
Appeal Decision

Site visit made on 10 April 2014

by R P E Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

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

Decision date: 6 August 2014

Appeal Ref: APP/P1615/A/13/2204221

Alvington Court Farm, Alvington, Lydney GL15 6BG

- 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 Resilient Energy Alvington Court Ltd against the decision of Forest of Dean District Council.
 - The application Ref P1396/12/FUL, dated 7 September 2012, was refused by notice dated 13 June 2013.
 - The development proposed was described on the application as: 'Change of use of agricultural land to wind turbine and installation of a wind turbine to generate renewable energy including grid connection and ancillary works.'
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Decision

1. The appeal is allowed and planning permission is granted for change of use of agricultural land to wind turbine and installation of a wind turbine to generate renewable energy including grid connection and ancillary works at Alvington Court Farm, Alvington, Lydney GL15 6BG in accordance with the terms of the application, Ref P1396/12/FUL, dated 7 September 2012, subject to the conditions set out on the attached schedule.

Procedural Matters

2. The Council employed a different description of development which was: 'Erection of one wind turbine, grid connection, associated access and ancillary works including anemometer mast.' However this description was not agreed with the Applicant. The appeal is based on the original application description.
3. Although it is not explicit in the development description, planning permission for turbine development is typically sought for a 25 year period, after which the turbine and above ground works would be removed and the site restored. The Council has proposed a planning condition to that effect to which the Appellant has not objected.

Policy Context

4. The appeal is required by statute and national policy to be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise. The development plan here includes the Forest of Dean Core Strategy (February 2012) (the CS). CS Policy CSP.1 amongst other things requires specific consideration of the effect of all development on heritage assets and landscape. There is no CS policy specific

to renewable energy development. However CS Paragraph 6.11 refers to the mitigation of climate change (which is defined as action to reduce carbon dioxide emissions) and provides that: '*... renewable energy development will be supported where it meets national guidance*'. I take that reference to logically also include national policy since the national guidance normally only expands on policy.

5. The National Planning Policy Framework (the Framework) was published by the Government as policy in March 2012. It is now supported by national guidance which includes Planning Practice Guidance (PPG) published in 2014. The PPG has not replaced the still extant Practice Guide to the former Planning Policy Statement 5 Planning for the Historic Environment. Whatever the interpretation of CS paragraph 6.11, these documents are important material considerations. The Framework specifically provides at paragraph 215 that due weight should be given to relevant policies in existing plans such as the CS according to their degree of consistency with the Framework. Paragraph 14 of the Framework further provides that where the development plan is silent or relevant policies are out of date, then planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specific policies in the Framework indicate development should be refused.
6. Other material considerations include: the National Policy Statements on Energy (EN-1) and Renewable Energy (EN-3); the Council's Landscape Supplementary Planning Document 2007 (the Landscape SPD), which is part of the local development framework but not part of the statutory development plan, and English Heritage guidance set out in the document: 'The Setting of Heritage Assets'.
7. Also material is the statutory duty in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that special regard be had to the desirability of preserving the setting of listed buildings. The Court of Appeal has recently interpreted the wording as requiring that considerable weight and importance should be accorded to preserving the setting.

Main Issues

8. The Council refused planning permission firstly because of claimed harm to the setting of Alvington Court, which is a Grade II listed building¹, and secondly because it considered that insufficient information had been provided to determine whether the development would preserve or enhance the setting of heritage assets in the area. At the application and appeal stages, some interested persons also raised objections to the effect on heritage assets and also to other effects including to landscape, wildlife, and to residential amenity (including noise and visual amenity). Other interested persons have expressed support for the development for its wider environmental or economic benefits.
9. Having regard also to local and national policy, the main issues are therefore considered to be:

¹ Not Grade II* as erroneously suggested in some English Heritage comments.

- What effect the development would have on the setting and heritage significance of Alvington Court and other heritage assets.
- What effect the development would have on the landscape, wildlife and residential amenity.
- Whether any identified harm outweighs, or is outweighed by, any benefits of the development.

Environmental Screening

10. The proposed development has been screened for its environmental impact in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 and 2011. Due to the characteristics, size and location of the proposed development, and because there are no sensitive ecological receptors that are likely to be significantly affected, it is concluded that the proposal is not likely to result in significant impact likely to cause harm to the wider environment and that an Environmental Impact Assessment is not required.

Reasons

Heritage

Alvington Court

11. Alvington Court is now a farmhouse, but according to the listing description it has 16th century origins and may have originally been a Manor House or Priory Grange. It is part of a farmstead that otherwise comprises mainly large 20th century farmbuildings of utilitarian design and construction with no heritage significance. The farmstead is surrounded by open fields on a gentle east facing slope that descends to meet flatter land bordering the River Severn. A north-south railway crosses that flatter land. There are some trees to the west and north west of the farmstead. The trees and the farmbuildings together partially conceal the farmhouse in views from Alvington and much of Court Lane. The house can be seen at a distance from parts of Court Lane or from part of the main A48 road which is on higher ground than the house. In the latter view the lower parts of the house are concealed by the landform and the farmbuildings such that the height of the house is not apparent. Closer public views are available from a public footpath that leaves Court Lane and shares the driveway access to the farmstead. It then passes the southern front of the house before descending to lower ground and turning north east along the foot of the valley slope where it would continue past the turbine. Longer views of the house (and turbine) would be briefly available from trains on the railway line which is on lower ground.
12. The proposed turbine would have a hub height of 60m and an overall height to blade tip of 87m. It would stand to the north north east of the farmstead on higher ground and at a distance from the farmhouse of about 240m.
13. The Framework requires at paragraph 132 that regard is had to the 'significance' of a designated heritage asset and advises that significance can be harmed through development within the setting of an asset. It further provides that substantial harm should be wholly exceptional. Paragraph 133 requires that substantial public benefits would need to outweigh substantial harm if the development is to be permitted. Paragraph 134 provides that less

than substantial harm would also need to be weighed with public benefits. The setting of a heritage asset is defined in the Glossary as: *'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral'*.

14. The listing description acknowledges that the farmhouse has experienced substantial modifications and that it has lost most 16th century details. The listing describes the windows as 19th century but those windows appear to have been recently replaced with obviously modern windows. Apart from its historic origins, the significance of the heritage asset includes that the stone house is unusually tall and that it has a distinctive appearance in near views with considerable plain walling to the upper parts of the elevation of the main part of the house. Those features distinguish it from more ordinary vernacular farmhouses in the area. Nevertheless they could only be appreciated for their significance at close distances. Such views would be available from the private land immediately around the farmhouse and from the public footpath. The influence of setting on appreciation of significance is thus quite limited. Even in the closer views, the late medieval origins of the farmhouse would not necessarily be obvious to a lay observer. Indeed the house was only listed as recently as 1988. It thus appears that it took some years after lists were first prepared before the heritage interest of the house was recognised even by experts.
15. It is not known what relationship the building originally had to its surroundings but in any case its setting is likely to have altered considerably since the 16th century. It now includes large modern farmbuildings and post-medieval field enclosures. Other significant changes in the wider setting since the building was erected include the reclamation of the marshes beside the river, the construction across the marshes of the railway line to South Wales, and the realignment and widening of a major road (the A48). The most obvious surviving characteristics of the historic landscape are that it remains mainly agricultural and also mainly open, except where occupied by the modern farmbuildings. The farmhouse is not a dominant or defining feature of its setting beyond the immediate surroundings of the farmstead which include the nearest part of the public footpath. Its heritage significance would not be readily apparent at greater distances, such as from the field north-east of the Ferneley Brook to which the Council's statement refers.
16. The turbine would be another relatively modern structure like the road and railway. It would appear in some of the same views as the farmhouse. Its considerable height and movement would cause it to be visually dominant over its farmland surroundings. It would thereby affect the otherwise mainly agricultural landscape character of those surroundings. That effect would reach as far as the farmhouse such that the farmhouse would cease to occupy a solely agricultural setting. However the turbine would occupy a small footprint, allowing agricultural activities to continue close its base. Whilst the agricultural use would continue, the landscape character would be modified by the addition of the tall modern structure. But it would be a slender structure that would not obscure views of the farmhouse. Neither are there significant outward views from the farmhouse towards the turbine. Most views from the house are to the south east and south west over the Severn Valley.

17. It is concluded that the turbine would not have a 'substantial' effect on the setting and heritage significance of the farmhouse which are best appreciated in closer views or internally. However it would have some, less than substantial, effect owing to the modification of the open agricultural character of the land between the turbine and the farmhouse which make some contribution to its setting. The setting of the farmhouse would thus not be fully preserved. That merits considerable weight in the balancing exercise when considering the public benefits of the proposal.
18. The Council has proposed a condition to require landscaping with bunding in a position between the listed building and the turbine to provide greater visual containment. However the Appellant objects to the condition and the planting would be of little benefit for a 25 year development as it would take too long to mature. The condition is thus unnecessary.

Other Heritage Assets

19. The reasons for refusal do not identify which other assets may be harmed by the proposed development. The Appellant's heritage statement has assessed the heritage significance and setting of the Alvington and Aylburton Conservation Areas. Both conservation areas are concentrated around the main streets in these villages. These are closely built up with only limited views out from the streets. There are some attractive views from the houses and gardens on the edges of the Alvington conservation area, especially in a south east direction towards the Severn. However no key or important views have been identified towards or out of either area that would be affected by the turbine. An adverse effect of negligible magnitude was identified in respect of views from the respective eastern and western edges of the two Conservation Areas. That effect would need to be weighed as a less than substantial effect. There is no substantive evidence of any greater effect.
20. Each conservation area also includes other listed buildings. These include Severn Lodge in Alvington which is a large house on the edge of the conservation area. It will benefit from extensive main views south east towards the Severn Estuary. It may also have minor or oblique views east north east towards the turbine although those would make comparably little contribution to its heritage significance. There are also representations from agents for the Lydney Park Estate which is beyond Aylburton. The Grade II listed mansion there is approximately 2km north east of the turbine site. The representations relate in particular to the potential for views of the turbine to be available from a terrace adjacent to the mansion house where there are extensive views south and east over the Severn Estuary. There are also Scheduled Ancient Monuments within the grounds although no specific harm is alleged to their setting and it is unlikely that their significance could be appreciated except at close quarters within the estate grounds.
21. The turbine would be visible over a wide area, including from Lydney Park and Severn Lodge and from some other listed buildings or their curtilages. However some views would be oblique or partially screened with little effect on significance. Where more direct views are available they would be long and the turbine would then appear as a single additional feature in the typically expansive landscape of the Severn Estuary which already includes other large man made features such as the nuclear power stations and the bridges. The present setting of the listed buildings would not be entirely preserved and that

merits considerable weight and importance. However the actual effect on setting and significance would be limited and certainly less than substantial. There is a lack of evidence to substantiate a more significant adverse effect on the heritage setting or significance of any of these assets. Having regard in particular to the distance of the turbine from these assets I consider that the Appellant's assessment has included adequate information in these regards.

22. It is concluded that, where it could be seen in outward views from parts of the conservation areas and from listed buildings, the turbine would add a tall and novel feature in the landscape. In some long views it would be possible to see the turbine and some heritage assets in the same views but at distances at which the significance of the assets would not be readily appreciable and/or because the turbine would be seen within a typically expansive and large scale landscape. As a different and large feature of contemporary design and materials its introduction would have a slight adverse (less than substantial) effect on the setting of the conservation areas and of those buildings. That would need to be weighed with the benefits of the proposal in the planning balance.

Landscape Effects, Visual Effects, Residential Amenity and Wildlife

23. There were other objections from interested persons under these headings although it is notable that none were supported by the Council as reasons sufficient to refuse planning permission.

Landscape

24. The application was accompanied by a Landscape and Visual Impact Assessment (LVIA) which had regard to previous landscape character assessment of the area. In the Forest of Dean Landscape Character Assessment (LCA) the turbine would be within a landscape character area that has been defined as 'Unwooded Vale 6a'. That area's characteristics include a soft rolling landscape with well-maintained hedgerows, trees and small copses and shelter belts. The LVIA concluded that this is an area of high medium sensitivity and that the turbine would have a high magnitude of effect on landscape character but only up to about 300m. That distance would include Alvington Court. Medium magnitude effects would extend as far as 1km in some directions, including to the eastern edge of Alvington. The western edge of Aylburton is also within 1km. However the actual loss of landscape fabric would be limited and confined mainly to a small area of arable farmland. The turbine and its moving blades would here be prominent and that would influence the landscape character but the effects would diminish with distance. The LVIA concluded that the overall effects on the character area as a whole would be of low negligible magnitude and slight significance. Similar conclusions to the latter are reached for adjoining character areas. I concur with these conclusions.

Visual Effects and Residual Amenity

25. Visual effects are assessed separately in the LVIA with effects of major significance occurring within about 750m of the turbine and of major-moderate significance up to 1.7km-2km. Within that area some views would be screened by vegetation or buildings close to the viewer. Effects would be negligible beyond 4km. The major effects would be mainly experienced by users of the public rights of way and especially of the public footpath to the south east (who

- would experience a dominating visual effect over a short distance), and by the nearest residents. A number of dwellings within 750m were assessed individually. It was concluded that few have direct unimpeded views of the turbine. Some which do have such views include properties at Sandford Terrace on Sandford Lane, Aylburton. However these stand at a distance and on higher ground where the turbine would appear as one feature within an expansive view. It is a well established planning principle that there is no right to maintain unchanged the views from private property. The LVIA acknowledges that in such views the turbine would become a visually significant element but concludes that it would not be oppressive or overbearing. I agree and do not consider that any of the affected dwellings would become generally regarded as an unattractive and therefore unsatisfactory place to live.
26. Whilst I acknowledge that individual perceptions of the appearance of any wind turbine can vary from adverse to neutral to positive and are influenced by factors such as the individual's perceptions of the need for, and effectiveness of wind energy, I consider the LVIA assessment to be fair. The Council also concluded that, subject to a condition to secure the removal of the turbine after 25 years or when it ceased operation (if sooner), then the proposal would cause minimal harm to the visual and landscape qualities of the surrounding area. I agree.
27. The LVIA considered the potential for cumulative landscape and visual effects with the nearest proposed community turbine which would be of similar scale and located at Plusterwine, 1.75km to the south west. I have not been advised that any planning permission has been granted for such development. If not then cumulative impact would be a consideration for the decision maker at that time rather than now. In any event, and having regard to the separation between these turbines, their main effects would occur in different areas with minimal overlap of very minor effects. The same considerations apply to more distant proposed turbines as well as to the existing St Briavels turbine. From the few locations where more than one turbine would be seen it is likely that all but the nearest turbine would be only distantly visible as very small elements in the wider landscape and thus any cumulative landscape and visual effects would be negligible.
28. In relation to other aspects of residential amenity, the Council also concluded that the development would be acceptable in relation to noise effects and shadow flicker, having regard to the distance from the nearest dwellings and the presence of the A48 main road, amongst other factors. I agree. The Council has recommended that a condition be applied to control noise levels. That condition and noise limits, and the assessment on which it is based, would generally accord with Government guidance in the document known as ETSU-R-97. Whilst one representor criticises aspects of the noise impact analysis and hence whether the conditioned noise limits could be exceeded, that would be a risk for the developer to take into account when deciding to proceed as the enforcement of the noise limits would risk having to cease operation in relevant conditions or permanently.

Wildlife

29. The application was supported by an ecological assessment including a habitat survey. This has identified some potential effects on bats and birds including

lapwings. However, on the advice of its Ecologist and in liaison with Natural England, the Council has concluded that the impact on protected species would be limited to an acceptable level and can be controlled and mitigated by the use of conditions. The Council has further concluded that there would be no satisfactory alternative, that the favourable conservation status of European Protected species would not be affected, and that there is potential for an overriding public interest to over-ride the identified harm if the proposal satisfies other policy criteria. The available evidence leads me to the same conclusions.

Benefits

30. The Framework at paragraph 93 provides amongst other things that the delivery of renewable and low carbon energy and associated infrastructure is central to the economic, social and environmental dimensions of sustainable development. Paragraph 97 seeks recognition of the responsibility on all communities to contribute to energy generation from renewable or low carbon sources and to support community-led initiatives for renewable and low carbon energy. Paragraph 98 provides amongst other things that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and that applications should be approved if the impacts are, or can be made, acceptable.
31. National guidance in PPG confirms at paragraph 001 of the Chapter on Renewable and Low Carbon Energy that increasing the amount of energy from renewable energy will help to make sure the UK has a secure energy supply, reduce carbon emissions to slow down climate change, and stimulate investment in new jobs and businesses. This would be a 500kW turbine. Some objectors comment that the similar St Briavels turbine did not achieve the expected average efficiency during its first months of operation, but that has not been measured over a full year. The Appellant points out that higher outputs are typically achieved in the winter and that output at St Briavels has risen since the figures quoted by the objectors were published.
32. Paragraph 004 of the same PPG Chapter refers to the likely increasingly important role of community initiatives which should be encouraged as a way of providing positive local benefits from renewable energy development. In this case the proposal is a community wind project with associated social and economic benefits. I have no reason to doubt the Appellant's statement that a community investment scheme will be offered to fund the project with local investors sharing directly in the operating surplus. A similar scheme has already been established in the same District at St Briavels. As the turbine would provide significant income for the farmer, it is also likely that some of these funds will be spent on necessary maintenance of the listed building.
33. There are a significant number of representations of support from local people including from a number of residents of Alvington, the nearest village. However there are also local objections, including from the parish councils of Alvington and Aylburton.
34. The Council's Officer Report and Appeal Statement did not explicitly assess the public benefits of the proposal or carry out a balancing exercise before concluding with the assertion that the scheme would not deliver proportionate public benefits. The Council's Appeal Statement suggested that there is an absence of an overriding justification based on necessity, however that is not a national policy test. Indeed the Framework explicitly states at paragraph 98

that applicants for energy development should not be required to demonstrate the overall need for renewable energy.

35. It is concluded that the scheme's generation of renewable energy would be a benefit of considerable weight and importance both locally and nationally, particularly as it is a community-led initiative of the type which the Government seeks to encourage.

Other Matters

36. Regard has been had to all other matters raised in the written submissions but they do not outweigh the conclusions on the main issues. In particular it is improbable that this single wind turbine would materially affect tourism. Also the risk of safety to users of the public footpath in the unlikely event of turbine failure or collapse is very small having regard to the separation distance, the lack of a micro-siting condition, and the evidently infrequent use of that path, particularly in the extreme weather conditions that might be associated with any failure.

Conditions

37. A list of conditions has been suggested by the Council in the event that the appeal is allowed. Most of these are not objected to by the Appellant. The exception is a condition seeking a planted bund at Alvington Court which I do not consider to be necessary for the reasons given above.
38. Condition 1 is a standard condition that is needed to prevent the accumulation of unimplemented permissions. Conditions 2 and 11 are needed for the avoidance of doubt as to what is permitted. Conditions 3-6, 11, 12, 14, 22 and 23 are needed to protect the character and appearance of the area and because the benefits of the development would cease when it ceases operation. Condition 7 is needed in the interest of highway safety and traffic flow. Condition 8 is needed to protect the environment and highway safety during construction. Conditions 9, 10 and 24 are needed to protect residential amenity. Conditions 14 and 15 are needed for aviation safety. Condition 16 is needed in case of electromagnetic interference. Conditions 17 and 18-21 are needed in the interests of wildlife conservation.
39. The Council has suggested a condition to implement a post construction bird monitoring plan. However the suggested wording is vague as to the objective of the monitoring. In particular it does not provide for any action or consequence for this development that may arise from the results of the monitoring scheme in terms of mitigation or compensation for any unanticipated effects. The condition does not require prior approval of the monitoring plan and, as it would be a 2 year monitoring plan, it is not clear what the purpose of the review after 2 years would be or who is supposed to carry out that review. It is therefore concluded that the condition does not satisfy the tests set out in the 'Use of Conditions' chapter of the PPG and the condition should not be applied.
40. Noctule bats have been identified in the area and there is a roost close to the site. The Council's Ecologist had recommended a condition for monitoring bat activity which was linked to a separate condition to curtail the operation of the turbine at specific times of day between 1 May and 1 October when bats are most active. Whilst the Committee Report also referred to such conditions the

Council has omitted to include them in its suggested list. In a letter of 27 February 2013 the curtailment measures were supported by the Appellant's ecologist who advised that monitoring be used to determine whether such measures are needed in the longer term. The Appellant agreed to such measures in an email of 28 February 2013. It is therefore concluded that it is appropriate and necessary to impose curtailment and monitoring conditions in respect of this protected species. However as the condition suggested by the ecologist for the curtailment of operation is unclear in its wording, a simpler wording has been employed.

41. Some minor changes have been made to the wording of some suggested conditions to improve their clarity, precision and enforceability.

Planning Balance and Conclusions

42. Whilst I give considerable weight and importance to the duty imposed by Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, and therefore to the strong presumption in favour of the desirability of the preservation of heritage assets, the overall conclusion is that the identified environmental and economic benefits accord with relevant national objectives and outweigh the identified environmental harm and, in particular, the changes to the setting of Alvington Court Manor and the more marginal changes to the setting of other heritage assets in the wider area, and the identified effects on the landscape, wildlife and residential amenity. This would be a sustainable development in the terms of the Framework. As the development would be in overall accordance with national policy and guidance, it would also accord with paragraph 6.11 of the CS. The appeal should therefore be allowed.

R P E Mellor

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the submitted plans listed below:

Location Plan	Unnumbered	17 Oct 2012
Block plan	12061-500-ACF	17 Oct 2012
Construction details	WRD-K-04-GUA. E-53.S.59.3K	17 Oct 2012
Proposed elevations	E599-25-01-D	17 Oct 2012
Mast or antenna details	UNNUMBERED	17 Oct 2012
Road details	KRANSTELLFLACHE	17 Oct 2012
Proposed details	KRANSTELLFLACHE	17 Oct 2012
Aerial photographs	LOCATION DETAILS	27 Sep 2012
Location Plan	3172-01	27 Sep 2012
Landscaping	3172-02	27 Sep 2012
Topographical detail	3172-03	27 Sep 2012
Theoretical Shading	3172-04	27 Sep 2012
Theoretical Shading S'vey	3172-05	27 Sep 2012
Survey	3172-07	27 Sep 2012
Survey	3172-08	27 Sep 2012
Survey	3148-08	27 Sep 2012
Survey	111240/09/WOR1	27 Sep 2012

3. The monitoring mast shall be removed from the site when no longer required for monitoring purposes for the development hereby permitted.
4. This permission shall endure for a period of 25 years from the date when electricity is first exported from the wind turbine to the electricity grid ('First Export Date'). Written confirmation of the First Export Date shall be given to the local planning authority no later than 14 days after the event.
5. No later than 12 months prior to the end of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the local planning authority. The scheme shall make provision for the removal of the wind turbine and associated above ground works approved under this permission and details of the depth to which the wind turbine foundations will be removed. The scheme shall also include the management and timing of any works and a traffic management plan to address potential traffic impact issues during the decommissioning period, location of material laydown areas, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats and details of site restoration measures. The approved scheme shall be fully implemented within 12 months of the expiry of this permission.

6. If the wind turbine generator hereby permitted ceases to export electricity to the grid for a continuous period of 12 months, a scheme for the repair or removal of that turbine shall be submitted to the local planning authority for its written approval within 3 months of the end of that 12 month period. Were repairs to the relevant turbine are required the scheme shall include a programme of remedial works. Where removal is necessary the scheme shall include a programme for removal of the turbine and associated above ground works approved under this permission, details of the depth to which the wind turbine foundations will be removed, and site restoration measures following the removal of the turbine. The scheme shall thereafter be implemented in accordance with the approved details and programme.
7. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of the routing of construction traffic and the management of junctions to and crossings of the public highway and other public rights of way. Development shall be carried out in accordance with the approved details.
8. No development shall commence until a Construction Method Statement (CMS) describing all works, including temporary works, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved CMS which shall address the following matters:
 - i) The control of dust including arrangements to monitor dust emissions from the development site during the construction phase;
 - ii) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase;
 - iii) Measures to be implemented on site to prevent the deposition of deleterious material from vehicles leaving the site;
 - iv) The location and size of temporary parking, lie-down, compound areas, including staff facilities and loading, off-loading and turning facilities for vehicles;
 - v) Replanting plans for turbine bases and crane operation areas subsequent to construction;
 - vi) Details of the reinstatement of areas of land disturbed during construction;
 - vii) Fencing to be erected during the construction phase.
9. No construction or decommissioning works (with the exception of dust suppression works which may take place at any time) shall take place outside the hours of 07:00 to 19:00 on Monday to Friday inclusive and 08:00 to 13:00 on Saturday. No construction or decommissioning works shall take place on a Sunday or a Public Holiday.

10. The delivery of any construction materials or equipment for the construction of the development, other than turbine blades, nacelles and towers, shall not take place outside the hours of 07:00 to 19:00 on Monday to Friday inclusive, 08:00 to 13:00 on Saturday with no such deliveries on a Sunday or Public Holiday.
11. The overall height of the wind turbine measured to the tip of the blade when in the vertical position shall not exceed 87 metres, when measured from the turbine base.
12. No wind turbine shall be erected until details of the colour and finish of the tower, nacelle and blades and any external transformer units have been submitted to and approved in writing by the local planning authority. No name, sign, or logo shall be displayed on any external surfaces of the turbines or any external transformer units other than those required to meet statutory health and safety requirements and the manufacturer's identification signage. No electricity shall be exported until the approved colour and finish of the wind turbines and any external transformer units has been implemented prior and those colours and finishes shall thereafter be retained in accordance with the approved details unless otherwise approved in writing by the local planning authority.
13. There shall be no permanent external illumination on the site other than for security, maintenance and emergency lighting; and infra-red aviation lighting for the purposes of aviation safety.
14. No development shall take place until a scheme for the provision of Ministry of Defence accredited infra- red aviation lighting for each of the turbines has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out as approved and thereafter retained as such.
15. The turbine shall not be erected until at least 7 days after written confirmation of the following details has been provided to the local planning authority:-
 - i) Proposed date of commencement of the erection of the turbine; and
 - ii) The latitude and longitude of the turbine.
16. No electricity shall be exported until a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to television caused by the operation of the turbine shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a lawfully occupied dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of The Town and Country Planning (Use Classes) Order 1987) which lawfully exists or had planning permission at the date of this permission, where such complaint is notified to the developer by the local planning authority within 12 months of the First Export Date. Where impairment is determined by the qualified television engineer to be attributable to the turbine(s), mitigation works shall be

carried out in accordance with the approved scheme.

17. No tree or shrub removal or clearance works shall take place between 1 March and 31 August inclusive unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting bird interest on the site have first been submitted to and approved in writing by the planning authority and then implemented as approved.
18. No development shall take place until a pre-commencement survey for badgers has been undertaken following best practice survey guidance and until the results of the survey have been submitted to the Local Planning Authority. If badgers are found and would be affected then a mitigation strategy must be submitted to and approved in writing by the Local Planning Authority and then implemented as approved.
19. All development works shall be implemented in accordance with the Local Planning Authority's published Precautionary Method of Working for Reptiles.
20. No development shall take place until a Habitat Management Plan, covering the turbine operation period, to ensure the habitat around the turbine does not attract either birds or bats has been submitted to and agreed with the Local Planning Authority. The plan to include maps and a description of measures. The management plan shall be implemented as approved.
21. No development shall take place until a 10 year habitat management plan for the establishment of enhancement measures outlined in section 5.4.4 "Recommendations for Birds" of the Environmental Report has been submitted to and agreed with the LPA. The plan to include maps, management descriptions and a timetable of works. The management plan shall be implemented as approved.
22. No development shall commence until details of all boundary treatments, means of enclosure to the development and hard surfacing have been submitted to and approved in writing by the Local Planning Authority. No electricity shall be exported until the approved works have been carried out and they shall thereafter be permanently retained.
23. No development shall commence until a scheme for the hard and soft landscaping of the site (incorporating existing flora), has been submitted to and approved by the Local Planning Authority. Such a scheme shall be carried out in all respects in accordance with the approved scheme and not later than the first planting season following the erection of the wind turbine hereby permitted. If at any time during the subsequent five years any tree, shrub or hedge forming part of the scheme shall for any reason die, be removed or felled it shall be replaced with another tree, shrub or hedge of the same species during the next planting season to the satisfaction of the Local Planning Authority.
24. The rating level of noise emissions from the effects of the wind turbine, (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in the tables attached to these

conditions and:

- A. No electricity shall be exported until the wind turbine operator shall submit to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.
- B. Within 21 days from receipt of a written request of the Local Planning Authority, following a valid complaint to it alleging noise disturbance at a dwelling, the wind turbine operator shall, at its expense, employ a consultant approved by the Local Planning Authority, to assess the level of noise emissions from the wind turbine at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to. Within 7 days of receipt of the written request of the Local Planning Authority made under this paragraph (B), the wind turbine operator shall obtain approved meteorological data, which would have prevailed at the complaints property for the date and time- of the complaint. The meteorological information obtained should be used to inform the consultants proposed assessment protocol under E(i) below.
- C. The rating level of noise emissions resulting from the wind turbine when determined in accordance with the attached Guidance Notes shall not exceed the noise limits specified in Table 1 and Table 2.
- D. No measurements by the independent consultant shall be undertaken in accordance with these conditions, until the wind turbine operator has submitted to the Local Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions shall be undertaken at the measurement location approved in writing by the Local Planning Authority.
- E. The independent consultant's assessment of the rating level of noise emissions in accordance with Paragraph (F) shall not be carried out until the wind turbine operator has submitted to the Local Planning Authority for written approval a proposed assessment protocol setting out the following:
 - (i) 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 emissions; and
 - (ii) A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

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 (B), and such others as the independent consultant considers likely to result in a breach of the noise limits. The assessment of the rating level of noise emissions shall be undertaken in accordance with the assessment protocol approved in writing by the Local Planning Authority.

- F. The wind turbine operator shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 1 months of the date of the written request of the Local Planning Authority made under paragraph (B) 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(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 emissions.

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

For the purposes of this condition, a "dwelling" is a building which is lawfully used as a dwelling house and which exists or had planning permission as the date of this consent.

Table 1 – Between 07.00 and 23.00 – Noise level dB ^LA90, 10-minute

LOCATION	Standardised wind speed at 10 meter height (m/s) within											
	1	2	3	4	5	6	7	8	9	10		
Alvington Court Farm	45	45	45	45	45	45	45	45	45	45		
All other dwellings	35	35	35	35	35	35	35	35	35	35		

Table 2 – Between 23.00 and 07.00 – Noise Level dB ^LA90, 10-minute

LOCATION	Standardised wind speed at 10 meter height (m/s) within											
	1	2	3	4	5	6	7	8	9	10		
Alvington Court Farm	45	45	45	45	45	45	45	45	45	45		
All other dwellings	35	35	35	35	35	35	35	35	35	35		

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

Property	Easting	Northing
Alvington Court Farm	361014	200719

25. The turbine shall not be erected until a scheme to either:

- (a) halt the operation of the turbine; or
- (b) to otherwise curtail its operation;

at the following times to reduce the risk to bats has been submitted to and approved in writing by the Local Planning Authority: from 1 May to 31 October inclusive from local sunset to 1 hour after local sunset; and for the 1 hour period before local sunrise. Should the ambient temperature falls below 9.5°C at these times the turbine may be operated normally without curtailment. The scheme so approved shall be strictly adhered to for the duration of the use unless alternative thresholds or operation, supported by the results of the bat activity monitoring required by Condition 26, are first approved in writing by the Local Planning Authority.

26. Bat activity monitoring shall be conducted in years 1, 2, and 3 of the turbine operation period (and also 10 if requested by the LPA). There shall be 3 monitoring sessions during the bat season in May, July and September. Monitoring shall consist of nacelle monitoring data and an additional static detector involving 5 consecutive nights of automatic bat recording following the guidelines in the Bat Conservation Trust Bat Survey Good Practice Guidelines. The static detector shall be positioned in the retained nearest adjacent hedge line to the northeast of the turbine. In addition, searches for any dead bats in this area shall be made at dawn (mid-April to mid-October), for years 1, 2, 3, of the turbine operation period (and also for year 10, if requested by the LPA Local Planning Authority). The search shall involve walking a nominal 2m grid of the search area. Any dead bats found in this way will be identified by the species, sex, and maturity and the findings reported to the Local Planning Authority at the end of each year (by email). The frequency of dawn searches shall be as follows:

Year 1 – Once per two weeks (April – mid July), but once per week (mid July – mid October);

Year 2 – Once per month (April to Oct);

Year 3 – Once per month (April – Oct) – repeated in year 10 if requested by the Local Planning Authority.

Monitoring shall be strictly adhered to as detailed above unless otherwise agreed in writing with the Local Planning Authority.

GUIDANCE NOTES FOR NOISE CONDITION

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be deployed in the assessment of complaints about noise emissions from the wind turbine. The rating level at each integer wind speed is the arithmetic sum of the wind turbine noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

(a) Values of the LA90, 10-minute noise statistic shall be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building façade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind turbine operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

Note 2

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

(b) Valid data points are those measured in the conditions set out in the assessment protocol approved by the Local Planning Authority under paragraph (e) of the noise condition but excluding any periods of rainfall.

Note 3

(a) Where in accordance with the approved assessment protocol under paragraph (E) of the noise condition, noise emissions 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.

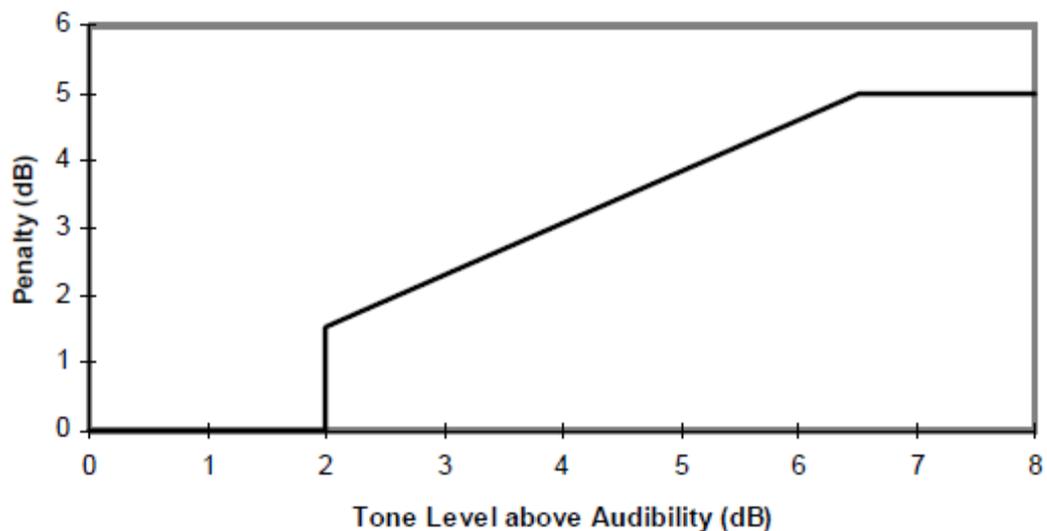
(b) For each 10-minute interval for which LA90, 10-minute data have been determined as valid in accordance with Note 2 a tonal assessment shall be performed on noise emissions during 2 minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from standard procedure shall be reported.

(c) For each of the 2-minute samples the tone level audibility (Lta) 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 audibility (Lta) 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) At least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values within $\pm 0.5\text{m/s}$ of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

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



Note 4

(a) If a tonal penalty is to be applied in accordance with Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 above at each integer wind speed within the range set out in the approved assessment protocol under paragraph (E) of the noise condition.

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

(c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (C) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rated level relates to wind turbine noise emissions only.

(d) The wind turbine operator shall ensure that the wind turbine is turned off for such period as the independent consultant or the Local Planning Authority requires to undertake a further assessment. The further assessment shall be undertaken in accordance with the following steps:

- i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved assessment protocol under paragraph (E) of the noise condition.
- ii. The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

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

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

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