landscape, and it forms a local landmark.

170. The immediate setting of the church takes in the village of Hawton, the bridge over the River Devon and the immediate approaches into the village by road and along footpaths. The intermediate and distant setting of the church is the countryside and villages surrounding it, which are dominated by agricultural use. Within this landscape there are modern features, including pylons and the spoil/slag heaps towards the northern end of Staple Lane. There are abandoned industrial uses, including a gypsum quarry, general works units, industrial silos and, further afield, a power station.

171. The setting from the east also picks up the Hockerton and Caunton wind turbines on elevated land in the middle distance beyond the church and their position in relation to the church alters as one moves around the area. The council considers that these turbines are part of the degradation of the church's wider setting. Hawton wind farm would also be seen in the context of the church, if constructed, as identified below.

172. The fabric of the church and its immediate setting of the churchyard are not affected by the proposed turbines, including views of the east window and tower. Approaching the church from Newark it would be possible, in the vicinity of the corner of the road prior to the church, to see one of the turbines. However, this would be at a substantial distance, so the turbine would be, relative to the church, a very small feature and there is intervening vegetation. I do not consider that such a view of the turbine would have any impact on the setting of the church or consequently on its significance. There would also in theory be possible views of another of the turbines over the chancel from a similar position, but again this would be at a distance and with the substantial number of trees around the church I consider it very unlikely that this turbine would be noticed. It would not impact on the setting or consequently harm the significance of the church.

173. As identified in the anticipated view from the road bridge over the rerouted A46, the proposed turbines would be visible and almost directly ahead, with one turbine just to the left of the view [102] [52]. Hawton Church is much further to the right and a considerable distance away. I do not consider that the presence of the turbine would detract from the tower of the church. It would remain prominent, visible and clearly distinguishable as the church and location of the village. I do not consider that the presence of the proposed turbine would have an unacceptable impact in views from this vicinity and the setting of the church would be preserved. The significance of the church in terms of its importance as a landscape feature would remain and would not be harmed.

174. I also note that the Hawton wind farm turbines, if constructed, would be much closer to the church in this view and that was also found to be acceptable [102]. In terms of cumulative impact, I consider the fact that there would be another four turbines added would have no additional cumulative impact, because these are well spaced in relation to the church, and these turbines would be further away. The landscape character of the surroundings would remain with the church a main feature.

Church of St Michael, Cotham (Grade II)[26] [93]*

175. The Church of St Michael is a medieval parish church dating back to the 12th century, with a number of later alterations. The church has historical connections with the lordship of Walter D'Aincourt, then Thurgarton Priory and later with the Markham family. The existing church is part of what was originally a much larger church, which may have had a tower as well as north and south aisles, but any such features were destroyed during the demolition of the west end in the 1890s.

176. The porch was added in 1830 and the entire building restored in 1890. This building is notable for the survival of its medieval fabric, including interesting graffiti, alongside the wooden panelling of the Georgian box pews and C19 stained glass windows. The building is of high aesthetic, evidential and historical significance. The church complements the small, remote rural community of

Cotham and remains one of the significant structures in the parish, acting as a local landmark, imbuing the building with significant local communal value. However, because there is no tall tower/spire and there is nearby vegetation, the church, even though it is on slightly higher ground, is not a wider landscape feature and does not seek to be prominent in that landscape.

177. The immediate setting is very rural, with pedestrian only access through the adjacent field, currently used for grazing. The church is closely related to the adjacent manor house and farm complex, which is a non-designated heritage asset. The land slopes away into the Devon Valley where the arable, agricultural landscape makes an important contribution to the setting. However, there are other modern features that are visible, including the power station, other turbines and electricity pylons.

178. The intermediate setting of the church comprises the small and attractive churchyard, adjacent field and the manor house and farm and fields behind. The buildings within the village and vegetation hide the church from view from many locations, but there are views from the main road through the village and from a network of footpaths just to the west of the church.

179. The setting is attractive, open and informal, probably resulting from reduction in size of the medieval village, contracting away from the church over time. This helps us to understand the history of the church. Since the reduction in the size of the village, the setting has subsequently been little altered over many years, with few modern features intruding into the immediate setting.

180. The council identifies that the church is designed internally so that views out into the graveyard and beyond to the north are visible from within the church [33] [95], allowing one to appreciate its setting from inside the church, which adds to the sense of tranquillity and peace felt at this church, which is particularly important to acts of worship. It is relatively unusual to experience the world beyond the church alongside worship and internal features as most church windows are too high and/or too obscure to allow significant views out.

181. I accept that there are views out of the window, but I can see no evidence that these are designed, or important views in terms of worship and services. They are not views that would be appreciated in a service, the two windows being located towards the rear of the church. I do not consider that the views themselves add to the peace and tranquillity within the church. In addition, the views from the windows are substantially limited by the vegetation at the boundary to the churchyard, particularly in summer months. I consider that these views make very limited contributions to the significance of the church and, in any case, views of the turbine from here would be limited by the surrounding vegetation.

182. Cotham is the nearest heritage asset to the turbines, being about 1km away. The turbines are visible to the north and north west behind the Church of St Michael. The turbines would be potentially visible in conjunction with St Michael's in approaches to the church from the main road, but because the turbines would be at a relatively lower level and seen behind vegetation, any impact from here would be very limited.

183. The turbines would be seen in the context of the church and its relationship with the countryside and manor house in views from the footpaths a little away

from the church [33] [93]. I accept that in these views, because of the proximity of the nearest turbine, there would be some harmful impact. While the turbine would be visible in the view, the surrounding landscape would remain a rural, agricultural landscape and the overall rural setting of the church would remain. In addition, because the turbine would still be about 1km away, the harm would not be large, and I would categorise it as being 'less than substantial' harm, as identified by the appellant, and not 'substantial harm' as identified by the council. I consider that the harm to the setting would have some impact on the significance of the church through its impact on the way that asset is appreciated from the footpaths. This harm is to be carried through to the planning balance and weighed against public benefits.

Elston Chapel (Grade I listed)[63] [107]

184. The Domesday Book mentions Elston being divided into three holdings, each with its own church. The attractive Norman doorway with chevron decoration shows the ancient origins of this church, although most of the fabric dates to the C14 and C16. Research suggests that the hospital of St Leonard, sold in 1576, was in this area and that the building could have been the hospital chapel, which might explain the isolated position. It is significant for its medieval architectural and historical interest, particularly as a rare survival of a completely untouched poor village church interior of c1820. The building still retains its late C18 or early C19 gallery, which was a common feature in Georgian churches but these were often subsequently removed. Similarly, the late Georgian pews here escaped removal and replacement. Also of note are the surviving hat pegs for male parishioners to hang their hats on during services and the sturdy double-decker oak pulpit and reading desk incorporating C17 and C18 panelling. The chapel ceased to be used as a parish church in 1870.

185. The current setting of the church is notable, it being a little out of the village and set in the corner of a field, now used for grazing. The wider setting is the village and surrounding countryside. Unlike Newark and Hawton Churches considered above, this does not have a tower or spire and was not designed to be prominent, either from the village or surrounding landscape. The council notes that, 'The building remains mostly hidden over longer distances by its surrounding hedgerows'. The appeal site makes no particular contribution to the setting of the asset, other than being part of the surrounding countryside. The immediate setting would not be altered and the chapel would continue to be seen to be in an isolated position at the edge of the village and its architectural integrity, which I consider is one of the main contributors to its significance, would remain.

186. In terms of its setting, it will be possible to see small parts of the turbines within views of the church. However, because the turbines would be at a considerable distance and because there is substantial vegetation around the chapel, these views would be very restricted [70] [107]. In addition, intervening in those views are other modern, man-made features of the pylons, which are very close to the chapel. The council says that the vegetation could be lost, but there is little to indicate that is likely, particularly as this provides an important backdrop for the chapel.

187. The presence of the proposed turbines a considerable distance away, with intervening manmade structures and some vegetation, would not affect the

important aspect of the church's isolation from the village and relationship with the countryside. The impact of the turbines, either by themselves, or when considered with the pylons and the Hawton wind farm, would not be harmful to the setting of the chapel or its significance, because of the distance away and limited effect. The character and appearance of the surrounding area would remain as a countryside setting for the chapel. I conclude that its significance would not be affected and its special architectural and historic interest would be preserved.

188. I have also considered the proposed single turbine at Elston, the effect of which is yet to be decided by the council, either individually or in combination with other schemes. However, the appeal proposal is a long way from the proposed Elston turbine, and would be likely to have little additional cumulative impact when considered with the Elston turbine, because of the distance the proposed turbines would be away. Any effects of the Elston turbine, because of its proximity, would have to be considered with that application.

189. The council has not cited harm to the Elston Conservation Area in its reasons for refusal, but suggests in its statement that there would be some impact on the conservation area flowing from the harm identified to the chapel. However, I have found there would be no harm to the chapel and consequently there would be no harm to the conservation area.

The Sibthorpe complex [73] [110]

190. Sibthorpe is an important historic settlement, with the Grade I listed medieval church of St Peter and two scheduled ancient monuments [SAM]. The council has found harm to the SAM consisting of the earthwork remains of a medieval village, including monastic college, chapel, moat, fishponds, Grade I listed pigeoncote and open field system. It appears to be a consensus that the pigeoncote actually was a pigeoncote and I will refer to it in this way.

191. The pigeoncote is a Grade I listed structure. It is a rare survival of a medieval pigeoncote, which was built and used by monks in the nearby former monastery for pigeons as a source of eggs and meat. The building is of a large, impressive form, being circular with a conical roof and internal nesting holes. It is the earliest and largest pigeoncote in Nottinghamshire. The small, low doorway allowed access and being low helped prevent the pigeons escaping. It has a strong aesthetic, historic and evidential value and is a distinctive local landmark, giving it communal value.

192. St Peter's Church is Grade I listed. The chancel and tower date from the C13, when the church was rebuilt, possibly by the priest Thomas de Sibthorpe. The church has subsequently had many additions and alterations. The chancel has windows with flowing tracery of Lincolnshire character and contains some fine tombs and a C14 Easter Sepulchre, part of the 'Lincolnshire-Nottinghamshire School of Easter Sepulchres', which managed to survive the Reformation.

193. The church has been the religious and civic focus of the parish of Sibthorpe for over 800 years and is a local landmark structure, giving it substantial communal significance. As well as the obvious aesthetic and historic values of this ancient structure, there is great evidential value in the church itself but also in its relationship to the rest of the village and the surrounding Scheduled Ancient

Monuments, which includes the medieval pigeoncote, providing physical evidence of a long, complex history.

194. The Scheduled Ancient Monument is located within the village, flanking the main road and including the pigeoncote. It is described as a 'medieval village including monastic college, chapel, moat, fishponds, dovecote and open field system'. The archaeology here survives as standing, buried and earthwork remains.

195. Villages with their parish churches and associated archaeological remains are an important source for understanding past rural life. The earthworks and standing remains of the deserted areas of Sibthorpe medieval village are particularly well preserved and retain significant archaeological deposits of many areas of interest including physical layout, church; medieval system of agriculture; chantry colleges affiliated to villages; and medieval fishponds and dovecote. The archaeological remains in Sibthorpe complement the documentary evidence available and provide historical evidence about the village.

196. The setting of these assets is their immediate surroundings, including each other, the village of Sibthorpe and then the surrounding land which is a relatively open, flat agricultural landscape of large scale. The immediate setting of the church is the churchyard, which has a number of prominent yew trees near its perimeter. The SAM and pigeoncote are located directly adjacent to the churchyard. Within this area the pigeoncote is the most prominent feature, but the earthworks and outline of fishponds are also prominent when close to.

197. The countryside beyond provides the wider setting for these assets and its agricultural character and appearance is complementary to that setting, but the appeal site has no direct significance in relation to the heritage assets and is not itself visible from them. There are views from various public locations across and by the various assets that would encompass the turbines at the appeal site. However, the illustrations provided demonstrate that because of the very substantial distance, about 3.9km, these would be very small features in the views relative to the various assets.

198. From the road near the church, the turbines would be in the background behind and to the right of the pigeoncote, but the distant vegetation would hide most of the turbines. The tips of some blades may be visible, but because of the distance, I do not consider this would be harmful.

199. I acknowledge that these turbines could be in addition to those permitted at Hawton wind farm and these would be seen together in some of the viewing positions, including from Blackford Bridge. While the Fox Covert would be a little larger in these views, because they would be closer, overall the impact would not be such that there would be harm to the setting of the various heritage assets. The setting would remain an agricultural landscape, albeit with turbines in the distance. I do not consider that this change would harm the setting or the contribution the setting makes to the significance of the various assets.

200. There is also a proposed turbine at Brecks Lane, but even if this were allowed, the addition of the Fox Covert Scheme would not add harm in relation to that, given the distance from the Fox Covert Scheme. The proximity and impact of the Brecks Lane Scheme can be considered on its merits.

201. The various heritage assets' historic integrity, inter-relationship and archaeology would be preserved. I conclude that the significance of the various assets would not be harmed and that the special architectural and historic interest of the assets would be preserved.

Newark Castle (Grade I listed)[56] [106]

202. Newark Castle is a Grade I listed structure and a Scheduled Ancient Monument. The Castle is an exceptional structure with a complex architectural and evidential history. Newark Castle is probably Newark's best known landmark and is a striking feature, particularly from the riverside. It has the longest surviving curtain wall in Britain, the first gatehouse keep in western Europe and the most complete Norman gatehouse in Britain. Construction commenced in the 12th century, with later periods of construction. It was slighted in the Civil War siege of 1646. It is a popular tourist destination and well used public park and there are 'booked' tours of parts of the castle, with more access proposed in the future.

203. The immediate setting of the castle is the town and river, where it is a prominent feature. However, the countryside beyond is also very important, with the views available from the walls reinforcing the 'power' the castle would have had, commanding the surrounding landscape. However, again the appeal site does not make any particular contribution to the setting of the castle, other than being part of the wider countryside.

204. Some turbines would be seen in the distance from the castle, as are other large modern features, as described for St Mary Magdalene's Church above. The fact that the turbines would be seen does not take away from any evidential value of the relationship of the castle with the landscape, which would be able to be clearly discerned. The views would continue beyond the turbines and the commanding position would be readily appreciated. The fact that the turbines are there would not harm the view, particularly as they would be seen as features a considerable distance away. I do not consider that the setting of the castle would be harmed and consequently its significance would also be unaffected. Its special architectural and historic interest would be preserved.

205. Overall I conclude that the development would generally accord with CS Policies 14 and NAP 1C and DMD Policy DM9. However in respect of Cotham Church it would not accord with these policies and would cause less than substantial harm to the significance of the church and would not preserve its special architectural and historic interest.

Other Matters

Landscape *[8] [85] [117]*

206. Pegasus Environmental undertook an assessment[68] of the effects of the proposed development on the landscape surrounding the turbines for up to about 20km and in terms of cumulative impact of turbines for a distance of about 35km. The Environmental Statement includes an assessment of the visual impact and computer generated images illustrate the proposal from various viewpoints, which have subsequently been supplemented with further illustrations. I consider

[68] Documents CD 2.2, 3.4 and 3.5

these enable a reasonable assessment to be made, in conjunction with the site visit [6].

207. The proposal has been considered in relation to the current landscape and cumulatively with other proposed and permitted turbines. Plainly, the turbines would appear as prominent man-made features within this localised landscape and would affect the appearance of the landscape and would not increase visual unity and so would not be in compliance with policy to protect the landscape and this needs to go into the planning balance.

208. Wind turbines are very large, modern, aerodynamic structures that are of a substantially different scale and appearance to most other features that are found anywhere in the countryside, and their introduction in any part of the country would have a significant impact on the appearance of the immediately surrounding countryside, although the overall character would be retained. Government policy has been consistent for a significant period that inland wind turbines are a significant part of providing a reasonable portion of our energy requirement on a low carbon basis.

209. Therefore, it is inherent with the current policy to provide inland wind turbines that there will be, to some extent, a change to the appearance of the countryside and some conflict with policies aimed at protecting the countryside. However, wind turbines are a modern solution to address climate change and needs arising through the development and growth of the country and this is an important material consideration when considering policies for landscape protection.

210. I consider the turbines, with their aerodynamic structures of slender form, would have relatively little physical impact on the surrounding countryside, allowing views of the countryside to remain in front of, between and beyond the turbines. The use of the surrounding land would also be little changed. The essential existing rural character and agricultural use of the countryside would be retained and continue and there has already been considerable change to the landscape character with the many pylons and cables criss-crossing the landscape.

211. The turbines would be located in a large scale landscape that is capable of accommodating wind turbines. In views from around the area they would appear of a scale and appearance appropriate to the large scale landscape. However, I accept, as identified in the Environmental Statement, that there would be some impact, particularly locally and this is to be carried into the planning balance. I conclude that there would be some conflict with the aims and objectives of CS Policy CS14 and DMD Policy DM8.

Living Conditions

Visual Amenity

212. A detailed study has been undertaken by the Pegasus Environmental Group as part of the Environmental Statement in relation to the potential impact of the turbines on the living conditions of the nearest occupiers. This inevitably concludes that there would be some significant change to the outlook of a number of properties because of the introduction of wind turbines. However, as noted above, the current agricultural character of the countryside would remain, and views to the countryside, in front of, beside and beyond the turbines would

also remain. The overall impact on the countryside would not be unacceptable. In addition, many of the dwellings have some screening between them and some of the turbines.

213. Overall, given the substantial distance between even the nearest properties and the turbines, I do not consider that the presence of the turbines would cause an unpleasantly overwhelming presence in views from these houses or gardens, and the properties would not come to be widely regarded as an unattractive place in which to live. Nevertheless, I acknowledge the findings of the Environmental Statement that there would be some magnitude of change to some views, with the resulting impact on some occupiers. These impacts in the Environmental Statement are to be taken through to the planning balance.

Noise[69]

214. A noise survey and acoustic assessment of potential impact has been completed by Hayes McKenzie Partnership Ltd, concentrating on, in particular, nearby dwellings. The assessment, as advised by the National Policy Statement for Renewable Energy Infrastructure [EN3][70], includes assessment of noise from the operation of the wind turbines using The Assessment and Rating of Noise from Wind Farms : ETSU-R-97, taking account of the latest industry good practice and guidance from the government.

215. ETSU-R-97 does not require inaudibility to be achieved at neighbouring properties. Rather, the noise criteria provide a balance between the protection of residential amenity and the need to not be overly restrictive on developments that have national and global benefits. Tonal components in the noise are accounted for by use of 'penalties'. ETSU-R-97 is supported by the IOA Good Practice Guide. ETSU-R-97 acknowledges that all turbines will, to some extent, exhibit blade swish (modulation in noise as the blade rotates) and the noise limits specified in the report take this into account without requiring a correction to be applied. A significant study was undertaken of 133 wind farms and amplitude modulation was only found to be a factor at 4 sites. Some of these appear to have been resolved while another is recent and investigations are ongoing. The government does not consider there to be a compelling case for further work into amplitude modulation, although it will be kept under review.

216. The assessment indicates that the proposed turbines will result in noise levels which meet the requirements of ETSU-R-97 for the amenity hours and night-time hours for all the dwellings neighbouring the proposed development and would not have a significant adverse effect. In addition, a cumulative impact assessment was made which predicts that noise levels would meet the lower amenity hours noise assessment criterion at any unassociated property and do not exceed 41 dB LA90, which is below the 43dB night-time criterion. A condition has been proposed that would require reassessment based on any change in relation to the candidate turbine used for the assessment.

217. Given the detailed assessment undertaken and the good distance of turbines from the nearest properties, I consider that the impact from noise on the living conditions of neighbouring occupiers would be acceptable.

[69] Document AP4, page 289 Section 11
[70] Document CD2.3

Shadow Flicker[71]

218. Blades of a turbine can reflect sun that can cause shadow flicker on an observer inside a dwelling that is located within the rotor shadow area. It can only occur where a number of factors come together, aligning the turbine blade, sun and window of the dwelling. It generally will only occur at certain times of the year and on those days at certain times of the day. It will only occur where the observer is within 10 rotor blades of the turbine.

219. The speed of rotation of the proposed blades would result in flicker frequencies far below the threshold of concern for sufferers from photosensitive epilepsy and health effects therefore generally do not have the potential to occur.

220. Three receptors have been identified where shadow flicker effects on residential amenity could be of a moderate to substantial significance. However, that is based on there being no intermediate screening and the effect is likely to be over estimated given the screening of buildings of a considerable size between the properties and the wind turbines.

221. It is now relatively common practice to mitigate the effects of shadow flicker if found to occur, by temporarily shutting down the turbine for the short periods involved, and an appropriate condition is proposed. I consider that the potential effects from shadow flicker are limited and with the proposed condition, would not result in unacceptable harm to the living conditions of neighbouring occupiers.

Ecology[72]

222. Wild Frontier Ecology Ltd was commissioned to assess the potential impact of the development and extensive ecological surveys were undertaken. A number of protected species were active within about 500m, including several species of bat, water vole, otter and badger. The impact to these was considered using the data collected, relevant ecological studies and considering amelioration of risk following conservation guidelines for wind farm planning.

223. It concluded that the development is unlikely to result in negative ecological impact, beyond minor magnitude for all species apart from 5 species of bats, but that these were unlikely to be impacted upon beyond intermediate magnitude and not sufficient to pose a significant risk to the conservation status of any of the faunal species or habitats recorded. Overall the development is predicted to have no significant impacts on valued ecological receptors and with mitigation there could be a substantial enhancement to benefit wildlife on site.

224. In relation to birds, surveys were undertaken to gather baseline data on breeding and wintering birds on site and in the surrounding area and on bird flight activity over the site during the months of April 2011 and March 2012 and between October 2012 and January 2013 inclusive, as well as looking at ornithological data in Nottinghamshire related to this area. The conclusion is that there could be minor impact on non-breeding herring gulls as a result of a small number of birds colliding with rotating turbine blades. The herring gulls were only occasionally recorded using agricultural fields and these are likely to be of limited

[71] Documents CDAP4, page 327 Section 12
[72] Document AP4, page 184 Section 8

importance where numerous other resting/loafing sites exist. The study has concluded that there are likely to be some herring gull fatalities. However, this is not inevitable, even where abundant. Where monitoring has occurred at a similar turbine arrangement with similar number of gulls, no fatalities were recorded in a period of 3 years. The magnitude of effect on herring gull is at most considered to be low and level of potential harm considered to be minor.

225. Overall it is considered that there would be no effects of the development on birds that would be significant under the terms of the EIA regulations.

226. While I note the concerns of interested parties, I consider that the research and survey results are such that any potential effect of the development in ecological terms is reasonable or will be suitably mitigated and the development is acceptable. The proposal would accord with CS Policy CS12 and DMD Policy DM7.

Written Ministerial Statement (WMS) *[120]*

227. Significant weight is to be given to the WMS, the aims of which are now incorporated in Planning Practice Guidance. A number of decisions have been submitted by the parties where inspectors have taken the WMS into account and it is fair to say that the emphasis in some of the decisions would appear to be quite different from others. This is perhaps not unexpected where the interpretation of planning policy is a matter for the courts. However, in coming to a decision it is necessary to give the WMS significant weight.

228. I can understand the decision by the inspector in the 'Newport Pagnell'[73] appeal to rely on the councils as being representative of the views of the 'affected local community'. The councils are elected by locals to represent their views and can be expected to be seen to be the 'resolved' view of the community when those for and against a proposal are considered. However, the consequence of this approach would effectively be that once a council had determined a wind turbine planning decision there would be no meaningful appeal process, and I do not think that can be what is intended.

229. There was much comment from the main parties and from interested parties as to who is the 'affected local community'. The council maintain that it is those most affected by the physical proximity of the turbines, particularly in this case as put forward by the 11 parish councils. Interested parties, some of whom live further afield, including some from Lincoln, in written representations and at the inquiry, noted that the need for power was a national concern, as was addressing climate change and therefore in respect of the turbines they will also be directly affected by the outcome of the appeal, so that their views are to be taken into consideration in terms of the ministerial statement.

230. I consider that energy production, whether in the form of a nuclear power station or a group of wind turbines, is part of the country's energy infrastructure and affects us all. The power they produce goes into the National Grid, the carbon saving is a benefit nationally and globally, the security of supply is for the country as a whole. I consider that the views of those supporters, even those who live away from the wind turbines, are covered by the ministerial statement.

[73] Document 11 Appeal Decision

231. While the courts have not looked into the WMS yet, the appellant identified a decision by the court where it considers some inference of the correct approach to interpretation of the WMS might be gleaned. In Gateshead MBC v Secretary of State for the Environment [1994] 1 P.L.R. 85[74] it was noted "*public concern is, of course, and must be recognised by the Secretary of State to be a material consideration for him to take into account. But, if in the end that public concern is not justified, it cannot be conclusive. If it were, no industrial – indeed very little development of any kind – would ever be permitted."* To my mind this is a close parallel to the situation that we have here. Turbines inevitably have an impact on the appearance of the countryside that some people will object to. Therefore, if the location of turbines was only left to local people I believe 'little development' if any of this type would be able to occur. If it was the WMS aim to severely restrict or prevent turbines as now permitted by current policy and guidance, I believe the Minister would have altered or removed those policies.

232. My interpretation of the WMS is that the necessary concerns of 'locally affected community', which includes those with concern about electricity supply, are to be properly considered and are material. Once identified, the WMS requires the decision maker to give significant weight to those concerns, and to consider within the terms of the proposal whether those valid concerns have been addressed in the decision, and that would include the overall planning balance. In this case, it would include taking into consideration the views of those supporting the proposal and need to address climate change and those against because of the impact they identify in relation to their valid local concerns. It is not a matter of counting numbers one way or the other, that would be to ignore the planning law that has developed to make rational and reasoned decisions on planning matters that have wide ranging effects. If the WMS were interpreted to literally mean that all concerns of the affected local community were to be addressed, a scheme could be rejected because only one person objects to say a wind turbine 2 miles away. I consider that it has to be a material concern that results in unacceptable harm. I consider that the planning impacts as identified by the affected communities have been reasonably addressed and the proposed scheme would meet the transitional arrangements set out in the WMS of 18 June 2015.

Planning Balance

233. It is clear that the PPG sees local and neighbourhood plans as the key to delivering development that has the backing of local communities. Identifying areas suitable for renewable energy in plans would give greater certainty as to where such development will be permitted. Local people should get involved in this process and actively identify where they want the wind turbines to be sited in their areas. The PPG notes, in determining planning applications, that amongst other things, great care should be taken to ensure that heritage assets are conserved in a manner appropriate to their significance, including impact on views important to their setting and that local amenity is an important consideration which should be given proper weight in planning decisions.

234. An interested party questioned the geographical location of the turbines, identifying that there are other parts of the country that have much more wind

[74] Document 30, page xxvi paragraph 6.3

than here. That clearly is the case, but the appellant has undertaken a relatively long term survey of wind conditions and indicates that the turbines would still be efficient here, with a worthwhile output. While the survey is not available for commercial privacy, I see no reason why the turbines would not be efficient, as not only had the appellant invested heavily in the proposal, but other turbines are constructed in the locality and further ones have planning permission. The appellant looked at this again and confirmed that the capacity factor of 27.1% is reasonable, and if anything the wind survey would suggest the actual figure could be about 30%. I consider that it is likely that the turbines could provide electricity for about 5432 homes.

235. Some suggest that the energy produced would be insignificant in relation to overall need. However, that is missing the point. Each turbine installed does produce a relatively small amount of energy in relation to overall need, but in combination with all the other turbines now installed, wind energy is an important energy source. In this respect, when considering energy produced, the Framework notes that when determining planning applications it should not be required for applicants to demonstrate the overall need for renewable or low carbon energy and it is recognised that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

236. I consider the proposal would provide a reasonable supply of electricity as identified by the appellant and I attach substantial weight to it and the benefits this would bring to the environment. The turbine would also have an economic benefit in terms of employment associated with its construction and maintenance and would generally accord with CS Policy CS10.

237. The production of renewable energy by wind turbines is a sustainable form of energy production, but for the Framework that is only one aspect of ‘sustainable’ development. In the terms of the Framework, sustainable development is that which conforms to its guidance and accords with the economic, social and environmental roles identified. In my view, the proposed turbines would meet all these roles in some respects, providing economic benefits in terms of energy production and diversification for the farm and some local benefit, particularly during construction. They would provide an important social role in the provision of renewable energy, available to feed in to the national grid and help to protect the environment in terms of climate change. I acknowledge that there is harm, as identified above, to the character and appearance of the area, neighbours and to the church at Cotham, which needs to be taken into the balance together with the weight associated with Section 38(6) of the Town and Country Planning Act and Section 66(1) of the Listed Building and Conservation Areas Act.

238. I conclude that on balance, taking into account the great weight to be attributed to impact on heritage assets, that the public benefits of the proposed turbines clearly outweigh the harm identified and that this would be sustainable design and development in accordance with the aims and objectives of CS Policy CS9 and DMD Policies DM5 and DM12 and that the appeal should be allowed.

239. Representations were made to the effect that the adjoining neighbours could become victims in terms of the European Convention on Human Rights and that effectively their rights could be violated if the appeal were allowed. I do not consider this to be well-founded as I have found the proposal to be acceptable

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

Conditions

240. Planning conditions and reasons for applying them are set out in Annex A. The additional condition relating to the need for a guarantee is reasonable and necessary to ensure that works of decommissioning can be completed if the company were to get into difficulties.

Recommendation

241. It is recommended that the appeal be allowed and planning permission granted for the construction and operation of a wind farm consisting of four 130m high to blade tip wind turbines, an 80m anemometry mast and associated infrastructure for a period of 27 years at agricultural land west of Newark Road, Hawton, Newark-on-Trent, in accordance with the terms of the application, ref 13/00889/FULM, dated 3 July 2013 and the plans submitted with it, subject to the conditions set out in annex A.

Graham Dudley

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Paul Tucker QC	Instructed by Mr Fisher MRTPI
Mr A Gill	
He called	
Mr R Sutton BSc (Hons) MCIfA (Full)	Head of Heritage Consultancy Cotswold Archaeology
Mr D Bell BSc (Hons) Dip UD MCIHT MRTPI	Director, Jones Lang LaSalle

FOR THE LOCAL PLANNING AUTHORITY:

Ms Sabir Kabir Sheikh QC	
She called	
Amy Schofield BA (Hons)	Conservation Planner, Development Business Unit, Newark and Sherwood District Council
Mr S Wood BA (Hons) BTP, MRTPI	Regional Planning and Building Control Manager, Urban Vision Partnership Ltd

INTERESTED PARTIES:

Mr D Sankey	Elston Parish Council
Mr J Elliott	Chairman, Cotham Parish and SNOW
Dr J Hampshire	
Mr J Walker	
Mr N Haigh	Lincoln Green Party
Mr C Padley	Lincoln Green Party
Mr J Lincoln	
Mr G Wyatt	
Ms Wendy Guest	
Mr Earl	
Mr Sutton	
Dr H Tyrer	

APPLICATION / APPEAL DOCUMENTS

Document	AP1	Questionnaire, including policies, listings, consultations etc.
	AP2	Blue folder – interested parties
	AP3	Environmental Statement Vol 1 – Non Technical Summary
	AP4	Environmental Statement Vol 2 – Main Text
	AP5	Environmental Statement Vol 3 – Figures
	AP6	Environmental Statement Vol 4 – Appendices
	AP7	Environmental Statement Vol 5 – Confidential Appendix
	AP8	Cumulative & photomontage Update (CD8.24)
	AP9	Residential visual amenity report
	AP10	Residential visual amenity assessment
	AP11	Hayes McKenzie update to the noise impact assessment
	AP12	List of all plans, drawings and documents which did not form part of the application, with associated docs

	AP13	Core Doc 5.15

APPELLANT'S DOCUMENTS

Document	AD1	Proof of evidence of David Bell with summary
	AD2	Proof of evidence of Robert Sutton with summary and supplementary Environmental information (Heritage)

COUNCIL'S DOCUMENTS

Document	LA1	Proof of evidence of Amy Schofield, including summary
	LA2	Proof of evidence of Simon Wood, including summary

DRAWINGS

Drawing	1	WPENGd5138 Rev A - Location plan
	2	WPENGd5141 Rev A – Plan on T1
	3	WPENGd5142 Rev A – Plan on northern site entrance
	4	WPENGd5143 Rev A – Plan on T2
	5	WPENGd5144 Rev A – Plan on T3
	6	WPENGd5145 Rev A – Plan on Switchgear
	7	WPENGd5146 Rev A – Plan on T4
	8	WPENGd5147 Rev A – Plan on Anemometer mast
	9	WPENGd5148 Rev A – Plan on Temp Construction Compound
	10	Compound Location Plan

DOCUMENTS HANDED IN AT THE INQUIRY

Document	1	Appellant's appearances
	2	Appellant's opening submissions
	3	Council's opening submissions
	4	Dr Hampshire's statement
	5	Extract from Discovering Churches and Churchyards
	6	Planning Practice Guidance Extract
	7	Appeal Decision APP/N2739/A/14/2228482
	8	Statement of D Sankey, Elston Parish Council
	9	Statement of J Elliott
	10	Appeal Decision APP/N2535/A/14/2217829
	11	Appeal Decision APP/Y0435/A/14/2227711
	12	Appeal Decision APP/M0933/A/14/2221985
	13	Mr Wood's revised appendix 2
	14	Appellant's note on wind speed and efficiency
	15	Appeal Decision APP/R1038/A/09107667
	16	Appeal Decision APP/D0515/A/14/2228134
	17	Statement of Mr Haigh
	18	Statement of Mr Padley
	19	Statement of Mr Lincoln
	20	Statement of Mr Wyatt
	21	Statement of Wendy Guest
	22	Statement of Mr Earl

23 Statement of Mr Sutton
24 Statement of Dr Tyrer
25 Illustrations handed in by Dr Hampshire
26 Photographs handed in by Wendy Guest
27 Further statement by Dr Hampshire
28 Proposed condition relating to the bond
29 Closing submissions on behalf of the council
30 Closing submissions on behalf of the appellant with supporting cases
31 Appeal Decision APP/Z4718/A/14/2219268
32 Bundle of legal cases
33 Routes for site visit

Core Documents List as of 23/09/2015

Document No.	Subject / Document
1. Adopted Development Plan Policies	
1.1	Newark & Sherwood Local Development Framework - Core Strategy Development Plan Document (adopted March 2011)
1.2	Newark & Sherwood Allocations and Development Management Development Plan Document (adopted 16 July 2013)
2. National Guidance	
2.1	CLG: National Planning Policy Framework (March 2012)
2.2	DECC: Overarching National Policy Statement for Energy EN-1 (July 2011)
2.3	DECC: National Policy Statement for Renewable Energy Infrastructure EN-3 (July 2011)
2.4	Written Ministerial Statement relating to the Onshore Wind Call for Evidence, issued by The Rt Hon Edward Davey MP for the Department for Energy and Climate Change (6 June 2013)
2.5	Written Ministerial Statement relating to Local Planning and Onshore Wind, issued by the Secretary of State for the Department for Communities and Local Government (6 June 2013)
2.6	Planning Practice Guidance for Renewable and Low Carbon Energy (CLG 2013)
2.7	CLG: National Planning Practice Guidance (March 2014 - Online resource)
2.8	Written Ministerial Statement relating to Local Planning and Renewable Energy Developments, issued by the Secretary of State for the Department for Communities and Local Government (April 2014)

2.9	Written Ministerial Statement (HCWS42) relating to Local Planning and Wind Energy Development, issued by the Secretary of State for Communities and Local Government (Greg Clark) (June 2015)
3. Other Local Planning Authority Documents and Regional Renewable Energy Documents	
3.1	Reviewing Renewable Energy and Energy Efficiency Targets for the East Midlands (The "AECOM Report") (June 2009)
3.2	Land Use Consultants, Centre for Sustainable Energy and SQW: Low Carbon Energy Opportunities and Heat Mapping for Local Planning Areas Across the East Midlands, Prepared for East Midlands Councils (March 2011)
3.3	Newark and Sherwood Landscape Character Assessment Supplementary Planning Document (December 2013) (Parts 1-4)
3.4	Newark and Sherwood Landscape Capacity Study for Wind Energy Development, prepared by Land Use Consultants for Newark and Sherwood District Council (March 2014)
3.5	Newark & Sherwood Local Development Framework Wind Energy Supplementary Planning Document (March 2014)

4	**High Court and Court of Appeal Decisions**
4.1	R (Hulme) v Secretary of State for Communities and Local Government [2010] EWHC 2386 (Admin)
4.2	Michael William Hulme v Secretary of State for Communities and Local Government and RES Developments Limited [2011] EWCA Civ 638
4.3	R (Lee) v Secretary of State for Communities and Local Government, Maldon District Council, Npower Renewables [2011] EWHC 807 (Admin)
4.4	(1) Derbyshire Dales District Council (2) Peak District National Park – v – (1) Secretary of State for Communities and Local Government (2) Carsington Wind Energy Limited [2009] EWHC 1729 (Admin)
4.5	(1) South Northamptonshire Council (2) Deidre Veronica Ward v (1) Secretary of State for Communities and Local Government (2) Broadview
4.6	Colman v Secretary of State for Communities and Local Government and others [2013] EWHC 1138 (Admin)
4.7	Bedford Borough Council v Secretary of State for Communities and Local Government, Nuon UK Ltd [2012] EWHC 4344 (Admin)

4.8	(1) East Northamptonshire District Council (2) English Heritage (3) National Trust v (1) Secretary of State for Communities and Local Government (2) Barnwell Manor Wind Energy Limited [2013] EWHC 473 (Admin)
4.9	North Norfolk District Council v (1) Secretary of State for Communities and Local Government (2) David Mack [2014] EWHC 279 (Admin).
4.10	The Queen (on the application of The Forge Field Society, Martin Barraud, Robert Rees) v Sevenoaks District Council v West Kent Housing Association [2014] EWHC 1895 (Admin)
4.11	Secretary of State v Hopkins [2014] EWCA Civ 470
5	**Appeal Decisions**
5.1	Burnthouse Farm (APP/D0515/A/10/2123739)
5.2	Enifer Downs (APP/X2220/A/08/2071880)
5.3	Carland Cross (APP/D0840/A/09/2103026)
5.4	Treading (APP/D0515/A/12/2181777 and APP/A2525/A/12/2184954)
5.5	Nunwood (APP/Y0435/A/10/2140401 and APP/K0235/A/11/2149434 APP/H2835/A/11/2149437)
5.6	Asfordby (APP/Y2430/A/13/2191290)
5.7	Turncole (APP/X1545/A/12/2174982 and APP/X1545/A/12/179484 APP/X1545/A/12/2179225)
5.8	Dunsland Cross (APP/W11545/A/13/2194484)
5.9	Hawton Wind Farm (APP/B3030/A/12/2183042)
5.10	Shepham Lane (APP/C1435/A/13/2208526)
5.11	Thackson's Well (APPE2530/A/08/2073384)
5.12	Palmer's Hollow (APP/Y2430/A/09/2108595)
5.13	Razors Farm (APP-H1705-A-13-2205929)
5.14	Brackenhurst College (APP-B3030-A-13-2208417)
5.15	Hemswell Cliff (APP-N2535-A-14-22178289)
5.16	French Farm (APP-J0540-V-14-2220136)

6	**Planning, Renewable Energy and Climate Change Documents**
6.1	DECC: The UK Renewable Energy Strategy (2009)
6.2	DECC: UK Renewable Energy Roadmap (July 2011)
6.3	DECC: UK Renewable Energy Roadmap Update (December 2012)
6.4	DECC: Onshore Wind, Direct and Wider Economic Impacts (May 2012)
6.5	DECC: UK Renewable Energy Roadmap Update (November 2013)
6.6	European Commission, Press Release '2030 climate and energy goals for a competitive, secure and low-carbon EU economy', (22 January 2014)
6.7	Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions: A Policy Framework for Climate and Energy in the period from 2020 to 2030, COM (2014)15 Final, 22.01.14, European Commission
6.8	European Commission 'Renewable Energy Progress Report' (16 June 2015)
6.9	DECC: Digest of UK Energy Statistics (DUKES July 2015)
7	**Cultural Heritage Documents**
7.1	'Conservation Principles: Policies and Guidance for the Sustainable Management of the Historic Environment (English Heritage 2008)
7.2	English Heritage: Climate Change and the Historic Environment (January 2008)
7.3	English Heritage: Seeing History in the View (May 2011)
7.4	NPPF Section 12: Conserving and Enhancing the Historic Environment (CLG 2012)
7.5	Scheduled Monuments – Identifying, protecting, conserving and investigating nationally important archaeological sites under the Ancient Monuments and Archaeological Areas Act 1979. (Department for Culture, Media and Sport, February 2013)
7.6	National Planning Practice Guide: 'Conserving and Enhancing the Historic Environment. 3. Decision-taking: historic environment' (CLG 2014)
7.7	Planning (Listed Buildings and Conservation Areas) Act 1990
7.8	Historic Environment Good Practice Advice In Planning Note 2 - Managing Significance in Decision-Taking (Historic England March 2015)
7.9	Historic Environment Good Practice Advice In Planning Note 3: The Setting Of Heritage Assets (Historic England March 2015)
8	**Planning Application and Appeal Documents**
8.1	Planning Application and Supporting Documents (provided in the appeal bundle in January 2015)

8.2	All statutory and non statutory consultation responses to the Planning Application (between 17 July 2013 to 6 May 2014)
8.3	Letter to Nottinghamshire Wildlife Trust regarding their consultation response to the planning application, Wind Prospect Ltd, 23 September 2013.
8.4	Email to Newark and Sherwood District Council (NSDC) Planning Officer regarding ecological matters, Nottinghamshire Wildlife Trust, 17 February 2014
8.5	Letter to NSDC Planning Officer regarding ecological matters, Wild Frontier Ecology (on behalf of Wind Prospect Ltd) 24 February 2014
8.6	Email to NSDC Planning Officer in response to comments made by North Kesteven District Council and South Kesteven District Council, with VP1 from NKDC (Lincoln Cliff) wireframe attached, Wind Prospect Ltd, 23 October 2013

8.7	Email to NSDC Planning Officer in response to the English Heritage consultation response, with a letter from Cotswold Archaeology, Wind Prospect Ltd, 27 August 2013
8.8	Email to NSDC Planning Officer explaining omission of photographs from Appendix 7.3 Settings Assessment from original planning application, and appending complete Appendix, Wind Prospect Ltd, 29 November 2013
8.9	Email to Wind Prospect Ltd requesting additional photomontages, NSDC Planning Officer and Conservation Officer, 29 November 2013
8.10	Email to Wind Prospect Ltd providing further clarification on the request for additional photomontages, NSDC Planning Officer, 4 December 2013
8.11	Supplementary Environmental Information on Heritage Report for Fox Covert Wind Farm, Cotswold Archaeology, January 2014
8.12	Email to NSDC Planning Officer sending 'Supplementary Environmental Information on Heritage Report for Fox Covert Wind Farm' and VP1 from NKDC (Lincoln Cliff) photomontage, Wind Prospect Ltd, 10 January 2014
8.13	Comment on the 'Supplementary Environmental Information on Heritage Report for Fox Covert Wind Farm', NSDC Conservation Officer, 14 February 2014
8.14	Technical Note response to the NSDC Conservation Officer comments on the 'Supplementary Environmental Information on Heritage Report for Fox Covert Wind Farm', Cotswold Archaeology, 6 March 2014
8.15	Comment on Cotswold Archaeology's Technical Note response to the NSDC Conservation Officer, NSDC Conservation Officer, 14 March 2014
8.16	Cover Letter and Technical Note to NSDC Business Manager providing comment on the potential implications of the Hawton Wind Farm decision on the proposed Fox Covert Wind Farm proposal, Cotswold Archaeology, 2 October 2014

8.17	Email to Wind Prospect Ltd clarifying assessment of harm on 'Sibthorpe Complex' and St Mary's Church Newark & providing comments on the proposed noise condition from the Senior Environmental Health Officer, NSDC Conservation Officer, 4 December 2014
8.18	Officer Report to the Planning Committee, 1 September 2014
8.19	Revised Officer Report to the Planning Committee (Cultural Heritage section and Recommendation only), (7 October 2014
8.20	Presentation – Development Business Unit 7th October 2014 – Session 1 – 10.00am, presented to the NSDC Planning Committee in October 2014.
8.21	Decision Notice, 9 October 2014
8.22	Clarification to NSDC on the Sibthorpe Complex photomontages, Wind Prospect Ltd, 1 December 2014
8.23	Appellant's Statement of Case, 20 January 2015
8.24	Photomontage Update: update of cumulative baseplan, update of both ES photomontages and additional photomontages requested in 8.5 above to include the consented Hawton Wind Farm, and an additional photomontage from north side of Cotham Church (January 2015)
8.25	NSDC Statement of Case, 24 March 2015
8.26	Letter to NSDC regarding the Statement of Common Ground, Wind Prospect Ltd, 30 July 2015
8.27	Statement of Common Ground (including Appendices 1–5) signed by NSDC and Wind Prospect Ltd, 30 July 3015

8.28	Appellant's letter response to Planning Inspectorate request for comments on the Written Ministerial Statement 18 June 2015 and DCLG's amended guidance on onshore wind, Wind Prospect Ltd
8.29	NSDC letter response to Planning Inspectorate request for comments on the Written Ministerial Statement 18 June 2015 and DCLG's amended guidance on onshore wind, Newark and Sherwood District Council
8.30	3rd party comments received through the PINS questionnaire and other comments received by PINS through the Appeal consultation (already received by PINS)

Annex A

Schedule of Planning Conditions

Validity and duration of planning permission

1. The development hereby permitted shall begin no later than three years from the date of this decision.

Reason: To establish the time within which this development can be commenced.

2. This permission is for a period not exceeding 27 years from the date that electricity from the development is first exported to the electricity grid ("First Export Date"). Written confirmation of the First Export Date shall be provided to the local planning authority within 14 days of the First Export Date.

Reason: To clarify the permission and in the interests of the character and appearance of the surrounding area which should be returned to its former condition once energy generation ceases.

Details of wind farm infrastructure design

3. The development shall be carried out in accordance with approved plans, sections and elevations, including accompanying notes, submitted with the planning application, namely:

WPENGD5141 REV A Plan on Turbine 1, Location Plan
WPENGD5142 REV A Plan on Turbine 1 Site Entrance
WPENGD5143 REV A Plan on Turbine 2, Location Plan
WPENGD5144 REV A Plan on Turbine 3, Location Plan
WPENGD5145 REV A Plan on Switchgear Building, Location Plan
WPENGD5146 REV A Plan on Turbine 4, Location Plan
WPENGD5147 REV A Plan on Anemometer Mast, Location Plan
WPENGD5148 REV A Plan on Temporary Construction Compound, Location Plan
ES Figure 2.3 - 478349_00399_v5 Detailed Site Design
ES Figure 2.4 - WPENGd5067 Typical Wind Turbine
ES Figure 2.5 - WPENGd5068 Typical Gravity Turbine Foundation
ES Figure 2.6 - WPENGd5069 Typical Piled Foundation
ES Figure 2.7 - WPENGd5070 Typical Crane Hardstanding
ES Figure 2.8 - WPENGd5071 Permanent Anemometer Mast
ES Figure 2.9 - WPENGd5072 Typical Road Construction
ES Figure 2.10 - WPENGd5073 Typical Road Construction in Flood Area
ES Figure 2.11 - WPENGd5074 Typical Road Culvert
ES Figure 2.12 - WPENGd5075 Switchgear Building
ES Figure 2.13 - WPENGd5223 Temporary Construction Compound

Reason: For the avoidance of doubt and to clarify the permission.

4. Development shall not commence until full details of the turbine specifications, including their make, model, power rating, external dimensions, colour and finish have been submitted to and approved in writing by the local planning authority. The approved details shall comprise three bladed turbines no larger than the maximum dimensions submitted as part of the application and the blades of all wind turbines shall rotate only in the same direction. No part of the structures shall carry any logo or lettering, other than as required for health and safety reasons. The turbines shall all be of the same specification. The development shall be carried out in accordance with such details as approved.

Reason: For the avoidance of doubt and to ensure satisfactory details.

5. Development shall not commence until precise details of the electrical switchgear house and meteorological mast, including precise locations, their designs, dimensions, and the types and colours of materials to be used on their external elevations have been submitted to and approved in writing by the local planning authority. The development shall be in accordance with the approved details.

Reason: To ensure a satisfactory design and external appearance in the interests of the character and appearance of the surrounding area.

6. All electrical cabling between each wind turbine and the on-site electrical switchgear house shall be located underground.

Reason: In the interests of the character and appearance of the surrounding area.

Repair or removal of wind turbines that cease to produce electricity

7. If any wind turbine hereby permitted ceases to produce electricity for a continuous period of 9 months, a scheme shall be submitted to the local planning authority within 2 months of the end of that 9 month period, for its written approval 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, including a timetable, for removal of the relevant turbine and associated above ground works approved under this permission, details of the depth to which the wind turbine foundations will be removed and for site restoration measures following the removal of the relevant turbine. The scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: In the interests of the character and appearance of the surrounding area as the development is permitted on the basis that it is functionally needed for energy generation.

Noise

8. Prior to commencement of the development, if the chosen wind turbine is not the Nordex N100 2.5MW as assessed for the purposes of the Environmental Statement, an acoustic report shall be submitted to, and approved in writing by the local planning authority in accordance with the following requirements:
a) It shall include final details of the wind turbines to be installed including dimensions, noise emission levels, control software (including noise management

options as applicable) along with manufacturer warranties to show maximum sound power levels from the turbines at wind speeds from 6 to 10m/s.
b) The acoustic report shall be conducted by a suitably competent and independent consultant details of whom are to be submitted to and approved in writing by the local planning authority, prior to the report being undertaken.
c) The methodology used in the assessment shall comply with the provisions of ETSU-R-97 "The Assessment and Rating of Noise from Wind Farms" and the guidelines issued by the Institute of Acoustics ("A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise" and supplementary guidance notes 1 to 6 inclusive).
d) It must include the assessment of the turbine noise at the locations as identified in Table 1 in Condition 9 and at any other location reasonably requested in writing by the local planning authority.
e) Where a limit value for a location does not exist, the proposed noise limits are to be those limits specified in Tables 2a and 2b of Condition 9 herein for the nearest listed location or that listed location which the independent consultant, as approved in writing by the local planning authority, considers likely to experience the most similar background noise environment to that recorded at the monitoring location.

Reason: To protect the living conditions of nearby occupiers in terms of noise.

9. The rating level of noise immissions from the combined effect of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes 1-6 inclusive, shall not exceed the values for the relevant integer wind speed set out in, or derived from, Table 2 below at any dwelling which is lawfully existing or has planning permission at the date of this permission and:
a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the local planning authority on its request, within 14 days of receipt in writing of such a request.
b) No electricity shall be exported until the wind farm operator has submitted to the local planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the local planning authority.
c) Within 21 days from receipt of a written request from the local planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a 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 and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the local planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted

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

e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind 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 rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the local planning authority for the complainant's dwelling.

f) The wind 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 for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the local planning authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the local planning authority with the independent consultant's assessment of the rating level of noise immissions.

g) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), 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 (d) above unless the time limit has been extended in writing by the local planning authority.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB $L_{A90,10\ minute}$ as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

		Wind speed standardised to 10m agl									
	Location	3	4	5	6	7	8	9	10	11	12
Involved	The Grange	45.0	45.0	45.0	45.0	45.0	45.0	45.0	47.5	50.8	53.9
	1 Grange Cottages	45.0	45.0	45.0	45.0	45.0	45.0	45.0	47.5	50.8	53.9
	2 Grange Cottages	45.0	45.0	45.0	45.0	45.0	45.0	45.0	47.5	50.8	53.9
Non-Involved properties	Balderton Grange	40.1	40.1	40.1	40.1	40.8	42.2	44.5	47.5	50.8	53.9
	Cumbria	40.0	40.0	40.0	40.0	40.0	42.6	46.8	51.2	54.8	56.3
	Devon Farm	40.0	40.0	40.0	40.0	40.0	42.0	45.7	49.3	52.3	54.3
	Hawton	40.0	40.0	40.0	40.0	40.0	40.4	42.1	44.6	47.5	50.3
	Honey Lane Farm	40.0	40.0	40.0	40.9	43.3	46.4	50.0	53.4	56.3	57.9
	Honey Lane Farm Cottage	40.0	40.0	40.0	40.9	43.3	46.4	50.0	53.4	56.3	57.9
	Honies Farm	40.0	40.0	40.0	40.0	40.0	41.0	44.0	47.2	50.0	52.1
	Manor Farm	40.0	40.0	40.0	40.0	40.0	42.6	46.8	51.2	54.8	56.3
	Meadow Farm	40.0	40.0	40.0	40.0	40.0	42.0	45.7	49.3	52.3	54.3
	Newark Growth Point	40.0	40.0	40.0	40.0	40.0	40.4	42.1	44.6	47.5	50.3
	Quarry Farm	44.1	44.1	44.1	44.1	44.1	44.1	44.2	44.9	46.1	47.9
	The Elms	40.0	40.0	40.0	40.0	40.0	40.4	42.1	44.6	47.5	50.3
	The Old Hall Farm	40.0	40.0	40.0	40.0	40.0	42.6	46.8	51.2	54.8	56.3
	Thorpe Lodge	40.0	40.0	40.0	40.0	40.0	41.0	44.0	47.2	50.0	52.1

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

		Wind speed standardised to 10m agl									
	Location	3	4	5	6	7	8	9	10	11	12
Involved	The Grange	45.0	45.0	45.0	45.0	45.0	45.0	45.0	47.4	50.6	53.5
	1 Grange Cottages	45.0	45.0	45.0	45.0	45.0	45.0	45.0	47.4	50.6	53.5
	2 Grange Cottages	45.0	45.0	45.0	45.0	45.0	45.0	45.0	47.4	50.6	53.5
Non-Involved properties	Balderton Grange	43.0	43.0	43.0	43.0	43.0	43.0	44.0	47.4	50.6	53.5
	Cumbria	43.0	43.0	43.0	43.0	43.0	43.0	47.7	51.9	55.0	56.1
	Devon Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.2	46.6	50.1	53.6
	Hawton	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.1	48.4	50.7
	Honey Lane Farm	43.0	43.0	43.0	43.0	43.0	46.6	50.5	54.2	57.4	60.0
	Honey Lane Farm Cottage	43.0	43.0	43.0	43.0	43.0	46.6	50.5	54.2	57.4	60.0
	Honies Farm	43.0	43.0	43.0	43.0	43.0	43.0	44.5	48.1	50.9	52.4
	Manor Farm	43.0	43.0	43.0	43.0	43.0	43.0	47.7	51.9	55.0	56.1
	Meadow Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.2	46.6	50.1	53.6
	Newark Growth Point	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.1	48.4	50.7
	Quarry Farm	43.0	43.0	43.0	43.0	43.0	43.1	43.8	44.7	45.9	47.5
	The Elms	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.1	48.4	50.7
	The Old Hall Farm	43.0	43.0	43.0	43.0	43.0	43.0	47.7	51.9	55.0	56.1
	Thorpe Lodge	43.0	43.0	43.0	43.0	43.0	43.0	44.5	48.1	50.9	52.4

Table 3 - Coordinate locations of the properties listed in Tables 1 and 2.

Dwelling	Easting	Northing	Assumed Background Monitoring Location
1 Grange Cottages	479633	348922	
2 Grange Cottages	479632	348905	1 Grange Cottages
Balderton Grange	480629	348951	1 Grange Cottages
Cumbria	479500	347359	
Devon Farm	477878	347259	Meadow Farm
Hawton	478912	350947	The Elms
Honey Lane Farm	477784	350567	
Honey Lane Farm Cottages	477977	350364	Honey Lane Farm
Honies Farm	477398	348853	Thorpe Lodge
Manor Farm	479425	347771	Cumbria
Meadow Farm	477744	347469	
Newark Growth Point (approximate)	479596	351155	The Elms
Quarry Farm	479973	350914	
The Elms	479088	350921	
The Grange	479683	348832	1 Grange Cottages
The Old Hall Farm	479478	347458	Cumbria
Thorpe Lodge	477653	349181	

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[1] Incoming noise; i.e. the rated noise level at receptor locations. Quiet Daytime is defined by ETSU-R-97 between 18:00 and 23:00 Monday to Sunday, between 13:00 and 18:00 on Saturday, and between 07:00-18:00 on Sundays. Night-time is between 23:00 and 07:00.

Reason: To protect the living conditions of nearby occupiers in terms of noise.

Communications

10. Prior to commencement of the development the wind farm operator shall provide the local planning authority with a designated point of contact for local residents and the local planning authority both during and outside normal working hours in respect of matters arising in relation to the development. In particular the point of contact shall have responsibility for dealing with any complaints made during the construction of the development, throughout the operation of the wind farm and during the decommissioning / restoration of the site. The operator shall provide the local planning authority with advance notice in writing of any subsequent changes in the details of the designated point of contact.

Reason: In the interests of being able to protect local residents living conditions.

Aviation

11. No development shall take place until the developer has notified the local planning authority of the following information:
- The proposed date of construction commencement and projected completion date;
- The maximum height of construction equipment;
- The latitude and longitude of each wind turbine and anemometry mast.

In the event that the anticipated date of completion of construction varies from that which has been notified to the local planning authority, an update shall be provided

in writing prior to construction extending beyond the date of which it has been notified.

Reason: In order that those with aviation interests can be notified by the local planning authority in good time.

12. No development hereby permitted shall be commenced until details of an aviation warning light (which shall be infra-red unless aviation safety requires otherwise) to be fitted to the highest practicable point of each wind turbine has been submitted to and approved in writing by the local planning authority. The approved aviation warning light shall be installed upon erection of each wind turbine and shall be retained in working order for the lifetime of the development.

Reason: In the interests of aircraft safety.

Construction noise

13. Prior to the commencement of the development hereby permitted, an assessment of noise levels expected to be generated during the construction of the wind farm, along with background noise levels, prepared in accordance with the current edition of BS5228, along with a scheme for noise control measures during the construction period, shall be submitted in writing to the local planning authority for its written approval and the scheme of noise control measures approved by the local planning authority shall be undertaken throughout the construction period.

Reason: In the interests of protecting the noise environment of residents during the construction period.

Hours of operation during the construction phase

14. The hours of operation during the construction phase of the development including the hours in which delivery of construction materials or equipment to the site takes place and associated with the construction of the development hereby permitted shall be limited to 0730 hours to 1800 hours on Mondays to Fridays and 0730 hours to 1300 hours on Saturdays and no work shall take place on Sundays or Public Holidays. Outside these hours, except in case of emergency, no works to implement the planning permission shall take place. The local planning authority shall be informed in writing of any emergency works within three working days of its occurrence.

Reason: To protect the living conditions of local residents.

15. Notwithstanding the provision of condition 20, delivery of turbine and crane components may take place outside the hours specified subject to not less than 2 local planning authority working days' prior notice of such traffic movements being given to the local planning authority.

Reason: Delivery of components cannot be easily controlled and it is in highway safety interests that they are moved to the site expeditiously.

Access and transport considerations

16. No part of the development hereby permitted shall be brought into use until the two site entrance access points off the public highway have been designed to:
• have a minimum width of 7.3m for the first 20m rear of the highway boundary;
• have a minimum of 10m radius kerbs each side of the site accesses provided.
Details of these are to be submitted to and approved in writing by the local planning authority, prior to development commencing. The development shall be constructed in accordance with details.

Reason: To enable vehicles to enter and leave the public highway in a slow and controlled manner and in the interests of general highway safety.

17. No part of the development hereby permitted shall be brought into use until the access is surfaced in a bound material for a minimum distance of 20m from the edge of the highway boundary and to be in accordance with details to be first submitted to and approved in writing by the local planning authority.

Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.).

18. No part of the development hereby permitted shall be brought into use until the visibility splays of 2.4m x 215m are provided at both site access points, within which there should be no obstruction to vision between 0.26m above the carriageway level up to 1.05m in height, taken from the channel level of the adjacent carriageway. These splays should be retained for the lifetime of the development and are to be in accordance with details which have been submitted to and approved in writing by the local planning authority.

Reason: To afford adequate visibility at the access points to cater for the type of traffic joining the existing highway network and in the interests of general highway safety.

19. No part of the development hereby permitted shall be brought into use until the access points are constructed with provision to prevent the unregulated discharge of surface water from these accesses to the public highway in accordance with details which have been submitted to and approved in writing by the local planning authority. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.

Reason: To ensure surface water from the site is not deposited on the public highway causing dangers to road users.

20. No development shall be commenced until a construction and traffic management plan has been submitted to and approved in writing by the local planning authority. The construction and traffic management plan will include details of the proposed haul route for abnormal loads, a programme of works for any improvements to the highway (including the temporary removal and post-construction reinstatement of street furniture and to provide for the swept path of the largest construction/delivery vehicles), delivery times and methodology for the delivery of the apparatus to ensure that the abnormal loads do not have a significant impact on other highway users of the abnormal load route. Development shall be carried out only in accordance with the approved details.

Reason: To protect the structural integrity of the highway, to allow for future maintenance, to provide a safe access to the site and to minimise disruption to the free flow of traffic.

21. No wind farm construction/delivery vehicles will be permitted to access any part of the application site unless or until highway improvement works have been provided at the two site entrances and at other locations on the HGV route between the A1 and the site as set out in the details approved under Condition 20 above, to provide for the swept path of the largest construction/delivery vehicles unless otherwise agreed in writing by the local planning authority.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

22. Details of measures to prevent the deposit of debris upon the adjacent public highway shall be submitted and approved in writing by the LPA prior to any works commencing on site. The approved measures shall be implemented prior to any other works commencing on site.

Reason: In the interests of highway safety.

23. No development shall be commenced until details of the haul route for the delivery of construction materials to the site and the parking of construction worker vehicles have been submitted to and approved in writing by the local planning authority and Highway Authority. Development shall be carried out only in accordance with the approved details.

Reason: To protect the structural integrity of the highway and to allow for future maintenance.

Height of wind turbines

24. The development hereby permitted shall not be commenced until details of the existing site levels and slab levels for the wind turbines have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved slab levels.

Reason: The visual impact of the proposed development will be significant. Agreed final heights should therefore be clear, including any change to base levels in order to minimise effects on the character and appearance of the area.

Flood risk and water protection

25. The development hereby permitted shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated May 2013 prepared by HR Wallingford for the Fox Covert Wind Farm ES.

- Any equipment or components critical to the operation of the wind turbines will be set 600mm above the 1 in 100 year and climate change allowance flood level;
- A scheme for the provision and implementation of level for level compensatory flood storage to effectively recreate the workings of the floodplain.

- Prior to development commencing the slab levels of the turbine and anemometry mast, with associated ground levels, will be submitted to and approved in writing by the local planning authority.

The mitigation measures within the FRA shall be fully implemented prior to the development becoming operational and subsequently in accordance with the timing / phasing arrangements embodied within the scheme.

Reason: In the interests of managing flood risk.

26. Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary containment that is impermeable to oil, fuels or chemicals and water, for example a bund, details of which shall be submitted to the local planning authority for approval in writing. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest. All fill points, vents, gauges and sight gauge must be located within the secondary containment. The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

Reason: To protect controlled waters.

27. No development shall commence until precise details of the proposed Sustainable Urban Drainage System (SUDS) has been submitted to and approved in writing by the local planning authority. If the use of SUDS is not agreed alternative proposals for the drainage of surface water should be submitted to and approved in writing by the local planning authority. If surface water is to be disposed of via watercourses the discharge rate must not exceed that of the existing greenfield run-off.

Reason: To prevent the increased risk of flooding; to improve and protect water quality; to improve habitat and amenity; and to ensure the future maintenance of the sustainable drainage structures.

Ecology and landscaping

28. No hedge or tree that is to be removed as part of the development hereby permitted shall be lopped, topped, felled or otherwise removed during the bird nesting period (beginning of March to end of August inclusive) unless otherwise agreed in writing by the local planning authority and no development shall be commenced where construction will take place during the main bird breeding season (1 March to 30 August) until details of the proposed mitigation measures for the protection of nesting birds during construction of the development, including pre-construction surveys, shall have been submitted to and approved in writing by the local planning authority. The construction shall be carried out in accordance with the approved details.

Reason: In order to protect birds nesting within the construction envelope of the scheme.

29. No development shall take place until the ecological Mitigation and Enhancement Plan (as outlined in Appendix 8.6 of the Environmental Statement), including a management plan and a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The Mitigation and Enhancement Plan will include full details of soft landscape works/vegetation enhancement works as follows: (a) a schedule (including planting plans and written specifications, including cultivation and other operations associated with plant and grass establishment) of trees, shrubs and other plants, noting species, plant sizes, proposed numbers and densities. The scheme shall be designed to enhance the conservation value of the site, including the use of locally native plant species; and, (b) existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction. All works shall be carried out in accordance with the approved details and timetable. The mitigation and enhancement plan shall be carried out as approved.

Reason: To ensure that suitable mitigation is put in place so that the development does not have a detrimental effect on local ecology and in the interests of the character and appearance of the surroundings.

30. The requirement of the Mitigation and Enhancement Plan shall be carried out in the first planting and seeding seasons following the completion of development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

Reason: To set out a timetable for the implementation and establishing of landscaping required under Condition 29 above.

31. No development shall commence until a robust programme of monitoring to assess any operational impacts from the turbines on bats and birds (with regards to fatalities/displacement) has been submitted to and approved in writing by the local planning authority. This should relate to the establishment/success of the proposed enhancements agreed under Condition 29 above. Once agreed the programme of monitoring and any necessary additional mitigation/enhancement measures resulting from the monitoring, if any, shall be carried out in accordance with the agreed programme of monitoring.

Reason: To ensure that suitable mitigation is put in place so that the development does not have a detrimental effect on local ecology.

Shadow Flicker

32. Prior to development commencing, a scheme for dealing with complaints relating to shadow flicker, including timetable, shall be submitted to and approved in writing by the local planning authority. Within 21 days from receipt of a written request by the local planning authority, following a complaint to it alleging disturbance from shadow flicker at a dwelling that is lawfully occupied and lawfully existing at the time

of this permission, the scheme for dealing with complaints will be implemented in full. The mitigation measures identified through the scheme shall be carried out in accordance with the approved scheme and timetable and shall be retained thereafter.

Reason: To protect local residents from shadow flicker.

Archaeology

33. No development shall take place within the application site until a scheme for archaeological mitigation, including timetable, has been submitted to and approved in writing by the LPA. Thereafter the scheme shall be implemented in full accordance with the approved scheme.

Reason: To ensure that any archaeological evidence within the site is appropriately preserved.

Decommissioning plan

34. No later than 3 months prior to the permanent cessation of electricity generation at the site, a scheme for the removal from the site of wind turbines and associated works hereby approved shall be submitted to the local planning authority for its written approval. The scheme to be submitted shall include the dismantling and removal of each wind turbine and ancillary equipment above existing ground level and the removal of the wind turbine bases and foundations down to a level of at least 1 metre below ground level and also include a restoration scheme for the land. Restoration shall be completed in accordance with the approved scheme within 12 months of it being approved by the local planning authority.

Reason: To clarify the permission and in the interests of the character and appearance of the surrounding area which should be returned to its former condition once energy generation ceases.

35. Prior to the commencement of the development, a guarantee to cover all site restoration and aftercare liabilities imposed on the expiry of this consent, shall be submitted to and approved in writing by the local planning authority. The guarantee shall;

I. be granted in favour of the planning authority,
II. be granted by a bank or other institution which is of sound financial standing capable of fulfilling the obligations under the guarantee,
III. be for an amount which covers the value of all site restoration and aftercare liabilities as determined by the planning authority at the commencement of development,
IV. contain indexation provisions so that all site restoration and aftercare liability as determined at commencement of the development shall be increased on each anniversary of the date of this consent by the same percentage increase in the General Index of Retail Prices (All Items), exclusive of mortgage interest published on or behalf of HM Government between the date hereof and such relevant anniversary, or other such indexation mechanism that may be agreed by the planning authority,
V. come into effect on or before the date of commencement of development, and expire no earlier that 24 months after the decommissioning of the turbines.

Development shall not commence until the approved guarantee has been granted by the bank or other institution.

Reason: To ensure that the development is decommissioned as required by condition 34.

Guidance Notes for Noise Conditions

These notes are to be read with and form part of the Noise Conditions. They further clarify the conditions and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3 and any amplitude modulation penalty applied in accordance with Guidance 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. Reference to the Good Practice Guide refers to the publication entitled A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise (2013) published by the Institute of Acoustics, and the associated Supplementary Guidance Notes.

Guidance Note 1

a) Values of the LA90, 10minute noise statistic shall be measured at the complainant's property, using a sound level meter of EN60651/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). The sound level meter shall be calibrated in accordance with the procedure specified in BS4142: 2014 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable any required tonal penalty to be derived in accordance with Guidance Note 3 and to enable any required amplitude modulation penalty to be derived in accordance with Guidance Note 4 (with both tonal and amplitude modulation penalties to be applied in accordance with Guidance Note 5).
b) The microphone shall be mounted at 1.2-1.5 metres above ground level, fitted with a 2 layered windshield or suitable equivalent approved in writing by the local planning authority and placed outside the complainant's dwelling. Measurements shall 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 access to the complainant's property is refused, or no suitable free-field measurement location is available at the complainant's dwelling, the wind farm operator shall submit for the written approval of the local planning authority full details of the proposed alternative representative free field condition measuring location prior to the commencement of the measurements. The measurements shall be undertaken at the approved alternative representative free-field measuring location. Where no suitable alternative representative free-field monitoring location is available, measurements

shall be made at the complainant's dwelling, with appropriate corrections for facade effects made to the measurements.
c) The $L_{A90\ 10minute}$ measurements shall be synchronised with measurements of the 10 minute arithmetic mean wind speed and with operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.
d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed and direction at hub height for each turbine and arithmetic mean wind speed and direction at the location of the site meteorological mast, together with arithmetic mean power generated by each turbine, in successive 10 minutes unless otherwise agreed in writing with the local planning authority. The mean hub height wind speed data for the operating turbines shall be standardised to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10 minute periods shall commence on the hour and in 10 minute increments thereafter.
e) Data provided to the local planning authority in accordance with the Noise Conditions shall be provided in electronic format that has first been approved in writing by the local planning authority.

Guidance Note 2

a) The noise measurements shall be made to provide not less than 20 valid data points as defined by Guidance Note 2 (b).
b) Valid data points are those measured in the conditions specified by the local planning authority in its written protocol under Condition 10, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurements periods set out in Guidance Note 1. In specifying such conditions, the local planning authority shall have regard to those conditions which prevailed during the times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.
c) For those data points considered valid in accordance with Guidance Note 2(b), values of $L_{A90,10\ minute}$ noise measurements and corresponding values of 10 minute wind speed as an average of the operating turbines, standardized to 10 metre height using the procedure set out in Guidance Note 1 shall be plotted on an XY chart with noise level on the Y axis and the standardised mean wind speed on the X axis and annotated as such. 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 and define the wind farm noise level at each integer speed.

Guidance Note 3

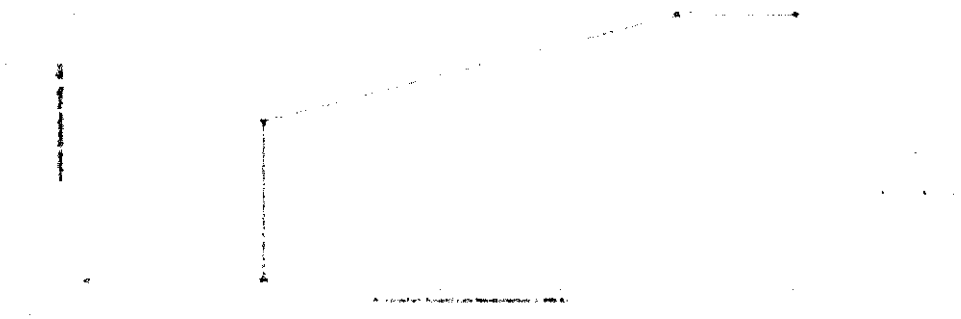
a) Where, in accordance with the approved assessment protocol under Noise Condition 6, noise immission at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component a tonal penalty is to be calculated and applied using the following rating procedure.

b) For each 10 minute interval for which $L_{A90,10\ minute}$ data have been determined as valid in accordance with Guidance Note 2, a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods shall be spaced at 10 minute intervals provided that uninterrupted uncorrupted data is available ("the standard procedure"). Where uncorrupted data is 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, as described in section 2.1 on pages 104 -109 of ETSU-R-97, shall be reported.
c) For each of the 2 minute samples, the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in section 2.1 on pages 104 - 109 of ETSU-R-97.
d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
e) A linear regression (least squares best fit) shall be fitted to the relationship between tone level above audibility and wind speed. If a trend is apparent, the tone level above audibility at each integer wind speed shall be taken from the linear fit. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2. The tonal penalty is to be derived an accordance with the figure on page 104 of ETSU-R-97.

Guidance Note 4
a) Where, in accordance with the approved measurement protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain an amplitude modulation component, the requirement for an amplitude modulation penalty is to be assessed and if necessary calculated using the following procedure.
b) For each 10 minute interval for which $L_{A90,10minute}$ data have been determined as valid in accordance with Guidance Note 2, an amplitude modulation assessment shall be performed on noise immissions in consecutive, non-overlapping 10 sec periods within each 10 minute interval. Where a particular 10 sec period is corrupted, that period shall be discarded from further assessment.
c) For each of the 10 sec samples within a particular 10 min interval, the level of amplitude modulation shall be determined using the following methodology, which is intended to determine the 'average' level of AM, at the blade passing frequency, within each sample:
I. The 10 sec data shall be reduced to a time series of 100 values of $L_{Aeq,100msec.}$
II. The time series is to be de-trended using a 5th order polynomial.
III. A single-sided, power spectral density function, using a Rectangular window, shall be calculated from the de-trended $L_{Aeq,100msec}$ data. A frequency resolution, Δf, of 5/128 Hz shall be used, and the spectrum shall comprise 128 lines, with a maximum frequency of 5 Hz.
IV. For 10 sec periods where no amplitude modulation is observed, either in the time series of step (c)(i), or where there is no peak in the modulation spectrum, from step (c)(iii), then the objective measure of the level of amplitude modulation, for that 10 sec period, Ai, shall be set as zero.
V. The energy in the band from $0.9f_c$ to $1.1\ f_c$ shall be calculated and denoted Ec, where fc is the blade passing frequency in hertz.
VI. The objective measure of the level of amplitude modulation, for each 10 sec period, i, is then derived as A_i, where

$$A_i = 2 \cdot \sqrt{2 \cdot \Delta f \cdot E_c}$$

d) The overall, objective measure of the level of amplitude modulation, A, for that 10 min interval shall be taken as the arithmetic mean of the 12 highest levels of amplitude modulation, Ai, from step (c)(vi), excluding any periods discarded as in (b) above. This is intended to determine an indicative level of AM, over each 10 min period, which is the average of the top 20 % of measured AM levels.
e) If a value of A greater than 0 dB results from the above, the Independent Consultant shall investigate the SCADA data for that period and verify that the peak in the modulation spectrum, f_c, is consistent with the rotational frequencies of the turbines' rotors.
f) Where there is doubt about the validity of a 10 min interval result, for example due to extraneous sources of noise, the Independent Consultant shall listen to the 10 minute of recorded noise data from which the amplitude modulation penalty was derived. If it is clear that the amplitude modulation is generated by such an extraneous source then the amplitude modulation penalty shall be discarded.
g) The objective measure of the level of amplitude modulation shall be plotted against wind speed for each of the 10 minute periods. For periods in which no amplitude modulation is identified, a value of zero shall be used.
h) A linear regression (least squares best fit) shall be fitted to the relationship between tone level above audibility and wind speed. If a trend is apparent, the tone level above audibility at each integer wind speed shall be taken from the linear fit. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.
i) The amplitude modulation penalty is derived from the average level of amplitude modulation for each integer wind speed according to the figure below.



Guidance Note 5
a) If a tonal penalty and/or an amplitude modulation penalty is required in accordance with Guidance Notes 3 & 4 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined by the best fit curve described in Guidance Note 2 and the penalties for tonal and amplitude modulation noise as derived in accordance with Guidance Note 3 &4 at each integer

wind speed within the range specified by the local planning authority in its written protocol under Noise Condition 6. Where penalties are indicated for both tonal noise and amplitude modulation noise, the total penalty to be added to the measures noise level shall be the arithmetic sum of the individual penalties.
b) If no tonal or amplitude modulation penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.
c) In the event that the rating level is above the limits set out in the tables attached to the Condition 5 or the noise limits for a dwelling approved in accordance with Condition 7 part II, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to the wind turbine noise immission only.
d) The further assessment shall be undertaken in accordance with the following steps:
VII. The wind farm operator shall ensure that all the wind turbines on the development are turned off for such a period as the independent consultant requires to undertake the further assessment. The steps in Guidance Note 2 will be repeated with the wind farm switched off and then determining the background noise (L3) at each integer wind speed within the range requested by the local planning authority in its written request under Condition 5 and the approved protocol under Condition 6.
Or,
VIII. Where, in the opinion of the independent consultant approved under Condition 6, the background noise levels at the complainant's property can be adequately represented by those presented in Table 10.4 of the Environmental Statement June 2013, then such levels shall be used to represent the background noise (L3) at each integer wind speed within the range requested by the local planning authority in its written request under Condition 6 and the approved protocol under Condition 7.
IX. The wind farm noise (L1) at each integer wind speed shall be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal or amplitude modulation penalty:

$$L1 = 10 \text{ Log}(10^{L2/10} - 10^{L3/10})$$

X. The rating level shall be recalculated by adding the tonal and amplitude modulation penalties (if any is applied in accordance with notes 3 & 4) to the derived wind farm noise L1 at that integer wind speed.
XI. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above at any integer wind speed) lies at or below the values set out in the tables attached to the conditions or at or below the noise limits approved by the local planning authority for a complainants dwelling in accordance with Condition 7 part II 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 Condition 7 part II then the development fails to comply with the conditions.

Guidance Note 6
This section contains a glossary for Guidance Note 4, as follows:

Amplitude Modulation means the modulation of the level of broadband noise emitted by a wind turbine at blade passing frequency, fc, as represented by the peak to trough level

Amplitude Modulation Penalty is the decibel penalty to be added to individual LA90,10min measurements as a result of amplitude modulation

Blade Passing Frequency means the frequency, in Hertz (Hz), at which the blades pass any fixed point, for example the tower

LAeq,n means the equivalent continuous A-weighting sound pressure level over time period n

LAeq,100msec means the equivalent continuous A-weighting sound pressure level over 100 milliseconds

De-trending is a function designed to remove an unwanted trend from a time series of data, resulting in a 'stationary' time series

Modulation Spectrum is a single-sided, power spectral density function: calculated using a Rectangular window; having a frequency resolution of 5/128 Hz; comprising 128 lines and having a maximum frequency of 5 Hz

Power Spectral Density is a function which describes how the variance (square of standard deviation) of a time series is distributed over the different frequencies

Rectangular Window is a windowing function used in the spectral analysis of time series data used to ensure an equal weighting to every value within the time window

Frequency Resolution is the size of the frequency bins used to define a frequency spectrum. The smaller the bins, the higher the resolution of the spectrum

Department for Communities and Local Government

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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 for permission 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
With the permission of the High Court 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. 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 for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act
Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: 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 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.