The Planning Inspectorate

# Appeal Decision

Inquiry commenced on 1 May 2012
Site visit made on 10 May 2012

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

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

**Decision date: 6 July 2012**

**Appeal Ref: APP/Y2810/A/11/2164759**
**Lilbourne Fields, Lilbourne, Nr Rugby CV23 0SV**

- 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 Mr W Mollett (Hemex LLP) against the decision of Daventry District Council.
- The application Ref DA/2009/0731, dated 16 September 2009, was refused by notice dated 12 October 2011.
- The development proposed is a wind farm located north and south of Lilbourne Lodge, comprising eight wind turbine generators up to 125m high, access tracks, including access off public highways, a control and maintenance building, crane hard-standings, cable trenches, anemometer mast up to 80m high (for a period of 25 years) and a temporary construction compound.

## Procedural Matters

1. The Inquiry was held on 1 – 4 and 8 – 11 May 2012.

2. The application was originally made for 8 turbines, but the proposal subsequently changed to 6 turbines. An Environmental Statement [ES] was submitted with the application and further information added in relation to the removal of Turbine 1, prior to the inquiry. The environmental information meets the statutory requirements. Therefore, the development has also been considered without Turbine 1, on the basis that if it was found to cause unacceptable harm the development could proceed with 5 turbines. These five turbines are capable of being physically and functionally independent, and there would be no injustice caused by my issuing a split decision, with the parties being aware of the potential for this from the date of the pre inquiry meeting.

3. At the Pre Inquiry Meeting a request was made by a Rule 6 party to have blimps flown at the time of the site visit. While this was not essential in terms of coming to a decision on the proposal, it was beneficial in readily identifying location in a wide landscape. Two were erected and their height and location noted from various locations. It was necessary because of strong winds to take the blimps down during the course of the day as one became unattached, but by that time the purpose of flying them had been achieved.

## Decision

4. The appeal is allowed insofar as it relates to a wind farm located north and south of Lilbourne Lodge, comprising 5 wind turbine generators (Turbines 3, 4, 5, 6 and 7) up to 125m high, access tracks, including access off public

highways, a control and maintenance building, crane hard-standings, cable trenches, anemometer mast up to 80m high (for a period of 25 years) and a temporary construction compound. The appeal is dismissed insofar as it relates to Turbine 1 and associated infrastructure. Planning permission is therefore granted for a wind farm located north and south of Lilbourne Lodge, comprising 5 wind turbine generators (Turbines 3, 4, 5, 6 and 7) up to 125m high, access tracks, including access off public highways, a control and maintenance building, crane hard-standings, cable trenches, anemometer mast up to 80m high (for a period of 25 years) and a temporary construction compound at Lilbourne Fields, Lilbourne, Nr Rugby CV23 0SV in accordance with the terms of the application, Ref DA/2009/0731, dated 16 September 2009 so far as relevant to that part of the development hereby permitted and subject to the conditions in annexe 1.

## Main Issues

5. The main issues are:

- Whether the proposal provides benefit in terms of energy policy.
- The effect on nearby heritage assets.
- The effect on the character and appearance of the surrounding area.
- The effect on the living conditions of neighbouring occupiers, particularly, in respect of visual impact, shadow flicker, noise and disturbance.
- The effect on highway safety, particularly the M1, A14 and Bridleway EX7.

## Reasons

### Energy Policy and Development Plan

6. National and local planning policy gives support for onshore wind energy playing a part in meeting the need for renewable energy supply. The Coalition Government in its Programme for Government identified its belief that climate change is one of the gravest threats we face and that urgent action, at home and abroad, is required. It notes that the Coalition will seek to increase the target for energy from renewable sources, subject to the advice of the Climate Change Committee. The development plan includes the East Midlands Regional Plan 2009 [RSS] and the saved policies in the Daventry District Local Plan 1997 [LP]. The council noted at the inquiry that considerable weight should still be attached to the RSS, and I agree, but in light of the potential abolition, I have also considered whether abolition would have any material effect on the outcome in this situation. The National Planning Policy Framework [the Framework] is also a material consideration and aims to strengthen local decision making and reinforce the importance of up to date development plans, which retain the weight given to them by Section 38(6) of the Town and Country Planning Act, in the first year, even where there might be a limited degree of conflict with the Framework. Also relevant is the emerging West Northamptonshire Joint Core Strategy – Pre Submission [CS], to which I attach moderate weight.

7. Regional Policy 40 identifies regional priorities for low carbon energy generation and notes that local planning authorities should develop policies and proposals to achieve the indicative regional targets for renewable energy set out in its

appendix. It also identifies criteria for considering onshore wind energy proposals.

8. In 2007 the European Council set a legally binding obligation for Members to source some of their energy needs from renewable sources by 2020 and in the same year the government set targets for electricity generated by renewable sources by 2010 with the aim of reducing $CO_2$ emissions; these targets were not met. Further targets have been introduced. In an exchange between Mr Heaton-Harris MP and Mr Davey MP in the House of Commons, it was confirmed that there was a difference of opinion between them about the significance of onshore wind energy, but that with the number of alternative energy schemes coming forward there is a reasonable potential to meet targets, provided a reasonable number of schemes in the pipeline proceed to completion. However, while there is a proposal to reduce the subsidies for onshore wind energy schemes, there is no firm information indicating that the Government's commitment to alternative energy schemes or onshore wind energy in particular has been reduced. This is evidenced by the very recently introduced Framework.

9. A Core Planning Principle in the Framework is continued support for the transition to a low carbon future in a changing climate, encouraging the use of renewable resources, for example by the development of renewable energy. It notes that planning plays a key role in helping shape places to secure reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impact of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure, noting that this is central to the economic, social and environmental dimensions of sustainable development.

10. The council suggests that there has been a subtle change in policy toward the need for renewable energy from Planning Policy Statement 22 [PPS 22] and the Framework. In my view, the Framework retains a substantial emphasis on sustainable development, of which energy is a significant element. It notes that planning plays an important role in helping to secure radical reductions in greenhouse gas emissions and that authorities must recognise the responsibility of all communities to contribute to energy generation from renewable sources, designing policies to maximise these sources. While there may be a different way of expressing need from the old PPS 22, I consider that the weight to be given to renewable energy provision remains substantial.

11. I acknowledge that it will be up to local areas to decide what goes in their development plan, but the Framework notes that local planning authorities should adopt proactive strategies to mitigate and adapt to climate change to support the move to a low carbon future. Although Regional Spatial Strategies with their targets are to be abolished, it is recognised that individual local authorities and local people will need to continue to plan for renewable energy sources and develop a positive strategy to promote energy from renewable and low carbon sources, while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts. This will include identifying suitable areas for renewable and low carbon energy sources. Abolition of Regional Spatial Strategies will not reduce the need for renewable energy provision, but place responsibility locally for deciding the position for renewable energy production in the area. I therefore consider that the abolition

of the Regional Spatial Strategy would not significantly alter the weight to be given to the principle of need for this type of proposal in the area.

12. The emerging West Northampton Joint Core Strategy – Pre Submission [CS] Policy S11 indicates that applications for proposals to generate energy from renewable sources will be expected to bring wider environmental, economic and social benefits, and contribute to national renewable energy production targets in terms of addressing climate change. The proposed development should ensure that there are no significant impacts in terms of heritage assets, natural landscapes, landscape character or nature conservation interests. They should have no significant effect on the amenity of the area and provide for removal when they cease to be operational (in the case of this proposal there is an obligation and conditions to that effect).

13. Arguments are put forward that onshore wind energy production is inefficient, to the extent that it is suggested that the turbines would have no benefit in terms of energy production or reduced carbon emissions. However, while the author is a chartered engineer and a paper setting out the matters put to this inquiry has been submitted by him for peer review, the findings remains to be confirmed. It was noted that there have been a variety of studies in the past which it was said cast similar significant doubt on the benefits of wind farms, such as work by Bass and Wilmot 'Wind may not be the answer', UK Power, 2 (2004) and other following studies.

14. However, even with the benefit of the evidence in these studies, government policy, with changed executives, consistently remains committed to production of energy through the use of onshore and offshore wind farms. Therefore, until these studies have been accepted by the appropriate authorities, I place significant weight on the current government advice in the Framework, that when determining planning applications, local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

15. Other objectors say that the wind is not of sufficient strength and constancy to make this a logical or efficient location for a wind farm, noting that generally this part of the country has a low wind resource. I acknowledge that wind turbines located at sea are more efficient in relation to access to wind, but that does not mean that those in a less wind efficient location cannot still make a significant contribution to renewable energy production.

16. A report was commissioned by Communities and Local Government – Renewable Energy Capacity in Regional Spatial Strategies by Ove Arup and Partners Ltd in 2009. Even if the RSS is abolished, the data collected in relation to wind farm potential in this document remains relevant. It identified the potential for energy from onshore wind, ranked by the amount of land with wind speeds over 6.5m/s. Daventry District had a high potential resource; the highest grading in the table.

17. For the East Midlands this report also identified renewable energy policy targets for a mix of resources, that included large inputs from Micro generation wind and Photovoltaic cells [PV]. While these methods, particularly PV have, because of the recent subsidy, considerably increased output, they still remain a relatively small contributor and are likely to remain so for some time.

18. I conclude that there remains a great need for alternative renewable energy sources that include onshore wind turbines and this remains the case with the introduction of the Framework and would still be the case, should the RSS be abolished. I attach substantial weight to the need for the proposed development and the renewable energy source provided by either 5 or 6 turbines.

**Heritage Assets**

19. LP Policy GN2 indicates that planning permission would normally be granted for development provided, amongst other things, it would not adversely affect a building listed as being of architectural and historic significance. This reflects the duty imposed by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 with regard to listed buildings and their settings. RSS Policies 26 and 27 and CS Policy BN5 have similar aims. LP Policy EN42 notes that planning permission would be granted for development provided, amongst other things, the scale and height of the proposal combine to ensure that the development blends well within the site and its surroundings.

20. The Framework has similar objectives, noting that when considering the impact of development on the significance of a heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. It notes that significance can be harmed or lost through development within the setting of a heritage asset. Any loss should require clear and convincing justification. Where development would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

*Stanford Hall*

21. Stanford Hall is an important Baroque/Queen Anne House, listed grade I, erected in the late 17$^{th}$ century and was completed and landscaped during the following century, including the construction of a stable block listed grade II*. Stanford Hall has had a number of alterations since. The house has large windows on all sides and clearly these were important in relation to the design of the building and in relation to providing views out to the surrounding park land, which is a Registered Park and Garden of Special Historic Interest. There is a main avenue up towards Hovel Hill of about 1.5km which is fairly complete, with only a few gaps in the avenue of trees along its length. There are other shorter avenues arranged around the house, which are less well preserved, but I consider their remains and location important, particularly as there is an active intention to restore the parkland, including the avenues. There is no argument that the Hall (including stables) and Park, which are fully described within their designations, are heritage assets of the highest significance and great weight should be attached to their conservation.

22. There was some discussion about whether the design of the avenues was to enable views in towards the house, or to enable views out from the many large windows of the house, particularly from those of the ballroom and upper floor windows. I accept that there is no particular evidence of features being placed at the end of the avenues, such as a folly or pieces of statuary. I also acknowledge that landowners would be proud of their home and would want to enable views of it. However, that does not indicate to me that views out to the surrounding countryside would not be important. In my opinion, I consider it most likely that views in and out, particularly along the avenues, would have

been an important part of the designed landscape, but even if it were not a 'designed' feature, the views along these corridors would still be very important considerations.

23. The previous inspector in relation to appeal APP/Y2810/A/10/2120332 indicated that there is a distinction to be made between the parkland near the Hall and areas with little intervisibility, and noted that it was his opinion that the setting is contained within the registered parkland and primarily the inner park. However, he went on to note that the setting identified in the practice guide to the now withdrawn Planning Policy Statement 5 indicates that any development or change capable of affecting the significance of a heritage asset or people's experience of it can be considered as falling within its setting. The Framework defines setting 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.

24. The land around the parkland is generally farmland and to my mind forms part of the setting of the parkland and Hall. At present the exact position of the land where the turbines would be located is not identifiable from the house, it generally being low farmland hidden by trees surrounding the park. Therefore, currently the appeal site makes little positive contribution to the significance of the heritage assets, apart from forming a 'backdrop' or perhaps open skyline. There is no indication that any aspect of the land beyond the park, in the direction of the turbines, was specifically designed or aligned to complement the Hall and parkland. It simply appears that the landscape and features were those subsisting at that time. It also seems clear that the land outside the parkland has changed over time, with noticeable vertical modern features of pylons now forming part of the landscape beyond the parkland. In my view, the land forming the appeal site makes very little contribution to the setting or significance of the Hall and parkland.

25. With the turbines in place there would be some views of the upper parts from the Hall and parkland. I therefore consider that the development would bring the appeal site and proposals visibly and actively into the setting of the Hall and parkland and it is relevant to consider whether the proposed development would preserve their settings. I have considered the impact of the turbines on the character and appearance of the surrounding area generally below.

26. The fact that the tops of turbines and tips of blades would be seen moving in the far distance from the Hall and parkland would have no appreciable impact on the understanding or appreciation of historical, cultural or progressive changes to the Hall and parkland. They would be a visible indication that there are modern structures and features beyond the park, but would not be a surprise to anyone, and it cannot be expected that land at a substantial distance from a heritage asset will not change and develop as time passes. In addition, the turbines would generally be well screened by trees, particularly by the line of trees along the road by the current entrance.

27. Views from Hovel Hill down the avenue towards the Hall are important and include the distant countryside which is seen beyond and to the side of the Hall. However, as explained below the character of the countryside is little affected by the proposal. In addition, views from Hovel Hill already include modern infrastructure, particularly relevant to this being lines of pylons. While

these are visible they do not harm the significance of the heritage assets, as they are seen as distant features without any direct impact on the assets. The land around the park remains a rural landscape, which I consider would be the case with the proposed turbines in place.

28. The fact that the turbines would be a substantial distance from the heritage assets, with considerable intervening tree screening allowing only intermittent views, means that the impact on the significance of the assets would be minimal and overall the setting and special architectural and historic interest of The Hall, stables and parkland would be preserved. The proposal would in this respect comply with RSS Policy 27, LP Policy GN2 and LP Policy EN42 and CS Policy BN5.

*All Saints Church Lilbourne and Lilbourne Motte and Bailey Castles*

29. There is no precise evidence of the dates of the Motte and Bailey castles, which are scheduled ancient monuments, so it cannot be confirmed whether they were in place together, directly related to each other or if they had any direct relationship with the church or now abandoned old part of the village of Lilbourne. There are logical theories that the Lilbourne Gorse Motte and Bailey castle was associated with the route of the A5 (an old Roman road) and probably was there for control and defensive purposes, as it is prominent and has wide and distant views.

30. Lilbourne Motte and Bailey castle is down in the valley and clearly does not command wide views. I accept, as suggested, that there are good arguments that it was probably associated with some form of control of the river and also likely to be associated with the village, or the village with it. It is unusual to have two Motte and Bailey castles close together and, even if they were not related, their physical presence, visual contribution to the landscape and archaeological evidence within and around their remains are clearly a very important part of their significance. I accept that the proposal, which would be at some distance, would not have any physical effect on the sites and their archaeological potential would not be harmed.

31. All Saints Church is grade I listed, with the fabric being mainly of 12$^{th}$, 13$^{th}$ and 14$^{th}$ century and its construction is identified in the list description, which was not disputed. I consider the significance of the building relates to its architectural design and detailing, historical progression mainly from the 12$^{th}$ century and historical relationship to the old and new village of Lilbourne. It is clearly a very important heritage asset and great weight should be attached to its conservation. The Royal Commission in 1981 described it as 'the most isolated parish church' and this has come about by the 'moving' of the village. The churchyard forms a natural enclosure and immediate setting for the church. The church and Lilbourne Motte and Bailey castle enclosure form an important historical environment, particularly when considered with the nearby Lilbourne Gorse Motte and Bailey castle and, whether or not they were historically related, they now form an important historic group. I consider the wider landscape that would include the northern part of the appeal proposal clearly comes within the setting of this group, with Turbine 1 in particular being prominent in relation to the church and Lilbourne Motte and Bailey castle.

32. While I accept that there is no evidence available to link the church and the Motte and Bailey castles together, they have historically developed and co-existed for a substantial period and I consider their visual and physical inter-

relationship is an important aspect of the historical significance and setting. While the church is down in the valley near to the river and does not have a commanding or prominent position, it is prominent in the landscape when viewed from the higher ground and particularly Lilbourne Gorse Motte and Bailey castle. So while I accept, as put forward by the appellant, that it would not have been intended to dominate the landscape, it would with its tower have been intended to be a prominent building and focal point.

33. I acknowledge that the landscape has been dynamic, with considerable changes in relation to the use of the Motte and Bailey castles and physical relationship of the church with the village. In addition, the introduction of modern development, particularly in the form of the M1 and electric pylons, has caused further change and would have compromised the setting of these assets as they existed prior to their construction, by way of visual intrusion and noise from the M1.

34. While I accept to some extent that the M1 does form a horizontal barrier when considering the setting of the church and Lilbourne Motte and Bailey castle, that does not mean that further development on the far side of the M1 could not impact on the church or Lilbourne Motte and Bailey castle. In this case I consider that the proximity of Turbine 1 is a considerable issue. While I have found in terms of character and appearance that the rural character of the area would be retained with the proposed development in place, the close relationship of the Lilbourne Motte and Bailey castle and church with Turbine 1 means that these features would be seen directly in comparison with it. Because of its proximity, Turbine 1 would physically dominate and overpower the two assets, both from within their immediate grounds and from within the church and would seriously detract from the character of the church as a focal point in this part of the landscape.

35. It is unfortunate that the cherry tree was removed from the churchyard, opening up potential views of Turbine 1 from within the church, and this does add to the harm that this turbine would cause. However, even without the removal of the cherry tree, I consider that Turbine 1 would have been too overbearing in relation to these assets when seen from their grounds. In my view, while the harm, in terms of The Framework would be identified as 'less than substantial' it nonetheless would cause great harm to the setting of the church and Lilbourne Motte and Bailey castle, which must be balanced against the benefits of the proposed wind farm. It would not accord with RSS Policies 26 and 27, LP Policy GN2 or LP Policy EN42 and CS Policy BN5 or the Framework. Without turbine 1, the other turbines would be a good distance from these heritage assets and although some would still be visible to some extent, because of the distance I consider that the significance, special architectural and historic interest and setting of these assets would be preserved and would accord with the aims and objectives of development plan policies and the Framework.

**Character and Appearance of the Countryside**

36. The Framework notes that development should contribute to conserving and enhancing the natural environment and reduce pollution. LP Policy EN42 relates to design and amenity and notes that planning permission will be granted for development provided, amongst other things, that the scale and height of the proposal combine to ensure that the development blends well with the site and its surroundings and that the environmental impact is minimised. LP Policy GN2

provides a general approach to development proposals and is permissive subject to meeting appropriate criteria. Development should be of a type, scale and design in keeping with the locality and not detract from its amenities. RSS Policy 31 relates to priorities for the management and enhancement of the Region's Landscape. It promotes the establishment of local development frameworks to ensure that development proposals respect intrinsic landscape character in rural areas.

37. Wind turbines are very large, modern aerodynamic structures that are of a substantially different scale and appearance to most other features that are found in the countryside, and their introduction in any part of the country would, in my opinion, have a significant impact on the appearance of the immediately surrounding countryside. Government policy has been consistent for a significant period, and continues with the Coalition, that inland wind turbines are a necessary part of providing a reasonable part of our energy requirement on a low carbon basis.

38. 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 LP Policy EN42 in terms of blending with and enhancing the surroundings and local distinctiveness. However, wind turbines are a modern solution to address climate change and needs arising through the development and growth of the country. It is similar to the need to introduce motorways to meet increased motor transport or pylons to efficiently distribute electricity around the country.

39. The appellant's assessment refers to the harm from the turbines in relation to the harm of other introduced modern features such as the M1 and the pylons. In my view, the turbines should be considered in the context of the existing modern features and the landscape that has resulted with them in place. However, it is not reasonable that the landscape should be assessed as if none of these modern features had already been constructed. The current landscape is what it is; there is no suggestion that the M1 and pylons are transitory and it is the effect on the existing landscape that is to be considered. I also give little weight to the argument that the M1 and pylons etc. cause harm, so further change of a modern nature should be prevented. There will have to be progress and change as technology develops.

40. I consider that the introduction of these wind turbines would be seen in the same way that pylons are. They would inevitably be much more prominent features than pylons in views, but they are well designed aero dynamic structures of relatively slender shape and will 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 of the countryside would be retained in the same way that it has been with the introduction of the motorway and pylons. There are also many other prominent vertical features in the wider landscape, including radio masts.

41. There was some emphasis placed by opponents on the appellant's description of the landscape as a 'wind farm landscape'. However, the use of this terminology was clearly explained. I accept that with each introduction of such infrastructure there will be some cumulative change in the appearance of the countryside. The cumulative impact was carefully considered in the Environmental Statement and I note that Daventry District Council does not

oppose the turbines in terms of their impact on character and appearance. There will be some cumulative impact in relation to the wind farms at Yelvertoft and Swinford, and to some extent the turbines at DIRFT, which are or will be readily visible in the landscape of the area.

42. The perception of these would, from some viewpoints, such as travelling along the motorway, be successive and sequential views. However, half the proposed turbines would merge with the Yelvertoft group, which would remain of an acceptable size and visual appearance and the other 2 or 3 would form a small group well spaced between Swinford and Yelvertoft wind farms. I do not consider that the turbines, together with other turbines, pylons, the motorway or other nearby industrial development would result in an unacceptable cumulative impact. I also do not accept that Lilbourne would be 'surrounded' by wind farms. The main groups of turbines are to the east of the motorway, with little development of these to the west.

43. I conclude that the turbines are reasonably located in relation to other turbines and features, and while changing the appearance of the landscape, this would neither be unacceptable in terms of the changed appearance nor would it significantly change the overall rural character of the area that is based on agricultural uses, either in themselves or cumulatively with other modern infrastructure. Nevertheless, I acknowledge that there would be some harm in relation to the effect on the appearance of the area with limited blending in and enhancement as aimed for by LP Policy EN42 and this needs to be balanced against the potential benefits. It would accord with the aims and objectives of RSS Policy 31 and LP Policy GN2.

**Living Conditions**

44. The council refers to Table 16 in the Environmental Statement, which concludes that there would be some harm to nearby residents and that the only matters of mitigation would be the motorway and pylons. I accept that the M1 and pylons, just because they might be a 'nuisance' to neighbours would not be features of mitigation in relation to further harm. The council's case is that for three of the properties there would be harm, particularly because the turbines would be visible at both the front and back of the properties. The council also questioned the level of information provided about this matter, prior to the appeal. However, up until the council's decision, the appellant says that living conditions did not appear to be a matter of significant contention. It is therefore reasonable that the appellant should submit for the inquiry the more detailed study of the properties that could potentially be affected by the turbines. This included a detailed analysis of the impact in relation to surrounding features that would interrupt views of the turbines.

45. Turbines would be visible and prominent in views from many of the houses, but that does not make the proposal unacceptable or harmful. It was acknowledged by the council and appellant that an appropriate approach would be to question whether the proposal would affect the outlook of residents to such an extent as to be so unpleasant, overwhelming or oppressive that the dwelling would become an unattractive place to live.

*Morningside, Yelvertoft Road*

46. This is a detached property with land around it on 3 sides, with the principal orientation north and south, but with some windows on the west side.

47. To the south there would be potential views towards Turbines 5, 6 and 7. However, within the front garden along the boundary is a low hedge with some taller trees. These would intervene in many of the views, mitigating harm from the garden area and front rooms. Given the reasonable distance of the turbines from the property, their slightly lower ground level and intervening vegetation breaking up the views, I consider the harm to the residents' living conditions would be slight. In addition, there is a small copse of trees on the other side of the road that provides further significant screening. While I accept that these may not be in the control of the Morningside residents, they provide additional benefit, but even without them the visual impact of the turbines in this direction would not be significant.

48. To the north, Turbine 1 and Turbine 3 would be visible from the rear of the property, including from living areas at ground floor level, bedrooms at first floor level and garden. Turbines would be most visible from the first floor and parts of the garden. Turbine 4 would be mostly hidden from view from all these locations, being behind the adjacent farm buildings. A tree in the corner of the garden would intervene in some views of Turbine 1. The turbines would be well spaced and are relatively slender structures, so while undoubtedly being prominent in views, because of their spacing they would allow views of the countryside to remain.

49. The distance of the Turbines, their spacing and position further down the hill and some intervening screening, would be sufficient to mitigate the harm. In coming to this conclusion I have taken into consideration that the blades on the turbines are dynamic and would be more likely to attract attention than a static object, such as the pylons. Overall, the proposal with turbines at the north and south would not be so unpleasant, overwhelming or oppressive that this would become an unattractive place to live, and the situation would be improved without Turbine 1.

*Clarkes Farm, Yelvertoft Road*

50. Clarkes Farm is a two storey property, set back from Yelvertoft Road by about 150m. It has large farm buildings to one side at the front and has a small stable to one side a short distance from the rear of the building. The principal rooms to the front and rear have windows at ground and first floor level.

51. To the south Turbines 5, 6 and 7 would not be prominent when viewed directly from the front, but would be visible at an angle from the front and side external area and windows of the front elevation that serve bedrooms at first floor level and living rooms at ground floor level. There is a line of trees up the side of the drive, but these would provide little screening, because of the angle of view towards all three turbines. However, the turbines would be a considerable distance away, at a slightly lower ground level down the hill from Yelvertoft Road, and well spaced. Overall, with the angle of view and distance, I do not consider that the turbines would be overwhelming or oppressive, by themselves or in combination with the Yelvertoft wind turbines.

52. To the north, Turbines 1, 3 and 4 would be visible from the garden and rear windows at ground and first floor level, serving living rooms and bedrooms. Turbine 3 would be the closest, but this would still be at a considerable distance from the property. While the large hedge to the east would not provide screening of the turbines, vegetation along the rear boundary would provide some screening from the garden, ground and first floor windows. In

addition the stable building to the rear on the west side would provide screening from the garden and ground floor windows. I consider that because of the screening, lower ground level of the turbines and distance, these turbines would not cause unacceptable harm.

53. Overall, I consider that the impact of the two groups of turbines would not be so unpleasant, overwhelming or oppressive that Clarkes Farm would become an unattractive place to live and that the situation would be improved without Turbine 1.

*Lodge Farm, Yelvertoft Road*

54. The property is a two storey house with outbuildings and has been recently renovated. It has primary habitable rooms with windows at ground and first floor level, and there is a large garden on the north, south and west sides of the property. Turbines 1, 3 and 4 would be across the Yelvertoft Road from the property and its garden, with intervening hedgerows and trees. There would be some views of the turbines possible from the first floor, but generally views in this direction would be limited and mitigated by the intervening vegetation, the substantial distance away from the turbines and the difference in level.

55. Turbines 5, 6 and 7 would be closer, particularly Turbine 6, but this would still be a reasonable distance away and on lower ground. There is also a significant hedge around the west side of the garden that would intervene in views from the house at first and ground floor level and from the garden, mitigating any potential harm of views of the turbines, which are well spaced. I acknowledge that the hedge is currently a 'rural hedge', rather than a well trimmed hedge that might be found around dwellings. However, this is an open countryside location and the hedge has an appropriate character and appearance for the area. The occupants might wish to trim the hedge, but part of the consideration would be their attitude to the appearance of the turbines. Overall, I conclude that the views and appearance of the turbines would not be so unpleasant, overwhelming or oppressive that Lodge Farm would become an unattractive place to live.

*The Elms, Station Road*

56. The Elms is a two storey house located at Station Road, Lilbourne, with bedroom and living room windows facing out to Turbines 1, 3 and 4. It would be one of the closest properties to a turbine, and would be at a not significantly different level from the base of Turbine 1, unlike many of the other 'close' situations. Turbines 3 and 4 would be at a considerable distance, which would mitigate harm in relation to this and other properties in Station Road. However, there is little intervening vegetation, and I consider that Turbine 1 would be prominent and would to some extent have an overbearing effect on the occupiers of the property. I accept that the motorway intervenes and that the raised embankment hides views of the lower part of the turbine, but this does not mitigate the harm of the height of the turbine in that proximity. I consider this turbine would cause some harm in this situation. There would be a similar relationship with, in particular, the garden of 30 Station Road.

57. Turbines 5, 6 and 7 would be a substantial distance from this property and viewed at an oblique angle from windows and garden and would not have a significant effect on the occupiers of the property.

*New Clarkes Farm, Yelvertoft Road*

58. New Clarkes Farm would be a good distance from the northern group of turbines, so these would not have a significant impact on the residents' living conditions. Turbine 6 in the southern group would be closest. There would be some views of this and other turbines in this group from habitable rooms in the dwelling and garden, but they would be a reasonable distance away and at lower ground level, with some intervening vegetation. I do not consider that there would be an unacceptable impact on the living conditions of the occupiers of this property.

59. There have been many representations relating to the impact of the turbines on many other nearby dwellings, which have been taken into consideration. These include the potential for the turbines to be prominent and overbearing features in views from homes and gardens. However, generally distances involved to the majority of the properties would mean that there is little impact on the living conditions of the residents of these properties.

*Green Burial Ground, Yelvertoft Road*

60. Considerable concern has been raised in relation to the effect of the proposal on the Green Burial Ground, in terms of its tranquillity and the effect on the future viability of the burial ground. The burial area is accessed down a track off the Yelvertoft Road and is partially down the hill. It has a tallish hedge to the west side of the ground, with the burial area to the east. The burial area provides a tranquil setting and has many graves. These are marked by trees, so the area is developing into a pleasant green and vegetated landscape. There are a number of seats for visitors and these generally are aligned along the western hedge facing eastwards into the site, so that from these the orientation and arrangement of the hedge would mean that turbines in the northern group would not be prominent. They would be relatively close, particularly at the lower levels and prominent in views from various positions within the burial area. However, this will change as is already occurring with the growth of the many trees, so views of the turbines from within the burial ground will reduce.

61. While the outlook will be affected by the appearance of turbines, as noted above the overall character of the surrounding area would be little altered. There is already some noise apparent from the motorway and I do not consider that the noise from the turbines would add unacceptably to the current noise environment. Overall, I consider that the effect on the Green Burial Ground would be acceptable and unlikely to prevent others from deciding to be buried there in the future.

***Shadow Flicker***

62. The risk of harm from shadow flicker has been raised, but the potential for this is generally very limited and the companion guide to the now removed Planning Policy Statement 22 – Renewable Energy [PPS 22], advises that shadow flicker has been shown to occur only within certain distances of a turbine. The EIA identifies the potential for 5 houses to be affected by shadow flicker when the sun is low in the sky in the mornings, evenings or mid winter. Should this prove to be a problem the developer can alter the operating period of the turbine to prevent the flicker occurring and this can be secured by an appropriate condition. Given that many factors would have to come together,

and the ability to control any harmful effects through conditions, I attach little weight to this matter.

***Noise and Disturbance***

63. Guidance and procedures contained within DTI document ETSU-R-97 'The assessment and rating of Noise from Wind Farms' were used in the preparation of the noise assessment. Derived noise limits take account of blade swish, so an additional penalty should not need to be applied because of it or because of excess amplitude modulation. The noise survey included locations in the village for a period of 3 weeks, and other nearby properties. While there was some criticism of the locations, I consider that the positions would be reasonably representative of the situation and they were agreed with the council prior to the survey. Lilbourne Parish Council's [LPC] expert acknowledged that the report was undertaken generally in accordance with ETSU-R-97 and there was no significant issue with the technical content or the results. There was some question over the type of equipment used, but given the equipment is that commonly used, and similarity of results in different conditions, I am satisfied that the noise survey is a reliable indication of current conditions.

64. It is inevitable that the nearby M1 and A14 will be the existing dominant noise sources in the area and varying levels of traffic will cause a significant change in the background noise level, with the potential for low traffic noise occurring in periods of high wind speeds. However, in order to account for the potential for this, rather than the mean background noise + 5dB being taken into consideration as would be usual, the lowest background noise level + 5dB was used. It was still found to be well above predicted noise levels from the wind farm operating in isolation or taking account of the cumulative effect of the Lilbourne and Yelvertoft wind farms and this would still be the case, should the M1 road surface be changed and background noise level reduced.

65. Concern was raised that the potential effect of wind shear and the resulting difference of wind speeds at different heights had not been taken into consideration. However, even with higher wind speeds up to 12 m/s at the upper level and increased speed of the blades, the resulting noise at lower level would still mean that the noise level of the turbines would be acceptable in relation to the background noise level and limits adopted.

66. Concern was also raised about factors relating to wind shear, amplitude modulation and blade vortex interaction. However, the evidence presented does not demonstrate to me that these factors would result in noise nuisance. ETSU-R-97 remains the standard for considering noise associated with turbines and ETSU-R-97 notes that noise levels in it take account of the character of noise that is described as blade swish. The incidence of excess amplitude modulation remains low and has reduced with changes in construction, spacing and layout of turbines. Overall, I do not consider that the evidence in this case indicates that there would be unacceptable noise effects associated with excess amplitude modulation, or that there is a need for a specific condition relating to this.

67. The noise report provided by the manufacturer of the proposed wind turbine indicates that the noise characteristics would not warrant a tonal penalty, so none was allowed. However, if it were necessary to take this into consideration, BS4142:1997 Method for rating industrial noise affecting mixed residential and industrial areas indicates there should be a 5dB penalty for the tonal element.

In my view, the likelihood of the chosen turbine of a similar output having a significantly different tonal effect is small and in any case the margins between the predicted noise and limits proposed are such that a variation could be accommodated.

68. Opponents consider that lower noise limits specific to findings for this proposal should be used in the noise condition, rather than the same limits as were used for the Yelvertoft wind farm, which have been requested to be incorporated into the condition by the council's environmental health department. If the Yelvertoft values are not used there would be significant potential for the condition to be unenforceable, as explained in relation to conditions below. In any case, the proposed scheme would accord with the lower limits identified. While adoption of the lower limits might provide some comfort to residents, they would be unlikely to have any practical benefit. Therefore, in the circumstances it would not be necessary or reasonable to change the limits proposed in the condition.

69. Overall, I consider that the noise assessment of the proposed scheme is reasonable and that the likelihood of harm being caused to neighbouring occupiers is small, but should there be a problem causing unacceptable noise levels, the proposed conditions would ensure that suitable mitigation occurs.

**Safety Aspects**

*Highway Safety*

70. LPC argues that the Highway Agency has not given proper consideration to this and other proposals for wind turbines, specifically identifying the turbine erected next to the Tesco warehouse close to the A5 and J18 on the M1. It says that recent advice in the Highways Agency Spatial Planning SP12/09 – Planning Applications for Wind Turbines Sited Near to Trunk Roads [SP12/09] was not taken into consideration there, particularly with regard to topple distance. The response in relation to this proposal was similar to that at the Tesco site and LPC say for that reason it should not be taken to indicate that the Highway Agency adequately considered this proposal and scant regard should be given to the fact that the highway authority has not objected to this proposal.

71. It is not for me to consider the Tesco site turbine or to conclude that it was or was not considered in relation to SP12/09. However, it is clear in SP12/09, in relation to topple factors, that in certain circumstances relaxation of requirements may be considered subject to findings of a site specific assessment. The fact that shorter distances were allowed in relation to the topple distance at the Tesco site does not in itself mean that highway matters were not properly considered there, or in relation to this application.

72. In particular, correspondence relating to the application clearly indicates that highway matters have been considered by the appropriate authorities first in relation to the 8 turbine scheme, then on the revised scheme and finally in relation to the appeal. Consultations occurred after the adoption of the latest advice in SP12/09. While I accept that there has been reference to guidance in the now redundant Planning Policy Statement 22, it does not seem reasonable or likely that the authorities would ignore their own current advice.

73. LPC raised safety concerns about the distraction of drivers, particularly on the busy nearby motorways. There should not be a sudden revealing of the moving turbines in the drivers' field of vision. LPC identified the transition from the M6

to the M1 as being a particularly busy and dangerous stretch of the motorway and the location of many accidents, recorded and unrecorded. I accept that this is the case, but it would also be readily apparent to the professionals considering the proposal, particularly as identified by the LPC, that there are schemes being produced to improve the junction. However, it is plain that this matter was considered, and the appellant produced a document showing the progressive views from the motorway leading to the bend at the junction, prepared for the application.

74. While I accept that at busy times other traffic could block views, the nature of movement of traffic would mean that the interruption would not be continuous. I also accept that bridges and some trees and hedging in the topography would interrupt views of the surrounding countryside. However, it is evident from driving along the road, and the visualisations prepared by the appellant, that even without Turbine 1 and the others previously removed, there would be a reasonable period to 'acclimatise' to the presence of the turbines and that in this situation I do not consider there would be a sudden and distracting appearance of a turbine or turbines likely to result in an unacceptable risk to highway safety.

75. Similarly, traffic turning off along the A14 is likely to have had some view of the turbine on the roads approaching the junction. In addition, traffic leaving the last roundabout of the junction would be likely to be accelerating away from a relatively low speed and beyond this roundabout there are no significant or unusual matters that would require special attention. I consider that the views of the turbines would not cause an unacceptable distraction to drivers on the A14.

76. The LPC and Lilbourne Against Wind Farm [LAW], together with other interested parties, expressed safety concerns about the proximity of the turbines to roads and other rights of way. LPC acknowledged that separation accords with highway guidance. I accept that there have been incidences where blades have been cast off, sometimes at some distance, and ice throw and shadow throw can also occur, but taking account of the risk of such incidents occurring I consider that the spacing of the turbines from roads is reasonable.

77. The British Horse Society advice in relation to wind turbines is that there should be a separation distance of about 200m from bridleways. This would not be provided between Turbine 1 and bridleway EX7. However, to mitigate this situation the appellant has submitted an obligation to provide an alternative route for EX7 that would be more than 200m from Turbine 1 and Turbine 3. This is indicated as a logical straight route between two points on the existing bridleway and would give the separation distances required to Turbine 1 and Turbine 3. The existing bridleway would remain available to those that wished to continue to use it. I consider that the Section 106 agreement would provide a reasonable and safe alternative and would overcome the potential harm in relation to the proximity of the turbine to the right of way, and on the basis of Turbine 1 being constructed would be necessary.

78. I have taken into consideration the turbine manufacturer's advice to operators and technicians that they should not stay within a radius of 400m of a turbine, unless it is necessary. However, in terms of risk assessment and appropriate advice and actions there is a substantial difference between people that might be working for long periods in a particular location and those passing by relatively quickly. The advice does not say that it is unsafe to go within this

distance, only not to stay there unless necessary. It is a matter of balancing risk and harm. In my view, this does not imply that there has to be a safety perimeter of 400m around turbines.

79. Concern is raised about the routing of construction traffic. However, this matter is covered by a condition, requiring management plans for construction traffic and hours of delivery. Having viewed the local road network, I consider that reasonable routes for construction traffic can be agreed without unacceptable harm to the amenity of local residents and highway safety.

80. I conclude on the main issue that the turbines do not pose an unacceptable risk to highway safety.

**Other Matters**

81. Concern was raised over the degree and effectiveness of public consultation and the attitude of the developer to local people. While I understand the views expressed, the matter for me is to determine the application that has been made. There clearly was public consultation and a full process of consultation has been gone through in relation to the planning application and appeal process. Localism and local views have been represented principally by Daventry District Council and representation of village views by Lilbourne Parish Council and Lilbourne Against Wind Farm, the local MP, local councillor and many interested persons at the inquiry and in writing.

82. These views have been taken into consideration in coming to this decision, particularly in concluding that Turbine 1 should be excluded from the scheme. While I have found that most of the proposed turbines are acceptable, this is a balance that is necessary in order to benefit all people and is necessarily balanced with government policies.

*Birds*

83. At the inquiry the impact of the proposal on birds was questioned. In preparation for the application, surveys were undertaken by ornithologists taking into consideration those birds most at risk, but in practice all species seen in the air and on the ground were recorded. Natural England [NE] in relation to the application responded on the 11 July 2011 about birds (and bats) requesting further information, which was forwarded. In its response to that information NE confirmed that its concerns were satisfied, noting that it would be necessary to ensure that ecological mitigation is carried out. No objection was raised by the Royal Society for the Protection of Birds provided that ecological management was undertaken as part of an agreement. This is part of the agreement submitted. While the interested party has sighted some species in the vicinity of the appeal site that have not been previously noted, I am satisfied that with the requirement for appropriate mitigation measures, the impact of the proposal on all birds and other wildlife would be acceptable.

**Conditions**

84. A number of the proposed conditions have had minor modification to make them more precise in terms of timing of actions and in some cases the provision for modifications to be made by the local planning authority has been removed to ensure appropriate public consultation on changes.

85. The proposal is for a development of limited duration; therefore it is reasonable and necessary to have a condition to that effect. It is also reasonable in the interest of amenity of the area that there is provision for the site to be decommissioned and made good at the end of the period. For the same reasons it is also reasonable that should any or all of the turbines cease to be required within the 25 year period that they should be decommissioned and the relevant part of the site made good.

86. The project will involve considerable construction infrastructure and will involve significant traffic movement, including removal of soil and importing of the turbines. Therefore it is reasonable and necessary in the interests of highway safety and amenity of residents and the Green Burial Ground that the arrangements should be considered and approved by the local planning authority through a Traffic Management Plan, a Construction Method Statement and conditions controlling hours of work and delivery times. The highway authority has suggested a number of additional conditions relating to construction and traffic management. I do not consider it necessary to have separate conditions, as the aspects seeking to be monitored would reasonably form part of the management plan to be submitted and approved.

87. The development will be prominent in the countryside, so it is reasonable in the interests of the amenity of the area and the amenity of residents that finish, location, colour and height of the various structures, blade rotation direction, cable routing and details of the control building should require the submission of details for the approval of the local planning authority.

88. In the interest of aviation safety it is necessary that details of illumination for the purpose of aviation are submitted for approval by the local planning authority and for confirmation to be required that notification of the construction of the turbines has been made to the relevant bodies.

89. In order to allow for any archaeological remains to be investigated, it is necessary to impose a condition requiring a scheme of investigation to be submitted to and approved by the local planning authority.

90. To protect the amenities of local residents, it is reasonable to have a condition requiring investigation and appropriate action in relation to any electromagnetic interference of television signals that occurs and of any reports of shadow flicker occurring within nearby properties.

91. The proposed scheme is near to water courses, so it is reasonable and necessary to have conditions ensuring that the scheme is undertaken in accordance with the flood risk assessment, including the provision of buffer zones alongside the water courses, and the resulting arrangements monitored.

92. To protect the amenity of nearby residents it is reasonable and necessary to have conditions controlling the development in terms of potential noise nuisance and appropriate measures for action should this occur. I have taken into consideration the suggestion of reduced noise limit criteria in Table 1 of condition 25. The appellant does not object to this as the assessment clearly indicates that the proposal would easily accord with the reduced limits suggested. However, the presence of the nearby Yelvertoft Wind Farm has to be taken into consideration and specifically the fact that its noise characteristics and conditions would relate to some of the same properties that would be encompassed by this condition. It is necessary that the same limits

be used. Given the nature of the noise assessment I do not consider that this would be unreasonable.

93. I do not consider it necessary to have a separate condition relating to road condition surveys, as this is a matter that would properly be considered in the construction management plan. I also do not consider it necessary to have a condition relating to the permissive path, as this is the subject of part of the Agreement, and in any case is not necessary without Turbine 1.

94. The appellant requested that should Turbine 1 be found to cause unacceptable harm, it should be removed from the application/permission, which I have done by splitting the decision.

95. A condition was suggested to require additional screening throughout the parish. This would involve land outside the appellant's control. In any case, I have found the proposal to be acceptable in terms of the current situation and therefore a condition to this effect is unnecessary.

96. Conditions were also suggested requiring compensation/community funds to be made available. Conditions requiring monetary payments would be unreasonable and I have not found that the harm that would result would be significant and therefore what is proposed would not be reasonably related to the development.

97. A signed and dated agreement was submitted at the inquiry which relates to a decommissioning bond for the removal of the turbines, provision of an alternative permissive route for Bridleway EX7 and provision and implementation of a habitat creation and management plan. I am satisfied that the agreement is necessary to make the development acceptable in planning terms and fairly reasonably relates to the scale and kind of the development proposed and I attach considerable weight to it. However, the need for the permissive route would fall away without Turbine 1.

**Overall conclusion and balance**

98. The developer has carefully considered the proposal as demonstrated through the environmental statement, and has reduced the scale of the initial proposal to 6 turbines on the basis, amongst other things, of the proximity to Lilbourne and district and the bridleway. The development plan, particularly in the form of the RSS, places weight on the need for renewable energy. I have taken account of the possible changes to the development plan, but the draft Core Strategy and the Framework still demonstrate the substantial weight that should be attached to the proposed development and the benefits that it would provide, even with five turbines.

99. I have not found harm in relation to Stanford Hall and its surroundings, but I have found significant harm in relation to the effect that Turbine 1 would have in relation to Lilbourne Motte & Bailey castle and All Saints Church, Lilbourne; their setting would not be preserved. This is less than substantial harm in terms of The Framework, but must still be weighed against the public benefits of the proposal in line with RSS Policy 26 and the Framework. In this case, on balance, taking into consideration the 25 year life of the proposal, conditions and agreement, I consider that the harm of Turbine 1 is of such consequence that even with the public benefits of the development, the proposal should not be allowed to proceed with Turbine 1 in place and it would not preserve the setting of the heritage assets.

100. I have also found that without Turbine 1 the effect on heritage assets would be acceptable, but there would be some other impacts from the remaining five turbines, including in relation to the changed appearance of the landscape and conflict with LP Policy EN42, and some effect on neighbouring occupiers in that some of the turbines would be visible from their properties and gardens. While the spacing of the turbines, design and separation distances is such that the impact on the surrounding countryside and on neighbouring occupiers' living conditions would not be unacceptably affected, the harm needs to be brought into the balance. Overall, I consider that the extent of harm that would be caused by the remaining five turbines would be clearly outweighed by the energy benefit that these five turbines would bring.

101. I therefore conclude for the reasons given above that the appeal should be allowed in part, without Turbine 1.

*Graham Dudley*

**Inspector**

## APPEARANCES

## FOR THE APPELLANT:

| | |
|---|---|
| Mr T Mould QC | Instructed by Osborne Clarke, Solicitors |
| He called | |
| Mr M Dawson BA Business Studies BA (Hons) Archaeology MPhil Roman Urban Development | Director of CgMs Consulting |
| Mr M Dobson MA MPhil MRTPI MRICS | Partner in the Pegasus Planning Group |
| Mr A Cook BA Hons, MLD, CMLI, CENV, MIEMA | Partner in the Pegasus Planning Group |
| Mr C Anderson BSc (Hons) MIOA | Spectrum Acoustic Consultants |

## FOR THE LOCAL PLANNING AUTHORITY:

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|---|---|
| Mr M Beard | Of Counsel, Instructed by Denise Stephenson, Partner of Sharpe Pritchard |
| He called | |
| Ms R Booth BSc (Hons) MSc (Oxon), MSc, IHBC | Conservation Officer, Daventry District Council |
| Mr P Smith BA (Hons) Dip TRP, MRTPI | Director of Brian Barber Associates, Chartered Town Planning Consultants |

## FOR THE LILBOURNE PARISH COUNCIL

| | |
|---|---|
| Mr A Lamb | Chair of the Parish Council |
| He called | |
| Mr A Lamb | |
| Mr R C Hill BSc Arch, Fellow of the Institute of Acoustics | Principal Consultant Acoustical Investigation and Research Organisation. |

## FOR LILBOURNE AGAINST WIND FARM

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|---|---|
| Mr D R C Evans BA Hons | Part of the time |
| Mr Z Simons Of Counsel | Part of the time |
| They called | |
| Mr D R C Evans | |
| Mr Hall | |
| Mr J A Hesketh | Chartered Engineer |
| Mr J W Sacha Dipl landscape architecture and CLI | Director of Sacha Barnes Ltd, Landscape Consultancy |
| Mr R Cox ret'd electrical engineer | |

**INTERESTED PARTIES:**

| | |
|---|---|
| Mr T Matthews | |
| Mr C Heaton-Harris | MP |
| Mr M Newhouse | |
| Mr Le Flem | |
| Mrs P Pearson | |
| Mr R Atkin | |
| Mr V Wright | |
| Mrs W Hoult | |
| Ms L Leitch | |
| Baroness Donaghy | |
| Mrs Wells | |
| Mr J Hall | |
| Ms E Evans | |
| Cllr A Chantler | District Councillor |

**DOCUMENTS**

| | | |
|---|---|---|
| Document | 1 | Appellant's list of appearances |
| | 2 | Council's list of appearances |
| | 3 | List of interested parties who want to speak handed in by LAW |
| | 4 | Letter from CPRE, by email 22 April 2012 |
| | 5 | Notification letter |
| | 6 | Appellant's opening statement |
| | 7 | Council's opening statement |
| | 8 | LAW opening statement |
| | 9 | Note on green burials representations |
| | 10 | Map showing positions of M1 and M6 and views |
| | 11 | Revised note on turbine proximity from LAW |
| | 12 | Draft list of conditions |
| | 13 | Draft obligation |
| | 14 | Archaeology correspondence |
| | 15 | Email from J McCulley of DECC |
| | 16 | Viewpoints along M6 provided in response to HA request on advanced visibility of turbines when approaching M1 junction |
| | 17 | Letter from R Mackintosh – 3 May 2012 |
| | 18 | Statement from Mr Heaton-Harris MP |
| | 19 | Statement from Mr Draper |
| | 20 | Statement from Mr Hall |
| | 21 | Statement from Cllr A Chantler |
| | 22 | Statement from Mr Le Flem |
| | 23 | Planning permission for Green Burial Ground 22 June 1994 |
| | 24 | Statement of Ms Hoult |
| | 25 | Suggested conditions from Lilbourne Parish Council |
| | 26 | Suggested conditions from Northamptonshire County Council |
| | 27 | Suggested amendments to conditions |
| | 28 | Archaeological condition |
| | 29 | Extract from SP12/09 (paragraph 14) |

30 Views of turbines when proceeding along M6 to M1
31 Distances to turbines from nearby properties
32 Letters from K Ratcliffe and G Le Flem
33 Statement from Mr Cox
34 Amendments to draft conditions suggested by Mr Hill
35 Two photographs at All Saints Church with cherry tree in place
36 Letter from Mr Wells dated 9 May 2012
37 Letter and photograph from Mr Smith
38 AIRO submission on proposed conditions
39 EAM conditions at Chiplow Inquiry
40 Letter with enclosures from Ms Atkin dated 4 May 2012
41 Closing submissions of Lilbourne Parish Council
42 Closing submissions of Lilbourne Against Wind Farm
43 Closing submissions on behalf of Daventry District Council
44 Completed 106 Agreement
45 Appellant's closing submissions

## Annexe 1

## Schedule of Conditions

### *Time Limits and Site Restoration*

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.

2. The permission hereby granted shall endure for a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid network ("First Export Date"). Written confirmation of the First Export Date shall be provided to the Local Planning Authority no later than one calendar month after the First Export Date.

3. Not later than 24 months before the end of this permission, a decommissioning and site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. Such scheme is to include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period. The approved scheme shall be fully implemented within 12 months of the expiry of this permission.

4. If any of the turbines hereby permitted cease to operate for a continuous period of 12 months (unless such a cessation is due to the turbine being under repair or like for like replacement of parts) it shall be dismantled and removed from the site in accordance with a scheme which shall be submitted to and approved in writing by the Local Planning Authority within three months of the end of that 12 month period. This shall provide for the removal of the relevant turbine and associated above ground works approved under this permission and the turbine foundation to a depth of at least one metre below ground. The approved scheme shall be implemented within 12 months of the date of its approval by the Local Planning Authority.

### *Construction Traffic Management Plan and Construction Method Statement*

5. No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall include measures for the routing of construction traffic only, scheduling and timing of movements, the management of junctions to and crossings of the public highway and other public rights of way, details of escorts for abnormal loads, temporary warning signs, temporary removal and replacement of highway infrastructure/street furniture, reinstatement of any signs, verges or other items displaced by construction traffic and banksman/escort details. The development and construction traffic management shall be carried out in accordance with the approved Construction Traffic Management Plan.

6. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the construction of the development shall only be carried out in accordance with the approved Statement, subject to any variations approved in writing by the Local Planning Authority. The Construction Method Statement shall address at least the following matters:-

    a) Details of the phasing of construction works

    b) Details of the construction of temporary and permanent access arrangements to the site

    c) Details of the construction and surface treatment of hard surfaces and tracks

    d) Details of the proposed storage of materials

    e) Dust management

    f) Siting and details of wheel washing facilities

    g) Details of the proposed temporary site compound for storage of materials and machinery (including areas designated for car parking)

    h) Cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway

    i) Pollution control, protection of water courses, bunding of fuel storage areas, surface water drainage, flood risk, sewage disposal and discharge of foul drainage

    j) Details and timetable for post construction restoration/reinstatement of the temporary working areas

    k) Details of emergency procedures and pollution response plans

    l) Details of the protection of public footpaths and bridleways during construction

    m) Ecological monitoring during construction

    n) Monitoring of Private Water Supplies (PWS)

    o) Details for the protection of trees and hedgerows during construction (to include specification and location of protective fencing if necessary)

    p) Noise and vibration during construction

    q) Storage and disposal of excavated material

***Construction and Delivery Hours***

7. Construction work shall only take place between the hours of 0700 — 1900 on Monday to Friday inclusive, 0700 — 1600 hours on Saturdays with no construction work or scheduling of abnormal loads on Sundays or Public Holidays. Outside these hours, works at the site shall be limited to

emergency works and dust suppression. The Local Planning Authority shall be informed in writing of any required emergency works within three working days of occurrence.

8. The delivery of any construction materials or equipment for the construction of the development, other than turbine blades, nacelles and towers, shall be restricted to the hours of 0700 — 1900 on Monday to Friday inclusive, 0700 — 1600 hours on Saturdays with no deliveries on Sundays or Public Holidays.

***Appearance***

9. Prior to the erection of any turbine, a scheme for the finish and colour of the wind turbines, any external transformer units and the anemometry mast shall be submitted to and approved in writing by the Local Planning Authority. No name, sign, symbol or logo shall be displayed on any external surfaces of the turbines or any external transformer unit or the anemometry mast other than those required to meet statutory health and safety requirements. The approved colour and finish of the wind turbines and the approved colour and finish of the anemometry mast shall be implemented as approved.

10. The overall height of the wind turbines shall not exceed 125m to the tip of the blades when the turbine is in the vertical position as measured from natural ground level immediately adjacent to the turbine base.

11. All wind turbine blades shall rotate in the same direction.

12. Prior to the erection of any turbine, a scheme for illumination for the purposes of aviation safety shall be submitted to and approved in writing by the Local Planning Authority. The illumination shall be implemented as approved.

13. Construction of the control building shall not commence until details of the siting, external appearance, dimensions, layout and materials of that building and any associated compound or parking area have been submitted to and approved in writing by the Local Planning Authority. The control building shall be constructed as approved.

14. All cabling between wind turbines and the control building shall be laid underground in accordance with details to be submitted to and approved in writing by the Local Planning Authority, prior to erection of any turbine.

***Micro-siting***

15. The turbines, hardstandings, anemometry mast, control building and access tracks shall be sited within 10 metres of the positions shown on the submitted plan at the replacement figure 4.1 of the Environmental Statement dated April 2010 'ES'. A plan showing the final position of the turbines, hardstandings, anemometry mast, control building and access tracks shall be submitted to the Local Planning Authority within three months of the First Export Date.

***Archaeology***

16. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which shall have first been submitted by the applicant and approved in writing by the local planning authority.

***Television Interference***

17. Prior to the First Export Date a scheme providing for the investigation and alleviation of any electro-magnetic interference to TV signals caused by the operation of the turbines, including a timetable for remediation works, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the investigation by a qualified television engineer of any complaint of interference with television reception at a lawfully occupied dwelling which existed or had planning permission at the time consent was granted. Where such complaint is notified to the developer by the Local Planning Authority within 12 months of the First Export Date and where impairment is determined by the qualified television engineer to be attributable to the wind farm the agreed scheme for remediation shall be implemented.

***Air Safeguarding***

18. Within 30 days of the First Export Date, written confirmation to the Local planning Authority shall be provided confirming that the necessary aviation bodies such as the Ministry of Defence and the Civil Aviation Authority have been given written notice of the date of completion of construction, the height above ground level of the highest structure in the development and the position of each wind turbine in latitude and longitude.

***Shadow Flicker***

19. Within 21 days of receipt of a written request of 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 consent, a scheme for the investigation and alleviation (including a timetable for remediation) of shadow flicker at that dwelling, likely to be caused by the turbines hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation measures shall be carried out in accordance with the scheme.

***Flood Risk and Drainage***

20. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated June 2011, reference K0249/1 (Rev 2), prepared by HydroLogic Limited and the following mitigation measures detailed within the FRA:-

a) Sections 4.1.2, 4.3.1 and 5, bullet points 6 and 9 – limiting the surface water run-off generated by rain storms, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site; access tracks will be made from permeable materials; site compound to be attenuated via a swale or infiltration trench.

b) Provision of access tracks at existing ground levels and all surplus excavated material will be removed to a site located outside of the flood plain Flood Zone (including that generated from the turbine bases), such that compensatory flood storage on/or in the vicinity of the site to a 100 year standard (FZ3) is not required.

c) Section 4.1.3 – strengthening and widening of existing bridges over the Claycoton Brook.

d) Section 4.2 – identification of safe routes(s) into and out of the site to an appropriate safe haven outside of the Flood Plain.

e) Section 3.4, 4.2 and 5, bullet point 3 and table 6 – floodproofing measures; electrical equipment set a minimum of 600mm above the 100 year plus 20% (for climate change) flood level (in m AOD) applicable at each turbine site.

21. Prior to the commencement of development, a scheme for the provision and management of a buffer zone of a minimum of 8 metres alongside the watercourses shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme. The scheme shall include:-

a) Plans showing the extent and layout of the buffer zone;

b) Details of the planting scheme (for example, native species);

c) Details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term;

d) Details of any footpaths, fencing, lighting etc; and

e) No infrastructure or turbines within the buffer zone.

22. Reports on monitoring, maintenance and any contingency action carried out in accordance with a long term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. Within 3 months of completion of the monitoring programme a final report demonstrating that all long term site remediation criteria have been met and documenting the decision to cease

monitoring shall be submitted to and approved in writing by the Local Planning Authority.

23. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a scheme of remediation (including a timetable for remediation works) has been submitted to and approved in writing by the local planning authority. The work shall be undertaken in accordance with the approved scheme.

***Noise Conditions***

24. Prior to commencement of the development 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 along with manufacturer warranties to show maximum sound power levels from the turbines at wind speeds from 2 to 12m/s

    b) The acoustic report shall be conducted by a suitably competent and independent consultant as 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"

    d) It must include the assessment of the turbine noise at the same monitoring locations as identified in Table 1 and 2 in Condition 25, and at any other location requested in writing by the Local Planning Authority

    e) It must demonstrate that predicted wind turbine noise levels based on the final choice of turbine to be used on site will meet the limits detailed in Condition 25 at each wind speed

    f) Where a limit value for a location does not exist, the proposed noise limits are to be those limits specified in Table 1 and Table 2 of Condition 25 herein for a listed location which the independent consultant, as approved in writing by the Local Authority, considers likely to experience the most similar background noise environment to that recorded at the monitoring location.

25. The rating level of noise emissions from the combined effects of the wind turbine generators (including the application of any tonal penalty) when measured and calculated in accordance with "The assessment and Rating of Noise from Wind Farms, ETSU-R-97" published by ETSU for the (former) Department of Trade and Industry and in accordance with the attached guidance notes, shall not exceed the values set out in Tables 1 and 2 below. Where there is more than one dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of the

Use Classes Order) at a location, the noise limits apply to all dwellings lawfully in existence at the time of granting this permission, at that location. Noise limits for properties which lawfully exist or have planning permission for construction at the date of this consent but are not listed in the tables attached, shall be those of the most representative location listed in Tables 1 and 2 suggested by the developer and submitted to and approved in writing by the LPA.

*Table 1 - Daytime noise limit criteria O700hrs to 2300hrs (Noise Level $L_{A90,\ 10min}$dB*

| Location | Measured Wind Speed at 10m height (m/s) | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | **3 or below** | **4** | **5** | **6** | **7** | **8** | **9** | 10 | **11** | **12** |
| Lilbourne Lodge | 51 | 51 | 51 | 51 | 51 | 51 | 51 | 51 | 51 | 51 |
| The Lodge | 53 | 53 | 53 | 53 | 53 | 53 | 53 | 53 | 53 | 53 |
| Properties at Lilbourne | 55 | 56 | 57 | 58 | 60 | 61 | 62 | 64 | 65 | 66 |

*Table 2 - Night-time noise limit criteria 23:00hrs to 07:00hrs (Noise Level $L_{A90,10min}$ dB)*

| Location | Measured Wind Speed at 10m height (m s) | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | **3 or below** | **4** | **5** | **6** | **7** | **8** | **9** | 10 | **11** | **12** |
| Lilbourne Lodge | 49 | 49 | 49 | 49 | 49 | 49 | 49 | 49 | 49 | 49 |
| The Lodge | 52 | 52 | 52 | 52 | 52 | 52 | 52 | 52 | 52 | 52 |
| Properties at Lilbourne | 54 | 55 | 55 | 56 | 56 | 57 | 57 | 58 | 58 | 59 |

26. Within 21 days of receipt of a written request from the Local Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the developer shall, at its own expense, employ an independent consultant to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the Guidance Notes.

27. Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with Condition 26, the developer shall submit to, for approval in writing by the Local Planning Authority, an assessment protocol stating:

    g) The details of the independent consultant to undertake the assessment

    h) The limits that are to be applied at the complainant's property

    i) A justification of the limits to be applied

    j) A reasoned assessment as to whether the sound is likely to contain a tonal component in accordance with guidance note 3 a)

    k) The proposed measurement location as identified by the guidance notes

    Measurements taken by the independent consultant to assess compliance with the noise limits set out in the Tables attached to Condition 25 or

those limits approved by the Local Planning Authority in accordance with point J above shall be undertaken in accordance with the assessment protocol.

28. The developer 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 two months of the date of the written request of the Local Planning Authority made under Condition 26, 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, together with proposals to mitigate any harm identified, including a time table and shall be submitted for the approval of the local planning authority. The data shall be provided in the format set out in Guidance Note 1 (e) of the Guidance Notes. Any remediation measures shall be implemented in accordance with the agreed timetable.

29. The developer shall continuously log wind speed and wind direction at 10 meters from the anometric mast and shall continuously log power production, nacelle wind speed, nacelle wind direction and nacelle orientation at each wind turbine, all in accordance with Guidance Note 1 (d). This data shall be retained for the life of the planning permission. The developer 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.

30. The development hereby permitted shall be carried out in accordance with the following approved plans LILBSN.01ii, 02ii, 03ii and 04, unless set out otherwise in this decision and conditions.

***Guidance Notes for Noise Conditions***

1. These notes are to be read with and form part of the noise conditions. They further explain the conditions and specify the methods to be deployed in the assessment of complaints about noise emissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3. 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). Measured noise emission levels from the turbines must be referenced to measured 10 metres height wind speeds.

Note 1

(a) Values of the $L_{A90,\ 10\text{-minute}}$ noise index should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force

at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). If required, measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

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

(c) The $L_{A90,10\text{-minute}}$ measurements should be synchronised with measurements of the 10 minute arithmetic average wind speed, measured at a height of 10 metres at the wind farm site, 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 in metres per second (m/s), arithmetic mean wind direction in degrees from north in each successive 10 minute periods from the supervisory control and data acquisition (SCADA) system to enable compliance with the conditions to be evaluated. Wind speed data shall also be measured at 10 metres height. It is this measured 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2(b), such correlation to be undertaken in the manner described in Guidance Note 2(c). In addition, the wind farm operator shall continuously log the arithmetic mean power generated during each successive 10 minute period for each wind turbine on the wind farm. All 10 minute periods shall commence on the hour and in 10 minute increments thereafter, synchronised with Greenwich Mean Time.

(e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

Note 2

(a) The noise measurements should be made so as to provide no fewer than 20 valid data points as defined in Guidance Note 2(b).

(b) Valid data points are those measured in the conditions set out in the assessment protocol approved by the Local Planning Authority under Condition 27 of the noise conditions but excluding any periods of rainfall measured at the complainant's dwelling.

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

Note 3

(a) Where in accordance with the approved assessment protocol under Condition 27, 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 $L_A90$, 10-minute data have been determined as valid in accordance with Guidance Note 2, a tonal assessment shall be performed on noise emissions during two minutes of each 10 minute period. The two 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 two minute period out of the affected overall 10 minute period shall be selected. Any such deviations from standard procedure shall be reported.

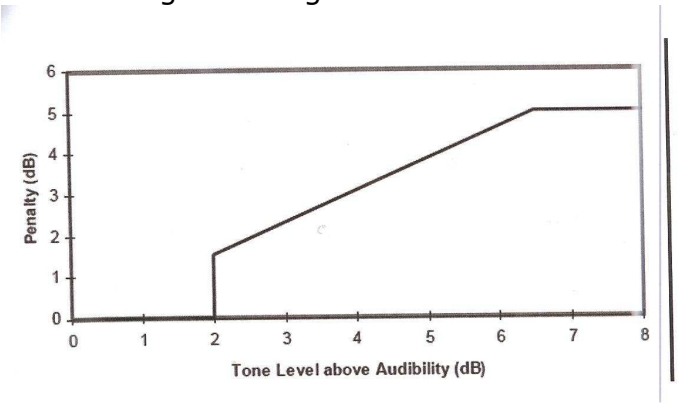
(c) For each of the two minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97 or future equivalent guidance for wind farm tonal noise assessment.

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

(e) A least squares best fit linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived From the value of the "best fit" line fitted to values within ± 0.5m/s of each integer wind speed. If there is no apparent

trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

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




Note 4

(a) Tonal penalty is to be applied in accordance with Guidance Note 3. The rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 above at each integer wind speed within the range set out in the approved assessment protocol under Condition (27).

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

(c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved by the Local Planning Authority, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise emission only.

(d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant or Local Planning Authority requires undertaking the further assessment The further assessment shall be undertaken in accordance with the following steps:-

1) repeating the steps in Guidance 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 Condition 27;

2) the wind farm noise ($L_1$) at this speed shall then be calculated as follow where $L_2$ is the measured level with turbines running but

without the addition of any tonal penalty:-

$$L_1 = 10 \text{ Log } [10^{L2/10} - 10^{L3/10}]$$

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

4) if the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with sub-paragraph (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 limits approved by the Local Planning Authority for a complainant's dwelling, 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 then the development fails to comply with the conditions.

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