Department for Communities and Local Government

David Hardy Esq.
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Leeds
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Our Ref: APP/J0405/A/13/2194726

15 October 2015

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPLICATION BY ISON FORDHAM AND ELGIN
CONSTRUCTION, OPERATION AND DECOMMISSIONING OF A SINGLE 3-BLADED WIND TURBINE AT ISON FORDHAM & ELGIN, LOWER WALDRIDGE FARM, OWLSWICK ROAD, FORD, AYLESBURY, BUCKINGHAMSHIRE - APPLICATION REF: 12/01806/APP

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, S R G Baird BA (Hons) MRTPI, who opened an inquiry on 13 January 2015 into your client's appeal against the decision of 17 January 2013 by Aylesbury Vale District Council to refuse planning permission for the construction, operation and decommissioning of a single 3-bladed wind turbine with a maximum height to the tip of the blade of 101.5m and associated infrastructure, including a new highway access, access tracks, temporary site compound, crane pad and substation at Land at Ison Fordham & Elgin, Lower Waldridge Farm, Owlswick Road, Ford, Aylesbury, Buckinghamshire HP17 8XW, application ref 12/010806/APP.

2. The appeal was recovered for the Secretary of State's determination on 14 October 2013, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a renewable energy development.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and planning permission be granted. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions and recommendation and refuses planning permission. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

Department for Communities and Local Government
Jean Nowak, Decision Officer
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Procedural matters

4. In reaching his decision, the Secretary of State has taken into account the submitted Environmental Statement (ES). Overall the Secretary of State is satisfied that the ES complies with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Matters arising after the close of the inquiry

5. The Secretary of State has had regard to the correspondence received in response to his letter of 22 June 2015 inviting comments on the Written Ministerial Statement (WMS) of 18 June 2015 referred to in paragraphs 7, 8, 11, 24 and 29 below. The Secretary of State has carefully considered all the representations received in his consideration of the appeal before him and listed at Annex A, but is satisfied that they do not raise matters which would require him to refer back to parties again prior to reaching his decision. Copies of these representations can be made available on written request to the address at the foot of the first page of this letter.

Policy and Statutory Considerations

6. In deciding the appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies of the Aylesbury Vale District Local Plan (LP) adopted in 2004. As noted by the Inspector at IR 4.26, the LP does not contain policies specific to renewable energy or listed buildings. The Secretary of State agrees with the Inspector that the most relevant policies are those referred to at IR10.80 but, having regard to the Inspector's reasoning at IR10.81-10.82, he gives them reduced weight with the exception of Policy GP8, which he agrees is consistent with the objectives of the Framework. The Secretary of State notes that the Council commenced preparation of The Vale of Aylesbury Plan in 2011, but it was found to be unsound and was withdrawn in February 2014 (IR 4.31).

7. The Secretary of State has had regard to his WMS of 18 June 2015 referred to at paragraph 5 above. The statement explained that the Secretary of State was setting out new considerations to be applied to proposed wind energy development. Subject to a transitional provision, the statement explained that the new considerations had immediate effect. Given its relevance to this case, the Secretary of State attaches substantial weight to the statement as the most recent expression of government planning policy for onshore wind development.

8. The statement includes a transitional provision to apply where a valid planning application for wind energy development had already been submitted to a local planning authority at the date on which the statement was made and the development plan does not identify suitable sites. In such circumstances, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing. In applying the transitional provision to this appeal proposal, the Secretary of State has considered all

relevant representations received in his consideration of the appeal before him including the correspondence referred to in paragraph 5 above.

9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ("the Framework") and the planning guidance published in March 2014; the National Policy Statements (NPS) for Energy (EN-1) and Renewable Energy (EN-3); the Community Infrastructure Levy (CIL) Regulations 2010 as amended and Planning Practice Guidance for Renewable and Low Carbon Energy (2013). The Secretary of State has also taken into account the WMSs on renewable energy published in June 2013 by the Secretaries of State for Energy and Climate Change and for Communities and Local Government; the WMS on renewable energy published by the Secretary of State for Communities and Local Government in April 2014; and the English Heritage/Historic England guidance entitled "The Setting of Heritage Assets" as updated in July 2015.

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

Main issues

11. Along with his WMS of 18 June 2015 (which had not been issued at the time of the Inspector's report), the Secretary of State agrees with the Inspector that the main issues are those set out at IR10.1.

Landscape and visual impact

12. The Secretary of State agrees that the turbine would not be a significant or defining characteristic of National Character Area 108 (IR10.5).

13. Turning to the Inspector's assessment of the effect of the turbine on local landscape character, particularly the flat vale landscape of the Haddenham and Longwick Vales, the Secretary of State agrees with him that, as a tall, engineered structure with blade tip height of some 101.5m and rotating blades, the turbine would, by definition, have an adverse effect (IR10.6).

14. The Secretary of State has carefully considered the Inspector's assessment of harm to landscape character, including to the Chilterns AONB (IR10.7-10.10). The Secretary of State agrees with the Inspector at IR10.9 that, although the magnitude of impact would be major within about 1km of the appeal site - where the turbine would be a defining characteristic of that landscape - its impact on the landscape would be moderate/minor adverse between about 1km and 3.5km from the appeal site.

15. The Secretary of State notes that there is no dispute between the parties that areas of high landscape sensitivity beyond the 3.5km range, particularly the AONB scarp slope, fall within the high sensitivity category (IR10.9). However,

while he agrees with the Inspector that the magnitude of effect in terms of landscape change beyond about 3km would be low, he nonetheless notes that the landscape impact of the proposed turbine on the AONB would be adverse. Given these considerations, and applying paragraph 115 of the Framework, which requires that great weight should be given to conserving landscape and scenic beauty in an AONB, he disagrees with the Inspector that the landscape impact of the proposed turbine on the AONB would not be significant. The Secretary of State therefore also disagrees with the Inspector's conclusion at IR10.10 that the proposed turbine would not result in material harm to the landscape character of the AONB.

16. In considering the potential adverse visual effect on views to and from the AONB (IR10.11-10.19), the Secretary of State has taken account of the duty to conserve and enhance its natural beauty, having particular regard to the availability of long views from the scarp edge across lower lying vales to the north and west (IR10.12). In terms of views from the AONB, the Secretary of State agrees with the Inspector (IR10.14) that the turbine and the rotating blades would be visible in the long and extensive panoramic views across the Vales, but that these views would only be slightly modified by the presence of the turbine and the harm would be minor. Nonetheless, the Secretary of State applies the provisions of para 115 of the Framework, and considers that this minor harm should be given moderate weight.

17. Turning to the views into the AONB from the Vale, the Secretary of State agrees with the Inspector that the proposed turbine would break the skyline of the scarp slope and that the significance of that impact would vary from major through moderate to minor (IR 10.17). The Secretary of State accepts the Inspector's conclusion that this would result in some minor harm to the AONB, but he disagrees with the Inspector's view that this minor harm would not conflict with the duty to conserve and enhance the natural beauty of the AONB. He considers that this harm, albeit minor, should be afforded moderate weight in the planning balance, together with the minor harm identified at paragraph 15 above.

18. With regard to the impacts on the network of public rights of way (IR10.18-10.19), the Secretary of State agrees with the Inspector that, within 1km of the site, the turbine would dominate views towards it - resulting in some moderate harm, with the level of harm reducing to minor further from the site. The Secretary of State also agrees that the occupants of vehicles travelling eastwards on the A4129 would have views of the turbine, albeit fleeting, and that this would result in some negligible to minor visual harm (IR10.19) to which he accords some weight.

<u>The effect on heritage assets</u>

19. Having given very careful consideration to the Inspector's findings with regard to the effect of the appeal scheme on the settings of heritage assets at IR10.20–10.42, and having taken account of the views of English Heritage/Historic England and its updated guidance on the "Setting of Heritage Assets" referred to at paragraph 9 above, the Secretary of State agrees with the Inspector's conclusion at IR10.85 with regard to heritage assets, namely that the proposal would result in some harm. In relation to Waldridge Manor, the Secretary of State agrees with the Inspector that the turbine would distract attention from the building in terms of its agricultural setting (IR10.25) and result in minor/ moderate

harm (IR10.26). As regards the Aston Sandford Conservation Area, and the other Conservation Areas referred to at IR10.29, the Secretary of State agrees with the Inspector that the harm ranges from slight to moderate.

20. The Secretary of State agrees with the Inspector at IR10.34-10.42, in relation to the other listed buildings, that the harm identified to these listed buildings is less than substantial. In accordance with the statutory obligations identified in paragraph 10 above, the Secretary of State gives considerable importance and, like the Inspector, gives significant weight to the identified harm and the desirability of preserving the setting of the listed buildings, as well as to the desirability of preserving or enhancing the character or appearance of the conservation areas. He agrees with the Inspector (IR10.85) that, in terms of paragraph 134 of the Framework, the overall harm of the scheme would be "less than substantial" on the heritage assets identified at IR10.23-10.42. Applying paragraph 134 of the Framework, this "less than substantial" harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

The effect on living conditions

21. For the reasons given by the Inspector at IR10.43-10.51, the Secretary of State agrees that the proposed development would have an adverse effect on the visual amenities of some residents of the area, particularly those at Aston Mullins and Waldridge Manor. While he agrees that no dwelling in the area around the proposal site would become an inherently unattractive or unpleasant place to live, he gives moderate weight to the adverse impacts on these particular properties.

The effect on equine activities

22. For the reasons given at IR10.53-10.59, the Secretary of State agrees with the Inspector's conclusion at IR10.59 that little weight should be attached to potential impact on equine activities. The Secretary of State also agrees with the Inspector's conclusions at IR10.60 that it would be disproportionate to apply the "precautionary principle" in favour of Aston Mullins.

Output and CO^2 savings

23. The Secretary of State agrees with the Inspector (IR10.61–10.74) that the proposed turbine would generate a small but credible amount of electricity and have a capacity factor which would be close to the published national average; and that significant weight should be attached to the proposal's contribution to the achievement of the Government's objective of increasing the use and supply of renewable and low carbon energy.

Other considerations

24. In relation to tourism, the Secretary of State agrees with the Inspector that, whilst the turbine would be noticeable, there is no evidence to suggest that it would have an unacceptable adverse effect (IR10.75). He also agrees that there is no evidence that there is a wider public interest that should be protected with regard to property values (IR10.76); and he further agrees that, in terms of the potential impact on local ecology, there is no reason to disagree with the ES and the local planning authority's conclusions (IR10.77).

Written Ministerial Statement of 18 June, 2015

25. Turning to the Inspector's conclusions on Localism (IR10.78), whilst the WMS had not been issued at the time of the Inspector's report, the Secretary of State gives substantial weight to the transitional provisions contained in it as being the most recent statement of Government policy on proposed wind energy development.

Planning Balance

26. Having regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 (see paragraph 6 above), the Secretary of State has concluded that the proposal does not accord with the development plan taken as a whole, in particular owing to the conflict with policies GP.8, GP.35, GP.53 and GP.58; albeit that he accepts that the conflicts with the latter three policies should be afforded reduced weight due to their inconsistency with the objectives of the Framework. The Secretary of State has therefore gone on to consider whether there are any material considerations which might nevertheless justify allowing the appeal.

27. The Secretary of State agrees with the Inspector (IR10.84) that the turbine would make a modest, but valuable, contribution towards national targets for the production of energy from renewable sources and thereby contribute to meeting the objectives of the Climate Change Act, NPS/EN-3 and emerging National Energy Policy; and he gives significant weight to this.

28. In terms of landscape impact, the Secretary of State disagrees with the Inspector's conclusion that the landscape impact of the proposed turbine on the Chilterns AONB (IR10.10) would not be significant, and disagrees with the Inspector's overall conclusion at IR10.85 that the turbine would not result in harm to the AONB (see paragraphs 14-16 above). The Secretary of State considers that the proposed development would conflict with the duty to conserve and enhance the natural beauty of the AONB, and he gives this minor harm moderate weight in the planning balance.

29. The Secretary of State accepts that there would be some moderate and localised harm to the undesignated local landscape and similarly there would be a moderate adverse visual impact resulting in conflict with LP Policy GP.35. The Secretary of State also considers that the proposal would result in harm to heritage assets to which, given the statutory obligations outlined in paragraph 10 above, he gives significant weight. Having regard to the terms of the Framework, he agrees with the Inspector that this harm would amount to less than substantial harm, but which would nevertheless conflict with LP objectives (IR10.82), and which he has weighed in the planning balance. He also attaches moderate weight to the effect on neighbours' living conditions as perceived by the local community, despite the fact that the impact would not result in any property becoming an unacceptable or unattractive place in which to live.

30. Having applied the transitional provisions in the WMS of 18 June 2015 to this case, the Secretary of State is not satisfied that the planning impacts identified by the affected local communities have been addressed. In their responses to the Secretary of State's letter of 22 June 2015, the affected local communities have repeated the concerns which they expressed previously about the planning

impacts of the scheme. These include harm to the landscape, visual amenity and the setting of heritage assets. It is clear from the Inspector's report, in particular at paras. 10.10, 10.17, 10.19 10.48 and 10.51, that many of those planning impacts have not been addressed and the proposal therefore does not have their backing. As such, the proposed scheme would not meet the transitional arrangements set out in the WMS of 18 June 2015; and the Secretary of State gives this non-compliance significant weight.

31. Overall, while the proposed development would make a modest but valuable contribution towards the Government's objectives regarding climate change, to which the Secretary of State gives significant weight, the combined adverse impacts it would impose in terms of the harm to landscape character, to the AONB, to visual amenity and to heritage assets, along with the conflict with the transitional provisions contained in the WMS of 18 June 2015, would significantly and demonstrably outweigh these benefits.

Conditions

32. The Secretary of State has had regard to the schedule of conditions at Annex A to the IR and the Inspector's reasoning at IR10.89-10.91. He agrees that the conditions proposed by the Inspector are necessary and would meet the tests of the paragraph 206 of the Framework. However, he does not consider that they would overcome his reasons for dismissing this appeal.

Formal Decision

33. Accordingly, for the reasons given above, the Secretary of State dismisses your client's appeal and refuses planning permission for the construction, operation and decommissioning of a single 3-bladed wind turbine with a maximum height to the tip of the blade of 101.5m and associated infrastructure, including a new highway access, access tracks, temporary site compound, crane pad and substation at Land at Ison Fordham & Elgin, Lower Waldridge Farm, Owlswick Road, Ford, Aylesbury, Buckinghamshire HP17 8XW, application ref 12/010806/APP .

Right to challenge the decision

34. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

35. A copy of this letter has been sent to Aylesbury Vale District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

ANNEX A

Schedule of responses to 'reference back letter' of 22 June 2015

Name of Party	**Date of response**
Richard Vanbergen	22 June 2015
Cllr Judy Brandis (Member for Haddenham Ward which includes Ford)	23 June 2015
Bruce Raybould	24 June 2015
Keith Gray JP, Clerk to Dinton with Ford & Upton Parish Council	29 June 2015
Jon Horn	29 June 2015
Simon Hope, Chair, Ford Against Turbines Action Group (FAGAT)	29 June 2015
Mark Barlow	29 June 2015
Rt Hon John Bercow MP	30 June 2015
Geoffrey Smith	1 July 2015
Bill Nicholson, Area Planning officer, Aylesbury Vale District Council	1 July 2015
Stephen Gooch	3 July 2015
Michael Trotman	3 July 2015
Adam Cooper	3 July 2015
Simon Hope, Aston Mullins	3 July 2015
Mary Hobden	4 July 2015
Diana Coole	4 July 2015
Sarah Owen	4 July 2015
Lesley M Watkinson	5 July 2015
Colin Bloxham	5 July 2015
Honor Vane	5 July 2015
Richard Moore	5 July 2015
Margaret Hope (Mrs)	6 July 2015

Cllr Brian Foster	6 July 2015
Neil Tidey	6 July 2015
Patricia Horn (Mrs), Ford Village Society	6 July 2015
Victoria Harvey, Co-ordinator, South Beds Friends of the Earth	6 July 2015
David Hardy, Squire Patton Boggs (UK) LLP obo appellant	6 July 2015
Richard Vanbergen	9 July 2015

Schedule of second round responses to 'reference back letter' of 22 June 2015

Name of Party	**Date of response**
Colin Bloxham	26 July 2015
Victoria Harvey, Co-ordinator, South Beds Friends of the Earth	26 July 2015
Richard Moore	27 July 2015
David Hardy, Squire Patton Boggs (UK) LLP obo appellant	27 July 2015
Richard Vanbergen	28 July 2015

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by S R G Baird BA (Hons) MRTPI

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

Date: 26 May 2015

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY

ISON FORDHAM AND ELGIN

against a decision of

AYLESBURY VALE DISTRICT COUNCIL

Inquiry held on 13 January 2015

File Ref: APP/J0405/A/13/2194726

CONTENTS

File Ref: APP/J0405/A/13/2194726

- 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 Ison Fordham and Elgin against the decision of Aylesbury Vale District Council.
- The application Ref 12/01806/APP, dated 12 August 2012, was refused by notice dated 17 January 2013.
- The development proposed is the construction, operation and decommissioning of a single 3-bladed wind turbine with a maximum height to the tip of the blade of 101.5m and associated infrastructure, including a new highway access, access tracks, temporary site compound, crane pad and substation.

Summary of Recommendation: That the appeal be allowed.

1. Preliminary Matters

1.1 The appeal involves a renewable energy development, which the Secretary of State (SoS), exercising his powers under S79 and paragraph 3 of Schedule 6 of the above Act, directed that he would determine.

1.2 The inquiry opened on the 13 January 2015 and sat for 6 days. Closing submissions were made in writing and the inquiry was closed in writing on 16 February 2015. Accompanied and unaccompanied site visits were carried out on 12 January and the 18, 19 and 20 February 2015.

1.3 Regard has been had to an Environmental Statement (ES) dated August 2012 and submitted under The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended). The ES complies with the requirement of the Regulations.

1.4 The first reason for refusal (RfR) refers to the Regional Spatial Strategy for the South East (RSS). An Order revoking the RSS came into force on 25 March 2013 (CD 5.5). One issue between the parties relates to the degree of the impact of the turbine on designated Heritage Assets (HAs). In their heritage assessments, the parties relied on guidance produced by English Heritage (EH) on The Setting of Heritage Assets October 2011 and updated June 2012 (CD 11.1), which in turn refers to Planning Policy Statement 5: Planning for the Historic Environment – Historic Environment Practice Guide 2010. In March 2015, EH, now renamed as Historic England (HE), published 3 new Historic Environment Good Practice Advice Notes. Note 3 - The Setting of Heritage Assets supersedes the June 2012 guidance. In addition, on the 17 March 2015, the PPS5 Practice Guidance was cancelled. I considered whether it was appropriate to give the parties an opportunity to comment on the above and concluded there was no such need as the matters were already covered in the evidence.

1.5 The list of documents includes opening and closing submissions and proofs of evidence from the main parties. The proofs of evidence are as originally submitted and do not take account of how that evidence may have been affected by cross-examination or subsequent discussions and agreement between the parties. In reporting the cases for the main parties, I have used the opening and closing submissions as the basis for their cases.

2. The Proposal

2.1 The proposal is for one, 3-blade wind turbine with a generating capacity of some 500kW and a crane pad some 34m by 34m to the south-west of the farmstead at Lower Waldridge Farm (APP 16 Appendix 2). The turbine would have a hub height of some 73 to 75m and an overall height to blade tip of some 101.5m (Drawing No. E-53/S/72/3K/03). The proposal includes a micro-siting allowance of 20m for the turbine and crane pad. A transformer would be located in an existing shed within the farmstead. Cabling between the turbine and the transformer would be underground (Drawing No. 367/6). The export of electricity would be via existing overhead power line that run close to the transformer shed.

2.2 To construct and service the turbine, a new vehicular access would be created off Stockwell Lane (C63). A new track running parallel to the existing field boundaries would link Stockwell Lane to the farmstead (Drawing Nos. 8367/1 & 7). Thereafter, existing farm tracks would be used.

2.3 Construction and commissioning of the turbine would take approximately 6 months. The turbine would have an operational life of 20 years from the first export of electricity to the grid. Decommissioning would take approximately 6 months.

2.4 The planning application plans are listed in the Statement of Common Ground at Appendix 2 and are contained in ES Volume 3 – Figures and Drawings. A full description of the proposed development is contained at ES Volume 2, pages 57 to 68.

3. The Site and Surroundings

3.1 The turbine would be located within a broadly rectangular field on the western side of land that comprises Lower Waldridge Farm (AG 7 Figure 1). The holding lies within the Aylesbury Vale, part of National Character Area (NCA) 108 – Upper Thames Clay Vales, identified as a broad belt of open gently undulating lowland farmland, running south-west to north-east (APP 16 Appendix 3 & CD 9.24).

3.2 The administrative boundary between Aylesbury Vale District Council and Wycombe District Council runs through the centre of the Vale from the south-west to the north-east and both Councils have published local Landscape Character Assessments (CDs 9.14 & 9.15). The turbine site is located within Landscape Character Type (LCT) 08 - Vale and is located within Landscape Character Area (LCA) 8.9 - Haddenham Vale. The equivalent area within Wycombe District is LCA 8.13 - Longwick (AG 7 Figure 1). Both the Haddenham Vale and Longwick share the same key landscape characteristics. These characteristics include, amongst other things, a flat vale landscape; a backdrop of the Chilterns; a mix of field sizes; a sparse settlement pattern of dispersed farmsteads; a low level of woodland cover and tranquillity. Intrusive elements include pylon lines west of Longwick and on the urban edge of Aylesbury and the suburban edge of Haddenham (AG 8 Appendix 4).

3.3 To the south-east of the Clay Vale, again running broadly south-west to north-east is NCA 110 – Chilterns, which includes the Chilterns Area of Outstanding Natural Beauty (AONB) (CD 9.23; APP 16 Appendix 3 & AG 7 Figure 1). The nearest part of the AONB to the turbine is some 4.4km to the south-east at Monks Risborough, which forms part of the Chalk Foothills LCT. Beyond, at a distance of some 5km, the land rises steeply to the Chalk Escarpment LCT of the AONB. Key features of the escarpment are Whiteleaf Hill, Pulpit Hill, Great Kimble and Beacon Hill. From public footpaths along the escarpment and from the vantage points, long distance panoramic views across the vales are available (APP 16 VPs 15, 18, 23, 24 & 25; VB 11 VP 6). Whiteleaf Hill also has a “hill figure” in the shape of a triangle surmounted by a cross cut into the chalk hillside; Whiteleaf Cross is a Scheduled Ancient Monument (SAM) (AG 18 & VB 11 VP 3). Within views to the north at Quarrendon Fields, on the northern edge of Aylesbury, a single turbine with a hub height of 113.5m and a blade tip height of 139m[1] is visible.

3.4 To the north-west, north and north-east of the site at a distance of some 3 to 5km is a series of low hills and ridges comprising, the A418 Ridge LCA and the Chilton Ridge LCA (AG 7 Figure 1). The area up to some 2-3km from the turbine site comprises mostly small to medium sized geometric fields demarcated by mature deciduous hedges, field and hedgerow trees, blocks of deciduous woodland and scattered farmsteads/dwellings. This area contains the small rural settlements of Ford; Aston Sandford; Ilmer and Owlswick (APP 16 Appendix 3; AG 7 Figures 9 & 10). Beyond, in the area some 3 to

[1] Inspector’s Note: The hub and blade tip height figures were provided by the lpa. Planning permission was granted on appeal, APP/J0405/A/11/2155043 (CD 8.1) on the 19 March 2012 for a 2MW turbine with a hub height of 113m and a blade tip height of 149m.

6km from the turbine site, lie the larger settlements of Cuddington; Dinton, which includes Upton, Westlington and Gibraltar; Haddenham; the outskirts of Thame, Longwick, Monks Risborough, Princes Risborough and Aylesbury (APP 16 Appendix 3; AG 7 Figures 9 & 10). Whilst there are no public rights of way (PRoW) within the field that contains the turbine site, the surrounding area is crossed by several PRoW (APP 16 Appendix 1, IP 10 Appendix 1). The nearest public footpaths, DFU 27 and 30, run alongside the adjoining field to the north-east and across the field to the north. Several PRoW form part of long distance footpaths, which include The Aylesbury Ring, The Midshires Way, The North Buckinghamshire Way and The Ridgeway.

3.5 At some 1.4km, Ford, which contains several Listed Buildings (LB), is the nearest settlement to the site (AG 17 pages 44-51). The settlements of Aston Sandford and Dinton, Westlington, Upton and Gibraltar are Conservations Areas (CAs). The Aston Sandford CA, some 1.8km to the east, was designated in 1990 (CD 11.5). Aston Sanford is a linear village straddling a single track road with broad grass verges enclosed by thick hedges and mature trees. The village has several LBs including the Grade II* Parish Church of St. Michael. Prior to the 18th Century, the village was much larger and in 2012 the CA was extended to include a field on the eastern edge of the village that contains the visible remains of medieval house platforms (APP 18 pages 37-41; LPA 5 pages 22-25 & AG 17 pages 28-33).

3.6 Located on the A418 Ridge and containing several LBs, Dinton CA was designated in 1971 and the Gibraltar CA was designated in 1991 (CD 11.4). The elevated position ensures that the key LBS, Dinton Hall, Grade II*, and the adjoining Parish Church of Saints Peter and Paul, Grade 1, are visible in views from the south-east. Built in the 1500s, substantially rebuilt and remodelled in the 16th and 17th centuries and refurbished in recent years Dinton Hall is a substantial country house. Dinton Hall was formerly the home of Archbishop Warham and later owned by one of the Regicides of King Charles 1 (APP 18 pages 41-48; LPA 5 pages 25-30 & AG 17 pages 51-60). To the north-west of Aston Mullins and next to the PRoW running between Aston Sandford and Dinton/Westlington is a Moated Site listed as a SAM. Records indicate that the moat was part of a former medieval manorial complex which included the site of a former manor house, fishponds and the site of a former village (APP 19 SAM 2 & AG 17 pages 33-35).

3.7 The nearest non-involved residential properties are Waldridge Manor and Aston Mullins. Waldridge Manor, located some 700m to the south-east is a substantial, late 16th/early 17th century timber-framed 2-storey building with a 2-storey extension added in 1925 (APP 18 pages 31-37; LPA 5 pages 17-22 & AG 17 pages 20-24). Waldridge Manor, a Grade II* LB, was formerly the residence of a Regicide. Adjoining the house are several buildings including detached single and 2-storey timber boarded barns some of which are used for residential purposes. Immediately to the north of the house are a group of large modern agricultural buildings. Vehicular access to the house is from Stockwell Lane/Owlswick Road via a long sweeping drive, part of which is a PRoW. Immediately to the north-west of Waldridge Manor and north of the drive, is Waldridge Deserted Medieval Village, a SAM (AG 17 pages 25-27). The SAM includes the buried and visible remains of a small medieval village.

3.8 Aston Mullins is a substantial 2-storey double-fronted, period house attached to a 142ha farm and equine business located some 800m to the west of the site. Aston Mullins is accessed from Ford village via Chapel Road, which also serves several dwellings and a small industrial estate. The front elevation and formal garden, which includes a swimming pool and pool house, face south-east towards the AONB (ES Chapter 5A Property No. 8; VB Appendix 3). The ground floor comprises an entrance hall with a sitting room and dining room to the left and right. On the first-floor bedrooms face to the front. Immediately to the rear of the house is a substantial complex of agricultural and equine related buildings. The equine business comprises a stud farm for the breeding of thoroughbred racing foals and the training of eventing and racehorses. (AG 21). The nearest field used for the exercising of horses is shown as being 131m from the site (AG 22 Appendix 1).

4. Planning Policy and Other Relevant Guidance

National Energy Policy

4.1 *The Energy Challenge July 2006* refers to renewable energy as an integral part of the Government's strategy for tackling climate change and the key role planning has in its delivery. *The Energy White Paper, Meeting the Challenge May 2007*, reiterates the importance of renewable energy in the response to the challenges of climate change and energy security (CD 6.1).

4.2 *The Climate Change Act 2008* sets a legally binding target to reduce greenhouse gas emissions by at least 80% by 2050 and reductions in CO^2 emissions of some 26% by 2020 against a 1990 base. The Act set up the Committee on Climate Change (CCC) to provide advice on the carbon budgets necessary to meet the binding target. *The Energy Act 2008* drives the deployment of renewables with the aim of increasing the diversity of the UK's electricity mix, improving reliability of energy supplies and lowering carbon emissions from the electricity sector. *The Planning Act 2008* provides for the publication of National Policy Statements (NPS).

4.3 *The Renewable Energy Strategy July 2009* (RES) seeks: to reduce CO^2 emissions by 2030, promote the security of our energy supply, and to reduce fossil fuel demand by around 10% and gas imports by 20–30% against forecast use in 2020 (CD 6.2). The RES notes that the UK's contribution to the EU target to increase the share of renewables in the energy mix to 15% by 2020 represents a seven-fold increase in UK renewable energy production from 2008 levels. The RES seeks the delivery more than 30% of electricity generated from renewables of which some 66% will come via on and offshore wind projects. Whilst recognising there would be pressure on some local environments, the RES supports the swifter delivery of renewable and low carbon energy applications. The RES is an integral part of the overall *Low Carbon Transition Plan* to ensure delivery of clean, secure and affordable energy of the future. This plan established a roadmap for the decarbonisation of the UK, set 5-year carbon budgets and reiterated the central role planning has in supporting the deployment of renewable energy.

4.4 *The Renewable Energy Action Plan July 2010* reiterates Government support for renewable energy and reinforced the need to meet EU targets through the development of renewable energy resources. The Plan refers to the CCC advising on the scope for introducing more ambitious targets for renewable energy. In July 2010, DECC[2] published the *Annual Energy Statement* reaffirming the Government's commitment to renewable energy and a commitment to drive renewables deployment through the implementation of a robust delivery plan.

4.5 The CCC in *The Renewable Energy Review - May 2011* (RER) highlights that the 2020 ambition to develop renewables as an option for future decarbonisation requires large-scale investment to help support technology innovation and new policies to address barriers to uptake. The RER indicates that, compared with onshore wind, most other renewable energy generation

[2] Department of Energy and Climate Change

technologies are expensive and likely to remain so until at least 2020, and in some cases, considerably later. As such onshore wind is seen as a key element of the portfolio of low carbon generation technologies which the CCC highlighted as being required to ensure that UK renewable energy targets and climate change commitments are met.

4.6 *The Electricity Market Reform White Paper, July 2011* describes onshore wind as a mature technology that allows for investment. The 2030 vision is a reduction in greenhouse gas emissions in line with carbon budgets and to be on-track to achieve an 80% reduction by 2050. There is reference to a substantial decarbonisation of the electricity supply with more than 33% of electricity generation coming from renewable resources. Cost competitive on and offshore wind power is highlighted as a reliable and stable technology forming a substantial part of the generation mix.

4.7 *The UK Renewable Energy Roadmap - July 2011* (CD 6.3) restates that 15% of UK energy demands are to be met from renewable sources by 2020. The ambition extends beyond 2020 and refers to CCC advice that there is scope for renewable energy to meet 30 to 45% of all energy consumed in the UK by 2030. *The Second Annual Energy Statement November 2011* reiterated the commitment to delivering clean energy and tackling climate change.

4.8 *The Carbon Plan – Delivering our Low Carbon Future - December 2011*, set out plans for achieving the emissions reductions committed to in the first 4 Carbon Budgets for the period 2008 to 2027. These relate to the legally binding targets to reduce greenhouse gas emissions set out in the 2008 Act. The 3 parts of the expected electricity generation portfolio are listed as renewable power, nuclear and coal and gas fired power stations fitted with carbon capture and storage (CCS). The Plan identifies that the power sector accounts for some 27% of UK total emissions by source and that by 2050, emissions from this sector needs to be close to zero. In addition, it is estimated that electricity demand may rise between 30 and 60% and *"…may need as much as double today's electricity capacity to deal with peak demand…*" Given uncertainties over the most cost effective mix of technologies and the pace of transition, the Delivery Plan sets out the commitment to "*ensuring that the low carbon technologies with the lowest costs will win the largest market share…*" Thus, whilst there is some flexibility in the overall eventual mix that will constitute the future UK generation platform, wind energy as a low cost renewable technology is seen as having an important role.

4.9 *The Energy Security Strategy, November 2012* recognises the important and far greater role electricity will play in the future particularly as electric transport increases. The strategy emphasised the need for frameworks to be put in place to encourage the market to shape a broad spread of generation including renewables, gas and nuclear. Energy security is seen as central to ensuring the UK remained an attractive investment location.

4.10 *The Energy Bill* and *Annual Energy Statement 2012* (AES). The Energy Bill is intended to implement the key aspects of Electricity Market Reform so as to establish investor confidence in the provision of renewable energy infrastructure. The AES intends that a balanced energy policy will be

delivered involving more investment in renewables. The AES recognises that increasing the supply of renewable energy is critical to keeping the UK on a low carbon pathway and helping to meet legally binding carbon targets. The AES notes the important role the planning system has in tackling climate change and the transition to a low carbon economy and looks to lpas to have a positive strategy to promote energy from renewable and low carbon sources in local plans. Lpas are expected to approve planning applications for renewable energy projects if the impacts are, or can be made, acceptable.

4.11 *The Renewable Energy Roadmap Update - December 2012* (CD 6.4) reviewed past performance and set out challenges and actions for the future. The commitment to increasing the deployment of renewable energy is reiterated and the Update identifies that encouraging a diverse mix of energy sources including renewables is the best way to meet decarbonisation ambitions. The Update records that *"...the Government is committed to onshore wind as part of a diverse energy mix contributing to a security of supply and carbon reduction targets..."* It adds that onshore wind provides substantial economic benefits and that the Government is seeking to remove barriers to the development of appropriately sited projects, whilst giving local communities more influence. The Update repeats the 2011 Roadmap conclusion that whilst the current pipeline for onshore wind has the potential to provide the appropriate quantity of development, *"...we cannot be certain how much of the capacity in the pipeline projects will go forward as not everything in the pipeline will be consented and not everything consented will be built..."* The Update recognises that there remains an urgent need for new large scale projects to come forward to ensure that the 2020 target and the wider decarbonisation objectives are met.

4.12 The *November 2013 RER Update,* (CD 6.5), highlights that despite a significant boost in renewable electricity in the 12 months to June 2013, the amount of extra renewable energy, across all 3 of the main sectors of electricity generation, in the period 2018 to 2020 will have to be greater than has been achieved in the entire period to date i.e. some 70TWh. The 2013 Update acknowledges there remain so many uncertainties and economic issues to be addressed for much of the overall pattern of supply that we have to continue to place great weight on the ability to deliver from the onshore wind sector without the need for the enhanced levels of support that other sectors are getting now or will need into the future.

4.13 *The CCC 5th Progress Report October 2013* reiterates that a step change in the pace of emissions reductions is required to meet carbon budgets and the implementation of measures designed to deliver a sustainable, low carbon economy which contributes to the global imperative to limit climate change and that a significant increase in the rate of decarbonisation is required if we are to deliver against future carbon budgets.

European Union (EU) Energy Policy

4.14 The March 2007 EU Spring Summit was followed by the adoption of a binding target of 20% of overall energy to be produced from renewables by 2020. Measures to deliver the EU commitments are set out in the January 2008 *EU Climate and Energy Package* and are intended to dramatically increase the

use of renewable energy and set legally enforceable targets for national Governments to achieve. The package seeks a reduction in Greenhouse Gas emissions by 20% and a 20% increase in renewable energy use by 2020. *EU Directive 2009/28/EC* set the UK a target to produce 15% of all energy from renewable sources by 2020.

4.15 The EU report *Going Green for Growth October 2013*, set a vision for a low carbon economy. The report makes an overarching economic and strategic case for early and ambitious EU low carbon action to deliver cost efficient and cost effective EU decarbonisation that delivers maximum economic and wider benefits for Europe. The report lists 3 immediate priorities: (i) to agree an ambitious target-based post 2020 policy framework in line with the EU Low Carbon and Energy Roadmaps; (ii) to reform the EU Emissions and Trading System in order to cut emissions cheaply and further incentivise low carbon investments; and (iii) to be in a position to make an ambitious EU emissions reduction offer at the World Leader's Climate Change Summit in Autumn 2014. The report makes the clear statement that "...*Modern energy assets and infrastructure built today could provide decades of economic benefits to the EU. Energy investments represent one of the most productive forms of infrastructure investment available…*" The Commission estimates that reaching our 20% energy saving target by 2020 could reduce EU oil imports by 2.6bn barrels of oil per year. In addition, the report outlines wider co-benefits and policy synergies for decarbonisation including health through cutting pollution, as well as biodiversity and nature conservation.

National Planning Policy and Guidance

4.16 National Policy Statements (NPS) are a material consideration in decisions on planning applications[3]. *NPS EN-1 – Overarching National Policy Statement for Energy - July 2011* (CD 3.2) highlights that to meet emissions targets, the consumption of electricity will need to be almost exclusively from low carbon sources. The short-term implication is that much of the new capacity would need to come from on and off-shore wind generated electricity. To meet the 2020 target for energy from renewable sources, NPS EN-1 highlights an urgent need to bring forward new renewable electricity generating projects as soon as possible. Whilst offshore wind is expected to provide the largest single contribution to the 2020 target, onshore wind is highlighted as, the most well-established and currently the most economically viable source of renewable energy available for future large-scale deployment in the UK (CD 3.2 paragraph 3.4.3). To meet binding targets and to decarbonise the power sector by 2030, paragraph 3.4.5 of NPS EN-1 reiterates that it is necessary to bring forward renewable energy electricity generating projects as soon as possible and that the need for these projects is urgent.

4.17 NPS EN-1 recognises that renewable energy infrastructure has the potential to result in adverse impacts on the historic environment and negative effects should be weighed against the wider benefits of the proposal. Paragraphs 5.9.12 and 5.9.13 of NPS EN-1 cautions that whilst the duty to have regard to the purposes of nationally designated areas, i.e. AONBs, applies when

[3] Paragraph 3 – National Planning Policy Framework

considering applications for projects outside these areas which might have impacts within them, the fact that a project would be visible from within a designated area should not, in itself, be a reason for refusing consent.

4.18 Paragraph 2.7.1 of *NPS EN-3 – Renewable Energy Infrastructure - July 2011* restates the important role of onshore wind and deals with issues including landscape and visual impact, the historic environment noise and ecology (CD 3.3). Paragraphs 2.7.17 and 2.7.43 indicate that the length of time for which consent is sought should be taken into account when considering landscape and visual effects and any effect on the setting of a designated HA. NPS EN-3 recognises that commercial wind farms are large structures and that there will always be significant landscape and visual impacts for several kilometres around a site. Paragraph 2.7.56 says that any noise assessment should be based on ETSU-R-97[4] (ETSU) and published best practice.

4.19 National planning policy is set out in the *National Planning Policy Framework* (Framework). At the heart of the Framework is a presumption in favour of sustainable development. For decision taking this means approving proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, grant permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework when taken as a whole.

4.20 A core Framework principle is that in a changing climate, planning should support the transition to a low carbon future and encourage the use of renewable resources. Paragraph 93, amongst other things, emphasises the key role planning has in supporting the delivery of renewable energy and associated infrastructure. This role is central to the 3 dimensions of sustainable development. Paragraph 98 enjoins the decision maker to recognise that even small-scale renewable energy projects provide a valuable contribution to cutting greenhouse gas emissions.

4.21 The Framework's core principles, paragraph 17, recognise the intrinsic character and beauty of the countryside indicating that development should contribute to conserving and enhancing the natural environment by protecting and enhancing valued landscapes (paragraph 109). AONBs have the highest status of protection in relation to landscape and scenic beauty (paragraph 115). Paragraph 123 sets out the principle that planning decisions should aim to avoid noise giving rise to significant impacts and reduce to a minimum other adverse impacts arising from noise from new development, through the use of planning conditions.

4.22 Paragraph 131 says that account is to be taken of: the desirability of sustaining and enhancing the significance of Heritage Assets (HA); highlights the positive contribution that the conservation of HAs can make to sustainable communities and the desirability of new development making a positive contribution to local character and distinctiveness. The Framework identifies that when considering the impact of development on the

[4] The Assessment & Rating of Noise from Wind Farms – September 1996.

significance of a designated HA, great weight should be given to the asset's conservation and the more important the asset, the greater the weight should be.

4.23 The Framework advises that significance can be harmed or lost through alteration or destruction of the HA or development within its setting. Substantial harm to a designated HA of the highest significance (SAMs and Grade I and II* LBs) should be wholly exceptional. Where a proposed development would lead to substantial harm to the significance of a designated HA, permission should be refused, unless it can be shown that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm. Where a development proposal would lead to less than substantial harm to the significance of a designated HA, this harm should be weighed against the public benefits of the proposal (paragraphs 132 to 134).

4.24 *Planning Practice Guidance* (PPG) reiterates the importance of renewable energy to the economy, reducing greenhouse gases and tackling climate change. PPG makes it clear that, amongst other things, need does not automatically override environmental protections; local topography is an important factor recognising that the impact can be as great in mainly flat landscapes as in hilly areas; that proposals close to AONBs where there could be an adverse effect will need careful consideration and that protecting local amenity is an important consideration. On wind turbines, PPG confirms that ETSU should be used to assess and rate noise. Reference is also made to public safety, ecology, shadow flicker, energy output, landscape and visual impacts. In terms of the historic environment, PPG sets out what is meant by the term public benefits[5]. Public benefits may flow from many developments and could be anything that delivers economic, social or environmental progress as described at paragraph 7 of the Framework. Public benefits should flow from the proposed development and be of a nature or scale to be of benefit to the public at large and should not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits.

4.25 ETSU describes a framework for the measurement of wind turbine noise and attempts to strike a balance between the environmental benefits of wind energy development and the potential for environmental damage through noise pollution (CD 12.1). ETSU gives indicative noise levels calculated to offer a reasonable degree of protection for neighbours without placing an unreasonable restriction on wind farm developments. Thus, in most cases noise limits set relative to the existing background noise at the nearest noise-sensitive properties is considered the most appropriate approach.

Development Plan Policy

4.26 The development plan comprises saved policies of the *Aylesbury Vale District Local Plan* (LP) adopted in 2004 (CD 1.1). The LP does not contain policies specific to renewable energy or Listed Buildings.

[5] Paragraph: 020 Ref. ID 18a-020-20140306.

4.27 The RfR refer to 2 policies. Policy GP.35 requires that the design of new development proposals should respect and complement: the physical characteristics of the site and its surroundings; the building tradition, ordering, form and materials of the locality; the historic scale and context of the setting; the natural qualities and features of the area; and the effect on important public views and skylines. Policy GP.53 says, amongst other things, that proposals for development will not be permitted if they cause harm to the character or appearance of CA, their setting or any associated views of or from the CA.

4.28 Other policies include GP.8, GP.58, GP.59, GP.60, GP.84 and GP.95. Policy GP.8 says development will not be permitted proposal where it would unreasonably harm any aspect of the amenity of nearby residents when considered against the benefits arising from the proposal. Policy GP.95 says that regard will be had to the protection of the amenities of neighbours and development that exacerbates any adverse effects from existing uses will not be permitted.

4.29 Policy GP.58 indicates that development that affects the setting of a SAM will be resisted and GP.59 seeks to protect, enhance and preserve the historic interest and setting of sites of archaeological importance. Policy GP.60 indicates that development proposals that do not protect the distinctive characteristics and landscape significance of a Park or Garden of Special Historic Interest will be resisted. Policy GP.84 says that where development affects a PRoW regard will be had to the convenience, amenity and public enjoyment of the route and the desirability of its retention or improvement for all users.

4.30 Given that no existing adverse effects are identified that affect residents, Policy GP.95 is not relevant to the consideration of this scheme. Similarly, there is no suggestion that this scheme would have an effect on a Park or Garden of Special Historic Interest and as such Policy GP.60 is not relevant. The proposed scheme does not directly affect PRoW in the terms expressed in Policy GP.84 and such is not a relevant policy.

Emerging Development Plan Policy.

4.31 The lpa commenced preparation on *The Vale of Aylesbury Plan* in 2011. For a variety of reasons the emerging plan was found to be unsound and was withdrawn in February 2014.

Other Planning Policy and Guidance

4.32 In March 2013 the lpa published a *Guidance Note on Planning Applications for Wind Energy Developments* (CD 4.1). The note sets out the key issues to be taken into consideration on proposals for wind energy developments. Issues to be considered include: the contribution to renewable energy objectives; landscape and visual impact; local amenity including noise and visual impact; cultural heritage; the impact on local highways and biodiversity. This Guidance Note has not been subject to public consultation and has not been adopted as part of the development plan. The Note confirms that its status is that of an "*advisory note that provides guidance and information*".

4.33 In terms of the contribution to renewable energy objectives, the note indicates that unless the adverse impacts of the scheme outweigh the benefits, the proposal would be considered favourably. The note indicates that whether or not there is sufficient wind speed to produce adequate amounts of energy from a turbine to make it a viable proposition and the use of Government subsidies are not a material planning consideration (CD 4.1 paragraph 5.3). On assessing potential landscape and visual impact, the note refers to use of Scottish Natural Heritage practice and policy documents and refers to the *Aylesbury Vale Landscape Character Assessment* and the *Aylesbury Vale Areas of Sensitive Landscape* May 2008 (CD 9.14). The lpa's own guidance note on assessing landscape character, sensitivity and visual impacts should be used (CD 9.22).

4.34 *Chilterns Area of Outstanding Natural Beauty Management Plan 2014-2019* (MP) (CD 9.20). Designated in 1965 and extended in 1990, the AONB covers an area of some 833 sq. kms of the Chiltern Hills. The AONB was designated for the natural beauty of its landscape, its natural and cultural heritage and its special qualities. The special qualities include the steep chalk escarpment from where long views across the lower vales to the north and west are available, open chalk downland, large tracts of woodland, a rich historic environment, an extensive PRoW network, which includes The Ridgeway, and tranquillity.

4.35 MP Policy L4 says that the distinctive character of buildings, rural settlements and their landscape setting should be conserved and enhanced. On the setting of the AONB, MP Policy L7 indicates that the quality of the setting of the AONB should be conserved by ensuring the impact of adjacent development is sympathetic to the character of the Chilterns. MP Policy D9 indicates that full account should be taken of developments on the setting of the AONB. The supporting text to Policy D9 identifies that a greater appreciation is required of what the likely impacts of development within the setting particularly as views into and of the AONB are fundamental to its enjoyment.

4.36 The Chilterns Conservation Board (CCB) has adopted a number of Position Statements, which *Development Affecting the Setting of the Chilterns AONB* adopted in June 2011 (CD 9.16) and on *Renewable Energy* adopted in January 2014 (CD 9.13). The CCB identifies the setting of the AONB as the area within which development by virtue of its nature, size, scale, siting, materials or design could have an adverse impact on the natural beauty and special qualities of the AONB. Adverse impacts include the blocking or interference of views out of or views of the AONB from public viewpoints or PRoW and breaking the skyline particularly where this is associated with developments that have a vertical emphasis and/or movement.

4.37 The CCB encourages renewable energy development in appropriate locations within the AONB or its setting, provided it would be consistent with conserving and enhancing the landscape and natural beauty of the area. However, in considering proposals, the purposes of designating an AONB should take priority over other considerations. The justification for this is that the contribution that can be made from the AONB to national and regional renewable energy generation targets is considered to be small whilst

the harm to a landscape of national importance could be great. The CCB indicates that large-scale renewable energy developments, i.e. turbines in excess of 60m, will not generally be appropriate within the AONB or in locations beyond the AONB boundary where such development would affect its setting and character. Such development would have significant potential to adversely affect the natural beauty of the AONB and to compromise the purpose of the AONB.

4.38 Published by EH[6], *Conservation Principles Policies and Guidance* - April 2008 (CD 11.2) sets out the principles, terminology, and theoretical and philosophical underpinning of the values attaching to HAs, which afford them their significance. Paragraphs 34 to 57 identify that these values include, evidential, historical and aesthetic.

4.39 Setting relates to the surroundings in which a place is experienced, its local context, embracing present and past relationships to the adjacent landscape. Definitions of the setting of a significant place will normally be guided by the extent to which it could affect, i.e. enhance or diminish, the place's significance. Context is any relationships between a place and other places. Examples given are: cultural, spiritual, spatial, or functional, resulting in any one place exhibiting a multi-layered context. The range of contextual relationships of a place will normally emerge from an understanding of its origins and evolution. Understanding context is considered particularly relevant to assessing whether a place has greater value for being part of a larger entity or sharing characteristics with other places.

4.40 The EH guidance deals with the balance to be struck between conservation and other public interests. Changes that would harm the heritage values of a significant place should be unacceptable unless: the changes are demonstrably necessary either to make the place sustainable, or to meet an overriding public policy objective or need; there is no reasonably practicable alternative means of doing so without harm; that harm has been reduced to the minimum consistent with achieving the objective; it has been demonstrated that the predicted public benefit decisively outweighs the harm to the values of the place, taking into account its comparative significance, the impact on that significance, and the benefits to the place itself and/or the wider community or society as a whole.

4.41 HE's, Good Practice Advice Note 3 - *The Setting of Heritage Assets* – March 2015 seeks to assist the decision maker in implementing historic environment policy in the Framework and PPG where the settings of HAs may be affected by development. The significance of a HA derives not only from its physical presence and historic fabric, but also from its setting. Paragraph 9 identifies that setting is not a HA or a heritage designation. Paragraph 5 of the guidance highlights that the contribution of setting to the significance of a HA is often expressed by reference to views. A view is described as being a purely visual impression of an asset or place, which can be dynamic or static. Paragraph 6 refers to views which contribute more to the understanding of the significance of the asset which, amongst other things, includes those

[6] Now renamed as Historic England.

where relationships between the asset and natural features are particularly relevant. Paragraph 8 refers to the particular views identified by the lpa in character appraisals. The Guidance Note goes on to set out a staged approach to proportionate decision-taking. Paragraph 11 says that the protection of the setting of a HA need not prevent change and that the Framework and PPG provide a framework for the consideration of change as part of the decision-taking process. The broad approach recommended includes 5 steps. These include assessing whether, how and to what degree setting makes a contribution to the significance of the HA and assessing the effects of the proposed development on that significance.

4.42 EH's *Seeing the History in the View: A Method for Assessing Heritage Significance Within Views* - May 2011 (CD 11.9) recognises that, views play an important part in shaping our appreciation and understanding of the historic environment. Whilst some views were deliberately designed to be seen as a unity, a significant view is a historical composite, the cumulative result of a long process of development. These views, often containing well-known landmarks and cherished landscapes, enrich daily life, can attract visitors and help communities to prosper. This document explains how the heritage significance of views can be assessed in a systematic way, how to analyse the content and importance of a view where HAs are visible and how to document the impact on historically important views.

5. The Case for Ison Fordham and Elgin

The material points are:-

Introduction

5.1 The decision maker has a statutory duty to determine this appeal in line with S38 (6) of the Planning Compulsory Purchase Act (PCPA) 2004. The decision maker has to undertake a fair and objective assessment against the development plan and other material considerations in a transparent, balanced and reasonable way. The decision must be made in line with policies that are actually in place and based upon the wording contained in the policy. Policy means written statements of policy and not personal views expressed in private letters or notes of private meetings. It has to be, if it is to be part of a fair, transparent and predictable planning system.

5.2 In evidential terms, the cases for the lpa, the Action Group (AG) and Mr Vanbergen are thin and any identified harm is modest. The lpa accepts that there is no professional evidence that can fully substantiate the wording of RfR 1. Based on proper planning considerations and the clarity of the appellant's evidence there is a story told by: development plan policies viewed through the lens of the Framework; the various layers of lpa policy and guidance; the impact assessment process and the evidence, the narrative of which leads inexorably to the grant of planning permission.

5.3 According to John Bercow MP, none of this matters in a case where the planning system might deliver an answer which he does not like. Mr Bercow believes that only the SoS will get the right result by turning all commercial wind turbines and wind farms down including a large number of cases in which Inspectors have recommended approval. To this is added the evidence from elected members of the Planning Committee who seem to think that the views of constituents are paramount. The impression given was that it is not for elected members to know about the law or the minutiae of each application, the lpa's planning documents, or the rules, regulations and processes of the planning system. Rather, the view transmitted was that members were there to channel local opinion and refuse this application. What was described was not the lawful and proper discharge of the lpa's statutory planning function; it was a description of unreasonable behaviour.

Local Opinion

5.4 It is important to disentangle the material planning concerns raised by objectors from the more general invective aimed at fending off change of any sort to the local environment. Of course local residents identify the local landscape as unique and valued by them. Just like everywhere else, the local countryside is valued and there is nothing unusual in this. That said opposition is not universal; one of the striking features of this inquiry has been a high number of supporters of the scheme from the local community who have made oral representations. Applying even the literal wording of the Ministerial Statements from SoS, it is clear that it is land use planning concerns which should be accorded due weight (CDs 3.4 & 3.6). The raw number of objections is not relevant rather it is the substance of such objections which must be considered.

Benefits

5.5 The evidence of Mr Vanbergen and Dr. Constable regarding benefits was clearly in error and misguided (VB 3 & AG 20). Some of the points made by Mr Vanbergen were bizarre and undermined any credibility that he might otherwise have had. Dr. Constable is a long term opponent of onshore wind, who by his own admission, has "*never*" come across any wind energy scheme anywhere in the country where he felt that the benefits outweighed the harm.

5.6 Much play was made of the appellant's decision, despite receiving planning permission for one, not to erect a meteorological mast. However, as is clearly set out in paragraph 2.7.5 of NPS EN-3, there is no requirement for an applicant to erect a meteorological mast and in the overwhelming majority of single turbine cases, meteorological masts are not erected. Most compelling of all was Mr Blanch[7], who has real life experience of constructing and operating wind turbines, who confirmed that it would be most unusual to erect a meteorological mast for a single turbine. What Dr. Constable had to say was conditioned by what he may have learned about obtaining bank finance for larger schemes. That is irrelevant here, because the appellant is funding the turbine himself and is more than satisfied about its commercial viability, benefits and the wisdom of sinking his money into this scheme.

5.7 Framework paragraph 98 recognises that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions. As Mr Blanch put it, no farmer would plant a crop if they compared their individual contribution towards national food requirements. The decision about whether or not society as a whole should pay a price for encouraging generation of renewable energy from onshore wind has been made at a higher political level. A planning inquiry into an individual renewable energy scheme is not the forum in which to question national policy.

5.8 There is no suggestion from any party that there is an insufficiency of environmental information. Accordingly, there is a range of potential figures for wind speed, power output, economic benefits and emissions savings ranging from the lowest value put forward by Mr Vanbergen and Dr. Constable to the highest value put forward by the appellant. Whilst the precise level of benefits cannot be known, what matters is that any renewable energy generation would be policy compliant and welcome and any reduction in emissions should be accorded significant weight. The appellant has analysed some 150 single turbine appeal decisions and even in cases in where the decision maker took a precautionary approach of adopting the lowest figure in a range, he or she still went on to find that such benefits attracted significant weight in the planning balance.

5.9 Mr Vanbergen's evidence indicates that the NOABL[8] data for the appeal site shows an average wind speed of 5.5m/s at 25m and 6m/s at 45m. Whatever might be said about the coarse grain of the NOABL data, the appeal site has higher NOABL wind speeds than the METAR[9] station at RAF Benson on which

[7] X-Examination of Mr Blanch, Chair of Westmill Sustainable Energy Trust.
[8] Numerical Objective Analysis of Boundary Layer.
[9] Meteorological Aviation Report.

he based his workings. Mr Vanbergen has no experience whatever of designing or manufacturing wind turbines and his suggestion that the Enercon technical information is "*wrong*" because it does not accord with his calculations and general laws of physics is absurd. Enercon are a highly respected and long standing manufacturer of wind turbines, and on any basis should be trusted more than Mr Vanbergen's crude hypothesising.

5.10 Even assuming the lowest wind speed suggested by Mr Vanbergen of 5.05m/s at a hub height of 73.3m, the E-53 500kW machine would have a realistic yield of 1,114,021 kWh/a and a load factor of 25.4% (APP 6). Adopting the appellant's suggested wind speed of 6.43m/s, the 500kW turbine would have a realistic yield of 1,746,484 kWh/a and a load factor of 39.9% (APP 7). Mr Blanch explained that with the right machine on the right site, capacity factors above 30% were perfectly realistic in this part of England and that the PMSS reports appeared sound (APP 23 Appendix 6).

5.11 As the DUKES Report indicates, the 5-year average for onshore wind turbines across the UK between 2008 and 2012 was a little over 26% (CD 6.23). Even assuming Mr Vanbergen's worst wind speed figure of 5.05m/s, the 500kW model would be close to this. At 6.43m/s wind speed, the capacity factor for this turbine on this site would be well above the UK 5-year average.

5.12 Mr Vanbergen and Dr. Constable refer to degradation losses without any real understanding of maintenance packages and warranties or the cost of replacement parts. Properly maintained, modern commercial wind turbines can maintain high load factors across their life span. Moreover, the real life situation across the UK does not support the pessimistic conclusions of Dr. Hughes. His report was of course written for the wind turbine opposing Renewable Energy Foundation and which would have the reader believe that turbine performance falls away in a precipitous manner (VB 11 Appendix 20).

5.13 Capacity factor, as opposed to claimed low total output, is said by PPG to be particularly relevant as a planning consideration were the decision maker to consider that a case is finely balanced. This case is not finely balanced and as such detailed reference to capacity factors is unnecessary.

5.14 The benefits in favour of the development are:

- the supply of a material amount of renewable energy and contribution to the achievement of the national target of meeting 15% of the UK's energy demand from renewable resources by 2020. This remains an important material consideration in its own right, even following the recent announcement by the EU to remove national targets which will not take effect until 2020;
- the contribution to mitigating climate change;
- energy security through contributing to a mix of renewable resources in Aylesbury District;
- provision of renewable energy at lowest cost to the consumer;
- direct and indirect economic benefits recognised by the Government;

- the development is a wholly reversible form of development which would leave the landscape character, visual resource and cultural heritage significance of designated assets intact.

Planning Policy Framework

Development Plan

5.15 Relevant LP policies are Policy GP.35 and Policy GP.53. It is agreed that the development plan is completely silent on renewable energy and does not provide an up-to-date criteria based development management policy for the assessment of onshore wind proposals. Thus, it is agreed that the proposed development clearly engages the second limb of the decision making part of Framework paragraph 14. The lpa agreed by that this pre-loads the planning balance in favour of the grant of planning permission and harm has to significantly and demonstrably outweigh the benefits of the scheme.

5.16 Given the primacy of S38 (6) of the PCPA 2004, the question remains of what should happen to residual Policies GP.35 and GP.53. Paragraph 215 of the Framework requires that they be tested individually for consistency against the policies of the Framework as a whole. Both policies are inconsistent with the Framework (APP 21 Section 10, pages 64-73). Policy GP.35 never countenanced wind energy development and any commercial wind turbine is bound to fail it. Policy GP.53 does not contain any form of balancing exercise and prohibits any adverse effects at all.

5.17 At Treading, the SoS expressly agreed that the Fenland Local Plan was silent and out-of-date on renewable energy and that, in accordance with paragraph 14 of the Framework, permission should be granted unless any adverse impact would significantly and demonstrably outweigh the benefits (CD 8.20). At Nun Wood, the SoS agreed that the Wellingborough component of the proposal fell to be considered against the final bullet point of paragraph 14 of the Framework i.e. where the development plan is absent, silent or relevant development plan policies are out of date (CD 8.21).

5.18 At Turncole, issued after both Treading and Nun Wood, the development plan comprised the saved policies of the Maldon Local Plan 2005 (CD 8.39). In paragraph 24 of his decision, the SoS concluded, that having given careful consideration to the Inspector's balancing exercise and consideration of policy matters in paragraphs 199 to 204 of the report that: "*The proposal would conflict with saved Local Plan policies on landscape and visual impact. However the Framework provides that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. In this case, the Local Plan does not include criteria-based policies to enable to the assessment of renewable energy schemes. Furthermore, whilst the Special Landscape Area designation in which the proposal is situated is indicative of a valued landscape, the Plan does not set criteria based policies against which proposals for any development on or affecting such landscape areas would be judged. Having had particular regard to paragraph 98 of the Framework, the Secretary of State considers that the landscape and visual amenity impacts of the proposal would be acceptable in this case, as would other impacts subject to the relevant conditions. He agrees with the Inspector that the planning balance falls in favour of the*

proposal and that it would be sustainable development to which the presumption in favour set out in the Framework would apply."

5.19 In the Orchard Way case, Policies HE1, HE5 and HE6 of the LP were some 8 years old and similar to Policy GP.53 here, did not allow for any harm at all and did not contain any balancing exercise (CD 8.47). The SoS agreed with the Inspector that only very limited weight could be afforded to them.

5.20 On the weight to be attached to LP Policies GP.35 and GP.53, the Dorcas Lane decision is little assistance because the SoS does not say how much weight he afforded them and the Inspector did not test either policy against the Framework for consistency (CD 8.60). What she did was identify that the appeal proposal could be tested against both policies as a matter of fact. This lacuna in the Inspector's assessment means that caution should be placed on any finding of non-compliance with those policies in this case.

5.21 Based upon a clear pattern of reasoning by the SoS in previous appeal decisions, Policies GP.35 and GP.53 are relevant policies. However, both policies are inconsistent with the Framework when considering a renewable energy application and that a breach of both policies should be accorded very little weight in the planning balance (APP 21 Section 10 pages 64-73).

National Planning Policy and Guidance

5.22 The Framework makes clear its support for renewable energy proposals in trenchant terms. Encouraging the deployment of renewable energy is explicitly included within the Core Principles at paragraph 17; paragraph 93 urges that the planning system plays "*a key role*" in supporting the delivery of renewable energy; delivery of renewable energy is "*central to the economic, social and environmental dimensions of sustainable development*". At paragraph 97, the Framework states that, "*To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources*". Need for renewable generation projects does not need to be demonstrated by the appellant (paragraph 98) and all applications should be granted permission provided only that the impacts are or can be made acceptable. The Framework makes an explicit direction[10] that, in the deciding planning applications for wind energy development, the decision maker should follow the approach set out in the relevant NPSs. NPSs EN-1 and EN-3 contain Government statements on the magnitude and urgency of need, which is why the appellant does not have to deal with this issue. All of these factors and policy statements within the Framework need to be given significant weight in deciding this appeal.

Ministerial Statements and the Planning Guidance

5.23 As to the June 2013 DCLG Ministerial Statement on what was draft National Planning Practice Guidance (NPPG) and is now PPG, it is important to read the product rather than just focus on the reported Ministerial aspirations that pre-dated its finalisation (CD 3.4). In respect of PPG, the final wording must be

[10] Footnote 17 to Paragraph 98.

the definitive document for policy purposes and not any prior indications of what others hoped might be included within it. It is important not to read words and motives into the PPG that are not there.

5.24 The June 2013 DECC Ministerial Statement makes clear that onshore wind remains central to renewable energy policy as the most mature, least cost option (CD 3.4). Both Ministerial Statements were published together with the Government Response to the Onshore Wind Call for Evidence (CD 6.31). The updated and streamlined advice now in PPG was being prepared according to the Taylor Review. It is also the case that it was a useful place to gather together legal principles from various High Court cases, all of which were known and being acted on anyway but could usefully be translated into policy. Taken together and properly understood, the Ministerial Statements did not constitute a change in Government planning policy in relation to onshore wind development and deployment. The Ministerial Statements did not signal any diminution in the need case for onshore wind or direct the decision maker to actually do anything differently, or at all. All they did was give notice of and look forward to the PPG itself.

5.25 When the NPPG and now the PPG arrived, the 4 bullet points identified within the Ministerial Statements as being matters that need to be carefully considered were carried forward with the addition of 2 more. These were: the need case; cumulative matters; topography; heritage assets; national designations and amenity. However, all these points were already addressed in national planning policy and guidance and in case law and they gain no greater weight from being repeated. The appellant agrees that each and every issue raised demands careful attention.

5.26 The important point is that there is nothing in PPG that does or should be taken to imply a recalibration of the threshold of acceptable change and it does not say that any greater weight should be afforded to local concerns. There is no reference in the text of PPG which suggests that a recalibration of harm, explicit or implicit had taken place. In none of the recent SoS decisions does he anywhere state that by reason of the Ministerial Statements, draft NPPG or PPG, any additional weight to any finding of harm has been applied.

5.27 PPG exhorts lpas to design their policies and, by extension, interpret them when making planning decisions in a way that, subject to the caveat of the impacts being acceptable, maximises renewable energy development. Here, whilst the need case does not automatically override environmental protection and the concerns of the community, it is an important material consideration that should be afforded significant weight in the planning balance. This was established in the Sea Land and Power High Court case[11]. The appellant has taken full account of cumulative matters and local topographic considerations as part of the LVIA, and the lpa does not object on cumulative grounds.

5.28 The appellant has properly assessed the potential effects on HAs in line with national planning policy and guidance, taking account of the Barnwell Manor

[11] Sea & Land Power & Energy Ltd v Secretary of State for Communities and Local Government and Great Yarmouth Borough Council [2012] EWHC 1419 (Admin).

and Forge Fields cases (CDs 7.6, 7.7 & 7.10) and Nuon v Bedford Borough Council case (CD 7.5). The visual component of residential amenity has been assessed in line with the bench mark case of Burnthouse Farm[12] decided by the SoS and the lpa does not object on this basis. The considerations set out in the Ministerial Statements were those that would already be applied under the Framework and were considerations properly addressed by the appellant in evidence. PPG does not require the appellant or decision maker to do anything more or different.

Energy Policy Context

5.29 When the various national and EU policies and statements on renewable energy and climate change are read together there is no room for dispute regarding: (1) the seriousness of climate change and its potential effects; (2) the seriousness of the need to cut carbon dioxide emissions or (3) the seriousness of the Coalition Government's intentions regarding deployment of renewable energy generation. The Roadmap Update, November 2013 confirmed that onshore wind continues to have an important role to play in UK energy policy and a long term investment programme underpins that commitment (CD 6.5). As with the 2012 Update, the 2013 Update emphasises the economic benefits presented by renewable energy (CD 6.4). The 2013 Update emphasises: that renewable energy offers the UK a wide range of benefits from an economic growth, energy security and climate change perspective (Introduction, page 11); that 4.1% of energy consumption came from renewable sources in 2012 against a target of 15% by 2020; that onshore wind is one of the most cost effective and proven renewable energy technologies and has an important part to play in a responsible and balanced UK energy policy (paragraph 114) and that renewable energy helps the UK achieve challenging decarbonisation targets and a key benefit of deploying renewable energy technologies is the potential reduction in carbon emissions (paragraph 91).

5.30 It is erroneous to suggest that somehow the need case for onshore wind has abated and that it is necessary that a scheme should do less harm than in circumstances when need was more urgent. NPS EN-1 makes it crystal clear that the need for renewable energy remains urgent (CD 3.2). The SoS has been explicit in recognising that there has been no lessening in the need for on-shore wind in a number of recent cases (CDs 8.20, 8.47 & 8.50).

AVDC Guidance

5.31 The lpa's Guidance Note on Planning Applications for Wind Turbine Developments sets out the key issues when considering a wind energy scheme (CD 4.1). The Guidance points to the GLVIA 2nd edition and identifies the Aylesbury Vale Landscape Character Assessment 2008 and the Aylesbury Vale Areas of Sensitive Landscape 2008 as providing comprehensive background evidence on the character and sensitivity of landscapes (CDs 9.1 & 9.14).

[12] APP/D0515/A/10/2123739 and APP/D0515/A/10/2131194.

Landscape Character and Visual Amenity

5.32 Even taken at its highest, the evidence does not substantiate RfR 1. The wording used in a RfR is of great importance; it cannot be right that an appellant is left to guess or speculate about why a scheme has been refused planning permission, not least when, as here, grave harm to a nationally designated area is alleged. Mr Cook for the appellant, along with many other landscape consultants, employs a classification of visual effects which originated in the Benson/University of Newcastle report. It was agreed that the accompanying definitions are all reasonable and fair. However, whether or not the CCB or indeed Mr Nicholson for the lpa had what are terms of art within the Benson report in mind is largely irrelevant. In common parlance, the word "*dominate*" connotes command, control and pre-eminence. Most important of all, there was direct evidence from Planning Committee members themselves that the highest degree of impact in the sense in which they understood the term was being used.

5.33 Mr Nicholson had sole responsibility for writing the report to the Planning Committee. He accepted that the consultation response from Mr Bellars[13] did not suggest that the turbine would "*dominate*" either views to or from the AONB. In all likelihood, Mr Nicholson lifted it from the consultation response of the CCB, which used the term advisedly but without proper justification.

5.34 Mr Nicholson wrote the Statement of Case for the Written Representations procedure (APP 4). In this document, he diluted the language of the CCB response and used the term "*detrimentally*" to describe the character of effect and "*significant*" to describe the magnitude of change. Had this case been determined in writing then this document would have served as the totality of the lpa's case. When Mr Nicholson went on to write the second Statement of Case for this inquiry, he, without any justification, reverted to an argument of visual domination in views to and from the AONB.

5.35 The lpa's Opening Submissions suggest that the lpa's evidence is in support of the 3 reasons for refusal (LPA 1). It clearly is not, because Mr Bellars never did believe professionally that this single turbine would "dominate" views to and from the AONB and to his credit was open about this. The lpa made a brave attempt to suggest that the word "*dominate*" might be substituted for the words "*major change in visual terms*". Even such dilution makes no difference because neither Mr Bellars nor Ms Bolger[14] gets beyond a minor magnitude of visual change.

5.36 Thus, the very serious degree of harm to a nationally designated AONB, which Mr Nicholson must have had in mind when undertaking his planning balance and when elected members made their decision, does not exist. The planning balance struck by them cannot be right in this important regard.

[13] Landscape witness for the lpa.
[14] Landscape witness for the Action Group.

Reason for Refusal 3

5.37 RfR 3 does little more than state that the turbine would result in significant adverse landscape and visual effects on the "*undeveloped and uncluttered part*" of the Vale of Aylesbury. The fact that any wind turbine will inevitably result in landscape character and visual effects, sometimes extending over many kilometres, is recognised in national guidance at every level. What neither Mr Bellars nor Ms Bolger do is to go on to determine the acceptability of such impacts in the way that the appellant has done. The extent and magnitude of harm is in dispute between Mr Bellars, Ms Bolger and the appellant. It is important to know how much harm should be weighed against the turbine in the planning balance.

5.38 Mr Bellars does not define over what extent of the local landscape the turbine would dominate. He concludes that the turbine would cause significant adverse cumulative landscape and visual effects but presents no evidence to substantiate such an argument. He provides no assessment of how the local landscape would actually be affected. Extraordinarily, he suggests the landscape is so sensitive to visual change that significant visual effects would extend out to 10km. After 10km, Mr Bellars suggests that the effect would suddenly and inexplicably become insignificant. His evidence on the extent of likely significant effects is inconsistent with evidence given to the Dorcas Lane inquiry. He claims that simple visibility of the turbine would be enough to result in significant visual effects across the whole of the host and adjacent local landscape character areas.

5.39 Ms Bolger set herself the test of whether the local landscape could accommodate the turbine without significant adverse effects on landscape character which is a test she knew it was impossible to meet. Her evidence does not substantiate RfR 1 nor does it provide any GLVIA compliant assessment of significant visual effects and simply asserts harm. She concludes that the Quarrendon Fields turbine would not have any impact upon the landscape in the vicinity of the appeal site. She disagrees with Mr Bellars regarding the likely geographical extent of significant landscape and visual effects.

5.40 The site is located within NCA Area 108 - Upper Thames Clay Vales (CD 9.24) and LCA 8.9 Haddenham Vale which is an example of the Vale Landscape Character Type (CD 9.14). The appeal site does not lie within either an Area of Attractive Landscape or a Local Landscape Area and is not covered by saved LP Policy RA8 - Development in the Areas of Attractive Landscape and Local Landscape Areas.

Landscape Fabric

5.41 The turbine would have a light footprint which means that it could be satisfactorily accommodated without causing any material change to landscape fabric. The physical characteristics of landscape elements associated with Lower Waldridge Farm and that of the immediate surrounding area would continue to prevail.

Landscape of Aylesbury Vale

5.42 The key characteristics of the Upper Thames Clay Vales reveal that it is an overwhelmingly rural landscape though there are many references in the various landscape character assessments to man's management of the area and its settled nature. Notwithstanding the wide variety of built infrastructure and landscape management, the overriding character of the landscape remains one of agricultural and this essential character continues to prevail. The Vale cannot be described as "*undeveloped*". Applying those factors which help to determine capacity of a landscape to accommodate this type of development, the Vale has a moderate level of sensitivity, is of moderate value and has a moderate capacity to accommodate this turbine. In this regard, the views of Mr Cook are consistent with the findings of the Stephenson Halliday Wind Energy Capacity Report (CD 9.9), prepared for the Dorcas Lane application, which in turn was assessed by Jacobs and found to have been soundly based. Although useful corroboration, the appellant does not place great reliance on the Stephenson Halliday report and recognises its limitations in that it has not been subject to consultation.

5.43 There would only be significant effects upon the landscape locally where the turbine would be mainly visually dominant or prominent. Locally, up to about 1km from its location, the turbine would be perceived as visually dominant; at up to 2km it would be prominent; it would be conspicuous up to 4km and apparent up to 7km (APP 16 Appendix 14, Table 5). The area of visual dominance and prominence would be limited in geographical extent when compared to Aylesbury Vale as a whole. The lpa has considerably over-stated the geographical zone of significant effects. From many locations within the Vale, the turbine would be screened in the intervening distance by topography, vegetation and built form. The turbine would form a small element in many views and thus have a limited effect on the perceived character of the Vale.

Chilterns AONB

5.44 From the majority of locations within the Vale, views towards the scarp slope of the AONB would be visually unaffected given the location of available viewpoints, distance to the turbine and orientation of views towards the AONB. Locations affording the opportunity to see the turbine in the context of the scarp face in the same field of view are limited to a relatively small viewing zone specifically to the northwest of the turbine (APP 16 Appendix 15). The nearest part of the AONB is over 4km away and is primarily defined by the north-west facing scarp slope. Within the AONB, the ZTV generally terminates on the escarpment slope with one exception in the vicinity of Princes Risborough where there is a potential line of sight. Whilst the upper sections of the north-west facing scarp slope afford elevated views across the Vale, they are generally of a panoramic nature and provide wide expansive views over a vast area of vale landscape. Whilst visible, the turbine would form a small and acceptable element in the view.

5.45 RfR 1 refers to the "*landscape qualities*" of the AONB rather than "*special qualities*". There would be no material harm to the special qualities of the AONB. The turbine would not change the relationship between the Chilterns

and the Vale. The character of the Vale does not "bleed" into the Vale. The relationship is one of contrast between the settled Vale landscape and the scarp edge and higher ground within the AONB. That would continue to remain and prevail with the turbine in place. The turbine would do nothing to challenge, upset or unbalance this relationship of starkly different landscapes.

Cumulative Visual Effects

5.46 Dorcas Lane will not be built (CD 8.60). Scarp viewpoints would reveal simultaneous cumulative visibility where instead of just seeing Quarrendon Fields, both turbines would be visible within the same field of view. Sight of an additional turbine seen distant in the Vale would not materially harm the landscape character or visual amenity of the AONB or the Vale.

Residential Component of Visual Amenity

5.47 Neither the lpa nor the AG says that any property would fail the public interest test. This is markedly different to the situation at Dorcas Lane where 3 properties were alleged to fail the public interest test and the primary reason for refusal related to one of these residential dwellings. The highest case asserted by the AG is that there would be some harmful change to living conditions at Aston Mullins which needs to be weighed in the planning balance. Whilst the appellant accepts that there would be some harm, it would not be as serious or attract the weight the AG suggests.

5.48 The separation between a private interest and what should be protected in the public interest is clear; it has been the subject of particular focus in wind farm cases since the 2009 decision at Enifer Downs (CD 8.11). It is acknowledged that the approach adopted by the Inspector and articulated in its fullest form in the Carland Cross decision[15], should not be regarded as a mechanistic test and has no status in terms of being part of statutory documentation or planning policy or guidance. However, it is most welcome to adopt a logical, transparent and objective approach and was recognised by the High Court as a wholly suitable way of determining a policy compliance threshold in the case of Ward v SoS[16].

5.49 As was pointed out at Burnthouse Farm there can be no substitute for site visits to individual properties so that any likely impacts can be judged in the particular and unique circumstances of each. Although a detailed Residential Visual Amenity Study (RVAS) has been undertaken by the appellant (ES Volume 2 Chapter 5A), it is helpful to consider the factors and thresholds of acceptability which have guided decision makers in other cases. Whilst no individual has the right to a particular view there comes a point when, by virtue of the proximity, size and scale of a given development, a residential property would be rendered so unattractive a place to live that planning permission should be refused. The public interest is engaged because it would not be right in a civil society to force persons to live in a property, which, viewed objectively, the majority of citizens would consider to be unattractive.

[15] APP/D0840/A/09/2103026.

[16] South Northamptonshire Council(1) & Deidre Veronica Ward(2) v Secretary of State for Communities and Local Government(1) & Broadview Energy Developments Limited(2) [2013] EWHC 11 (Admin).

The test is concerned with an assessment of living conditions as they would pertain with the wind turbine built, irrespective of the starting point. At Burnthouse Farm, the SoS found it useful to pose the question "*would the proposal affect the outlook of these residents to such an extent i.e. be so unpleasant, overwhelming and oppressive that this would become an unattractive place to live?*" This was precisely the position adopted by the SoS at Nun Wood decided in December 2013 (CD 8.21 DL paragraph 22).

5.50 The test of what would be unacceptably unattractive should be an objective test, albeit that judgement is required in its application in the circumstances of a particular case. There needs to be a degree of harm over and above an identified substantial adverse effect on a private interest such as to take a case into the category of refusal in the public interest. This was expressly endorsed by the SoS in paragraph 10 of his July 2011 decision letter at Burnthouse Farm[17]. Changing the outlook from a property is not sufficient. Indeed, even a fundamental change in outlook is not necessarily unacceptable. The visual component of residential amenity should be assessed "*in the round*" taking into account factors such as distance from the turbines, the orientation, size and layout of the dwelling, internal circulation, division between primary and secondary rooms, garden and other amenity space, arc of view occupied by the wind energy scheme, views through and past the turbine and the availability of screening. Each case has to be decided on its own merits but other appeal cases provide a useful benchmarking exercise. Granting permission here would be entirely in line with such decisions

5.51 At no dwelling would the turbine be visually overbearing, overwhelming or oppressive such that they would be rendered unattractive places in which to live. Given the limited scale of this development, the location of one isolated turbine, the separation distances, the orientation of properties and amenity space and openness of view, any effects on outlook would not cross the public interest line. Harm to the occupiers at Aston Mullins would be acceptable overall and attracts moderate weight in the planning balance.

Cultural Heritage

5.52 The appellant submits detailed Legal Submissions on Cultural Heritage, the content of which was not challenged during oral evidence (APP 2). Whilst the lpa has taken a discerning approach and only relied upon harm to 3 designated HAs, the SoS should consider all of the designated HAs identified by Mr Lewis for the AG. The S66 (1)[18] duty needs to be considered with respect to each and every LB, including the Grade II properties mentioned. The appellant would also urge consideration of the Whiteleaf Cross SAM.

5.53 The wording of RfR 2 seems to distinguish between impacts on the setting of Waldridge Manor and the Aston Sandford CA on the one hand and an impact on long distance views to and from Dinton, Westlington, Upton and Gibraltar CA on the other. In evidence, Mr Nicholson did seem to indicate that there was indeed a difference; in that it was not so much a setting issue at Dinton

[17] APP/D0515/A/10/2123739 and APP/D0515/A/10/2131194.
[18] Planning (Listed Buildings and Conservation Areas) Act 1990.

and more an impact on long distance views which contribute to its character and appearance. Given the interplay between S71 (2), Policy GP.53 and the Framework, it is important to be very clear about what is alleged.

5.54 Mrs. Davies, for the lpa, initially placed great reliance on the Grover Lewis assessment but on reflection realised that she could not support its exaggerated conclusions. The lpa considered all designated HAs and archaeology but concludes it can only support a limited case based upon the 3, named HAs. Whilst her conclusions relating to overall harm to significance are close to those of the appellant, she found it difficult to articulate why the turbine would actually harm heritage significance and at one point admitted that it was simply because the development "*was a wind turbine*".

5.55 Mr Lewis presents wholly unrealistic evidence which equated simple visibility of the turbine with harm to heritage significance. His over-reliance on visibility leads to exaggerated conclusions of harm in relation to each of the designated HAs. He was unable to articulate what contribution was made by setting to the significance of the assets and what actual harm the turbine would cause to them. For example, his conclusions regarding the impact on the Whiteleaf Cross SAM were simply based on finding locations where the turbine could be seen in the same arc of view or could be juxtaposed between viewer and asset. As such his conclusions are out of step with those of Mr Dawson, Mrs Davies and EH which demonstrates his poor calibration. For example, Mr Lewis finds a moderate effect on the heritage significance of Waldridge Deserted Medieval Village when EH found no impact at all. In his assessment of Waldridge Manor, he had failed to realise that the current Grade II* property was not the original Manor House.

5.56 In this case, no party alleges substantial harm to any HA. Thus, within the category of Less than Substantial Harm, overall harm to the heritage significance of the various assets is as follows:

	Waldridge Manor	*Aston Sandford CA*	*Dinton CA*
Appellant[19]	Moderate/Slight	Moderate/Slight	No harm
EH	Moderate	Slight	Slight
LPA	Moderate	Moderate/Slight	Moderate/Slight
AG	High	High[20]	Intermediate[21]

Waldridge Manor Grade II* Listed Building

5.57 A major contribution to the heritage significance of Waldridge Manor lies in the aesthetic qualities of its exterior. The immediate surroundings of the

[19] Taken from Mr Dawson's Proof (AG 18 page 48).

[20] The appellant's closing submissions lists the impact as Moderate whereas the Proof of Evidence of Mr Hayes for the AG (AG 17 paragraph 4.49) sets the harm as a high level of less than substantial harm.

[21] The appellant's closing submissions at paragraph 4.19 (APP 3) lists the impact as Moderate whereas the Proof of Evidence of Mr Hayes for the AG (AG 17 paragraph 4.49) sets the harm as an intermediate degree of less than substantial harm.

Manor House limit views of the house, which is shrouded amongst ornamental and windbreak planting as well as large, intrusive agricultural sheds. In views towards the house, it is almost totally screened from any distance greater than about 400-500m. Principal views are south-westwards across open farmland. The proposed turbine would be visible behind trees and power lines to the north-west. The house reads as a building in a rural landscape and would continue to do so. The Manor was not intended to be the dominant feature of the area and the setting will remain recognisably rural.

Aston Sandford Conservation Area

5.58 This is a small settlement occupying a shallow valley bottom location where the relatively flat landscape around the village affords some views over surrounding meadows and long views of The Ridgeway. The visual link to the surrounding agricultural landscape is a key element of its character and appearance. As the CA Appraisal shows, it is views across the surrounding fields and rural landscape proximate to the settlement which informs its character and appearance to the higher degree (CD 11.5). This does not mean that longer distance views are unimportant but their ability to inform the viewer about the CA character is very much reduced.

5.59 The CA Appraisal indicates that views over the house platforms are key and the field in which they remain has been brought within the revised boundary of the CA. The focus of such views is across the platforms and not simply unending views across open farmland. The Key Views and Vistas diagram reinforces the point that the views are of the archaeological remains and not from the boundary of the CA, even further to the east (CD 11.5 Page 19).

Dinton, Westlington, Upton and Gibraltar Conservation Areas

5.60 The general prospect of these CAs is that of a hill slope settlement where the importance of Dinton Hall and the Church of St. Peter and St. Paul is emphasised by their prominent location. The general prospect of the villages is to the south but, as the CA Appraisal makes plain, there are open views in all directions (CD 11.4). Views towards Dinton Hall, the Church of St. Peter and St. Paul and the CA would be unaffected. Views towards the settlement are proportionately more important in understanding, enhancing and displaying the character and appearance of the settlement. Panoramic views out from the settlement are important, but the CA Appraisal appears to distinguish between key views towards the village and views from the Dinton identity area itself. The turbine would be visible in the large open landscape of the Vale at a distance of 3.2km. As a single turbine such visibility would constitute a slight change from pre-development conditions and consequently the impact on the overall significance of the CA would be negligible.

Other Considerations

5.61 The issues here are well defined and relatively narrow in scope. As set out in the SoCG at paragraph 11.1, the lpa agrees that refusal of planning permission would not be justified on the basis of those matters listed.

5.62 The lpa confirmed that it had been aware of and had properly considered a wide range of issues including: local aviation interests; ecology including barn

owls; traffic routeing; shadow flicker/blade glint; archaeology and noise before writing his officer report to committee. The appellant agrees with the lpa that none of them would justify refusal of planning permission whether taken individually or together.

5.63 On noise, in line with common practice, the assessment was based on the use of a candidate turbine, the Enercon E53 800kW, to provide a robust assessment. The noise assessment shows that the predicted noise levels at the nearest, non-involved, noise sensitive properties, Aston Mullins and Waldridge Manor, under the worst-case downwind propagation conditions would not exceeded the simplified ETSU criteria of 35dB L_{A90} (APP 24 & ES Volume 2 Chapter 8 & CD 12.1). The appellant has agreed a comprehensive and operational noise condition with the parties (APP 14 Condition 22).

Equestrian Activity at Aston Mullins

5.64 The appellant considers that the scale of commercial equestrian activity involved does require planning permission which is not in place at the moment; commercial equestrian activity is not an agricultural use. That said there appear to be 2 main strands to this objection. The first is the socio-economic impact to the bloodstock enterprise second is the safety risk posed to riders using the training facility.

Socio-Economic Impact to the Bloodstock Enterprise

5.65 It was accepted by Mr Hope that he could produce no empirical evidence to demonstrate that there was likely to be a harmful impact of a single turbine at this distance on breeding horses at any point during the breeding cycle. He was not suggesting any risk of direct physical harm through visual intrusion or noise. Any comparison with zoo animals in the Linton appeal is misplaced; there the concern was based on animal welfare (AG 21 Appendix 4 Paragraphs 116-121). In that case, there was no available evidence regarding impact of noise and disturbance upon exotic animals and a precautionary approach was taken. The issue raised by Mr Hope is different.

5.66 Given the way Mr Hope described the processes and activities involved, it was difficult indeed to see the mechanics of how this single turbine could actually impact on what. Mares can still be impregnated, foals born, foals walked by hand and so on. The most plausible risk seemed to be that someone who had a financial involvement in a foal share arrangement might pull out; that falls in to the category of possible economic loss. The appellant submits that whilst fear of harm can be a material consideration, it has to be underpinned by clear and objective evidence of such harm actually occurring. There is no such evidence in this case. Simple assertions of harm will not suffice.

5.67 There is no evidence showing how the letters from third parties were procured and what was said to the authors. There is no evidence to suggest that the authors of such letters have had any experience of the interaction between horses and wind turbines. Of course it is true to say that people would lose money if the bloodstock operation closes down; the appellant submits that this is not going to happen. It will carry on exactly as it has and continue to be successful. Mr Hope's suggestion that as a matter of principle he would close the operation down if the turbine gets planning permission is

disproportionate and scaremongering. The obvious thing to do would be to carry on and at least see if the appellant is in fact right.

Training Facility

5.68 In the way the evidence was presented, this came across very much as a secondary concern. A very high percentage of operational wind farms are in rural locations in which horse riding can and does take place. There is no reliable empirical evidence to demonstrate that commercial size wind turbines are unsafe for horses and riders. The Scottish British Horse Society (BHS) Advice Note (CD 9.25), which is more recent in substance than the British Horse Society guidance (CD 9.10), reprinted in February 2013 to update references to the Framework, is very positive in tone, recognising that horse riding and wind turbines can happily and safely co-exist. It also provides very practical advice regarding habituation and riding.

5.69 Whilst there are no minimum separation distances set out in law or policy, the BHS do have recommended set back distances. The training facility would easily comply with the recommended separation distance for national trails at 4 times the topple-over distance, let alone the lower suggested starting point of 200m for all other trails. There is no basis for refusal of planning permission on this ground.

5.70 Mr Hope places considerable reliance on the Grise appeal decision (AG 21 Appendix 2). However, there are clear differentiating factors between the situation there and here. The critical factor was the axis of the all-important racing gallops, used by valuable and highly strung race horses which would have been aligned directly towards rotating blades in a much larger turbine array at a distance of 500m. The likely impact on such an important and rare facility both in perceptual terms and actuality is understandable. Here, there is nothing comparable at Aston Mullins.

Conclusion

5.71 Based on all of the evidence, the case for the grant of planning permission is overwhelming. The appellant never thought that an inquiry was necessary to fairly determine this case and it would appear that this inquiry was convened at the insistence of others. Ironically for the objectors, what that has done is serve to expose just how “thin” the evidential case against the scheme really is. In this case, the full force of Framework paragraph 14 is engaged and the presumption in favour of sustainable development bites. As such, planning permission should be granted unless the harm significantly and demonstrably outweighs the benefits. The starting point is that the planning balance is pre-loaded in favour of the scheme by reason of the development plan failing to make any provision for the provision of renewable energy generation. Even without the presumption in play, planning permission should clearly be granted. With the presumption in play, the case in favour is overwhelming.

5.72 A sense of perspective has to be retained. This is a single turbine; not a wind farm. The special qualities of the AONB would remain unaffected. Modest change in a limited part of the Vale of Aylesbury is not unacceptable. Those elements of the Vale that define it would remain and the contrast between the Vale landscape and the scarp edge of the AONB would continue with the

scheme in place. Elected members and local residents have over-reacted to the degree of harm which this scheme would in fact cause. There has been every sense during this inquiry that elected members and local residents somehow think that the obligation contained in paragraph 97 of the Framework for all communities to accommodate acceptable renewable and low carbon energy technology does not apply here. Simply put, it does. The appellant has demonstrated that the environmental, economic and social impacts of the proposed development would be acceptable and that, subject to the imposition of planning conditions, planning permission should be granted.

6. The Case for Aylesbury Vale District Council

The material points are:-

Introduction

6.1 There are 2 issues to be addressed. These are, landscape and visual impact, including the impact on the AONB and the impact on cultural HAs.

6.2 Whilst saved Policies GP.35 and GP.53 are relevant policies, the LP does not contain policies specifically relating to renewable energy. Thus, the lpa accepts that the development plan is silent on renewable energy matters and, the guidance at paragraph 14 of the Framework is to be applied. Framework paragraph 14 says that planning permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. It is the lpa's case that the benefits of this scheme are limited and the impacts significant such that the outcome of the paragraph 14 test, properly applied, is that planning permission should be refused.

6.3 Notwithstanding the engagement of Framework paragraph 14, Policies GP.35 and GP.53 are not irrelevant or inconsistent with the Framework and S38 (6) applies. The Inspector in the Dorcas Lane case found conflict with both these policies. The SoS agreed with that analysis and concluded that the policy conflict was not outweighed by the engagement of Framework paragraph 14 (CD 8.60, IR paragraphs 12.87-12.91 and DL paragraphs 16 & 27). In particular, the Inspector at Dorcas Lane and the SoS rejected the argument, one which is repeated in this case, that Policy GP.35 does not or cannot be applied to turbines. The lpa's position is clear; Policy GP.35 does apply.

6.4 Considerations of how the development proposed relates to its surroundings, Policy GP.35 (a), to the natural qualities and features of the area, Policy GP.35 (d) and the effect on important views and skylines, Policy GP.35 (e), are clearly relevant to any form of built development. Indeed, that is why this policy is to be found in the chapter of the local plan dealing with "General Policies". The appellant agreed[22] that some of the Policy GP.35 criteria were applicable and that if a single criterion was not applicable it did not render the rest irrelevant. The appellant's real concern was that the development could not comply. There is a simple reason for that. It is not that it is the wrong policy to apply; it is that it is the wrong development, in the wrong place having regard to landscape and cultural heritage considerations.

Benefits

6.5 The lpa fully recognises the benefits of the appeal scheme. These are the contribution that it would make to the provision of energy from renewable sources and the associated reduction in greenhouse gas emissions and some socio-economic benefits during construction. However, both would be small in scale.

[22] X-Examination of Mr Stewart.

6.6 PPG suggests that the output from a wind energy scheme "*can be useful information in considering the energy contribution to be made by a proposal, particularly when a decision is finely balanced*". Here, the output from this single turbine would be small and the benefit limited; the evidence from Mr Vanbergen and the AG supports this.

Landscape and Visual Impacts

6.7 Whilst all parties agreed that there would be significant landscape impacts within 2kms, there was some attempt to paint the lpa's landscape witness[23] as a rather isolated figure in his judgment of landscape harm. However, the lpa position was supported by Ms Bolger and it was quite plain that the outlier was the appellant. This was for 2 principal reasons.

6.8 First, the appellant judged harm by comparison to the "Vale". The appellant confirmed[24] that the Vale corresponded to the green shaded area APP 16 Appendix 3. But plainly the Vale is not confined to this area, the appellant made it clear[25] that the Grand Union Canal is in the Vale, this lies beyond Aylesbury to the north and east. Therefore, it is no wonder in an area that takes in Aylesbury itself that the appellant sees significant forms of built infrastructure (APP 15 paragraph 4.20). However, this vast swath of land is not definitive of the character of the appeal site and its surroundings.

6.9 LCA 8.9 - Haddenham Vale is far more representative and should be accorded more weight precisely because the analysis is local i.e. at a finer grain[26]. The Dorcas Lane Inspector agreed with such an approach (CD 8.60, IR paragraph 12.9). When regard is had to that area, the lpa is correct in saying that the site and its surroundings are marked by a conspicuous absence of built infrastructure (AG 7 Figures 8-10). Whereas the 3km ring around the appeal site is remarkably empty, the Vale, as understood by the appellant, is not.

6.10 Secondly, there is a single but significant methodological dispute. The appellant and the lpa do not disagree about either sensitivity or magnitude of effect. However, the appellant takes a different approach to significance. The appellant justifies this in part by saying that the lpa's Guidance Note (CD.9.22) was "*at variance with GLVIA2*" but as the appellant[16] acknowledged this was not further explained either in the LVIA itself or in his evidence. Moreover, the Guidance Note itself endorses on its face and expects compliance with GLVIA2 (CD.9.2). Further, it describes its table as a starting point, which the appellant agreed[27] accords with GLVIA2, paragraph 7.38. Accordingly, there is nothing in the appellant's reason for departing from the Guidance Note.

6.11 The difference between the lpa and the appellant is simple. Whereas the appellant allows for judgment where his matrix table points to a moderate effect i.e. generally significant, no such judgment is permitted for

[23] X-Examination of Mr Bellars.
[24] X-Examination of Mr Cross.
[25] Evidence-in-Chief of Mr Cross.
[26] Evidence-in-Chief of Mr Bellars.
[27] X-Examination of Mr Cook.

moderate/minor effects arising from a high sensitivity allied with a low magnitude of change and vice versa (APP 16 Appendix.14.1). By contrast, the lpa says such effects may be significant. Whilst the appellant professed to be all about judgment it was his methodology that reduced the scope for judgment. The appellant's approach is contrary to that taken by the lpa, the AG, Scottish National Heritage (SNH) and the table replicated from the SNH Handbook (LPA 3 paragraphs 256, 261 and 263); GLIVA2 (CD.9.2, paragraph 7.39); The University of Newcastle (CD.10.5, page 64) and his own colleague who produced the LVIA contained in the ES (Chapter 5, page 6 paragraph 5.2.13). The appellant recognised he was on his own in this approach. It was these 2 factors that led the appellant to materially underestimate the harm caused by the proposed turbine. Moreover, it should not be forgotten that the appellant accepts significant harm.

6.12 The appellant's landscape assessments acknowledge significant landscape character impacts up to 2km and no significant effects beyond this (LPA 3 336). The landscape assessment identifies a moderate adverse significance of effect on NCA 108 landscape at a distance of 2 to 10km which the appellant's LVIA described a "potentially significant". Despite this statement, the LVIA goes on to conclude that the effect would not be significant. The turbine would be a notable element in the landscape and would result to a noticeable change in scale and as such the lpa submits that the moderate adverse significance of effect would be a significant effect on the landscape up to a distance of 10km in any direction (LPA 3 292 & 293).

6.13 In this context, whilst it is common ground there would be significant landscape character effects up to 2km from the site it is the lpa's submission that there would be significant adverse landscape impacts on the local landscape characters areas of Haddenham Vale, Longwick Vale, A418 Ridge, Risborough Foothills, Coombe Hill and Whiteleaf Escarpment (LPA 3 339).

AONB

6.14 A lot of time was spent discussing the use of the word "*dominant*" in the RfR. However, the case put, readily understood by the appellant and plainly made out, was that there was a detrimental impact on the AONB. Furthermore, as the appellant conceded[19], he does not suggest a dominant effect is necessary for there to be a significant effect; rather, it need only be conspicuous. It is clear that any of the words used to define conspicuous i.e. noticeable, distinct, catching the eye, clearly visible and well defined can readily be applied to views from the AONB (APP 16, Appendix 14 Table 5). This is all the more so when one considers the movement of the blades (VB 10 & VB 11 Figures VP6/6A). Whilst the turbine may occupy a small proportion of the view, that technical parameter does not reflect how the turbine would be appreciated. The moving blades would draw the eye (VB 10).

6.15 In views towards the AONB, the turbine would add a competing vertical element that would detract from the experience of The Ridgeway in the background. Although the appellant produces arcs of views of the AONB (APP 16 Appendices 6 & 15), there were already VPs 2, 4, 5, 6, & 7 (ES Photomontages) and VPs, A and B (APP 16 Appendix 16) within that arc and all of which suffer from significant effects on the appellant's own evaluation.

Cultural Heritage

6.16 There is no dispute between the parties that the proposed turbine would result in an adverse impact on the setting of a number of HAs. The only difference between the parties is the extent of harm. The lpa's concerns focus on 3 in particular: the Grade II* Waldridge Manor, the Aston Sandford CA and the Dinton, Westlington, Upton and Gibraltar CA. All parties agree that in this case S66[28] is engaged and following the recent case law (CDs 7.6 & 7.7) "*considerable importance and weight*" should be attached to that harm and that it creates a "*strong presumption*" against the grant of planning permission. Whilst the lpa accepts that the presumption is not irrebuttable, whatever one makes of the appellant's submissions that there is a sliding scale of harm, the bottom end of that scale is "*considerable importance and weight*."[29] The appellant accepts[30] that the result here is anything but a strong presumption against the grant of planning permission. Moreover, all parties are agreed that, having regard to the duties imposed on a decision maker by S66, the decision maker should not limit consideration to those LBs upon which the inquiry focused. Rather the decision maker needs to consider and apply the test to the wider range of buildings identified by the appellant and the AG.

6.17 Whether or not S72[31] of the 1990 Act applies in this case is not a determinative matter. It is correct that, in contrast to S66, the provision does not refer to settings. However, the appellant[9] accepts that Policy GP.53 is engaged and this policy provides that: "*Proposals for development will not be permitted if they cause harm to the character or appearance of Conservation Areas, their settings or any associated views of or from the Conservation Area.*" Development plan policy protects both settings and views of or from CAs and the supporting text specifically recognises that the views into and out of CAs can contribute to their special character (CD.1.1, page 59, paragraph 4.151). In this context and because both CA Appraisals say that the relevant CAs derive some of their character from the setting and views that the lpa submits that S72 is engaged (CDs 11.4 & 11.5). The applicability of Policy GP.53 was recently affirmed by the Dorcas Lane Inspector and the SoS expressly agreed with this conclusion (CD.8.60, IR paragraph 12.91 & DL paragraph 16).

Waldridge Manor

6.18 Although the appellant accepts that there will be harm to this LB, there is a disagreement over the level of the harm (APP 15 paragraph 4.28). However, all are agreed in Framework terms that the harm is less than substantial. That conclusion has no effect on the applicability of S66; neither does it change the strong presumption against planning permission. The lpa submits that its conclusions and those of the AG on this issue are to be preferred and significantly their conclusions accord with those expressed by EH.

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[28] Planning (Listed Buildings and Conservation Areas) Act 1990.

[29] X-Examination of Mrs Davies.

[30] X-Examination of Mr Dawson.

[31] Planning (Listed Buildings and Conservation Areas) Act 1990.

6.19 EH concluded, "…*the house still clearly reads as a building in a rural landscape and this contributes to its historical value as it remains apparent that the original cultural and economic context of the house was as the centre of a rural manor. The aesthetic qualities of the exterior also make a major contribution to the significance of the building and are enhanced by its setting. It's an attractive old building and looks far better set among trees and fields than it would in a more urban or industrial context.*

6.20 *The proposed turbine is relatively close and very large and would be clearly visible in views out from the farm and views of it from the south, where it is possible to see the more vernacular but rather charming south elevation framed by trees when approaching up the drive. It is also likely that the west elevation would be visible at the same time as the turbine in views of the house from the nearby footpath from the southwest. The setting of the manor house would inevitably be harmed to an extent by the presence of the turbine as its rural nature would be eroded and the juxtaposition of the very large object with the modest manor house would be particularly jarring… Using the scale set out in the EIA moderate adverse would be a more accurate assessment in our view.*"

6.21 On the effect on Waldridge Manor a number of points stand out. There is a consensus, the appellant aside, as to the level of harm and further research by the lpa makes good EH's comment that the owner of the Manor would have controlled the surrounding landscape. This evidence highlights the historic relationship between Waldridge Manor and the surrounding agricultural land (LPA 4 paragraph 6.13 & Appendix 2). There are areas of public access, particularly the footpath to the south-west, from where the asset is most frequently appreciated and where the turbine and the Manor would be seen together (VB 11 VPs 1 & 2). The appellant accepted[32] that this would erode the rural nature of the surrounding land. It is important to note that the appellant accepted that there is a difference between the impact of the modern agricultural buildings surrounding Waldridge Manor and the turbine. The appellant suggests that the former had a neutral impact and the latter is harmful. The reason is simple: agriculture is part of Waldridge Manor's connection with the landscape whereas the generation of energy is not. It was a proper concession and one that illustrates the harm that would be caused by this development.

Aston Sandford Conservation Area

6.22 The CA Appraisal is clear beyond doubt that one of the elements which makes the CA special and worthy of designation is its landscape setting and it notes "*The visual link to the agricultural landscape is a key element of the special character and appearance*" of the CA (CD.11.5, pages 8 & 11). The landscape setting is extensive and includes the Chilterns and views of The Ridgeway. Key views are identified which include panoramas from the east end of the CA towards the proposed turbine (VB 11, VP2). The appellant's attempt to confine the significance of these views to views over the house platforms within the CA has a note of desperation to it. Indeed, it is precisely

[32] X-Examination of Mr Dawson.

at this end of the CA that the views of the AONB Ridge are available that are identified as part of the landscape setting. The appellant's failure to appreciate the extent of the landscape setting leads to an unrealistically low assessment of impact. The judgments of the lpa and AG are to be preferred.

6.23 An example of the above point is the appellant's VP B, which it is accepted[33] is a key view forming part of the special characteristics of the CA (APP 16 Appendix 16). The turbine would be a significant vertical element that would contrast with the low level agricultural setting of the CA and would compete with The Ridgeway. The appellant accepts a significant effect in visual terms on that key view (APP 16 Appendix 16). Indeed, the distance is only just above that at which the appellant says the turbine would dominate i.e. 1km or less (APP 16 Appendix 15 Table 5). This is a plain acceptance of a harm to view which forms part of the special character of the CA. This is harm to the CA itself. Thus, as setting is brought into the character and appearance of the area through the CA Appraisal, S72 is engaged. In any event, the effect is plainly conflict with Policy GP.53 and the development plan.

Dinton, Westlington, Upton and Gibraltar CA

6.24 Again, "*far reaching views across the countryside*" contribute to special character of the CA (CD 11.4, page 3). The Appraisal also says, "*It is impossible to dissociate the hamlets…from their surrounding landscape*" (CD 11.4, page 4). These settlements are primarily agricultural. As to Dinton, "*long reaching views to the north, east and south are characteristic…there are some particularly good views to the south, towards the Chilterns*" (CD 11.4, page 22). It is into this view that the turbine would intrude (VB 1, VP5). The suggestion that there was some sort of hierarchy of views in the CA Appraisal flies in the face of the plan of "*key views and vistas*" (CD 11.4, page 23) in which VP5 is specifically identified. Moreover, VP5, as the appellant acknowledged reveals the same juxtaposition of vertical and industrial to horizontal and agricultural. This is a conflict with Policy GP.53.

6.25 The appellant[34] accepted harm to the CAs and the only difference between the parties was of level of harm but that, in any event, whatever the level the harm it amounted to, conflict with Policy GP.53. In the planning balance, the impact on HAs must, given the operation of statute, attract significant weight.

Planning Balance and Conclusion

6.26 The adverse impacts of the development would significantly and demonstrably outweigh the benefits in bringing forward a single turbine and this appeal should be dismissed.

[33] X-Examination of Mr Cook.
[34] X-Examination of Mr Stewart.

7. The Case for Mr Vanbergen and Ford Action Group Against Turbines

The material points are:-

Introduction

7.1 The proposal is for a single turbine in an area of unspoilt countryside and in the shadow of the AONB. It would adversely affect the setting of LBs, CAs and the landscape. It would have an unacceptably adverse impact on the amenity of the residents of Aston Mullins and their equine business. The site is in a low wind area and the amount of electricity generated would be very small.

Issues

The principal issues are:-

- the electrical output from the proposed turbine and CO_2 savings;
- the effect on the landscape including the AONB;
- the effect on HAs including the Aston Sandford and Dinton CAs); and
- the effect on living conditions and the equine business at Aston Mullins.

The Development Plan

7.2 The relevant development plan policies are Policies GP.35; GP.53 and GP.95 – (CD 1.1). Policy GP.35 requires new development proposals to be appropriate in scale to its surroundings and to respect and complement matters such as the natural qualities and features of the area and effect on important public views and skylines. Policy GP.53 requires the special characteristics of CAs to be preserved or enhanced and prohibits development if it would "*cause harm to the character or appearance of Conservation Areas, their settings or any associated views of or from the Conservation Areas*".

7.3 The relevance of Policies GP.35 and 53 to wind turbine development has recently been acknowledged by the Inspector and SoS in the Dorcas Lane decision (CD8.60). There, it was argued that Policy GP.35 only applied to "*buildings*" and could not sensibly be applied to a proposed wind farm. The Inspector rejected that argument saying "*I can find nothing in the wording of Policy GP.35 itself, or its accompanying advisory text, to support the appellant's interpretation. The Policy specifically addresses itself to "new development proposals…", not merely "new buildings…" and the first paragraph under each sub-heading in the advisory text does likewise. The proposed wind farm is clearly "development" for the purposes of the relevant statute… I therefore find that Policy GP.53 is relevant to the current development proposal. I also find that since the proposal would not respect or complement the physical characteristics of the site and the surroundings, or the natural qualities and features of the area, it would conflict with the aims of that policy*." (CD 8.60, IR 12.87 and 12.88).

7.4 On Policy GP.53, the Dorcas Lane Inspector said, "*There is, however, an AVDLP Policy relevant to Conservation Areas. Since I have found that the proposal would cause a small amount of harm to the characters of the Stoke*

Hammond and Drayton Parslow Conservation Area, it follows that the proposed development would conflict with Policy GP.53, which states that such proposals would not be permitted if they would cause harm to the character or appearance of Conservation Areas…" The SoS expressly agreed with the Inspector's conclusions that the wind farm would contravene Policies GP.35 and GP.53 (CD 8.60, DL 16).

7.5 The absence of any specific renewable energy policy in the LP engages Framework paragraph 14 such that there is a presumption in favour of sustainable development unless any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. However, the application of paragraph 14 does not make Policies GP.35 or 53 irrelevant or inconsistent with the Framework and the requirement of S38 (6) remains.

National Policy

7.6 National policy set out in the Framework, PPG and NPSs EN-1 and EN-3 is a material consideration (CDs 3.1, 3.5, 3.2 & 3.3). Whilst broadly supportive of renewable energy development, the policy desire to move the UK to a low carbon economy is not to be pursued at the expense of everything else and the Framework is not to be interpreted in that way. This is manifestly clear from the Ministerial Statement dated 6 June 2013 and the later Written Statement dated 9 April 2014 where the SoS said *"… therefore renewable energy does not automatically override environmental protections and the planning concerns of local communities*" (CDs 3.4 & 3.6). In particular, where such development might affect nationally designated areas, including AONBs, NPS EN-1 advises that the duty to have regard to the purposes of nationally designated areas applies when considering applications for projects outside the boundaries of these areas but which may have an impact within them (CD 3.2 paragraph 5.9.12).

7.7 S66 of the 1990 Act imposes a statutory duty on the decision maker to have special regard to the desirability of preserving a LB or its setting or any features of special architectural or historic interest which it possesses. S72 of the Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of CAs. The Dorcas Lane decision is one of the many examples of single turbines and wind farm developments being refused planning permission, notwithstanding the benefits they have in contributing to the production of renewable energy, which are sometimes substantial, because of the significant adverse impacts that such developments have on the environment and communities (CD 8.60).

Issue 1 - Energy output

7.8 The appellant points to paragraph 98 of the Framework which says that lpas should not require applicants for energy development to demonstrate the overall need for renewable energy; and should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The appellant submits that how much electricity is likely to be generated is irrelevant. Paragraph 98 of the Framework does not say or mean that the amount of energy the turbine is likely to generate is irrelevant to the planning decision. On the contrary, where, as in this case, there are accepted adverse impacts to both the environment and residents, and it is

therefore necessary to weigh those impacts against the benefits of the proposed development, the amount of electricity the turbine is likely to produce plainly is relevant in that balancing exercise. Any submission to the contrary would be wrong in law. This is clear from the recent Court of Appeal decision in Holder v Gedling Borough Council (2014) EWCA Civ. 599 (AG 2).

7.9 In the Holder case, planning permission was granted for a wind turbine in the Green Belt. Although the development was inappropriate development the lpa report concluded that the production of renewable energy, and the associated reduction in carbon emissions/improvements in air quality, constituted the very special circumstances necessary to justify inappropriate development in the Green Belt. The report also listed several matters which were said to be "Non-Material Planning Issues", including an objection that "*the proposed turbine would not generate a significant amount of energy and would be inefficient*". At first instance, the judge said that the lpa had been correct not to take into account the likely levels of energy output in light of the (then) policy in Planning Policy Statement 22. However, on appeal, the Court of Appeal held the Judge to have been wrong. Kay LJ said; "*Mr Kimblin's submission is that the Planning Committee was correctly advised to disregard the amount of energy to be produced and the question of efficiency. He contends that when one looks at the full range of applicable policies it becomes clear that the policy designed to encourage renewable energy projects rendered questions of volume and efficiency irrelevant. His ultimate submission is that the market is the means whereby inefficient installations would be discouraged and avoided. He suggests that the only circumstance in which a Planning Committee has to involve itself in addressing the volume and efficiency of an alternative energy installation is if there is a factual dispute about it. Here, he submits, there was not such a dispute.*

7.10 *For my part, I cannot understand his concession about factual disputes. If the matter is truly one for the market, there is no need to resolve active disputes about volume and efficiency. In the present case it may be said that there was not a crystallised dispute in any event. The figures advanced on behalf of Mr and Mrs Charles-Jones were extrapolated from national averages and were not site or turbine specific. No one else advanced alternative figures. I propose to disregard the question of factual dispute.*

7.11 *On the other hand, I believe Mr Kimblin to be simply wrong in his submission that, having regard to the full range of applicable policy, matters such as volume and efficiency are irrelevant and can be left to the working of the market. I do not accept that the Green Belt has been sold out to the market in this way. The position remains that the proposed development is, by definition, inappropriate development which can be justified only in very special circumstances. Any consideration of such circumstances must necessarily embrace assessment of the benefit which is likely to ensue. It cannot be the case that a very large but unproductive and inefficient installation ranks equally with a small but extremely efficient one when it comes to evaluating "very special circumstances". Size, efficiency and ability to meet need are all considerations relevant to the issue of "very special circumstances". It was legally erroneous for the Planning Committee to have*

been advised to the contrary and its subsequent decision is vitiated by that error."

7.12 This appeal is not concerned with development in the Green Belt but that distinction is irrelevant. The exercise to be undertaken requires the decision maker to undertake a balancing exercise between the benefits/harms of the proposed development. Here, the only benefits claimed are the contribution the turbine would make towards renewable energy and the consequential carbon savings. The harms are to the environment and residents.

7.13 In order to assess what weight should be given to those benefits it is necessary to know how much electricity the proposed development is likely to generate in balancing the benefits against the detailed assessment of the harm it would cause to the environment and residents. Only then can the balancing exercise be undertaken properly. The protection of the environment and residents has no more been "*sold out*" by Government policy than the Green Belt has been as set out in the Holder case above.

Wind Speed

7.14 Any analysis of what the electrical output is likely to be starts with what the wind resource available at the site is. As paragraph 2.7.4 of NPS EN-3 advises, "*The predicted wind resource would be a key consideration for the applicant in identifying a potential site as the electricity generated on site is directly affected by the wind speed. Wind speed increases with height above ground level and the amount of electricity generated increases disproportionately with increases in the wind speed. This in turn affects the carbon emission savings and the commercial viability of the site."* (CD 3.3)

7.15 The significance of the wind speed has also been acknowledged by the appellant in the ES where it states that, "*The design of a wind energy development is heavily constrained by technical requirements and physical criteria that must be either suitable or available for the development. These include …. Wind resource – Clearly an engineered structure that is designed to generate electricity through the conversion of wind energy requires sufficient wind to make it viable. It is accepted that in the UK a wind speed of at least 6m/s at hub height is required for a wind turbine to be economically viable…"* (CD 13.1 Volume. 2, Chapters 1–4, paragraph 20.1)

7.16 Notwithstanding that wind speed is advised by the Government, and acknowledged in the ES, to be a key consideration, the wind resource at the appeal site is unknown. Although granted planning permission in 2011 to do so, the appellant has not erected an anemometer to measure the wind resource on the site. Consequently, there is no actual wind speed data for the site from which to calculate the amount of energy likely to be generated or the carbon emission savings. As Dr Constable said in evidence, the absence of such data is extremely unusual. It is all the more unusual given the agreement by the appellant[35] that the site is in a low wind area. Instead, the appellant has had to rely on PMSS to model the wind speed for the site (ES Volume 4, Appendix 5). As PMSS record in paragraph 1.1 on page of

[35] X-Examination of Mr Stewart.

their first report (PMSS-1), "*No site wind speed measurements have been taken, no site visit or on-site meetings with the client have been held.*"

7.17 In the absence of actual wind data for the site, PMSS's assessment of the wind resource, and consequential calculations of the energy yield, has been modelled using data recorded at 2 proxy sites, referred to as the METAR and SYNOP sites. Unsurprisingly, the PMSS report is heavily qualified. In relation to the data from both the SYNOP and the METAR sites, PMSS state that it, "*…applies a lot of caution when using this data due to its varying reporting frequency, uncertain station position, partly unclear height of the meteorological mast and erroneous data at automated data collection systems";* and at page 10 says, "*For the evaluation of the site specific wind climate it is advisable to measure wind conditions at the projected wind farm site*." There is nothing in PMSS-1 to suggest that they ever visited the METAR or SYNOP sites to assess their comparability to the appeal site, which they also did not visit. Only Dr Constable and Mr Vanbergen have done so. Their evidence on the comparability of the proxy sites to the site is the only evidence before the inquiry and was not challenged by the appellant.

7.18 The site is surrounded by small/medium sized fields divided by hedges and trees and is in complete contrast to the METAR and SYNOP sites relied on by PMSS for their modelling. Nothing is known about the SYNOP site except that it is located some 11km away from and approximately 100m higher than the appeal site. The METAR site is to the south-west and even further away at some 21km. It has a higher elevation and has wholly different geographical and topographical characteristics to the site. The meteorological mast at the METAR site is located at an airfield with large open areas of concrete/short grass and therefore has a low ground roughness. It has a south-westerly exposure and, being on a hill, experiences negative wind shear i.e. the wind accelerates as it passes over the brow of the hill because of compression and, therefore, is faster closer to the ground than higher up. These characteristics are likely to result in the METAR site having a higher wind speed than the site.

7.19 Using the recorded mean wind speed at the METAR taken from the PMSS-1 Report, 4.16m/s, Mr Vanbergen calculates the wind speed at hub height at the site using standard wind industry calculators (VB 1, Section 8 & VB 2 and Appendices 8-18). Depending on which roughness class is applied, i.e. 1 or 2, but not making any allowance for the hill effect and higher altitude of the METAR site, the calculated wind speed at 10m and 73m at the site is:-

Height/Roughness Class	1	2
10m	4.79 m/s	4.49 m/s
73.3m	5.05 m/s	4.97 m/s

7.20 Mr Vanbergen was not challenged on these calculations and the appellant did not question their correctness in his evidence. It was asserted that Mr Vanbergen's evidence was "*littered with errors*" but, apart from the

corrections Mr Vanbergen volunteered and his acceptance that in VB 1 paragraph 11.3(a) the wind speed taken from NOABL at the appeal site should have been 5.5 m/s at 25m and not at 45m (VB 2 Appendix 31), none of these alleged "*errors*" were identified or put to Mr Vanbergen.

7.21 The appellant[36] did produce an extract from the NOABL database for the METAR site in an attempt to discredit Mr Vanbergen, who rightly was not prepared to accept that a latitude of N51.620 was the same as N51.618007 (APP 10). However, those extracts only show how coarse the NOABL data is and that it cannot sensibly be relied on to quantify the likely wind speed at the appeal site. For example, whereas the extract from NOABL shows the 10m wind speed at the METAR site to be 4.5m/s, PMSS-1 records the actual mean wind speed at 10m to be 4.16m/s. Thus, the actual recorded wind speed at the METAR site is less than the NOABL data suggests it is and plainly the NOABL data is inaccurate. This is not a surprise as the NOABL Windspeed database: information sheet (VB 2) contains the following warnings and disclaimer as to the use of the NOABL data, "*This database is being maintained for reference and archive purposes only, and is no longer being updated… Any results derived from this database should be treated as an approximate and high-level guide only and should be always followed by on-site measurements to ensure a proper assessment. The database uses historic information, including results derived from a mathematical modelling process, and it should not be considered to be measured data, or to be up to date or accurate. … The windspeed database gives estimates of the annual mean wind speed throughout the UK. It uses an air flow model to estimate the effect of topography on wind speed, and makes no allowance for the effect of local winds such as sea, mountain or valley breezes. It does not take account of topography on a small scale, or local surface roughness (such as tall crops, stone walls or trees, or the built environment), which may have a considerable effect on the wind speed. The data can only be used as a guide.*"

7.22 Unlike Mr Vanbergen's calculations of the wind speed at the appeal site which use the recorded data at the METAR site, PMSS's modelling is far from transparent except for the conclusions in Table 3.3, page 15. That table predicts the long term wind speed at 73.3m to be 6.43m/s but comments that it is "*significantly below IEC threshold*". Mr Stewart did not know what the IEC threshold figure was but accepted that this was a negative characteristic of the wind, as is the fact that the wind shear at 60m and 73.3m is above the IEC limit.

7.23 Translated into energy by applying standard laws of physics and using the higher of his calculated wind speeds at 73.3m, i.e. 5.05m/s, Mr Vanbergen demonstrates that the wind energy available at the appeal site would be 48% of that claimed by the appellant. It is submitted that the evidence before the inquiry has clearly demonstrated that the appeal site is in a low wind area and, in the absence of any measured on site data, that the wind speed and therefore the wind energy is likely to be significantly less than has been modelled by PMSS.

[36] Evidence-in-Chief Mr Stewart.

Energy yield

7.24 The likely wind speed has a direct bearing on the amount of electricity the proposed turbine is likely to yield. Other factors include the particular turbine model erected. Uncertainty as to whether the Appellant was proposing to erect a 500kW or an 800 kW model has been resolved in favour of a 500kW turbine and PMSS has produced a further report (PMSS-2 APP 23 Appendix 6). PMSS-2 uses the same wind data as in PMSS-1, but applies it to an Enercon E53 500kW turbine instead of an E53 800kW turbine.

7.25 Based on a wind speed of 6.43m/s at a height of 73.3m, PMSS-2 estimates the net energy yield (10 year) of the proposed turbine at a 90% confidence level (P90) to be 1.342 GWh/a. However, Mr Vanbergen's unchallenged evidence shows that the wind speed is likely to be substantially less than 6.43m/s and that the energy yield would be substantially less than the appellant's estimate. How much less is difficult to establish because there is no transparency in PMSS-1 or PMSS-2 as to the calculations undertaken.

7.26 The power curves included in PMSS-1 and PMSS-2 purport to show the same electrical output between wind speeds of 3m/s and 8m/s for both the 800kW and 500kW turbines. The power curves show that electricity starts to be generated by the 2 turbine models at different wind speeds and diverge again at wind speeds of 9m/s even before the capacity of the 500kW machine is reached. Mr Vanbergen explained that this was not possible even if the only difference between the 2 machines is a "software fix" as suggested by the appellant. Mr Vanbergen was the only person to give evidence at the inquiry with any expertise in engineering; he has a Masters degree in engineering from Cambridge and has designed larger and more advanced equipment.

7.27 If the power curve for the 500kW turbine is accepted as being correct, applying the highest of the likely wind speeds at the appeal site, 5.05m/s, to the power curve included in PMSS-2 (VB 2 Appendix 23), the electrical output is no more than 598MWh (VB 2 Appendix 23A). However, the power output is likely to be even less than that. Ground-breaking work by Professor Hughes shows that there is degradation in the performance of turbines over time and no account of that has been taken into account in the present case (VB 2 Appendix 21). Although criticised, Dr Constable referred to subsequent publications by other researchers confirming Professor Hughes' basic finding, namely that wind turbine economic lifetime is shorter than industry claims. Professor Green at Imperial College found a gentler, though still significant rate of decline in performance. An output of 598kW/a is only enough to power significantly less than 100 houses; Mr Vanbergen assesses the number to be 79 houses at most. By any measure, the contribution the proposed turbine may make to renewable energy is extremely modest. Indeed, it is so little that it is not commercially viable (VB 2 Appendix 31).

7.28 The only response by the appellant to the detailed, carefully considered and unchallenged calculations by Mr Vanbergen, was to put into the inquiry 2 tables produced by Enercon applying (1) a wind speed of 5.05m/s, i.e. Mr Vanbergen's wind speed for the appeal site; and (2) the appellant's wind speed assumption for the appeal site of 6.43m/s i.e. (APP 6 & 7). The appellant tendered no one to speak to those tables and there is no

transparency as to the calculations required to arrive at what is referred to as the "Realistic Yield (kWh/a)" in those tables. They are not proven. As Dr Constable said in evidence it is simply a "black-box". Moreover, what is said by Enercon to be a "realistic yield" plainly is very far from being so. First, if the appellant's yield figure is correct, the inferred load factor of the proposed turbine in this low wind location would be 40% (APP 7). This can be compared with the load factor of the existing wind farm at Westmill, a superior site to the appeal site, which, as Dr Constable identified in his evidence (AG 20, paragraph 42), and Mr Blanch accepted in cross-examination, has had a rolling load factor of 18% since its construction in 2008 and that the load factor has never exceeded 20% in any year. Moreover, as Dr Constable said in his evidence, there are wind turbines which achieve load factors of 40% but they are in places like Orkney which bears no comparison to the appeal site. The load factor inherent in APP 7 alone makes the "*realistic yield*" stated by Enercon very far from being realistic.

7.29 Secondly, Enercon's figure of 1,746,484 kWh/a (or 1.746 GWh/a) derived by applying the appellant's wind speed of 6.43m/s is comparable to the Average Energy Yield figure of 1.787GWh/a in the yield table in PMSS-2. However, the PMSS-2 figure is not only a gross yield but also appears to be a P50 figure, whereas there is no dispute that the inquiry should be looking at the net P90 yield figure in determining the likely output. Consequently, the appellant's yield figure is not only opaque in its calculation but misleading as to the likely energy yield (APP 7).

7.30 In contrast, Mr Vanbergen's calculations use the appellant's own power curves in PMSS-1 and 2. The energy yield he calculates by applying a wind speed of 5.05m/s to that power curve is entirely consistent with PMSS's energy yield arrived at by applying a wind speed of 6.43m/s to the same power curve. It is submitted that Mr Vanbergen's evidence on the likely wind speed and consequential energy yield is to be preferred. His is the only evidence which is transparent and was capable of being tested; but was not. No reliance can be put on the appellant's data (APP 6 & 7).

CO_2 savings

7.31 The CO_2 savings claimed by the appellant are also grossly overestimated and take no account of either (1) the CO_2 generated in the manufacture of the turbine; or (2) the inefficient use of support capacity where the stop start generation of electricity by supporting generating stations makes them less efficient. Whilst the CO_2 savings are difficult to estimate with any great accuracy, it can confidently be said that the nett savings would not be as claimed by the appellant. But even if they were as great as has been claimed, they remain as modest as the energy output when put into the national or even a local context (AG 20 paragraphs 94–98).

7.32 Indeed, so small is the likely energy output that the proposed development offers no economic benefits to the nation and instead is a cost. Mr Vanbergen calculates the value of the electricity likely to be produced over the 20 years of the development to be £334,000 or, on the appellant's incorrect energy yield assumptions, £1,208,000 (VB 3 paragraphs 11.6-11.23). However, against that has to be set the costs of the turbine and the

cost of support capacity. These have a total cost of £1,745,000. The appellant's figure of £985,000 was not supported by Mr Stewart and there is no evidence of the costs other than Mr Vanbergen's (VB 4 Appendix 23). Therefore, on the appellant's yield assumptions, the development would result in an economic loss of between £537,000 and £1,411,000 on Mr Vanbergen's evidence. Whether the loss is at the top or the bottom of the range, it is one which the Nation bears and not simply the appellant. As such, it is destructive of national wealth and self-evidently cannot be considered to be economic or sustainable development. It is no answer to say that the appellant is in the fortunate position of not having to persuade a bank to lend him money and does not have to operate the wind turbine commercially. There is no government support for development that is an economic drain on the country's finances.

7.33 The tested evidence demonstrates that the wind resource at the appeal site is no higher than 5.05m/s and that the small amount of energy it is likely to produce makes the proposed turbine uneconomic. Therefore, there is no need to engage in any balancing exercise because the proposed turbine is manifestly not sustainable development. On the contrary, it is unsustainable development and unsustainable development is not supported by the Framework, PPG or any other manifestation of Government policy.

Issue 2 - Landscape and Visual Impact

7.34 Whilst there is agreement between all the landscape consultants that the proposed turbine would have a significant adverse effect on the landscape within 2km of the appeal site, the AG considers that the significant adverse effect would continue up to about 3km. The fundamental difference between Mr Cook on the one hand and lpa/AG on the other is the context in which the proposed turbine would be seen. The appellant confirmed[37] that whenever he referred to the "Vale" he was referring to the area shaded green on the plan at his APP 16 Appendix 3, identified as the Upper Thames Clay Vale. This area stretches from Aylesbury in the north-east to Thame in the south-west; and from Haddenham in the west to the AONB escarpment in the east. This is the basis on which the appellant concludes that the "Vale" can absorb the proposed turbine without harming the rural character of the area.

7.35 The fundamental flaw with the appellant's evidence is that he takes a much too wide view and looks at the Vale, as he has defined it, in assessing the impact the proposed turbine would have on the landscape rather than looking at the effect it would have on the more local area around the appeal site (APP 15). Thus, the appellant concludes that "*the vale landscape whilst considered to be a working agricultural environment is punctuated to a significant degree by various form of built infrastructure such as overhead transmission lines with pylons, highways, railways, business parks and settlements*", which allows *"… this environment, reflecting its low sensitivity to accommodating various types of development and a correspondingly high capacity as the overriding characteristics of the landscape in terms of its agricultural features (to) continue to prevail.*" (APP 15, paragraph 4.20).

[37] X-Examination of Mr Cook.

7.36 The site is located within the Haddenham Vale LCA as defined in the Aylesbury Vale Landscape Character Assessment (2008) (CD9.14). As the Dorcas Lane Inspector concluded, the local-level detail contained in that document is the most appropriate as it sub-divides the district into local character areas (CD 8.60 IR 12.9). The landscape around the appeal site reflects a number of these characteristics and there is agreement between all the landscape consultants that it comprises small/medium fields divided by hedges which reflect Parliamentary enclosure in the 18-19th centuries.

7.37 The infrastructure elements relied on so heavily by the appellant as demonstrating the Vale's supposed ability to absorb built development without altering its rural feel are notable by their absence around the appeal site. This is most clearly shown on MB Figures 8–10 (AG 8). They very clearly show an almost total absence of the prairie fields, 20th century enclosures, infrastructure and settlements within 3 km of the site; and only a limited amount of infrastructure/settlements within 5km. In contrast, the same Figures show there to be significantly more infrastructure and settlements within 3 to 5km of the turbine at Quarrendon Fields relied on by the appellant to suggest that the proposed turbine would be absorbed into the landscape.

7.38 Although significant reliance was placed by the appellant on the capacity study undertaken by Stevenson Halliday for the Dorcas Lane inquiry, no weight ought to be given to it (CD 9.9 & APP 16 Appendix 12). The Dorcas Lane Inspector rejected the utility of that report because the lpa had not been involved in its preparation and there had been no consultation on it (CD 8.60 IR 4.14). Moreover, the lpa's consultants (Jacobs) had subsequently identified shortcomings in the report. Therefore, the Inspector concluded that the report was of no assistance in her consideration of that appeal. The appellant was unable to identify anything that the Dorcas Lane Inspector had not taken into account in reaching her conclusion on the utility of the report and, it is submitted, there is no basis for taking a different approach in this appeal.

7.39 The effect the proposed turbine would have on views from local viewpoints is clearly demonstrated in the visualisations prepared by Architech in accordance with the current Scottish Natural Heritage Guidance on the visual representation of wind farms (VB 11). They have not been criticised by the appellant and provide the best representation of what the proposed turbine would actually look like. The animations, also prepared by Architech, show how the rotating turbine blades draw the eye to the turbine (VB 10). There is no doubt that the proposed turbine would be readily seen from many locations within 5km and beyond. Indeed, the appellant accepts that the turbine would be perceived as visually *dominant* up to 1km, *prominent* up to 2km, *conspicuous* up to 4km and *apparent* up to 7km away from the appeal site (APP 15 paragraph 4.60 & APP 16 Appendix 14 Table 5). In many of those views the turbine would be seen against the backdrop of the AONB changing the view from that of a rural idyll to one with a large industrial machine in it.

7.40 So far as the effect on the AONB is concerned, VB VP 6A plainly shows how the turbine would harmfully intrude into what is an essentially unspoilt rural view of which, save for the settlement of Princes Risborough in the

foreground, does not contain any of the visible infrastructure relied on by the appellant and evident to the north around Aylesbury (VB 11). Nor can any weight be given to the proposed HS2 railway line or any possible housing extension to Princes Risborough.

7.41 First, the proposed route of HS2 would pass between the Stone to Bishopstone Ridge and the southern edge of Aylesbury and would not be seen in the same view as the proposed turbine (AG 13). Secondly, the Draft Princes Risborough Background Report shows that any proposal is simply one option being consulted on by Wycombe District Council as part of its Local Plan making process (APP 13). There was a clear sense of desperation by the appellant suggesting that windmills were an historic feature of the Vale which the proposed turbine would reflect. None of the historic windmills he identified (APP 5) are within his definition of the Vale as shown on APP 16 Appendix 3, as confirmed by the appellant's witness on heritage matters[38].

7.42 Whether the lpa was right to refer to the turbine as being "*dominant*" is neither here nor there. The AG's visualisations show that the turbine would, at the very least, be prominent in views from the AONB and would adversely affect one of the special qualities of the AONB, namely the fine long views across the lower lying vale from the main ridge of the escarpment and the later Framework for Action (VB 11 & CD 9.12 page 16 & CD 9.20).

Issue 3 - Cultural Heritage

7.43 Part of the special character and appearance of the Aston Sandford and Dinton CAs are the views from within the CA out to their rural hinterlands. In the Aston Sandford CA Appraisal (CD 11.5) the "*good views over surrounding meadows and long views of the ridgeway*" are stated to provide a "*visual link to the agricultural landscape*" and to be "*a key element of the special character and appearance of Aston Sandford*" with the wider landscape surrounding the settlement forming an extensive setting to the CA. Those views are identified on the Key Views and Vistas plan, and read as a whole there is no doubt that the views from the eastern edge of the settlement across the fields to the wider landscape are key to the character and appearance of the Conservation Area (CD 11.5 page 19).

7.44 The effect the turbine would have on the CA is evident from VP 2A (VB 11). Whether or not there is any statutory duty under S72 to give special attention to be paid to the desirability of preserving or enhancing the character and appearance of a CA's setting, the effect would be contrary to Policy GP53, which seeks to protect not only the character or appearance of a CA but also the setting or any associated views of or from the CA. The proposal would result in a high level of less than substantial harm to the significance of the CA as a HA (AG 17 pages 28-33).

7.45 The position is similar in relation to the Dinton CA. The CA Appraisal states that the Dinton CA cannot be divorced from its surrounding landscape and the views from the Church of St Peter and St Paul to the Chilterns is identified as a key view or vista (CD11.4 pages 22 & 23). VP 5A again shows how the

[38] X-Examination of Mr Dawson.

proposed turbine would impact on those views which go to make up the special character and appearance of the Dinton CA by introducing a large industrial machine into the landscape and views from the CA towards the AONB (VB 11). The proposal would result in an intermediate degree of less than substantial harm to the significance of the CA (AG 17 pages 28-33).

7.46 The development would also have an adverse effect on the setting of a large number of Listed Buildings, most particularly the Grade II* Waldridge Manor. There is agreement that the harm to each of those buildings would in Framework terms be "*less than substantial*" but it cannot be said that there would be no harm. S66 of the Act requires that special regard to be given to the desirability of preserving LBs or their settings and the judgements in Barnwell Manor and Forge Fields make clear that where harm is caused to a LB that harm is not simply another factor to be weighed in the scales but must be given particular weight in the decision making process (CD7.7 & 7.10). Following the Barnwell Manor and Forge Fields judgements, HHJ Waksman QC said in R (oao Hughes) v South Lakeland District Council (2014) EWHC 3979 (AG 2 paragraphs 50–53) said,

"*The Court of Appeal in E Northants DC v SoS for Communities and Local Government (2014) EWCA Civ 137 ("Barnwell") made clear that the duty imposed by s.72 (1) meant that when deciding whether harm to a conservation area was outweighed by the advantages of a proposed development the decision-maker should give particular weight to the desirability of avoiding such harm. There is a "strong presumption" against the grant of permission in such cases. The exercise is still one of planning judgment but it must be informed by that need to give special weight to maintaining the conservation area. See paragraphs 22, 26 and 29 of Barnwell.*

This was then followed by Lindblom J in R (Forge Field) v Sevenoaks DC (2014) EWHC 1895. See in particular, paragraphs 48-51.

It is clear that the first part of paragraph 132 seeks to express the s.72 (1) presumption. The remaining provisions then give guidance on how it may be applied in a case involving a heritage asset. So if there would be substantial harm to a listed building permission would have to be either exceptional or wholly exceptional. See the second part of paragraph 132. If there was to be substantial harm to a non-listed heritage asset, then consent should be refused unless that harm was necessary to achieve substantial public benefits or the particular matters set out in (a) to (d) apply. See paragraph 133. Finally if the harm is less than substantial it must be weighed against the public benefits including its optimum viable use. See paragraph 134.

As is made clear in paragraph 45 of Forge Field, even if the harm would be less than substantial so that paragraph 133 did not apply but paragraph 134 did, the harm must still be given considerable importance and weight. That of course is doing no more than following the injunction laid down in s72 (1). The presumption therein needs to be "demonstrably applied" – see paragraph 49 of Forge Field. Put another way, in a paragraph 134 case, the fact of harm to a heritage asset is still to be given more weight than if it were simply a factor to be taken into account along with all other material considerations,

and paragraph 134 needs to be read in that way. By way of contrast, where non-designated heritage assets are being considered, the potential harm should simply be "taken into account" in a "balanced judgment" - see paragraph 135. It follows that paragraph 134 is something of a trap for the unwary if read - and applied - in isolation."

7.47 Although the harm would be less than substantial, there would nonetheless be a high level of harm to the settings of the Grade II* Waldridge Manor (AG 17 pages 20-24) and the Grade II* Dinton Hall (AG 17 pages 54-56). EH also agree that these assets would be harmed (CD 11.15). There may be slight subjective differences between the AG and EH as to the degree of harm the turbine would have. However, on Waldridge Manor, consistent with the AG, EH said:

"*… the house still clearly reads as a building in a rural landscape and this contributes to its historical value as it remains apparent that the original cultural and economic context of the house was as the centre or a rural manor. The aesthetic qualities of the exterior also make a major contribution to the significance of the building and are enhanced by its setting. It's an attractive old building and looks far better set among trees and fields than it would in a more urban or industrial context. The proposed turbine is relatively close and very large and would be clearly visible in views out from the farm and views of it from the south, where it is possible to see the more vernacular but rather charming south elevation framed by trees when approaching up the drive… The setting of the manor house would inevitably be harmed to an extent by the presence of the turbine as its rural nature would be eroded and the juxtaposition of the very large object with the modest manor house would be particularly jarring… Using the scale set out in the EIA moderate adverse would be a more accurate assessment in our view*."

7.48 EH reached a similar view on Dinton Hall and said, "*Dinton Manor is situated adjacent to the Church and again the issue is the contribution that the view south, out over the vale of Aylesbury, makes to the significance of the building… the manor is situated to make the most of the view, with the principal elevation, and many of the principal rooms, looking south, thus, unusually for a house of this date, the view was of sufficient importance for the house to turn its back on the road it stands on… Viewpoint 6 indicates that the proposed turbine would be a prominent feature in views, albeit intermingled with trees. Given the view appears to have been an important factor when determining the situation and orientation of the house it should be viewed as contributing to the significance of the building and a very large object intruding into this view should be seen as harmful. As the overall setting of the house remains rural the harm is not judged to be substantial but… it should be viewed as moderate adverse."*

7.49 There is also an intermediate degree of harm to Grade II LBs at Old Acres, Rose Cottage, Ruby Cottage and Fraucup Cottage (AG 17 pages 42-46). The remaining Grade II LBs of Pasture Farmhouse, Anderdon's Farmhouse, Anderdon's Farm Cottage, the General Baptist Chapel, Ford Farmhouse and Summers Cottage are all assessed to suffer harm albeit to a minor degree (AG 17 pages 36-41, pages 47-51 & pages 56-57). In relation to all these

LBs, the turbine would intrude into views of those buildings as a large, industrial machine and affect their settings to a greater or lesser degree. The impact on the LBs should be given substantial weight in the balancing exercise and plainly counts against the grant of permission.

7.50 EH has also identified that harm would be caused to the SAM at Whiteleaf Cross. Assessment of the impact to this SAM was omitted from the ES. However, the AG has comprehensively assessed significance of the asset and the impact the proposed turbine would have on it (AG 18). Notwithstanding the obscurity of its origins, the monument is a significant local landmark, contributes to the amenity value of the Chiltern Hills and was intended to be seen from a distance. The proposed turbine would intrude in views of Whiteleaf Cross at distances of 6–10km, including from a number of public roads and footpaths and would have a major/moderate adverse effect.

Issue 4 - Impact on Aston Mullins

7.51 Aston Mullins would be significantly adversely impacted in 2 ways. First, the amenity that the occupiers currently enjoy would be substantially reduced (IP 26). The house is oriented towards and currently enjoys uninterrupted, rural views to the Chilterns. The principal rooms on the ground floor, the dining and sitting rooms, and 2 bedrooms on the first-floor would look directly at the proposed turbine at only 800m away. They would see the turbine every time they leave the house by the front door and the turning blades would draw their attention to it (VB 10 & VB 11 VP 3). It would not be possible to use the garden without seeing it. The noise from the turbine may not exceed ETSU limits but compared to the tranquillity they currently enjoy they would hear it. It would be a constant presence whether they are inside the house or outside in the garden and would have a significant and detrimental effect on the enjoyment of their house and garden. Even if the impact is not as great as to fail the public interest test, the proposed turbine is an un-neighbourly use of land which would affect the amenity of existing occupiers contrary to LP Policy GP.95.

7.52 Secondly, the turbine would have a devastating effect on the equestrian activities at Aston Mullins (AG 21, AG 22 & AG 23). The owners have invested substantial capital in establishing and developing a highly regarded thoroughbred stud which currently comprises 11 brood mares. The mares are sent to be covered by stallions in February each year and then brought back to Aston Mullins where they are foaled down from January onwards. For the most part they are kept outside on land to the rear, south and south-west of the house (blue land, AG 22 Appendix 1). The remaining land, (pink, yellow and green AG 22 Appendix 1) is either too remote to be used for security reasons or liable to flooding and can only be used for parts of the year or is crossed by a frequently used track that can be used by vehicles and is public bridleway.

7.53 At its nearest point, the most frequently used land (blue land) is some 131m away from the proposed turbine (AG 22 Appendix 1). The moving blades and most of the tower would be clearly visible and the turbine audible to the mares and foals using this area. Reliance by the appellant on the BHS guidance of a separation distance of 200m has no application in this case.

The horses being bred at Aston Mullins are not hacking or trail ponies, they are highly strung thoroughbred race horses worth substantial sums of money. The absence of any direct evidence of the effect that locating a turbine of this size has on a stud farm is wholly unsurprising as there no single turbine or wind farm sites next to stud farms. However, that does not mean that there is no evidence as the appellant appeared to suggest.

7.54 All racehorses in the northern hemisphere are given a birthday of 1 January in the year they are born and the timing of the Tattersall sales in November each year means that the mares must be covered in a small window between the beginning of January and mid-February. Once born, the foals are carefully prepared for Tattersalls. Much of that preparation is done with the foals in hand on the field closest to the turbine because it is the highest and driest part of the farm. There is a real risk that the presence of the turbine so close to these fields would alarm the horses using that land. Although it was suggested that the appellant drove military vehicles on his land, which is bordered by a thick, high hedge, there is no evidence of the appellant's land being used in such a way as to cause alarm to the horses.

7.55 It is clear from some of the best stud-masters in the horse racing world, who cover the mares from the stud, and the Stud's foal sharing partners, that if permission is granted they would not cover a mare or invest in a foal-share because the effect the turbine would have on the mares and foals is unknown (AG 22 Appendices 2 & 4). They would not be prepared to "suck it and see" as suggested by the appellant and would simply go elsewhere. Mr Hope was in no doubt that the grant of permission would result in the closure of the stud business at Aston Mullins. The appellant's example of a wind turbine at Shade Oak Stud is of little relevance or assistance (IP 1). The turbine erected in that case was only 35m with 12.5m blades and operator has made it clear in his subsequent email that he would have considerable reservations about a much larger turbine being erected (AG 22 Appendix 4).

7.56 The effect of closing the stud business would not be limited to the impact it would have on the Hopes and would adversely affect a number of their employees and local businesses reliant on the stud farm for a large part of their business. This includes the local farrier, veterinary practice and bookkeeper (AG 22 Appendix 3).

7.57 The adverse effect of the turbine would not be limited to the stud business. Some of the land is used for eventing (AG 22 Appendix 1 Red Land). Aston Mullins is home to 14 national standard 3-day event horses. Yogi Breisner, the British Eventing Performance Manager, has written to say in no uncertain terms that the presence of the turbine would result in the British Eventing Teams no longer making use of this purpose built facility (AG 22 Appendix 4). The same potential health and safety issues would result in the South Oxfordshire Pony Club South, the Area 10 Pony Clubs and local hunt and event groups ceasing to use the facility.

7.58 Therefore, although it cannot be known for sure what the actual effect the turbine would have on the behaviour of the horses kept at or visiting Aston Mullins, there is ample evidence that the investors in the stud and users of the eventing facilities are not prepared to run the risk of what may happen.

They would withdraw their investment and support for the stud and use of the event course if planning permission is granted for the proposed turbine and the business would close.

Planning Balance

7.59 As the proposed turbine would produce so little electricity and would be a cost to the nation the development cannot be considered to be sustainable development and, given the acknowledged harmful impacts it would have, there is no policy support for the grant of planning permission. However, even if it were to be concluded that the proposed development was capable of being sustainable development, what little benefits it would bring are heavily outweighed by the adverse impacts it would have.

7.60 The only benefits the appellant is able to point to are to the contribution the electricity produced by the proposed turbine would make towards renewable energy and the consequential carbon savings. However, the output of renewable power and carbon saving are extremely modest and would make no meaningful contribution either nationally or locally. At the other end of the scales is the significant harm that would be caused to the landscape, including AONB, a large number of cultural heritage assets and to the residential amenity and equestrian interests at Aston Mullins. There is in truth, no contest. The real and significant disadvantages to a range of planning interests decisively outweigh any benefits the proposed development may offer and the appeal should be dismissed.

8. The Case For Interested Persons

The material points are:-

8.1 Those who oppose[39] the proposal highlight the following:

- the turbine would be a dominant and prominent industrial structure that would have an unacceptable adverse impact on the uncluttered rural landscape of this part of the Aylesbury Vale, the setting and natural beauty of the AONB and would fail to preserve the settings of several LBs and CAs. Allowing the proposal would create a precedent that may lead to an expansion of large scale industrial clutter in an otherwise uncluttered rural landscape;
- support for the proposal is acknowledged; however, the majority of that support comes from people who live outside the area and who would be unaffected by the scheme;
- Ministerial Statements highlight that the need for renewable energy does not override environmental policies and that decision makers should ensure that sufficient weight is given to local concerns regarding landscape, heritage and amenity;
- renewable energy targets can be met without approving additional schemes;
- there is an abundance of wildlife in the area, including Barn Owls and Red Kites, whose habitat would be adversely affected;
- traffic associated with the construction of the turbine would have an adverse effect on safety and amenity;
- the turbine would adversely affect the enjoyment of walkers on local and long distance public rights of way in the area;
- the turbine would have an adverse effect on the attractiveness of the area for tourists and a negative impact on businesses that serve those tourists;
- the turbine would adversely affect the living conditions of residents and their health who occupy the dwellings closest to the turbine through noise disturbance, shadow flicker and being dominant and overbearing;
- the prospect of a turbine being erected has already had an impact on the saleability of local property and has affected property values;
- construction of the turbine would involve HGV movements on narrow country roads resulting in damage to the houses adjoining the carriageway, the carriageway itself, verges, hedgerows and trees

[39] John Bercow MP; Mr Soley IP4; Mrs Hobden IP5; Mrs Vane IP6; Mr Gooch IP7; Mr J Horn IP8; Mr Trotman IP9; IP10 Mr Wild; Ms D Coole IP11; Mrs P Horn IP12; Mrs S Owen IP13; Cllr B Foster IP 15; Cllr J Brandis IP16; Mrs L Watkinson IP 17; Mr M Usherwood IP18; Mr M Barlow IP19; Mr B Raybould: Mrs M Hope IP26; Mr A Cooper IP27

- the area experiences low wind speeds and as such the likely output of the turbine would outweigh the harm that would be caused;

8.2 Those who support[40] the proposal highlight the following:

- the output from this turbine would make an important contribution to the nation's energy supply;
- climate change is real and has the potential to result in severe, widespread and irreversible impacts on humans and the environment, in particular the Chilterns. Action through investment in low carbon energy generation is needed now. Buckinghamshire produces less than 10% of the energy it consumes from renewable sources and has some of the highest per capita CO^2 emissions;
- the lpa is inconsistent in its approach to development that might have an adverse landscape and visual impact. Whilst the lpa objects the insignificant impact of the turbine it allowed a large industrial development at the foot of the AONB next to the well-used recreational resource of the Grand Union Canal;
- the efficiency of turbines is increasing through technical development and thus have less of an effect in terms of noise;
- Grid managers have always had to manage the variability of supply through the failure of existing sources of energy the intermittency of wind produced energy is a concept that is well understood and predictable;
- subsidising the cost of renewable energy is necessary to wean ourselves off the use of high carbon generating fossil fuels. The cost of onshore wind energy is falling through improved technology and development;
- landscape and visual impact had to be assessed in a proportionate manner and given the adverse effects of climate change a small sacrifice is necessary and turbines are easily removed in the event of alternatives that might be developed in the future;
- notwithstanding initial concerns most observers have a positive reaction to the appearance and operation of a turbine when it is built. Turbines are not intrusive or harmful and they do not deter walkers or tourists;
- the impact a turbine would have on wildlife would be insignificant when compared to the impact cats, buildings and power lines;
- views from the Chilterns are special for their panoramic aspect and unspoilt and un-industrialised landscape.

Other Submissions

8.3 In response to notification of the appeal there have been a substantial number of written representations. Many of the representations relate solely

[40] Mr Bushby IP2; Mr Bloxham IP3; Mr Lachlan IP21; Mr R Moore IP22; Mr N Tidey IP 23: Ms V Harvey IP24: Mr K Barry IP25: Ms English IP29.

to the desire that the case should be determined by way of a public inquiry. The remaining written responses opposing or supporting the proposal reiterate the concerns expressed by those who spoke at the inquiry.

8.4 Mr Hockenhull owns and runs a stud farm breeding and producing National Hunt racehorses (IP 1 & AG 22 Appendix 4). His comments relate solely to his experience of installing a 75kW turbine with a hub height of 35m and 12.5m blades on the stud. Whilst he cannot speak for the impact of a larger turbine, over which he would have considerable reservations, Mr Hockenhull indicates that the operation of this turbine has had no adverse impact on his mares and foals or young bloodstock. Notwithstanding this fact, he identifies that horses are a flight animal whose response to danger is to run and whose trigger level is hard to judge. He highlights that his stud is close to RAF Shawbury and small training helicopters frequently fly overhead his farm. Provided these helicopters maintain a reasonable height he submits they are of little concern to the horses. However, when several combat style helicopters on a military exercise flew over, horses panicked and 3 young animals ran into a ditch and died.

8.5 Mr Blanch, Chairman of the Westmill Sustainable Energy Trust, who runs the Westmill Wind Farm as a community co-operative, made submissions in response to the evidence submitted by Dr Constable (IP 28 & AG 20).

8.6 Westmill Wind Farm operates Siemens SWT-1.3-62 turbines with a 49m hub height. In its 5-years of operation it has generated less energy than the hoped for equivalent to a 21% capacity factor, achieving about an 18% capacity factor. However, these have been relatively low wind years and would reduce the prediction for Westmill although it would be above 18%. The prediction for Westmill was as good as possible at that time. The prediction for the appeal site takes these low wind years appropriately into account. Whilst Dr Constable makes a comparison between the wind regime at Westmill Wind Farm and that at the appeal site, Mr Blanch submits there are 2 material faults in that comparison.

8.7 First, while Dr Constable mentions the uncontested factors that suggest the wind regime is poorer at Lower Waldridge Farm, he omits to allow for the effect of the taller turbine hub height proposed at the appeal site. This is a highly significant omission because the taller hub height largely compensates for the poorer wind resource. In addition, the type of turbine proposed for the appeal site is more suited to lower wind speed regimes than the Siemens turbines installed at Westmill.

8.8 Second, Dr Constable does not appreciate that given the same wind regime, different turbine types have different capacity factors. Capacity factor is a crude measure of turbine efficiency but widely used since the numbers needed to calculate it are usually easily available. The more precise coefficient of power is a more complicated calculation requiring the power curve, the wind distribution and the air density to be known so is seldom used.

8.9 The wind regime giving an 18% capacity factor for the turbines at the Westmill site, actually would result in about a 37% capacity factor for the Enercon 500kW turbine with a 73.3m hub height. These are large differences.

This misunderstanding of capacity factor is highly significant. Dr Constable wrongly suggests the actual 18% rolling capacity factor of the Westmill turbines should apply to the turbine at the appeal site. Dr Constable incorrectly assumes the capacity factor for the 500kW turbine will be the same for the 800kW turbine and consequently considerably underestimates the output from the proposed 500kW turbine (AG 22 paragraph 39). He states 1,003 MWh/year P90 (any 10 year period) yield instead of the correct and 33% higher 1,342 MWh. This basic error is replicated throughout his evidence for energy-generated emissions saved and the like, and all his lower range numbers should be increased by 33%.

8.10 Predictions of the wind regime at the appeal site have accounted for the particularly low wind years of 2009 and 2010. Predictions for Westmill pre-date 2009 and so suggest higher wind speeds than if the analysis was done now so. Therefore, it is assumed that a wind regime that gives an 18% capacity factor for the Siemens turbines with a hub height of 49m is a conservative representation of the wind resource at Westmill.

8.11 The turbine at the appeal site would be some 55km from the nearest turbine at Westmill. Given this large separation distance, it is not normal to compare the wind regimes in anything other than broad brush terms. The mast where wind speed was measured most recently at Westmill was put up in 2006 and decommissioned in 2008 so long term and recent data are not available. This is why PMSS, correctly, took the approach of using recent other data, some at nearer sites that also have a long history of measurement, and then used that in modelling the wind regime.

8.12 While Westmill Wind Farm has turbines with a hub height of 49m that proposed at the appeal site (73.5m) would be half as high again largely compensates for the poorer wind regime. If the change of wind speed with height characterised by a wind shear exponent is assumed conservatively to be 0.2 at the appeal site then the wind speed at 73.3m will be 8% higher and the turbine yield 16% higher than at 50m. This hub height difference is significant. The predicted long term annual mean hub height wind speed at the proposed at the appeal site is about 2% higher than the hub height wind speed predicted at Westmill.

8.13 As there is uncertainty about the wind speed at Lower Waldridge Farm, the predicted P90 yield reflects this with a 23% capacity factor claimed for the E53-800kW turbine with a hub height of 73.3m. This capacity factor is significantly lower than the 27.2% expected if it were located at Westmill in the conservative wind regime that gives 18% capacity factor for the Westmill turbines with hub height of 49m. Dr Constable asks for the poorer regime to be accounted for but since the 23% capacity factor forecast for the appeal site is significantly less than the conservative 27.2% expected if this turbine had been located at Westmill, it is quite clear that this has already been accounted for in the PMSS reports.

9. Conditions

9.1 APP 27 contains the Suggested Conditions (SCs) agreed by the appellant, the lpa and the AG.

9.2 SC 1 is the standard 3-year time limit for the implementation of a full planning permission. SC 2 provides that the development would have a lifespan of 20 years from the date of the first export of electricity to the grid. SCs 3 and 4 provide for removal of the turbine and restoration of the site after the 20 years or if the turbine fails to generate electricity for a continuous period of 6 months.

9.3 In the interests of highway safety SCs 5 and 6 provide for the submission and approval prior to commencement of: a Construction Traffic Management Plan including a pre-commencement survey to identify potential damage to the highway network; construction traffic routing, timing and control; details of the access road and its junction with the public highway and a scheme to reduce the speed limit on the highway within the vicinity of the site.

9.4 SC 7 relates to the submission of a scheme for a scheme to reduce the speed limit within the vicinity of the site, which will be approved by the local planning authority. As worded, the condition provides no flexibility for the lpa to refuse a scheme should it have any concerns and it is vague by just referring to the vicinity and as such the appellant would have an idea of the extent of the area to be covered. Finally, the decision on varying speed limits and their implementation rest not with the lpa but with the highway authority. Thus, the lpa would not be in a position to implement any scheme it approved.

9.5 In the interests of environmental protection, protecting neighbours' living conditions and the character and appearance of the area, SCs 8, 9, 10, 12, 15, 18, 21 and 22 provide for the submission and approval prior to commencement of (a) a Construction Method Statement, (b) and the control of the timing of construction works; (c) the timing of deliveries, (d) the height of the turbine, (e) its colour and finish (f) a protocol to deal with shadow flicker; (g) probation of external lighting other than permitted under SC 16; (h) a scheme for the investigation and remediation of any interference to television signals and (i) a condition to control operational noise. For the same reasons, SCs 11 and 13 set out the parameters for the height of the hub and blades and the undergrounding of cabling to the transformer.

9.6 In the interests of ecology, SC 14 provides for the implementation of mitigation measures detailed in the ES. In the interests of aviation safety, SCs 15 and 17 provide for notification of commencement, notification of completion, the finished height and position of the turbine and any aviation safety lighting. SC 19 provides for the submission of a scheme of archaeological investigation. SC 20 provides for a micro-siting allowance of up to 20m.

10. Inspector's Conclusions and Recommendation

The numbers in [ ] brackets refer to earlier paragraphs in this report or relevant documents.

Main Considerations

10.1 The principal considerations to addressed are:-

- landscape and visual impact;
- the effect on HAs;
- the effect on living conditions;
- the effect on equine activities;
- output and CO_2 savings;
- planning and other policy; and
- the planning balance.

Landscape and Visual Impact

10.2 Landscape impact is the effect of the development on the fabric, character and quality of the landscape and the degree to which a development would become a significant or defining characteristic of that landscape. Visual impact concerns the degree to which a development would become a feature in a particular view and the impact on people experiencing those views.

10.3 The landscape around the site is not the subject of any statutory or local landscape or countryside designation. One of the Core Planning Principles that underpins decision making is that planning decisions should recognise the intrinsic character and beauty of the countryside.[41] Some 4.4km to the south-west is the Chilterns AONB [AG 7 Figure 1]. The primary purpose of this designation is to conserve and enhance the natural beauty of the area. The Framework seeks to ensure that development should contribute to conserving and enhancing the natural environment by protecting and enhancing valued landscapes and AONBs have the highest status of protection in relation to landscape and scenic beauty[42]. Moreover, S85 of the Countryside and Rights of Way Act 2000 requires the decision maker to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. PPG [43] indicates that this duty is relevant when considering development proposals outside an AONB but which might have an impact on the setting of and implementation of the statutory purposes of an AONB.

10.4 NPSs are part of national planning policy and a material consideration. Here, the relevant NPSs are EN-1 and EN-3 [CDs 3.2 & 3.3]. In terms of landscape and visual impact, NPS EN-3 recognises that modern onshore wind turbines

[41] Framework paragraph 17.
[42] Framework paragraphs 109 & 115
[43] Paragraph 003 Reference ID: 8-003-20140306.

are large structures and there will always be significant landscape and visual effects for several kilometres. As to the effect on an AONB, paragraph 5.9.12 of NPS EN-1 cautions that, whilst the duty to have regard to the purposes of its designation applies, when considering applications for projects outside an AONB the fact that a project would be visible from within the AONB should not, in itself, be a reason for refusing consent.

Landscape Impact

10.5 The site is located within NCA 108-Upper Thames Clay Vales an extensive settled rural landscape running south-west to north-east, which includes Aylesbury and land beyond [3.1]. This is a largely flat landscape with an extensive skyscape where long views are possible particularly of the sky and to the Chilterns. Given the scale of the turbine and the extensive nature of this character area, the turbine, whilst it would be visible in some longer views its effect would be localised. As such, the turbine would not be a significant or defining characteristic of NCA 108 and that the overall characteristic of an extensive settled rural landscape would prevail [5.43].

10.6 Given the above conclusion, I agree with the lpa and AG that it is more appropriate to assess the effect of the turbine on local landscape character, particularly that of the Haddenham and Longwick Vales (3.2, 6.9 & 7.36). For the Haddenham and Longwick Vales, the key landscape characteristics include a flat vale landscape with limited short-distance views due to the layering effect of field hedgerows [ES VPs 1, 2 & 3]; a backdrop of the AONB; a mix of field sizes; a sparse settlement pattern; a low level of woodland cover and tranquillity. The flat vale landscape and the sparser settlement pattern are noticeable in views from the AONB scarp slope [ES VPs 15, 18, 23 to 25]. Although wind turbines are no longer an unusual or unique feature in the rural landscape, as a tall, engineered structure with blade tip height of some 101.5m and rotating blades, the turbine would, by definition, have an adverse effect on local landscape character. Therefore, in determining whether the proposal would be unacceptable it is the degree and spatial extent of the harm that needs to be determined.

10.7 The lpa submits that significant landscape effects would extend up to some 10km from the site [5.43 & 6.12]. In my view, for the scale of the turbine proposed this is too broad an area and too coarse an assessment. To the north-east, 10km would encompass almost all of the built-up area of Aylesbury and to the east would include a significant area of the AONB beyond the scarp slope. However, in both areas there would be no appreciation of the local vale landscape or the turbine.

10.8 I have noted the lpa's concerns that the appellant's LVIA assessment fails to register "potentially significant" landscape effects as being significant, particularly in areas where sensitivity is high and magnitude of change is low [6.11]. In terms of when and where a significant effect might occur there is a difference between the ES LVIA and the appellant's evidence to the inquiry. In the ES LVIA, an area of high sensitivity/medium magnitude of change and one of medium sensitivity/high or medium magnitude of change are identified as areas where the impact would be "potentially significant". However, the appellant's, APP 16 Appendix 14.1, identifies the above areas as those where

the effect is generally considered as significant. On this basis, significant landscape effects are judged to occur up to some 3.5km from the site.

10.9 The lpa's concern relates to the assessment of impact in relation to areas of high landscape sensitivity, particularly the AONB scarp slope, which fall beyond the 3.5km range identify by the appellant. There is no dispute that such areas fall within the high sensitivity category [App 16 Appendix 14.1 table 1]. Therefore, what determines whether the effect is termed significant or not significant is the magnitude of change i.e. whether the magnitude of change would be medium or low? Determining magnitude involves an element of professional judgement based on the nature and scale of the proposal and distance. In general terms, the erection of a turbine would be a visible element of and a change in the surrounding landscape. However, regarding the AONB and the particularly the scarp slope, the turbine would not have a direct physical effect on it. Moreover, given the scale of the turbine and the degree of separation at some 6 to 7km, I consider the magnitude of effect in terms of landscape change would be low. Thus, beyond 3.5km, the landscape impact of the turbine would not be significant.

10.10 Bringing the above together, I consider the proposed turbine would not result in material harm to the landscape character of the AONB and would have an adverse impact on the landscape character of the area up to some 3.5km from the site. The magnitude of impact would be major within about 1km, where the turbine would be a defining characteristic of that landscape. Beyond, the magnitude of effect would decrease with distance and would be moderate/minor adverse. This area would extend to Bishopstone in the north-east, Dinton to the north-west, Haddenham to the west and Longwick to the south-east. However, notwithstanding the identification of some localised harm, when it comes to the balancing exercise, it is important to bear in mind that NPS EN-3 recognises that modern turbines will always have significant landscape and visual effects for several kilometres.

Visual Impact

10.11 The ES Zones of Theoretical Visibility (ZTV) show that the turbine would be visible over a wide area. However, a ZTV is drawn on the basis of a bare earth scenario and does not take into account the potential screening effects of buildings and intervening planting. Although the vales are described as relatively flat there are noticeable variations in levels, which, when combined with buildings and hedgerows/woodland, would materially reduce and mitigate the visual impact of the turbine [AG 7 Figure 2].

10.12 A key concern is a potential adverse visual effect on views from vantage points and recreational routes on the AONB scarp slope and that views to the scarp slope would be interrupted by the turbine [4.33 to 4.35]. At this point, it is worth noting: (1) the duty to conserve and enhance the natural beauty of the AONB; (2) one of the special qualities listed as being important to its natural beauty is the availability of long views from the scarp edge across the lower lying vales to the north and west and (3) the advice at paragraph 5.9.12 of NPS EN-1 that the fact that a project would be visible from within the AONB should not be a reason for refusing consent.

10.13 In terms of views out from the AONB, ES photographs, VPs 15, 18, 23[44], 24 and 25 are taken from locations that are representative of the views, particularly the long and panoramic views over the lower flat vales. For these views, the appellant and the lpa agree that receptor sensitivity is high and the magnitude of effect would be low, albeit that the lpa in the case of VPs 15, 18, and 23 suggest that the magnitude of effect would be on the cusp of low/medium. For all these views the appellant concludes that the effect would be moderate/minor and not significant. The lpa, other than in the case of VP 24, submits that the effect would be moderate and significant. The difference appears to turn on whether the turbine should be classed as the appellant does as "*apparent*", i.e. visible, evident or obvious or "*conspicuous*", i.e. noticeable, distinct, catching the eye or attention clearly visible or well defined as the lpa submits.

10.14 From various viewpoints on the AONB scarp slope the turbine and the rotating blades would be visible in the long and extensive panoramic views across the vales. However, given the extensiveness and openness of the landscape/skyscape, the turbine would occupy only a very limited portion of the available views. Turbines are no longer a unique feature and, whilst visible, the presence of the turbine would not be a novelty on which the viewer would concentrate their attention in an otherwise extensive panoramic view. As such, the end result would not be a view of a turbine, rather a view that, amongst other things, would contain a turbine. The difference is substantial and material and reflects the guidance in the relevant NPSs. Moreover, in these views, the impact of the turbine would be mitigated by a number of factors that would reduce its visual impact. The turbine would not break the skyline but would be seen against the backdrop of the landscape beyond; the degree of separation would be some 5.9 to 7km and its scale. Taking all this together, whilst views from the scarp slope would be slightly modified by the presence of the turbine, any harm would be minor.

10.15 In terms of views into the AONB from the vale, the CCB considers that views back to the AONB are "*fundamental to the enjoyment of the AONB itself"* [Policy D9 CD 9.20]. The CCB's Position Statement on Setting refers to the potential impact of a development within the setting of the AONB, noting that location and scale will determine whether it affects the natural beauty and special qualities of the AONB i.e. the further away a development is from the AONB the more the impact is likely to be reduced. Examples of adverse impacts include the interference of views of the AONB from public viewpoints outside the AONB and breaking the skyline when associated with developments that have a vertical emphasis and movement. The Position Statement notes that some mitigation may be achieved through, amongst other things, choice of colour and the reflectiveness of surfaces [CD 9.16]. CCB's recently adopted Position Statement on Renewable Energy, indicates that turbines over 60m will not be appropriate within locations beyond the AONB on the grounds that such development would adversely affect the natural beauty of the AONB.

[44] ES VP 23 is the same as VB 11 VP 6.

10.16 From the vale and the A418 Ridge landscapes to the north, west and south-west there are views of the AONB scarp slope. Representative of these views are ES photographs VPs 2, 4, 5, 7, 8, 10 and 17; VPs A & B App 16 Appendix 16 & VB VPs 3, 4 & 5]. However, in terms of the turbine being seen in the same view as the scarp slope, the area where this would occur would be restricted to an arc of view covering an area to the north and west of the site running from just east of Ford to just south of Haddenham [APP 16 Appendix 15]. Representative of these views are VPs 2, 4, 5, 6, 7 and 8; VPs A and B and VB VPs 3, 4 and 5. In addition, the appellant provides a series of wireline illustration showing the relationship of the turbine to the scarp slope in APP 16 Appendix 15. The distance from these viewpoints to the scarp slope ranges from some 7 to 9.5km.

10.17 As with views out from the AONB, the presence of the turbine within the above arc would modify the view. In all these views, the proposed turbine would break the skyline of the scarp slope and the significance of impact would vary from major through moderate to minor. However, given the scale of the turbine, the relative size of the affected arc of view in comparison to the wider scale of the Haddenham and Longwick vales landscape and the degree of separation, I consider overall, the degree of visual harm would be minor. Moreover, with careful consideration being given to finishing colour, there is potential to mitigate the minor visual impact of the turbine, particularly where it would be seen in the same view as the scarp slope [APP 16 Appendix 13]. Based on these conclusions, whilst the turbine would result in some minor harm to the AONB, that harm would not conflict with the duty to conserve and enhance the natural beauty of the AONB.

10.18 The area has an extensive network of PRoW, the nearest of which runs parallel to the field containing the site and strikes out across the adjoining field to the west to Aston Sandford [AG 7 Figure 1 & IP 10]. Several of these paths form part of named long distance routes including the Aylesbury Ring, the Midshires Way and the North Buckinghamshire Way. I walked several stretches of these footpaths to circle the site. Noting the ease with which it was possible to follow these paths and their flatness, I am in no doubt that the network around the area is popular and well used.

10.19 Within the immediate vicinity of the site i.e. generally within 1km, I formed the strong impression that the turbine would dominate views towards it reducing the rural ambience of these walks. As such the turbine would result in some moderate harm with the level of harm reducing to minor the further one was away from the site i.e. 1.5 to 2km. There are number of settlements or groups of houses around the site of varying size. These include Ford and Dinton to the north-west, Little Meadle, Owlswick and Longwick to the south-east; Ilmer to the south; Kingsey, Thane, Aston Sanford and Haddenham to the south-west and west. Whilst the turbine would be visible from the edges of these settlements, given the degree of separation, which would vary between some 1.5 and 6km, the magnitude of visual impact would range from moderate closer to the site [VP 2] to minor at the furthest away [VP 14]. Drivers and passengers in vehicles travelling from Thame eastwards on the A4129 to Monks Risborough would, particularly on that stretch of the road to the south-west of the site, have views, albeit the majority appeared to me to be fleeting, of the turbine. As such there

would be some negligible to minor visual harm experienced by these receptors.

Heritage Assets

10.20 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving a LB or its setting or any features of special architectural or historic interest which it possesses. In respect to any building or other land in a CA, S72 (1) of the same Act requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. LP Policy GP.53 says development will not be permitted if it causes harm to the character or appearance of a CA, its setting or any associated views of or from the CA.

10.21 One objective of the Framework[45] is to, "*conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations*". Framework Annex 2 defines significance as "*the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its* setting". Annex 2 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…"*

10.22 HE, the Government's statutory advisor on the historic environment, has published guidance on the setting of HAs[46]. Paragraph 9 of Note 3 makes it clear that setting, whilst a key element of many HAs, is not itself a HA or a heritage designation. Rather the importance of setting lies in what it contributes to the significance of the HA. Framework paragraphs 132 and 134 indicate that when considering the impact on the significance of a HA great weight should be given to its conservation. It notes that the significance of a HA can be harmed through alteration or destruction of the asset (physical harm) or development within its setting (non-physical or indirect harm). Substantial harm to a Grade II LB should be exceptional and substantial harm to a HA of the highest significance, i.e. a SAM or Grade I and II* LBs, should be wholly exceptional. Framework paragraph 133 says that where development would lead to substantial harm to the significance of a HA, permission should be refused unless that harm is necessary to achieve substantial public benefits that outweigh the harm. Paragraph 134 says that where a development would lead to less than substantial harm to significance, the harm should be weighed against the public benefits of the proposal.

10.23 It is common ground between the appellant and the lpa that the turbine would not give rise to material harm to the significance of any HA located within the ES study area with the exception of Waldridge Manor a Grade II* LB; the Aston Sandford CA and the Dinton and Westlington CA [5.52 & 6.16].

[45] Paragraph 17.

[46] Historic Environment Good Practice Advice in Planning Note 3 March 2015

The AG identifies several more HAs, which it considers would be harmed. Notwithstanding the above, given that the various HAs are outside the site, it is common ground that the potential for harm in this case arises from the positioning of the turbine within the setting of the various HAs i.e. non-physical harm.

Waldridge Manor

10.24 Waldridge Manor (WM) is a substantial Grade II* LB [ES Chapter 5A – Property 5 & AG 17 pages 23, 24 & 27]. On the evidence before me and having viewed the building at close quarters and from public vantage points in the wider area, I consider the principal significance of WM as a HA lies in its architecture and appearance as a largely 16th/17th century high status building and its historical association with the Regicides. That said, whilst it is not the original Manor House, given that it has existed for some 400 years, when it would have been the epicentre of the agricultural holding, its position next to the Waldridge Deserted Medieval Village and its slightly prominent position in the agricultural landscape of the Haddenham/Longwick Vales, the rural landscape within which it sits does contribute to the significance of this LB. However, in my view, the agricultural/rural setting does not contribute to the principal significance of the building because it is largely screened and isolated from views by dense and mature planting all around the curtilage of the house and the negative impact that the modern large agricultural buildings located within its curtilage have on the building. The main appreciation of the house and its significance as a HA is from the 2 public footpaths from the south-east which converge at the house [AG 17 page 23].

10.25 From my visit to WM, my walking of footpaths in the surrounding area and views from various viewpoints in the wider area, I do not believe that there would be views where the turbine would be seen over the roof of the building. In views where WM can be appreciated, the turbine would be seen to one side of the building. In this context, I consider the turbine would not materially harm the architectural/aesthetic or historical significance. However, as a tall engineered structure set some 725m from the building, I agree that it would distract attention from the building in terms of its agricultural setting, particularly in those views from the south-east.

10.26 In terms of calibrating harm and identifying the test to be applied to proposals that could have an effect of the significance of a LB, the Framework identifies 2 categories of harm; substantial and less than substantial. Whilst the parties agree that in Framework terms, the effect of the turbine on the significance of WM would fall within the category of less than substantial harm, they have attempted to calibrate that harm ranging from slight by the appellant, through moderate by HE and the lpa, to high by the AG. The boundaries between these categories are, in my view, fine and where the magnitude of impact falls is largely a matter of professional judgement. Looking at all the factors in the round, given the scale of the proposal, the degree of separation and the reduced role setting has in terms of the significance of WM as a HA, I consider the turbine would result in a minor/moderate amount of less than substantial harm to the significance of WM.

Aston Sandford Conservation Area

10.27 Aston Sandford is a small, linear settlement where the generally flat landscape around the village affords good views over the surrounding agricultural fields and longer distance views of the scarp slope [CD 11.5; APP 16 Appendix 16; VB 11 Appendix 2 & AG 17 pages 31, 32 & 33]. The CA contains several LBs of which, the Church of St Michaels, located towards the western end of the CA, is Grade II* listed. The remainder, comprising the Manor House, Manor Cottage, Stone Lacey, The Old Rectory and the wall, barn and Rope Walk Building, are listed as Grade II. The eastern end of the CA includes a large field which has several clearly visible archaeological features showing the remains of early house platforms.

10.28 The CA Appraisal identifies the agricultural landscape as a key element of the character and appearance of the CA and that the wider landscape surrounding the settlement forms an extensive setting to the CA. In terms of Key Views and Vistas, the CA Appraisal highlights that various views from within the settlement across the surrounding fields are of particular note. In particular, views from the eastern end of the street across the platform remains are highlighted as key to the character and appearance of the CA and a key element of its setting [CD 11.5; APP 16 Appendix 16 & VB 11 Appendix 2]. The notation on the Key Views and Vistas' diagram shows the position of the relevant viewpoints as being the edge of the built-up area. Thus, given the ability to obtain views over much longer distances, particularly to the scarp slope, I agree that those views make a significant contribution to the setting and significance of the CA [5.58, 5.59, 6.21 & 7.43]. At its closest the turbine would be some 1.6km from the built-up edge of the CA and would be a prominent feature when viewed from the CA, particularly the public footpaths that lead from the CA to the north. As such, I consider there would be a moderate amount of less than substantial harm to the significance of the CA as a HA.

Dinton, Westlington, Upton and Gibraltar Conservation Areas

10.29 Within these CAs there are 48 LBs of which the Church of St. Peter and St. Paul is Grade I and the adjoining Dinton Hall is Grade II*, the remaining buildings are all Grade II. Located on the southern edge of the A418 ridge, Dinton Hall and the adjoining Church overlook the vale to the south [AG 17 pages 53 & 54; APP 19 Appendix 1LB 26 & 27]. The significance of Dinton Hall lies in its architecture/aesthetics as a largely 16th/17th century high status building and its historical association with the Church and the Regicides. The significance of the Church lies in its architecture as a high status medieval building and associations with the occupiers of Dinton Hall.

10.30 Dinton Hall is a substantial linear building built in the grand tradition, which along with the Church, appears to have been built to take advantage of the elevated position and views over the Vale. As such the wider rural landscape contributes to their significance. The turbine would be located some 3.5km to the south-south-east, the lower part of which would be screened by a dense line of mature trees, which even in winter would filter views. Given the scale of the turbine and this degree of separation, I consider the turbine would not materially harm the architectural/aesthetic or historical significance

of Dinton Hall or the Church. However, as a tall engineered structure the turbine would be a visible, albeit distant feature, within the rural setting of Dinton Hall and the Church. Given the scale of the proposal, the degree of separation and the role setting has in terms of the significance of Dinton Hall and the Church as HAs, I consider there would a slight/moderate amount of less than substantial harm.

10.31 Summers Cottage, Gable Cottage and Forge Cottage all date from the 16th/17th centuries and stand in a row on the lower part of the ridge below the Church [AG 17 page 57]. Their significance lies in their architecture and appearance as surviving examples of vernacular village buildings with the wider rural landscape having a minor contribution to the significance of these buildings. The turbine as a distant structure would have a minor/slight degree of less than substantial harm on the significance of these buildings.

10.32 In terms of setting, the CA Appraisal indicates that as important buildings the Church and Dinton Hall were sited so as to take advantage of the increased elevation and visibility and that it is impossible to disassociate these CAs from their surrounding landscape [CD 11.4]. In terms of Key Views and Vistas there is reference to panoramic views towards the AONB, the prominence of the Church and Dinton Hall in views to the CA and long reaching views of the agricultural landscape [CD 11.5 page 23].

10.33 Unlike the CA Appraisal for Aston Sandford, it is notable that the Appraisal for this group of CAs places less emphasis on the importance of views over the landscape as being key to their character and appearance and, as such, a key element of their setting. I consider it is the views into the CA, particularly those from the immediate area to the south, that are more important in terms of setting and significance. In this context, whilst the turbine would be visible from the southern edge of the CA, Dinton Hall and Church, the scale of the proposed turbine and the degree of separation to would materially mitigate any impact. In this context, I consider there would be a slight amount of less than substantial harm to these CAs as a whole.

Other Listed Buildings

10.34 The AG identifies several Grade II LBs whose significance would be harmed by the turbine. These are: Old Acres at Owlswick; Rose Cottage, Ruby Cottage, Fracup Cottage in Ford where there would be an intermediate degree of less than substantial harm; Pasture Farmhouse and Barn at Aston Sandford; Anderton's Farm, Anderton's Farm Cottage and Barn at Longwick; the General Baptist Chapel, Ford Farmhouse both at Ford where there would be a minor amount of less than substantial harm.

10.35 Located on the edge of Owlswick, Old Acres dates from the late 15th/early 16th century [AG 17 page 44; APP 19 Appendix 1 LB 20]. The significance of Old Acres principally relates to its history/architecture as an example of a surviving timber- framed rural vernacular building. Located at some 2km from Old Acres, the turbine would have no material impact on the architectural or aesthetic significance of the building and a minor amount of less than substantial harm in terms of its rural setting.

10.36 Located on the northern edge of Ford, Rose Cottage, Ruby Cottage and Fracup Cottage are a group of 3 cottages dating from the 17th and 18th centuries [AG 17 page 46; APP 19 Appendix 1 LBs 7, 8 & 9]. The cottages are located almost on the roadside with an open paddock opposite. The significance of these LBs is as examples of vernacular cottages using a localised traditional Witchert[47] construction method. Their setting is localised and confined to Chapel Road and the paddock opposite and the turbine would be located some 1.6km to the south. There would be no material impact on the architectural or aesthetic significance of these buildings. Whilst there would be limited views of the turbine blades from the road further to the north-east, it appeared to me that there would be limited, if any, views of the turbine from the immediate setting of these cottages. In this context and particularly given the degree of separation, the turbine would result in a slight amount of less than substantial harm to the significance of these LBs.

10.37 The significance of Pasture Farm and Barn is as a group of vernacular timber framed buildings dating from the 17th century [AG 17 page 38; APP 19 Appendix 1 LBs 2 & 3]. The turbine would be located some 900m to the north north-east and there would be no material impact on the architectural or aesthetic significance of these buildings and a minor amount of less than substantial harm in terms of its rural setting.

10.38 Anderton's Farmhouse is a late 18th century redbrick farmhouse altered in the 19th century. In more recent times, the former farm buildings have been converted to separate residential use [AG 17 pages 39, 40 & 42]. Anderton's Farm Cottage is an early 16th century timber framed house with brick panels and the adjoining barn is a later 18th century timber framed structure finished in weather boarding. The significance of these buildings is historical and architectural as surviving examples of a high quality late 18th century farmhouse and vernacular agricultural buildings. Although formerly a significant farmhouse, the setting of Anderton's Farmhouse now relates more to the settlement of Longwick rather than the agricultural hinterland. The rural location of Anderton's Farm Cottage and Barn, as surviving agricultural related buildings, does have a contribution to its significance. The turbine would be located some 2.3km to the north-north-west. In my view potential views of the turbine and the buildings together would be limited. There would be no material impact on the architectural or aesthetic significance of these buildings and given the degree of separation a negligible degree of less than substantial harm to their significance.

10.39 The significance of the former Ford Baptist Chapel is in its history and aesthetics as an 18th century non-conformist ecclesiastical building built partly in local materials [AG 17 pages 48 & 49 & APP 19 Appendix 1 LB 6]. It is the village setting that is the major contributor to its significance. The turbine would be located some 1.5km to the south south-west and potential views of the turbine and the building together from Chapel Road would be limited. There would be no material impact on the architectural or aesthetic significance of this building and given the degree of separation a negligible degree of less than substantial harm to its significance.

[47] Local earth mixed with water and straw (similar to cob) and lime washed or rendered.

10.40 The significance of Ford Farmhouse is its architecture and history as a surviving 17th/18th century farmhouse [AG 17 page 51 & APP 19 Appendix 1 LB 4]. As such its rural location does contribute to the significance of the building. The turbine would be located some 1.5km to the south south-west and there would be no material impact on the architectural or aesthetic significance of these buildings and a negligible degree of less than substantial harm to its significance.

Waldridge Deserted Medieval Village

10.41 This SAM is located within the grounds of WM and features the buried and visible remains of a medieval village [AG 17 page 26 & APP 19 Appendix 1 SAM 1]. Its significance is that of a well preserved example of a medieval village. Given it is screened from most views, the wider agricultural setting has a limited contribution to the significance of this HA. I agree with HE that long range views to or from the deserted village do not contribute to its setting. The turbine would be located some 865m to the north-west and whilst there would be some views of it across the remains of the deserted village, any harm to significance would be negligible and would amount to less than substantial harm.

Moat, North-West of Aston Mullins

This SAM, a medieval moat, is close to a PRoW running from Aston Sandford to Dinton. Its significance is that of a reasonably well preserved example of a medieval moated manorial complex and the agricultural landscape plays a part in that significance. HE indicates, and I agree, that long range views to or from the moat do not contribute to its setting. The turbine would be located some 1.6km to the south-east and any harm to significance would be negligible and would amount to less than substantial harm.

Whiteleaf Cross

10.42 This SAM comprises a hill figure in the shape of a triangle surmounted by a cross cut into the chalk hillside of Whiteleaf Hill [AG 18]. Whilst the origins of the cross and its purpose are unclear, its scale and position is such that it was intended to be seen from over a wide area. HE has indicated that in reasonable conditions it would be possible to see it from vantage points some 10km away. From my inspection of the wider area in conditions of high visibility, I consider that statement to be overly optimistic. Indeed, I had difficulty discerning the Cross from vantage points in the area around the appeal site, a gap of some 6km. Notwithstanding uncertainty over where it can be seen from, the significance of the Cross is clear that it was intended to be seen from long distances and the turbine would intrude into views from the north-west. Given the degree of separation, the scale of the turbine and the lack of distinctness of the Cross, I consider the presence of the turbine would have a slight adverse impact on the significance of Whiteleaf Cross amounting to a less than substantial degree of harm.

Living Conditions

Residential Visual Impact

10.43 A Residential Visual Amenity Survey (RVAS), based on an appropriate methodology, has been undertaken [ES Chapter 5A]. This study assessed the impact of the turbine on dwellings up to 1km from the site. Of the 10 dwellings within or on the edge of a 1km radius, 3 are financially involved with the appellant. Of the remaining 7 dwellings, 4 were assessed as having the potential to experience a significant effect in ES terms. These properties are at Aston Mullins and Waldridge Manor. Of the potentially affected dwellings, I was invited to visit Waldridge Manor and Aston Mullins (AM).

10.44 Whilst in some situations the protection of private interests may coincide with the public interest, PPG[48] reiterates the long-standing tenet that the planning system does not exist to protect the private interests of one person against the activities of another. National policy contained in NPS EN-3 recognises that a turbine would result in significant visual effects that would change the outlook of dwellings over an extensive area. Given the nature and scale of modern turbines, significant change is inevitable. In this context, the identification of a significant change in outlook is not, on its own, necessarily harmful. Therefore, in deciding whether, in the public interest, there is a case to resist this scheme the assessment of the impact on residential visual amenity has to go beyond that of identifying significant impact in ES terms.

10.45 In recent years, the approach to the assessment of the visual component of residential amenity, and the approach adopted by the RVAS, has been one where it is assessed "in the round". This approach takes into account factors such as: separation distance; orientation; the size and layout of the dwelling including internal circulation, division between primary and secondary rooms, garden and other amenity space; arc of view occupied by the turbine or turbines and the availability of screening.

10.46 Once the above factors are assessed, the question to answer is, would the presence of the turbine be so unpleasant, overwhelming and oppressive, that the dwelling would become an unacceptably unattractive place in which to live. Whilst this approach to engaging the public interest test is not formalised in an NPS, the Framework or PPG, it is one that has been adopted by the SoS and Inspectors (5.49-5.51). In my view, this is an approach that strikes the right balance between the objective of ensuring adequate protection for residents and the national imperative to encourage the deployment of renewable energy developments.

10.47 AM is a large, 2-storey house whose front elevation faces south-east with views towards the AONB (VB 11 VP 3). Given the layout of the AM stud and farming operation, where the stables and animal sheds are located immediately to the rear of the house, the principal habitable rooms and external amenity spaces are located to the front of the property. The principal rooms on the front are the dining room and a sitting room located either side of the entrance on the ground floor and with bedrooms on the

[48] ID: 21b-008-20140306.

first-floor. All of these rooms are served by tall windows. External space comprises the driveway/parking area to the front, a wide grassed area, with limited and low screening on the boundary with the paddock and fields beyond. To the side of the parking area/grassed area are a more formal garden, an outdoor swimming pool and a recreation room that has windows overlooking the pool/garden (AG 7 Figure 6). All of these rooms and external areas would have direct and largely uninterrupted views of the turbine located some 820m away.

10.48 Whilst no-one has a right to a view, the occupiers of AM would experience a significant change in their outlook which would affect their enjoyment of the property. That said, when viewed in the round particularly given the size of the turbine, the degree of separation and the nature of the property, I consider the overall effect on this dwelling would not be so unpleasant, overwhelming and oppressive, that the dwelling would become an unacceptably unattractive place in which to live. In this context, whilst the public interest test set out above would not be breached, I consider that weight should be attached to the adverse effect on the occupiers' enjoyment of the dwelling in the overall planning balance.

Waldridge Manor

10.49 This is a substantial period house with elevations containing habitable room windows facing both the AONB and the turbine site. The house has a large curtilage and is well screened (ES Chapter 5A, Property No.5). The gap to the turbine would be some 725m. In terms of ground-floor rooms potentially affected these are a glazed dining/sitting area off the kitchen and a drawing room with windows towards the turbine site. The dining/sitting area is orientated in such a way as to maximise views to the south-east to the AONB and these views would be unaffected. There are secondary views over the garden towards the turbine site from this room. However, views of the turbine from here and from the garden would be mitigated by boundary planting, which even in winter would provide heavy filtering of potential views. From the drawing room, views of the turbine would be restricted by the limited height of the window serving it and the filtering effect of the mature boundary planting and mature trees. From the main bedroom, served by a large picture window, there would be views of the turbine over the mature boundary planting. Other bedrooms on this floor would have more limited views.

10.50 In some views from WM the turbine would be prominent. However, given the degree of separation, the scale of the proposed turbine and the presence of significant screening, which even in winter would have a significant filtering effect, the overall effect on this dwelling would not be so unpleasant, overwhelming and oppressive, that the dwelling would become an unacceptably unattractive place in which to live. In this context, whilst the public interest test set out above would not be breached, I consider that some weight should be attached to the adverse effect on the occupiers' enjoyment of the dwelling in the overall planning balance.

10.51 From dwellings on the edges of the settlements of Ford, Aston Sandford, Haddenham, Owlswick and Longwick and from scattered individual dwellings

in the wider area, there would be some views, principally of the upper parts of the turbine. However, whilst the views from some properties would change, given the degree of separation and the scale of the turbine, the effect on these dwelling would not be so unpleasant, overwhelming and oppressive, such that they would become unacceptably unattractive places in which to live.

Noise

10.52 Some residents, particularly those with medical conditions, express concern about the potential impact of noise on their health through sleep disturbance. Other than flagging up the potential impact as a concern, no evidence on potential adverse health effects was referred to. Whilst I do not downplay the seriousness of residents' concern and I have considerable sympathy with those who are experiencing major health issues, there is, in this case, nothing of substance to justify departing from current Government advice on health matters relating to the operation of wind energy developments. The parties have agreed a robust condition, which would provide protection for nearby residents from noise.

Equine Activities

10.53 The concern relates principally to the impact of the turbine on equestrian activities at AM and businesses that supply goods and services to it [7.55]. The equestrian enterprise includes the breeding of thoroughbred foals; the stabling and training of event horses and the use of an event training area[49] by national eventing teams and local clubs [7.51-7.58].

10.54 I am acutely aware that there is a distinction to be made between horses used for recreational purposes and the type of horses associated with AM, particularly the thoroughbred stud. The AG produced an email from an owner with stud horses at AM who indicates that, because of concerns regarding the impact of any turbine, he would withdraw from using the stud if the turbine is erected. Emails from other stud farm managers highlighting their concern about the proximity of turbines to stud operations were also provided. In addition, there is an email from the British Eventing Performance Manager, expressing concern over the potential presence of wind turbines close to the training ground and their adverse effect on the horses, which he says would prevent him using this facility in the future [AG 22 Appendices 3 & 4]. Whilst I have no reason to believe that these concerns are not genuinely raised, they are not based on any objective evidence of or experience of harm occurring as the result of a wind turbine.

10.55 In terms of day to day operations, the stabling of the mares and foals, the servicing of mares and some of the outside exercising takes place in the buildings to the rear of the house and in the fields immediately adjoining the buildings which are located some 800 to 900m from the turbine site. Given this degree of separation, the scale of the turbine, the fact that turbine blades do not start suddenly and at this distance it would be unlikely that the turbine

[49] Referred to in AG 22 Appendix 1 as a "Cross Country" area.

blades would cast shadows over the buildings, adjoining yard and fields, I consider it unlikely that the turbine would have a material impact on the stud operation [5.66].

10.56 The gist of the concern relates to the use of the field closest to the proposed turbine by mares and foals and that they could be alarmed by the presence and operation of the turbine. At its closest the boundary of this field would be some 132m from the turbine. Horses, like human beings, have varying levels of tolerance to events and in my experience there are many things that might result in a horse "spooking". These can include the shadow cast by a fast moving cloud, a low swooping bird or an animal darting from the cover of a hedge. Moreover, this field is crossed by a public footpath and is used by walkers who also have the potential to cause alarm to horses using this field (AG 7 Figure 1 & IP 10].

10.57 In the above context, it is possible that some horses could be scared by the presence of a wind turbine. However, others, including thoroughbred and potentially "highly strung" horses, can and do get used to the presence of turbines. The AG suggests that one way or the other there is an absence of direct evidence of the effect of locating a turbine of the size proposed would have on the operation of a stud farm and as such a precautionary approach should be adopted [7.58]. However, whilst I acknowledge the qualifications attached to it, the inquiry had before it a written submission, from a breeder of thoroughbred racehorses who has a 47.5m to blade tip high turbine on his land. This qualified submission indicates that this turbine had "*…little to no impact on the mares and foals and young stock on the stud…"* [7.55 & IP 1]. Taking all the above factors together and noting the qualification attached to the above situation, I consider that there is nothing inherent in the presence of a wind turbine that increases the risk of a horse reacting adversely.

10.58 The AG drew my attention to 2 dismissed appeal decisions[50] regarding wind turbine developments at Grise, Cumbria and Little Linton Farm, Cambridgeshire [AG 21 Appendices 2 & 4). As the Inspector who held the inquiry and reported to the SoS in 2010 on the Grise proposal, I am familiar with the issues raised in that case. There, the combination of circumstances was significantly and materially different to the situation here. The closest equestrian business involved the use of racing gallops located some 500m away which were almost directly aligned with a proposed array of 9 turbines. This fact combined with the particular personal and professional circumstances of the owner contributed to my conclusion and the SoS's subsequent decision. Accordingly, in those terms, I consider that no material parallels can be drawn with that case.

10.59 As to the perception of risk, this can be a material consideration [5.66]. Above, I conclude that there is nothing inherent in the presence of a wind turbine that increases the risk of a horse reacting adversely. There is an absence of detail on how and on what information/experience the responses highlighting concern were based. Moreover, there is the evidence, albeit qualified, that a single wind turbine on a stud farm has had little or no impact

[50] APP/H0928/A/09/2093576; APP/W0530/A/09/2108277 & APP/C1570/A/09/2108275

on the welfare or the animals or the continuation of the business. Thus, in this case, I conclude that as the potential risk of harm would be small and it is not the function of the planning system to protect the private interests of one person against the activities of another, I attach little weight to this matter.

10.60 The Little Linton Farm inquiry involved the impact of an 8-turbine wind farm on Linton Zoo, identified as a regional tourist and leisure attraction and a centre renowned for the conservation and breeding of rare and endangered species. There, given the lack of evidence either way relating to possible distress to the animals, the Inspector found what he described as a "stand-off position". In terms of the Inspector's applying the "precautionary principle" 3 factors came in to play. These were, the important international work carried out at the zoo, its importance to the tourist economy and the employment provision. In my view, this case is also an example of applying the principle of proportionality in decision making. In the situation before me, I recognise the success of AM and the standing it has within the thoroughbred horse breeding and eventing world and the employment it provides directly and indirectly. However, having regard to my conclusions above and given that this proposal is for a single turbine, I consider it would be disproportionate in this case to apply the precautionary principle in favour of AM.

Output and CO^2 savings

10.61 Energy output and CO^2 savings are a material consideration in the consideration of a turbine proposal. Whilst the Court of Appeal judgement in the case of Holder v Gedling Borough Council [2014] EWCA Civ 599 relates to a scheme within the Green Belt, I see nothing there that suggests that efficiency cannot be a material consideration in a scheme located outside the Green Belt [AG 2]. Moreover PPG indicates that the capacity factor can be useful information in considering the "*…energy contribution to be made by a proposal, particularly when a decision is finely balanced.*"[51] However, other than referring to the qualified use of a capacity factor, neither PPG nor the Framework contains guidance on how to measure efficiency nor does it set a benchmark below which a wind energy scheme should be regarded as inefficient. What the Framework does say, paragraph 98, is that the decision maker should, "*…recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions…*"

10.62 PPG advises that the mean wind speed at hub height, along with the statistical distribution of predicted wind speeds about this mean, and the type of turbine used, will determine the energy capture at a site[52]. Therefore, the starting point is obtaining a prediction of wind speed at hub height. Similarly, paragraph 2.7.4 of NPS EN-3 indicates that, "*the predicted wind resource will be a key consideration… as the electricity generated… is directly affected by the wind speed*." In this case, notwithstanding that temporary planning permission was granted for the erection of an anemometer mast, the

[51] Reference ID: 5-021-20140306.

[52] Reference ID: 5-021-20140306.

appellant decided not to erect that mast and to proceed with his proposal based on estimated wind speeds [VB 4 Appendix 34].

10.63 Paragraph 2.7.5 of NPS EN-3 indicates that whether an anemometer mast is used is a matter for the appellant. In my experience and confirmed by the Chairman of the Westmill Sustainable Energy Trust, given the time and cost involved, individuals proposing to erect single turbines adopt a proportionate approach and it is unusual that an anemometer mast is erected [5.6]. Rather, a decision on whether to proceed and invest in a scheme is done on the basis of published data and modelling. The Danish Wind Association produces a widely used model that provides what I understand to be reasonably reliable estimates of hub height wind speeds [VB 4 Appendix 9]. In such a scenario, the absence of a site visit by the modeller is also not unusual or uncommon. Accordingly, the absence of precise wind speed data and the appellant's reliance on modelled data is not a matter that militates against this proposal.

10.64 Whilst I acknowledge that the NOABL wind speed data is to be used with caution, having reviewed the comparisons with the data from the METAR and SYNOP sites and recognising that it is a measure regularly used by wind turbine developers [VB 4 Appendix 31], I consider that, on balance, estimates of power output based on it would be acceptable. Notwithstanding the dispute over the level of wind speed at hub height, the appellant is content to use the modelled wind speed of 5.05m/s at hub height used by the objectors [7.19]. In passing, using the wind speed charts produced by the objectors, a wind speed of 5.05m/s at hub height would equate to a materially lower wind speed at ground level consistent with the objectors submissions that this is a low wind speed area and their suggestion that the NOABL wind speed estimates are an over-estimate of actual wind speeds [VB 4 Appendices 13-17 & 31].

10.65 The energy output calculated by the appellant for this turbine, APP 6, is based on the manufacturer's technical information relating to the specific model proposed. The calculation does show that it would generate some 1,114,021 kWha of electrical energy and have a load factor of some 24.5% [5.10]. I have noted the concerns raised by the objectors who suggest that the output would be significantly lower at some 598 MWhr and, based on research into mechanical degradation, that this output would drop over time indicating that the economic lifetime of turbines is materially shorter than that normally applied for or used in calculating the benefits [7.27-7.31].

10.66 Common sense would suggest that the performance and output of any form of mechanical equipment degrades over time. However, as far as I am aware, the research on which the objectors base their findings has yet to be validated. Moreover, there is nothing in Government policy that indicates that significant and material rates of degradation in power output should form part of the assessment of the contribution individual schemes make to the environmental objectives regarding the deployment of renewable energy. Given that it is based on historic data, I am not clear on the extent to which the research reflects improvements in turbine technology/efficiency and the energy warranty and maintenance packs offered by manufacturers.

Moreover, as far as I am aware, to date no credible benchmarks have been identified against which individual schemes can be measured.

10.67 Whilst the manufacturer is in the business of selling turbines, in my view, it can only do this on the basis of credible technical information and estimates of power output, particularly given that power output is warranted by the manufacturer [5.9 & 5.12]. Similarly, I find the objectors' comparisons with the Westmill site, some 55km distant, to be unhelpful. Given this distance and the fact that the turbines are completely different in terms of scale and output makes, in my view, any comparison relating to capacity, unrealistic. Indeed, I consider it is telling that the Chairman of the Westmill Sustainable Energy Trust indicated that if turbines of the type proposed at the appeal site were located at Westmill, the capacity factor would be materially higher [8.13].

10.68 In terms of electrical output or capacity, there are no national policy benchmarks against which to measure the estimated performance of any particular scheme. On the evidence before me and based on a wind speed figure of 5.05m/s at 73.5m, a figure which the objectors suggest is at best "optimistic" and the appellant says is "pessimistic", the turbine appears to be capable of generating a credible amount of electrical energy and with a capacity factor of some 25.4%, that would be close to the published national average for 2008 to 2012 of some 26% [5.11].

10.69 The objectors suggest, based on the carbon footprint of the turbine resulting from its manufacture, the substantial concrete foundation and the need to maintain back-up capacity at conventional power stations, that the CO^2 savings from this scheme would be modest [7.31]. Again common sense suggests that every manufactured item has a carbon footprint. However, in my view, this is a calculation fraught with uncertainties; particularly the impact the need for back-up generating capacity has on the projected carbon footprint. Moreover, given that one of the key objectives of deploying renewable energy is in its contribution to reducing greenhouse gases, whilst turbine developers do provide estimates of potential CO^2 savings, there is nothing in national guidance that requires them to do so or that it sets a benchmark that a particular scheme should achieve.

10.70 Taking all their criticisms together, the objectors submit that the turbine would not be economically viable and this is would be an unacceptable cost to the nation [7.32]. In terms of viability, I was directed to the ES, which says that the accepted hub height wind speed to make a turbine economically viable is 6m/s and the negative response received by a local landowner regarding his offer of a site to a wind turbine developer (VB 4 Appendix 31]. On the above, 2 points are worthy of note. These are that the ES was prepared in August 2012 and there is nothing in national policy/guidance that says that an applicant for a wind energy scheme has to demonstrate viability. In my experience turbine efficiency has improved significantly in recent years with lower cut-in speeds and higher energy outputs at lower wind speeds. In this context, I attach little weight to the generalised ES statement regarding wind speed and viability.

10.71 As to the lack of interest by another wind turbine developer, it would appear that the landowner was offering to lease the site to him. Thus, it was the developer who would incur the costs of the lease, the turbine, its erection and its maintenance. Whilst there is dispute between the parties on the amount of energy the wind speed in this area would generate, it is not in dispute that energy would be generated. Each wind energy development company will have its own individual financial profile and a level of return that it is prepared to accept. In my view, it is this factor that is reflected in the response from the company that it, "*…would not be economic for a rental project.*" For me the key word in that statement is "rental", which is a completely different proposition to the scheme proposed by the appellant. Here, the appellant is using his own land and, as I understand it, funding the purchase of the turbine and its erection from his own resources. Thus it appears to me that the situations are materially different.

10.72 As to the submission that the proposal would be negative costs to the economy, this, in my view, would be a highly complex and high level subjective calculation that would need to cover a variety of variables. As far as I am aware there is no guidance on how to undertake such a calculation or what variables need to be considered and is not something I consider can or indeed should be attempted to be undertaken as part of a S78 appeal into a single wind turbine.

10.73 The Framework indicates that there are 3 dimensions to sustainable development, economic, social and environmental, to be approached in a holistic and proportionate manner. I agree with the appellant that the decision whether or not society and the economy as a whole should pay a price for encouraging the generation of renewable energy from onshore wind has already been made at a higher political level and is expressed in the range of statutory and policy obligations set out in Section 4 [5.7]. In my view, any change to this policy is for Parliament to debate and it cannot be the subject of separate investigations at Inquiries before individual Inspectors, based upon whatever material happens to be presented at the time.

10.74 Taking all the above matters into consideration, I consider that the proposed turbine would generate a small but credible amount of electrical energy and have a capacity factor which would be close to the published national average. Framework paragraph 98 indicates that the decision maker should; "*… recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions…*" Therefore, I consider significant weight should be attached to the proposal's contribution to the achievement of the Government's objective of increasing the use and supply of renewable and low carbon energy.

Other Considerations

Tourism

10.75 Whilst the presence of the turbine would be noticeable there is no evidence to suggest that it would adversely affect visitor numbers and spend to an unacceptable level. Moreover, there is evidence in areas where turbines have

been developed, including those close to National Parks and AONBs that, over the longer period, tourist numbers continues to rise.

Property Values

10.76 It is not for the planning system to protect the private interests of one person against the activities of another. Therefore, the issue is not whether a development would cause financial loss to neighbouring owners, but whether it would have detrimental effects on the locality generally and on amenities that ought to be protected in the public interest. Thus, concerns relating to the impact on the value of an individual's property are a private matter and not one of public policy and as such it is not generally a material consideration. Other than assertion, there is no evidence to conclude that, on property values, there is a wider public interest that should be protected.

Ecology

10.77 The ES undertook a proportionate assessment of the potential impact of the scheme on local ecology, concluding that there would be no adverse effects and subject to the imposition of an appropriate condition relating to mitigation and enhancement, the scheme would be acceptable (SC 19). Having reviewed the ES and the various responses received from interested bodies, I have no reason to disagree with the ES and the lpa's conclusions.

Localism

10.78 Localism reflects the Government's objective of giving people the ability to become involved in and in influencing decisions about development in their area. The Framework and PPG has been prepared with the view to give communities the power to set priorities for local development through up-to-date Local Plans that meet local development needs, to reflect local peoples' views of how they wish their area to develop and give communities the power to set the priorities for local development through neighbourhood planning. In this case, there is neither an up-to-date Local Plan nor a Neighbourhood Plan. Whilst The Localism Act 2011 introduced powers for people to make Neighbourhood Plans and Neighbourhood Planning Orders, it is not a community right to veto. What is required of the decision maker is for a balance to be struck between the legitimate planning concerns of local residents and, as in this case, the promotion of renewable energy as one of the strands in the Government's strategy for tackling climate change and maintaining the security of energy supplies.

Planning and Energy Policy

10.79 The development plan comprises saved policies in the Aylesbury Vale Local Plan and is the starting point for decision making. Framework paragraph 12 indicates that development that accords with an up-to-date plan should be approved, and development that conflicts should be refused unless other material considerations indicate otherwise (Framework). Framework paragraph 14 sets out the presumption in favour of sustainable development and that where the development plan is absent, silent or relevant policies are out-of-date planning permission should be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the

benefits when assessed against the policies in the Framework taken as a whole.

10.80 The relevant development plan policies are Policies GP.8, in relation to the effect on residents' living conditions; GP.35 relating to the design of new development; GP.58 in relation to the effect on CAs and GP.59 with regard to the effect on SAMs [4.27-4.30]. The plan is silent on the topic of renewable energy and does not contain any policies on how to assess renewable energy proposals. Thus, in the absence of any renewable energy policies in the plan the guidance in Framework paragraph 14 comes into play [5.15, 6.2 & 7.5].

10.81 Framework, paragraph 215, goes on to say that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The Dorcas Lane Inspector's Report and the SoS's decision refer to Policies GP.35 and GP.53 and both found conflict with these policies. However, I agree with the appellant that there is no direct engagement with or findings regarding the consistency of these policies with the Framework.

10.82 Policy GP.8 is, in my view, consistent with the objectives of the Framework regarding the protection of residents' living conditions and allows for a balancing exercise to take place relating to any potential harm. Having examined Policy GP.35 closely, it does not countenance the type of development associated with the deployment of commercial scale wind energy schemes and does not allow for a balancing exercise to take place [5.15]. Similarly, Policies GP.53, GP.58 and 59 indicate that any harm will result in a proposal being refused or they do not provide for the balancing exercise set out at Framework paragraphs 132 to 134. Accordingly, having regard to the advice at Framework paragraph 215, Policies GP.35, 53, 58 and GP.59 are inconsistent with the objectives of the Framework and as such in the balancing exercise, conflict with these policies attracts reduced weight.

10.83 NPSs are part of the overall framework of national planning policy and the Framework and PPG are material considerations in deciding planning appeals (Framework paragraphs 3 & 13). Paragraphs 4.1 to 4.25 of this report summarise national energy and planning policy as it relates to renewable energy, protection of the landscape, visual amenity, noise and HAs and what is clear is:

- that the commitment to tackling climate change, our transition to a low carbon future and meeting binding national and international targets relating to energy mix and security remains unchanged and is one of the Government's key objectives ;
- that to meet the binding targets for greenhouse gas emissions and CO^2 reduction and to achieve an increase in the share of renewables in the energy mix a step change in our rate of progress is required;
- the delivery of renewable and low carbon energy and associated infrastructure through the planning process is central to the economic, social and environmental dimensions of sustainable development;

- that, notwithstanding concerns raised regarding efficiency appropriately sited onshore wind energy schemes where the correct weight has been given to the various environmental considerations (i.e. conserving and enhancing the natural environment, conserving HAs and seeking a good standard of amenity for residents), are one of the most cost effective and proven renewable energy technologies currently available for large scale deployment;

- that whilst onshore wind is the biggest single contributor to the pipeline of new renewable energy capacity and the pipeline of new projects is thought to be healthy, not all of the approved projects will be commissioned and there is still an urgent need for new projects to come forward; and

- small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

Planning Balance

10.84 On the evidence before me the turbine would generate a credible and material amount of renewable energy and in terms of capacity operate close to the national average [10.73]. As such, this scheme would make a modest, but valuable, contribution towards national targets for the production of energy from renewable sources and contributing to meeting the objectives of the Climate Change Act, the RES and emerging National Energy Policy. Thus, having regard to the Core Principles of the Framework and the specific guidance relating to climate change and the thrust of national energy policy, this is a matter that I attach great weight to.

10.85 Whilst the turbine would not result in harm to the Chilterns AONB there would be some moderate and localised harm to the undesignated landscape of the Haddenham and Longwick Vales and the magnitude of harm would quickly decrease with distance. Similarly there would a moderate adverse visual impact, which would also decrease with distance. As such the proposal would conflict with LP Policy GP.35. The proposal would result in some harm to HAs and whilst the degree of harm ranges from negligible to moderate it is common ground between the parties that in Framework terms this would amount to less than substantial harm. As such the proposal would conflict with the objectives of LP Policies GP.53, 58 and 59. However, having regard to my conclusion on the consistency of these policies with the Framework, I attach limited weight to the conflict with development plan policy. Notwithstanding this conclusion, S66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving a LB or its setting and S71 (1) requires me to pay special attention to desirability of preserving or enhancing the character or appearance of a CA. Therefore, although the likely harm to HAs would, in Framework terms, be less than substantial, this is a matter that I attach significant weight to.

10.86 In terms of the effect on neighbours' living conditions, whilst there would be a material change in the views obtained from some properties, in particular AM, a factor to which I attach some weight, the change would not result in

any property becoming an unacceptable or unattractive place in which to live. As to the effect on the equestrian business operated from AM, I consider no unacceptable harm would be caused.

10.87 Given the nature of this project and the contribution it would make towards the Government's objectives regarding climate change, I consider the development would constitute sustainable development and as such the presumption in favour of sustainable development applies and that where the development plan is absent, silent or relevant policies are out-of-date planning permission should be granted where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

10.88 In this case, although I attach significant weight to the less than substantial harm to HAs and weight to the harm to landscape character and visual impact, including residential visual impact, I conclude that the weight attached to that harm does not significantly and demonstrably outweigh the benefits of the development in terms of its contribution to meeting the national objective regarding the deployment of renewable energy and tackling climate change through reductions in greenhouse gas emissions. Accordingly, I consider that the appeal should be allowed.

Conditions

10.89 Conditions are necessary to provide for the implementation of the permission, to define the permission and provide for micro siting (1, 2, 3 & 20)[53]. Conditions are necessary to provide for decommissioning and restoration of the site at the end of the 20-year lifespan and for the removal of the turbine should it fail to produce electricity for a continuous period of 6 months (4 & 5).

10.90 Conditions relating to details of traffic movements, works to the highway and a Construction Method Statement are necessary in the interests of highway safety and to minimise the impact of the development during the construction period (6, 7 & 8). Conditions are necessary to minimise landscape and visual impacts (11, 12, 13 & 18,); to mitigate the effect on the living conditions of residents (9, 10, 15, 21 & 22); to minimise the ecological impact and to safeguard wildlife (14) and mitigate any impact on archaeological remains on the site (19). Conditions are necessary to protect aircraft safety (16, 17 & 18). Where necessary, in the interests of precision and enforceability, I have reworded some of the suggested conditions.

10.91 For the reasons set out at paragraph 9.4, I consider the suggested condition relating to speed limits on the highway in the vicinity of the site fails the tests set down for conditions in PPG and is unenforceable.

Recommendation

10.92 I recommend that the appeal be allowed.

[53] The number in brackets refers to the Condition number in Annex A.

George Baird

Inspector

ANNEX A – SUGGESTED CONDITIONS

Time Limits and Site Restoration

1. The development hereby permitted shall be commenced before the expiration of 3 years from the date of this permission. Written confirmation of the commencement of development shall be provided to the local planning authority no later than 14 days after the event.

2. The development hereby permitted shall be carried out in accordance with Drawing Nos. 8367/4 Site Location Plan; 8367/1 Planning Application Boundary; 8367/2 Site Layout Plan; 8367/7 Proposed Access and 8367/6 Substation Floor Plan and Elevation.

3. This permission shall expire, and the development hereby permitted shall be removed in accordance with condition 4 below, after a period of 20 years from the date when electricity is first exported from the wind turbine (excluding electricity exported during initial testing and commissioning) ("First Export Date"). Written notification of the First Export Date shall be given to the local planning authority no later than 14 days after the event.

4. Not later than 12 months before the date of expiry of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the local planning authority. The scheme shall make provision for the removal of the wind turbine and associated above ground works approved under this permission and for the removal of the turbine foundation to a depth of at least 1m below the finished ground level. The scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period, location of material laydown areas, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats and details of site restoration measures. The approved scheme shall be fully implemented within 12 months of the expiry of this permission.

5. If the wind turbine hereby permitted ceases to export electricity for a continuous period of 6 months, unless otherwise agreed in writing with the local planning authority, then a scheme shall be submitted to the local planning authority for its written approval within 3 months of the end of that 6 month period for the repair or removal of the turbine. The scheme shall include either a programme of remedial works where repairs to the turbine are required, or a programme for removal of the turbine and associated above ground works approved under this permission and the removal of the turbine foundation to a depth of at least 1m below finished ground level and for site restoration measures following the removal of the relevant turbine. The approved scheme shall be fully implemented within 12 months of the date of this approval.

Construction Traffic Management Plan

6. Prior to the commencement of development a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the local planning authority. The CTMP shall include:

   a) details of a pre-construction road condition survey between Point A and Point B marked on the Approved Condition Survey Plan;
   b) proposals for the routeing of construction traffic and related tracking, scheduling and timing of movements (to include parking);
   c) details of escorts for abnormal loads;
   d) details of temporary warning signs;
   e) details of temporary removal and replacement of highway infrastructure/street furniture and the reinstatement of any signs, verges or other items displaced by construction traffic.

7. No development shall take place until details of the proposed construction, materials and surfacing of the site access road and its junction with the public highway and replacement hedge/tree planting have been submitted to and approved in writing by the local planning authority. The development shall then be carried out and maintained in accordance with the approved details.

8. Prior to the commencement of development, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the local planning authority. The CMS shall be adhered to throughout the construction and post-construction restoration period, subject to any variations approved in writing by the local planning authority. The construction method statement shall include:

   a) details of the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
   b) details of the proposed storage of materials and disposal of surplus materials;
   c) dust management;
   d) pollution control: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;
   e) temporary site illumination during the construction period including proposed lighting levels together with the specification of any lighting;
   f) details of the phasing of construction works;
   g) details of surface treatments and the construction of all hard surfaces and tracks;
   h) details of emergency procedures and pollution response plans;
   i) siting and details of wheel washing facilities;
   j) 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;
   k) a site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats;

l) areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
m) details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound; and
n) Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009.

Construction Hours

9. Except for the pouring of turbine foundations which will be undertaken in accordance with the terms of the CMS referred to in condition 8, construction work shall only take place between the hours of 07:00 – 19:00 hours Monday to Friday inclusive and 08:00 – 13:00 hours on Saturdays with no such work on a Sunday or Public Holiday. Work outside these hours may be carried out with the prior written approval of the local planning authority. Emergency works including wind turbine erection works delayed due to the weather may be carried out at any time provided that the operator retrospectively notifies the local planning authority in writing of the emergency and works undertaken within 24 hours.

10. The delivery of any construction materials or equipment for the construction of the development, other than concrete material for turbine foundations and turbine blades, nacelle and tower, shall be restricted to the hours of 07:00 – 19:00 on Monday to Friday inclusive, 08:00 – 13:00 on Saturdays with no such deliveries on a Sunday or Public Holiday.

Appearance

11. The overall height of the wind turbine shall not exceed 101.5m to the tip of the blades when the turbine is in the vertical position as measured from ground conditions immediately adjacent to the wind turbine base. The hub height of the wind turbine shall be between 70m and 75m.

12. Prior to the erection of the wind turbine, details of the colour, appearance and finish of the tower, nacelle and blade and any external transformer unit shall be submitted to and approved in writing by the local planning authority. The approved colour and finish of the wind turbine and any external transformer unit shall not be changed without the prior consent in writing of the local planning authority. No name, sign, symbol or logo shall be displayed on any external surfaces of the turbine other than those required by law. The development shall be carried out in accordance with the approved details.

13. All electrical cabling between the wind turbine and the electricity substation on site shall be installed underground.

Ecology

14. The development shall be implemented in accordance with the mitigation measures detailed in the approved report (Baker Shepherd Gillespie July 2012). Any variation to the agreed plan shall be agreed in writing with the

local planning authority before such change is made. The condition will be considered discharged following a written statement from the ecologist acting for the developer testifying to the plan having been implemented correctly.

Shadow Flicker

15. Prior to the construction of the wind turbine a written scheme shall be submitted to and approved in writing by the local planning authority setting out a protocol for the assessment of shadow flicker in the event of any complaint to the local planning authority from the owner or occupier of a dwelling (defined for the purposes of this condition as a building within Use Class C3 or C4 or the Use Classes Order) which lawfully exists or had planning permission at the date of this permission. The written scheme shall include remedial measures to alleviate any shadow flicker attributable to the development. Operation of the wind turbine shall take place in accordance with the approved protocol unless the local planning authority gives its prior written consent to any variations.

Aviation Safeguarding

16. Prior to the commencement of development the developer shall inform the local planning authority and the Ministry of Defence (MoD) and the Civil Aviation Authority (CAA) of the proposed commencement of development and the maximum extended height of any construction equipment to be used on the site.

17. No later than 14 days after the First Export Date the developer shall inform the local planning authority, and the MoD and CAA of:

    a) the date of completion of construction;
    b) the height above ground level of the highest potential obstacle;
    c) the position of the turbine in longitude and latitude; and
    d) details of aviation lighting to be fitted to the turbine.

18. The turbine shall not carry any form of external illumination, and there shall be no permanent illumination on the site other than:

    a) lighting required for the safety of aircraft in accordance with condition 17;
    b) a movement sensor-operated external door light for the electricity substation;
    c) during the construction period as agreed in condition 8(e) above.

Archaeology

19. No development shall take place until a written scheme of archaeological investigation, together with a programme for its implementation, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details.

Micro-siting

20. The wind turbine hereby permitted shall be erected at the following grid co-ordinates: Easting: SP77547 Northing: 07656. Notwithstanding the terms of this condition, the wind turbine and associated crane pad may be micro-sited within 20m within the red line boundary shown on the drawing numbered 8367/1 and the consequential realignment of the access tracks between and to the turbine following micro-siting of the turbine is permitted. A plan showing the position of the wind turbine and tracks established on the site shall be submitted to the local planning authority prior to the First Export Date.

Television Interference

21. No development shall commence on site until a scheme providing for the investigation of any interference to television signals by the operation of the development and for the remediation of any interference caused by the operation of the development has been submitted to and approved in writing by the local planning authority. The scheme (which shall be implemented as approved) shall provide that complaints from users of television signals in the area may be made either to the developer or to the local planning authority, that complaints made to the developer shall be notified to the local planning authority, and that complaints must be made within 12 calendar months of the First Export Date.

Operational Noise

22. The rating level of noise immissions from the wind turbine (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in Tables 1 and 2 attached to these conditions and:

    (A) Prior to the First Export Date, the wind turbine operator shall submit to the local planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the local planning authority.

    (B) Within 21 days from receipt of a written request of the local planning authority, following a complaint to it alleging noise disturbance at a dwelling, the wind turbine operator shall, at its expense, employ an independent consultant approved by the local planning authority to assess the level of noise immissions from the wind turbine at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the local planning authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the local planning authority made under this paragraph (B), the wind turbine operator shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the local planning authority in the format set out in Guidance Note 1(e).

(C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables 1 and 2 attached to these condition, the wind turbine operator shall submit to the local planning authority for written approval proposed noise limits selected from those listed in Tables 1 and 2 to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from Tables 1 and 2 specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the local planning authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbine when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the local planning authority for the complainant's dwelling.

(D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind turbine operator shall submit to the local planning authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in Tables 1 and 2 attached to this condition or approved by the local planning authority pursuant to paragraph (C) of this condition shall be undertaken at the measurement location approved in writing by the local planning authority.

(E) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions, the wind turbine operator shall submit to the local planning authority for written approval a proposed assessment protocol setting out the following:

(i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions;

(ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component;

(iii) the proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the local planning authority under paragraph (B), and such others as the independent consultant considers

likely to result in a breach of the noise limits. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the local planning authority and the attached guidance notes.

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

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

(H) The wind turbine operator shall continuously log nacelle wind speed, nacelle orientation, power generation and nacelle wind direction for the turbine in accordance with this consent, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from the wind turbine shall be retained for a period of not less than 5 years. The wind turbine operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the local planning authority on its request within 14 days of receipt in writing of such a request.

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

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

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
	L_{A90} Decibel Levels									
Waldridge Manor (478143, 207301)	35	36	37	38	39	41	42	43	44	45
Aston Mullins (476940, 208146)	35	36	36	37	38	39	41	42	43	44
Lower Waldridge Farm (478172, 208022)	45	45	45	45	45	45	45	45	45	45

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

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
	L_{A90} Decibel Levels									
Waldridge Manor (478143, 207301)	43	43	43	43	43	43	43	43	43	43
Aston Mullins (476940, 208146)	43	43	43	43	43	43	43	43	43	43
Lower Waldridge Farm (478172, 208022)	45	45	45	45	45	45	45	45	45	45

Note to Tables 1 & 2: The geographical coordinates references set out in these tables are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies. The standardised wind speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

Guidance Notes for Noise Condition

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind turbine. The rating level at each integer wind speed is the arithmetic sum of the wind turbine noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind turbines” (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

(a) Values of the $L_{A90,10\text{-minute}}$ noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting IEC 60945:2003 "Electroacoustics – sound calibrators" Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the local planning authority, and placed outside the complainant's dwelling and be not more than 35 metres from it. Measurements should be made in "free field" conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind turbine operator shall submit for the written approval of the local planning authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The $L_{A90,10\text{-minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).

(d) To enable compliance with the conditions to be evaluated, the wind turbine operator shall continuously log arithmetic mean nacelle wind speed (duly corrected for the presence of the rotating blades) arithmetic mean nacelle orientation, nacelle wind direction and arithmetic mean power generated during each successive 10-minute periods for the wind turbine on the site. The hub height wind speeds recorded from the nacelle anemometers or as calculated from the power output of the turbine shall be supplemented by standardised ten metre height wind speed data calculated for each 10-minute period from those measured at hub height assuming a reference roughness length of 0.05 metres and using the equation given on page 120 of ETSU-R-97. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary. Standardised 10 metre height wind speed data shall be correlated with the noise

measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c).

(e) Data provided to the local planning authority in accordance with paragraphs (E) (F) (G) and (H) of the noise condition shall be provided in comma separated values in electronic format.

(f) A data logging rain gauge shall be installed within 3m of any sound level meter installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Note 2

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

(b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the local planning authority under paragraph (E) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).

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

Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (E) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.

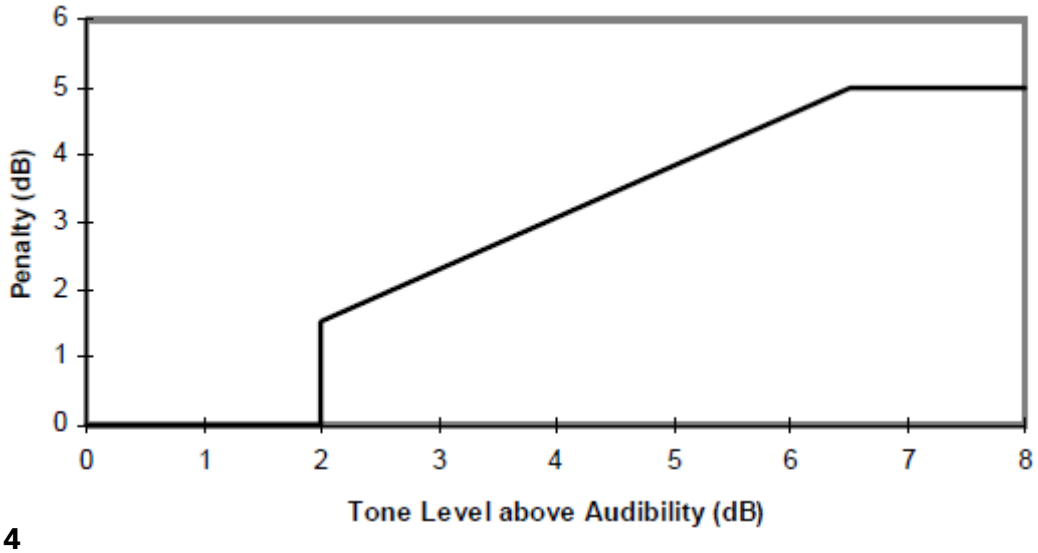
(b) For each 10-minute interval for which $L_{A90,10\text{-minute}}$ data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

(c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(e) A least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values 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 Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

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

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

(c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local planning authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then no further

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

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

i. Repeating the steps in Note 2, with the wind turbine switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (E) of this condition.

ii. The wind turbine noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with the turbine running but without the addition of any tonal penalty:

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

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

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

ANNEX B – APPEARANCES & DOCUMENTS

FOR THE APPELLANT

David Hardy, Partner in Eversheds LLP Solicitors.

He called:

Mr A Cook BA Hons, MLD, CMLI, CEnv, MIEMA.
Director Environmental, Pegasus Group.

Mr M Dawson FSA, MCIfA.
Director, CgMs Consulting,

Mr D Stewart MA (Cantab); DipTP; MRTPI.
David Stewart Associates.

FOR THE LOCAL PLANNING AUTHORITY

Mark Westmoreland Smith, of Counsel instructed by Aylesbury Vale District Council.

He called:

Mr J Bellars BA PgDipLA, PgDipUD, CMLI
Landscape Architect and Urban Designer, AVDC.

Mrs A Davies BA (Hons) Dip TP, MSc, IHBC, MRTPI.
Historic Buildings Advisor, AVDC.

Mr B Nicholson BA (Hons) MRTPI.
Area Team Leader, AVDC West Development Management Team.

FOR MR R VANBERGEN and FORD ACTION GROUP AGAINST TURBINES

John Litton QC, instructed by Susan Ring of Richard Buxton Solicitors.

He Called:

Ms M Bolger CMLI, Dip.LA, BA (Hons) LA, PGCE, BA (Hons) Eng.
Senior Associate, Gillespies Landscape Architects.

Mr R Lewis BA (Hons), MA (Arch Cons), MRTPI, IHBC.
Director, Grover Lewis Associates Limited.

Mr R Vanbergen MA (Eng) Cantab.

Mr J Constable: BA (Hons) Cantab, MA & PhD Cantab.
Director, Renewable Energy Foundation.

Mr S Hope: BA (Hons), MBA, FRICS.
Director of Savills.

INTERESTED PERSONS

Rt. Hon. John Bercow MP for Buckingham.
Mr C Bloxham.

Mr Soley.
Mrs M Hobden.
Mrs H Vane.
Mr S Gooch
Mr J Horn.
Mr M Trotman.
Mr Wild.
Mrs D Coole.
Mrs P Horn.
Mrs S Owen.
Mrs K Shaw.
Cllr. B Foster.
Cllr. J Brandis.
Mrs L Watkinson.
Ms E English.
Mr M Usherwood, Chairman, Dinton with Ford and Upton Parish Council.
Mr M Barlow.
Mr B Raybould.
Mr G Lachlan.
Mr M Moore.
Mr N Tidey.
Ms V Harvey.
Mr K Barry.
Mrs M Hope.
Mr A Cooper.
Mr J Whyte.
Mr M Blanch, Chair, Westmill Sustainable Energy Trust.

DOCUMENTS

DOCUMENT SUBMITTED BY THE APPELLANT

APP 1 - Opening Submissions.
APP 2 - Legal Submissions – Cultural Heritage.
APP 3 - Closing Submissions.
APP 4 - LPA Statement of Case -Written Representations Appeal.
APP 5 - Location plan of existing historic windmills.
APP 6 - Turbine Production Benchmarks at 5.05 m/s wind speed.
APP 7 - Turbine Production Benchmarks at 6.43 m/s wind speed.
APP 8 - Power Curve E-53 500 kW turbine.
APP 9 - Energy Yield Comparison 500 kW & 800 kW turbines.
APP 10 - NOABL Wind Map – RAF Benson.
APP 11 - NOABL Wind Map – Ford.
APP 12 - E-53 800 kW Turbine Specification & Power Curve.
APP 13 - Extract from Draft Princes Risborough Background Report.

APP 27 - List of Agreed Planning Conditions and Approved Condition Survey Plan.

Mr Cook (Landscape)

APP 14 - Summary Proof of Evidence.

APP 15 - Proof of Evidence.
APP 16 - Appendices 1 to 16.

Mr Dawson (Cultural Heritage)

APP 17 - Summary Proof of Evidence.
APP 18 - Proof of Evidence.
APP 19 - Appendix 1 – Supplementary Setting Assessment.
APP 20 - Appendix 2 – Assessment Methodology.

Mr Stewart (Planning)

APP 21 - Summary Proof of Evidence.
APP 22 - Proof of Evidence.
APP 23 - Appendices 1 to 6.

Mr Evenden (Noise)

APP 24 - Summary Proof of Evidence.
APP 25 - Proof of Evidence.
APP 26 - Appendices A to C.

DOCUMENTS SUBMITTED BY THE LOCAL PLANNING AUTHORITY

LPA 1 - Opening Submissions.
LPA 2 - Closing Submissions.

Mr Bellars (Landscape)

LPA 3 - Proof of Evidence & Appendices JB/1 to JB/3.

Mrs Davies (Cultural Heritage)

LPA 4 - Summary Proof of Evidence.
LPA 5 - Proof of Evidence.
LPA 6 - Appendices AD/1 & AD/2.

Mr Nicholson (Planning)

LPA 7 - Proof of Evidence & Appendix BN1.

DOCUMENTS SUBMITTED BY FORD ACTION GROUP AGAINST TURBINES & MR VANBERGEN.

AG 1 - Opening Submissions.
AG 2 - Closing Submissions.
AG 3 - Extract from Appellant's Statement of Case.

Ms Bolger (Landscape)

AG 4 - Summary Proof of Evidence.
AG 5 - Proof of Evidence & Errata Sheet.
AG 6 - Supplemental Proof of Evidence.

AG 7 - Appendix 1 – Figures 1 to 11.
AG 8 - Appendices 3 to 10.
AG 9 - Visual Representation of Wind Farms Update Dec 2014. SNH
AG 10 - Visual Representation of Wind Farms V2.1 Dec 2014 SNH.
AG 11 - Visual Representation of Wind Farms Training Day, October 2014.
AG 12 - Plan D Landscape Character – Jacobs.
AG 13 - Proposed line of HS2 – South of Aylesbury.
AG 14 - LVIA Review for Ford Action Group, October 2012.
AG 15 - Chilterns Conservation Board – Position Statement –Renewable Energy Adopted Version January 2014 (Rev 1).

Mr Lewis (Cultural Heritage)

AG 16 - Summary Proof of Evidence.
AG 17 - Proof of Evidence.
AG 18 - Supplemental Proof of Evidence.
AG 19 - Appendices A to G.

Dr Constable (Renewable Energy Benefits)

AG 20 - Proof of Evidence & Appendices 1 to 4.

M*r Hope (Equine Impacts)*

AG 21 - Proof of Evidence & Appendices 1 to 3.
AG 22 - Additional Appendices 1 to 4.

Mr Baskerville (Equine Impacts)

AG 23 - Proof of Evidence.

Mr Vanbergen

VB 1 - Speaking Notes.
VB 2 - Extract from NOABL Website – Windspeed Database Information Sheet.
VB 3 - Proof of Evidence.
VB 4 - Appendices 1 to 35.
VB 5 - Visual Assessment of Windfarms – Best Practice University of Newcastle (2002).
VB 6 - Landscape Advice Note 01/11.
VB 7 - The Effect of Focal length on Perception of Scale & Depth in Landscape Photographs. University of Sterling May 2012.
VB 8 - Visualisation Standards for Wind Energy Developments (2013) The Highland Council.
VB 9 - Visual representation of Wind Farms – Consultation Draft Scottish Natural Heritage may 2013.
VB 10 - Computer CD – Animations of 8 Viewpoints.
VB 11 - Visualisations 1 to 6.
VB 12 - Acetate Copies of Visualisations 1.2B; 2B; 3.1B; 3.2B & 5B.

DOCUMENTS SUBMITTED BY INTERESTED PERSONS

IP 1 - Mr P Hockenhull, Shade Oak Stud.
IP 2 - Mr Bushby.

IP 3 - Mr C Bloxham.
IP 4 - Mr Soley.
IP 5 - Mrs M Hobden.
IP 6 - Mrs H Vane.
IP 7 - Mr S Gooch
IP 8 - Mr J Horn.
IP 9 - Mr M Trotman.
IP 10 - Mr Wild.
IP 11 - Mrs D Coole.
IP 12 - Mrs P Horn.
IP 13 - Mrs S Owen.
IP 14 - Mrs K Shaw.
IP 15 - Cllr. B Foster.
IP 16 - Cllr. J Brandis.
IP 17 - Mrs L Watkinson.
IP 18 - Mr M Usherwood, Chairman, Dinton with Ford & Upton PC.
IP 19 - Mr M Barlow.
IP 20 - Mr B Raybould.
IP 21 - Mr G Lachlan.
IP 22 - Mr M Moore.
IP 23 - Mr N Tidey.
IP 24 - Ms V Harvey.
IP 25 - Mr K Barry.
IP 26 - Mrs M Hope.
IP 27 - Mr A Cooper.
IP 28 - Mr M Blanch, Chair, Westmill Sustainable Energy Trust.
IP 29 - Ms English.

CORE DOCUMENTS

1 Adopted Development Plan Policies

1.1 Saved Policies of the Aylesbury Vale District Council Local Plan (January 2004) and Saved Policies Direction

2 Emerging Local Development Framework Policies

2.1 Policy VS12 of the emerging Vale of Aylesbury Plan Strategy

3 National Planning and Energy Policy

3.1 DCLG: National Planning Policy Framework (March 2012)
3.2 Overarching National Policy Statement for Energy EN-1 (July 2011)
3.3 National Policy Statement for Renewable Energy Infrastructure EN-3 (July 2011)
3.4 Written Ministerial Statements relating to Local Planning and Onshore Wind issued by the Department of Energy and Climate Change and the Department for Communities and Local Government on 6 June 2013
3.5 National Planning Practice Guidance (online resource) (6 March 2014) (Extracts) http://planningguidance.planningportal.gov.uk/ [printed 5 November 2014]
3.6 Written Ministerial Statement relating to Local Planning and Renewable Energy Developments issued by the Department for Communities and Local Government on 9 April 2014

4 Other Local Planning Authority Documents

4.1 Guidance Note on Planning Applications for Wind Energy Developments (March 2013)
4.2 Conservation Areas Supplementary Planning Document (4 March 2011)

5 Regional Spatial Strategy and Evidence Base Documents

5.1 Government Office for the South East: Development of a Renewable Energy Assessment and Targets for the South East (2001)
5.2 South East of England Regional Assembly & AEAT/FPD Savills: Regional and Sub-regional Assessment to 2010, 2016 and 2026 (2002)
5.3 Savills and Future Energy Solutions for the South East of England Regional Assembly: The Evidence Base for Sustainable Energy Policies in the South East (September 2006)
5.4 Land Use Consultants and TV Energy: Review of Renewable and Decentralised Energy Potential in South-East England (June 2010)
5.5 The Regional Strategy for the South East (Partial Revocation) Order 2013

6 Planning, Renewable Energy and Climate Change Documents

6.1 DTI Energy White Paper "Meeting the Energy Challenge" (2007) (Extracts)
6.2 DECC: The UK Renewable Energy Strategy (2009)
6.3 DECC: UK Renewable Energy Roadmap (July 2011)
6.4 DECC: UK Renewable Energy Roadmap Update (December 2012)
6.5 DECC: UK Renewable Energy Roadmap Update (November 2013)
6.6 DECC: Annual Energy Statement (2011) [available electronically]
6.7 DECC: Annual Energy Statement (November 2012)
6.8 Annual Energy Statement – Oral Statement by Edward Davey (29/11/2012)
6.9 DECC: Annual Energy Statement (2013)
6.10 The Energy Act 2008 [available electronically]
6.11 The Climate Change Act 2008 [available electronically]
6.12 The Energy Act 2011 [available electronically]
6.13 Natural England: Sustainable Energy Policy (2008) [available electronically]
6.14 Natural England: Climate Change Policy (2008) [available electronically]
6.15 Natural England: Position on Wind Energy (2009)
6.16 Natural England: Making Space for Renewable Energy (2010)
6.17 DECC: The UK Low Carbon Transition Plan White Paper (July 2009) (Executive Summary) [available electronically]
6.18 The Coalition Government: Our Programme for Government (2010) [available electronically]
6.19 Letter to Lord Turner re: "Increasing the Target for Energy from Renewable Sources" dated 29 July 2010 and Letter to Rt Hon Chris Huhne "The Level of Renewable Energy Ambition to 2020" dated 9 September 2010 [available electronically]
6.20 Committee on Climate Change: Renewable Energy Review (May 2011)
6.21 DECC: White Paper – Planning our Electric Future – a White Paper for Secure, Affordable and Low Carbon Electricity (July 2011) (Extracts) [available electronically]
6.22 National Infrastructure Plan (November 2011) [available electronically]
6.23 The Carbon Plan: Delivering our Low Carbon Future (December 2011) [available electronically]
6.24 DECC: Onshore Wind, Direct and Wider Economic Impacts (May 2012)
6.25 DECC: Special Feature – Renewable Energy in 2011 (June 2012) [available electronically]

6.26 DECC: Special Feature – Sub-national renewable electricity, renewable electricity in Scotland, Wales, Northern Ireland and the regions of England in 2011 (September 2012)
6.27 DECC: Electricity Market Reform: Policy Overview (November 2012) [available electronically]
6.28 DECC: Press Notice 'Government Agreement on Energy Policy sends clear, durable signal to investors' (November 2012) [available electronically]
6.29 Committee on Climate Change: Next Steps on Electricity Market Reform – securing the benefits of low carbon investment (May 2013) [available electronically]
6.30 DECC: Energy Trends (June 2013) [available electronically]
6.31 DECC: Onshore Wind Call for Evidence: Government Response to Part A (Community Engagement and benefits) and Part B (Costs) (June 2013)
6.32 DECC: Digest of UK Energy Statistics (DUKES) (July 2013) (Extracts)
6.33 The Energy Act 2013 [available electronically]
6.34 Intentionally Left Blank
6.35 DECC: National Renewable Energy Action Plan (2009)
6.36 DECC: Sub-national Energy Consumption 2005 – 2011
6.37 Ofgem: Electricity Capacity Assessment Report (2013)
6.38 Renewable Energy Foundation Database: Renewables Obligations Generators
6.39 DEFRA: Statistics on the UK's total carbon emissions and UK's Carbon Footprint 1993 – 2010 (December 2012)
6.40 REF's Information Note REPD Analysis (5 May 2014)
6.41 A Government response on Competitive Allocation (13 May 2014)
6.42 NAO the Levy Control Framework (27 November 2013)
6.43 Statutory Instrument 2011 No. 243
6.44 Hansard Column 229 (31 October 2012)
6.45 National Infrastructure Plan (December 2013) [available electronically]
6.46 Renewable Energy Directive 2009/28/EC (2009) [available electronically]
6.47 European Commission 2030 Framework for Climate Change (2014) [available electronically]
6.48 Committee on Climate Change: How Local Authorities can Reduce Emissions and Manage Climate Change (May 2012) (Extracts) [available electronically]
6.49 Committee on Climate Change: Meeting Carbon Budgets 2013 Progress Report to Parliament (June 2013) [available electronically]
6.50 HM Government: Government Response to the Fifth Annual Progress Report of the Committee on Climate Change (October 2013) [available electronically]
6.51 European Commission Press Release '2030 Climate and Energy Goals for a Competitive, Secure and Low-carbon EU Economy' (22 January 2014) [available electronically]
6.52 Statement by President Barroso (of the EC) on the EU 2030 Energy and Climate Change Framework (January 2014) [available electronically]
6.53 DECC: Digest of UK Energy Statistics (DUKES) (July 2014) (Extracts)
6.54 IPCC Fifth Assessment Report (April 2014)

7 High Court and Court of Appeal Decisions

7.1 South Northamptonshire Council & Ors v Secretary of State for Communities and Local Government [2013] EWHC 11 (Admin)
7.2 R (Hulme) v Secretary of State for Communities and Local Government [2010] EWHC 2386 (Admin)
7.3 Michael William Hulme v Secretary of State for Communities and Local Government and RES Developments Limited [2011] EWCA Civ 638
7.4 R (Lee) v Secretary of State for Communities and Local Government, Maldon District Council, Npower Renewables [2011] EWHC 807 (Admin)

7.5 Bedford Borough Council v Secretary of State for Communities and Local Government, Nuon UK Ltd [2012] EWHC 4344 (Admin)
7.6 (1) East Northamptonshire District Council (2) English Heritage (3) National Trust v (1) Secretary of State for Communities and Local Government (2) Barnwell Manor Wind Energy Limited [2013] EWHC 473 (Admin)
7.7 Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council, English Heritage, the National Trust and the Secretary of State for Communities and Local Government [2014] EWCA Civ 137
7.8 R (Holder) v Gedling Borough Council [2014] EWCA Civ 599
7.9 (1) Derbyshire Dales District Council (2) Peak District National Park Authority v (1) Secretary of State for Communities and Local Government (2) Carsington Wind Energy Limited [2009] EWHC 1729 (Admin)
7.10 R (The Forge Field Society & Ors) v Sevenoaks District Council [2014] EWHC 1895 (Admin)

8 Appeal Decisions

8.1 Quarrendon (APP/J0405/A/11/2155043)
8.2 Thacker Bank (APP/D2510/A/12/2176754)
8.3 Chelveston (APP/K0235/A/11/2160077)
8.4 Thackson's Well (APP/E2530/A/08/2073384)
8.5 Cleek Hall (APP/N2739/A/12/2172629)
8.6 Silton (APP/N1215/A/11/2160839)
8.7 East Youlstone (APP/ W1145/A/12/2167981)
8.8 Spaldington (APP/E2001/A/10/2137617)
8.9 Crook Hill (APP/P4225/A/08/2065277)
8.10 Warren Farm (APP/Q3305/A/12/2181741)
8.11 Land west of Enifer Downs Farm (APP/X2220/A/08/2071880)
8.12 Higher Overton Farm, Overton Road (APP/B3438/A/11/2167511)
8.13 Neswick Farm, Neswick, Driffield (APP/E2001/A/12/2170710)
8.14 Wormslade Farm, Kelmarsh (APP/Y2810/A/13/2200118)
8.15 Sydeham Farm, Devon (APP/X1118/A/12/2189089)
8.16 Land north-west of Lower Causeway Side Farm, Long Causeway, Burnley (APP/Z2315/A/13/2190228)
8.17 High House Farm, Helsington, Kendal (APP/M0933/A/12/2187511)
8.18 Land at Ingarsby Old Hall, Ingarsby Road, Keyham (APP/F2415/A/11/2166964)
8.19 Land adjacent to Poolway Farm, Gloucester Road, Coleford (APP/P1615/A/12/2184035)
8.20 Sutton St Edmund, known as Treading (APP/D0515/A/12/2181777 and APP/A2525/A/12/2184954)
8.21 Land between Bozeat, Lavendon and Harrold known as Nun Wood (Appeal A: APP/Y0435/A/10/2140401)
8.22 Land at New House Farm, Brineton, Shifnal (APP/C3430/A/11/2162189)
8.23 Crabbes Farm, Silverlace Green, Parham, Suffolk (APP/J3530/A/12/2171681)
8.24 Dawes Lane, Scunthorpe (APP/Y2003/A/12/2169774)
8.25 Truthan Barton Farm, Truro, Cornwall (APP/D0840/A/11/2163691)
8.26 Standle Farm, Stinchcombe (APP/C1625/11/2155923)
8.27 Asfordby, Welby Road, Melton (APP/Y2430/A/13/2191290)
8.28 Lane Head Farm, Wigton (APP/G0908/A/13/2191503)
8.29 Thornholme Fields, Burton Agnes (APP/E/2001/A/13/2190363)
8.30 Treswarrow Park Farm, Port Isaac (APP/D0840/A/13/2190707)
8.31 St Eval, Cornwall (APP/D0840/A/13/2204465)
8.32 Spreyton, Devon (APP/Q1153/A/13/2195838)
8.33 Bicton, Cambridgeshire (APP/H0520/A/11/2146394)
8.34 Benington, Hertfordshire (APP/J1915/A/12/2175064)
8.35 Burntwood Sewage Treatment Plant (APP/K3415/A/11/2162338)

8.36 Land south-west of Hals Grave, Cornwall (APP/D0840/A/12/2177957)
8.37 Hulands Quarry, Barnard Castle (APP/X1355/A/13/2195457)
8.38 Land North of Woodford Farm, Devon (APP/Y1138/A/12/2177072)
8.39 Turncole Farm (APP/X1545/A/12/2174982, APP/X1545/A/2179484 and APP/X1545/A/2179225)
8.40 Carsington Pastures (APP/P1045/A/07/2054080)
8.41 Alvington Court Farm (APP/P1615/A/13/2204221)
8.42 Newlands Farm (APP/E0915/A/09/2101659) and (APP/E0915/A/09/2101667)
8.43 Fen Lane, Louth Canal (APP/D2510/A/13/2200887)
8.44 Land north of Goveton, Sandy Lane End (APP/K1128/A/08/2072150)
8.45 Fursdon Farm (APP/D0840/A/12/2189476)
8.46 Land South of Verney (APP/J0405/A/13/2205858)
8.47 Orchard Way, Hill Farm (APP/Y0435/A/12/2186522)
8.48 Parkhead Farm (APP/G0908/A/08/2073524)
8.49 Church Farm, Hacheston (APP/J3530/A/13/2193911)
8.50 East Heslerton (APP/Y2736/A/13/2201109)
8.51 East Moneylaws Farm (APP/P2935/A/13/2193153)
8.52 Pilrow Farm, Somerset (APP/V3310/A/13/2197449)
8.53 Bishops Itchington, Gaydon and Knightcote (APP/J3720/A/13/2193579)
8.54 Holme-on-Spalding-Moor (APP/E2001/A/13/2207817)
8.55 Hempnall, South Norfolk (APP/L2630/A/13/2207755)
8.56 Long Furlong, Daventry (APP/Y2810/A/13/2203312)
8.57 Brackenhurst College, Southwell (APP/B3030/A/13/2208417)
8.58 Bythorn and Molesworth (APP/H0520/A/13/2197548)
8.59 Shepham (APP/C1435/A/13/2208526)
8.60 Dorcas Lane (APP/J0405/A/13/2205701)

9 Landscape Documents

9.1 The Landscape Institute, Institute of Environmental Management and Assessment: Guidelines for Landscape and Visual Impact Assessment, Second Edition (2002)
9.2 The Landscape Institute, Institute of Environmental Management and Assessment: Guidelines for Landscape and Visual Impact Assessment, Third Edition (2013)
9.3 Landscape Institute: Landscape Architecture and the Challenge of Climate Change (October 2008)
9.4 Scottish Natural Heritage and Countryside Agency: Landscape Character Assessment Series: Topic Paper 9 Climate Change and Natural Forces – the Consequences for Landscape Character (2003)
9.5 Scottish Natural Heritage: Siting and Designing Windfarms in the Landscape, Version 1 (December 2009)
9.6 Scottish Natural Heritage: Guidance Assessing the Cumulative Impact of Onshore Wind Energy Developments (March 2012)
9.7 The Countryside Agency: Landscape Character Assessment: Guidance for England and Scotland (2002)
9.8 CPRE: Tranquillity Map
9.9 Stephenson Halliday: Aylesbury Vale Wind Turbine Development Landscape Capacity Report (June 2012)
9.10 British Horse Society: Advice on Turbines (January 2013)
9.11 British Horse Society: Advice on Wind Turbines and Horses – Guidance for Planners and Developments (October 2013)
9.12 Chilterns Conservation Board: Chilterns AONB Management Plan 2008–2013
9.13 Chilterns Conservation Board: Draft Renewable Energy Position Statement (November 2013)
9.14 Aylesbury Vale Landscape Character Assessment (May 2008)

9.15 Wycombe District Landscape Character Assessment (October 2011)
9.16 Chilterns Conservation Board: Development affecting the setting of the Chilterns AONB
9.17 Scottish Natural Heritage: Siting and Designing Windfarms in the Landscape, Version 2 (May 2014)
9.18 Natural England: Future Landscapes – draft policy for consultation (2009)
9.19 Natural England: All Landscapes Matter (2010)
9.20 Chilterns Conservation Board: Chilterns AONB Management Plan 2014 – 2019
9.21 British Horse Society: Advice on Wind Turbines and Horses – Guidance for Planners and Developments (July 2014)
9.22 Aylesbury Vale Landscape and Visual Impact Assessment Guidance Notes
9.23 Natural England National Character Area Profile 110: Chilterns
9.24 Natural England National Character Area Profile 108: Upper Thames Clay Vales
9.25 Scottish British Horse Society Wind Farm Advice Note
9.26 E-mail exchange between RWE and British Horse Society
9.27 Plan showing the location of Windmills in Aylesbury

10 Visual Representation Documents

10.1 The Highland Council: Visualisation Standards for Wind Energy Developments (Update 2013)
10.2 Landscape Institute: Photography and Photomontage in Landscape and Visual Impact Assessment Advice Note 01/11
10.3 Scottish Natural Heritage: Visual Representation of Wind Farms – Good Practice Guidance (2006)
10.4 Scottish Natural Heritage: Visual Representation of Wind Farms – Version 2 (July 2014)
10.5 University of Newcastle for Scottish Natural Heritage: Visual Assessment of Wind Farms – Best Practice (2002)
10.6 Intentionally Left Blank
10.7 Scottish Natural Heritage: Guidelines on the Environmental Impacts of Windfarms and Small Scale Hydro Schemes (2001)
10.8 University of Stirling (Hunter P.D. & Livingstone D.F.): The Effect of focal length on perceptions of scale and depth in landscape photographs – Implications for visualisation standards for wind energy developments – Final Report to The Highland Council (2012) [available electronically]

11 Cultural Heritage Documents

11.1 English Heritage: The Setting of Heritage Assets (2011)
11.2 English Heritage: Conservation Principles (2008)
11.3 English Heritage: Wind Energy and the Historic Environment (2005)
11.4 Dinton, Westlington, Upton and Gibraltar Conservation Areas Appraisal (March 2008)
11.5 Aston Sandford Conservation Area Document (July 2012)
11.6 Waldridge Manor Listed Building Description
11.7 PPS5: Historic Environment Planning Practice Guide (March 2010)
11.8 English Heritage: Climate Change and the Historic Environment (January 2008)
11.9 English Heritage: Seeing the History in the View (May 2011)
11.10 Planning (Listed Buildings and Conservation Areas) Act 1990 [available electronically]
11.11 English Heritage: Historic Environment Good Practice Advice Notes 1 – 3 Consultation Drafts (11 July 2014)
11.12 St Michaels Church Listed Building Description
11.13 Dinton Hall Listed Building Description
11.14 Parish Church of St Peter and St Paul Listed Building Description

11.15 English Heritage Consultation Response dated 12 September 2014

12 Noise Documents

12.1 ETSU-R-97: The Assessment and Rating of Noise from Wind Turbines (September 1996)
12.2 Institute of Acoustics: A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise (May 2013)
12.3 Noise Policy Statement for England
12.4 ISO 9613-2: Acoustics – Attenuation of Sound During Propagation Outdoors, Part 2: General Method of Calculation (1996)
12.5 Institute of Acoustics: Acoustics Bulletin Vol 34 No. 2 – Prediction and Assessment of Wind Turbine Noise

13 Planning Application and Appeal Documents

13.1 Planning Application and Supporting Documents [provided in the Appeal Bundle and available electronically]
13.2 Planning Committee Report
13.3 Decision Notice dated 17 January 2013
13.4 Appellant Statement of Case
13.5 Council Statement of Case
13.6 Combined Rule 6 Party Statement of Case
13.7 Statement of Common Ground

14 Local Documents

14.1 Ford Past, Present and Future

Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;
The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.