



Department for
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Our Ref: APP/D0840/A/12/2186603
Your Ref: 37791200001

10 December 2014

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY MR & MRS S ANDREWS
AT SOUTH TORFREY FARM, GOLANT, FOWEY, CORNWALL, PL23 1LA
APPLICATION REF: PA11/10500**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Neil Pope BA(Hons) MRTPI, who held a hearing on 19 and 20 August 2014 into your clients' appeal against a decision of Cornwall Council to refuse planning permission for the erection of two number 20kW wind turbines on 15m masts to generate electricity for farm complex and connection to National Grid at South Torfrey Farm, Golant, Fowey, Cornwall PL23 1LA in accordance with application number PA11/10500, dated 12 December 2011.
2. On 11 April 2014, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990 because it involves a renewable energy development.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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Procedural Matters

4. The decision dated 10 July 2013 by Inspector Anthony Thickett, BTP MRTPI Dip RSA was quashed by order of the High Court dated 25 February 2014. The Secretary of State has not had regard to that decision in his determination of this appeal.
5. Inspector Thickett's decision dated 10 July 2013 on an application for costs from Mr R Cooper was not challenged in the Courts and that decision stands.

Policy considerations

6. In deciding the application, 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.
7. In this case, the development plan comprises the saved policies of the Restormel Local Plan, adopted in 2001. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR15. The Secretary of State shares the Inspector's view (IR93) that, whilst LP policies 6,10 and 13 are broadly consistent with the Framework, there is some tension between LP policies 25 and 33 and the Framework.
8. The Secretary of State has had regard to the Inspector's remarks at IR16-18 and IR94 about the emerging Cornwall Local Plan, to which the inspector attributed limited weight (IR94). Whilst he is aware that the emerging Plan has progressed since the hearing, he observes that it has yet to be submitted to the Secretary of State and he does not consider that the weight to be afforded to it is significantly greater than at the time of the inquiry.
9. Other material considerations which the Secretary of State has taken into account include the documents to which the Inspector refers at IR19-26 and he sees no reason to disagree with the weightings attributed by the Inspector at IR95-99.
10. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has paid special regard to the desirability of preserving those listed structures potentially affected by the scheme or their settings or any features of special architectural or historic interest which they may possess.

Main issue

11. The Secretary of State considers that the main issue in this case is that identified by the Inspector at IR100.

Benefits

12. For the reasons given by the Inspector at IR101, the Secretary of State agrees with him that the environmental and economic benefits of the scheme carry

substantial weight and that the development accords with the thrust of emerging LP policy 2.

Character and Appearance

13. Having given careful consideration to the Inspector's analysis at IR102 – 107, the Secretary of State sees no reason to disagree with his view that these two wind turbines detract from the scenic qualities and natural beauty of the Area of Outstanding Natural Beauty (AONB), that the development is at odds with the landscape strategy and siting guidance in the ALS and that it conflicts with the provisions of LP policies 6 and 13, emerging LP policy 15 and CMP policy CCE1 (IR107). He too considers that this harm to a nationally important landscape and the conflict with the development plan weighs against granting planning permission (IR107).

Setting of Heritage Assets

14. The Secretary of State has had regard to the Inspector's remarks (IR108 – 115) about four heritage assets. For the reasons given by the Inspector (IR109-110), the Secretary of State concurs with his view that the appeal turbines disrupt the tranquillity of the rural scene/setting of the Grade I listed Church of St Sampson and the contribution this makes to the significance of this heritage asset (IR110). Turning to the Grade II listed Lanherriot Farmhouse, the Secretary of State agrees with the Inspector that the turbines would cause limited harm to the listed building and its setting (IR113). Like the Inspector (IR115), the Secretary of State considers that the harm to the setting of the Church and to the setting of the Farmhouse conflicts with the provisions of LP policy 33, emerging LP policy 24 and policy GP10.8 of the CMP. For the reasons given by the Inspector, the Secretary of State also shares his view that the turbines conflict with the provisions of LP policy 25 in respect of the Castle Dore Scheduled Ancient Monument (IR111). Like the Inspector (IR110, IR111 and IR113), the Secretary of State considers that, in the context of the Framework, the harm to each of these three heritage assets is less than substantial. The Secretary of State sees no reason to disagree with the Inspector's analysis or with his conclusion that the appeal scheme does not harm the setting or the significance of the registered site of the Battle of Lostwithiel (IR112).

Conditions

15. The Secretary of State has had regard to the Inspector's comments at IR117-119, the schedule of proposed conditions at page 22 of the IR, national policy at paragraphs 203 and 206 of the Framework and the Guidance. Whilst he considers that the proposed conditions comply with national policy, the Secretary of State does not consider that conditions could overcome his reasons for dismissing this appeal.

Overall Conclusions

16. The Secretary of State has given substantial weight to the benefits of this development. However, he has also found that the scheme harms the scenic qualities and natural beauty of the AONB and, as indicated at paragraph 15 of

the Framework, he gives great weight to conserving the landscape and scenic beauty of the AONB. The Secretary of State has concluded that the scheme harms the settings of a Grade I and a Grade II listed building and also causes harm to a Scheduled Ancient Monument. He gives considerable importance and weight to the desirability of preserving the historic assets.

17. Like the Inspector (IR122), the Secretary of State recognises that the development would be reversible and the harm limited to a 25 year period. However, he does not consider that the benefits in this case outweigh the totality of the harm and he considers that the scheme is in conflict with LP policy 10 and emerging LP policy 16. In addition, he shares the Inspector's view (IR122) that the harmful impacts of the scheme are at odds with the environmental dimension to sustainable development as set out in the Framework.
18. Overall, the Secretary of State concludes that the appeal is not in accordance with the development plan and that there are no material considerations of sufficient weight to justify him determining the appeal other than in accordance with the development plan.

Formal Decision

19. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your clients' appeal and refuses planning permission for the erection of two number 20kW wind turbines on 15m masts to generate electricity for farm complex and connection to National Grid at South Torfrey Farm, Golant, Fowey, Cornwall, PL23 1LA in accordance with application number PA11/10500, dated 12 December 2011.

Right to challenge the decision

20. 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.
21. A copy of this letter has been sent to Cornwall Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Christine Symes

Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Neil Pope BA (Hons) MRTPI

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

Date: 3 November 2014

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

CORNWALL COUNCIL

APPEAL BY Mr and Mrs S ANDREWS

Hearing held on 19 and 20 August 2014. Site visits undertaken on 18, 19 and 20 August 2014

South Torfrey Farm, Golant, Fowey, Cornwall, PL23 1LA.

File Ref: APP/D0840/A/12/2186603

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South Torfrey Farm, Golant, Fowey, Cornwall, PL23 1LA.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr and Mrs S Andrews against the decision of Cornwall Council.
- The application Ref. PA11/10500, dated 12/12/11, was refused by notice dated 4/5/12.
- The development proposed is the erection of two number 20kW wind turbines on 15m masts to generate electricity for farm complex and connection to National Grid.
- The decision dated 10 July 2013 by the Inspector appointed by the Secretary of State to determine the appeal was quashed by order of the High Court dated 25 February 2014.

Summary of Recommendation: that the appeal be dismissed.

Procedural Matters

1. The Council's decision notice includes reference to policies within the Cornwall Structure Plan 2004. This Plan was revoked in May 2013 by The Regional Strategy for the South West (Revocation) Order 2013 (SI 2013 No. 935).
2. On 22 March 2013, a Screening Direction, under Regulation 12 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (SI 2011/1824) was issued by the Planning Inspectorate on behalf of the Secretary of State. This stated that the development was not EIA development.
3. On 15 July 2013, the site of the Battle of Lostwithiel was added to the Register of Historic Battlefields.
4. The previous Inspector refused an application for an award of costs by Mr R Cooper against Cornwall Council. That decision was not challenged.
5. The development was undertaken between 24 and 27 February 2014.
6. My accompanied site visit on 20 August 2014 included a boat trip along the River Fowey, a visit to Lanherriot Farm and a visit to the appeal site. I also viewed the appeal site from Henwood on the opposite side of the River Fowey. During my unaccompanied visits I viewed the site from Castle Dore.

The Site and Surroundings

7. The appeal site comprises part of two arable fields on the appellants 40.5 ha (100 acre) organic farm. (This farm enterprise also includes five holiday lets for the disabled.) It lies approximately 500m south west of the village of Golant and is about 2.2km north of Fowey. The site forms part of the South Coast –Eastern Section of the Cornwall Area of Outstanding Natural Beauty (AONB) and is about 1.7km-1.9km north of the boundary of the Heritage Coast. (*Document 3 shows the northern boundary of the Heritage Coast.*)
8. The site is on the south west facing side of a spur of high ground (approximately 112m AOD) above the steep sided valley of the River Fowey. It lies within National Character Area (NCA) 152 'Cornish Killas'. The site is also within Local Landscape Character Area (LCA) 39 'St. Austell Bay and Luxulyan Valley', as defined in the Cornwall and Isles of Scilly Landscape Character Study 2007 (LCS). Adjacent to LCA 39 is the 'Fowey Valley' LCA (No.21). (*Document 7 is a plan showing the boundaries of these two LCAs in the vicinity of the appeal site.*)

9. LCA39 is a wedge-shaped section of high plateau land lying west of the Fowey ria. The key landscape characteristics include: strongly undulating pasture farming plateau inland with small fields with trees and small woods and; linear woodland along streams. The field and woodland pattern comprises a medieval landscape of Anciently Enclosed Land almost throughout, with an irregular pattern of fields bounded with Cornish hedges and trees.
10. LCA21 comprises the River Fowey, its tributaries and the Fowey ria. Its key landscape characteristics include a series of steep river valleys flowing south into the River Fowey and a large sheltered deep-water harbour with much water-based recreational activity and commercial shipping. (*Appendix 1 of the Council's Statement includes detailed descriptions of LCA21 and LCA39.*)
11. The countryside surrounding the appeal site is bisected by a number of roads and public rights of way. This includes a section of the Saints' Way (a 43km footpath between Padstow and Fowey) which, at its closest, is about 400m from the site.
12. The Grade I listed Church of St. Sampson is about 850m to the north of the site. Castle Dore Scheduled Ancient Monument (SAM) and the site of the Battle of Lostwithiel (1644) are about 1.4km to the east. The Grade II listed Lanherriot Farmhouse is about 550m to the south west and the Grade II* listed Castle Dore Stone and Tristan Stone SAM are approximately 2.2km to the south west. The Grade I listed church of St. Winnow and the Grade I listed church of St. Ciricus and Julitta are about 3km and 2.5km respectively to the north and east of the site. (*Document 1 is the List Entries for these designated heritage assets.*)
13. The appeal site lies to the south of the site of a former water pump/wind vane. This was removed by the previous owners. There are no details on the height of this pump/wind vane or the date it was removed. (*The Ordnance Survey Location Plan that forms part of Appendix 4 of the CEC Landscape and Visual Impact Assessment on behalf of Mr Cooper shows the location of this pump.*)
14. From Castle Dore the views across the landscape include some distant wind turbines and telecommunication masts. The B3269 is adjacent to Castle Dore.

Planning Policy and Other Documents

15. The development plan includes the 'saved' policies of the Restormel Local Plan (LP) which were adopted in 2001. Policy 6 sets out general development and design principles for new development. This includes a requirement for development to not protrude above prominent ridges or skylines. Policy 10 relates to energy supply. Amongst other things this requires the benefits of renewable energy schemes to be taken into account. This is a permissive policy unless demonstrable harm would be caused to the AONB or features of heritage importance. Policy 13 is aimed at preserving and enhancing the natural beauty of the AONB. Under policy 25 development is not permitted if it would harm the setting of a SAM. Policy 33 provides that development which conflicts with the preservation or enhancement of listed buildings or their settings will not be permitted. (*Copies of these policies form part of the Council's Appeal Questionnaire.*)
16. In March 2013 the Council published the pre-submission Cornwall Local Plan Strategic Policies 2010-2030 (emerging LP). This was open to public consultation until 22 April 2013.

17. Policy 1 of the emerging LP provides a presumption in favour of sustainable development and policy 2 includes a requirement to deliver renewable and low carbon energies. Whilst policy 15 aims to increase the use and production of renewable and low carbon energy, in AONBs developments are not allowed except in exceptional circumstances and should generally be very small scale in order to conserve the natural beauty of these areas. Policy 16 is aimed at safeguarding renewable energy and policy 24 is aimed at protecting the historic environment. *(Copies of these policies are attached to the Council's additional Statement which was submitted following the High Court challenge to the previous Inspector's decision.)*
18. In January 2014 the Council resolved to amend the emerging LP and undertake further consultation. This will include consultation in respect of an additional policy 'Appendix 2' which, amongst other things, aims to protect the countryside for its own sake. *(Document 5.)* The Council intends submitting the emerging LP to the Secretary of State in October 2014.
19. In 2011 the Council adopted the Cornwall AONB Management Plan 2011-2016 (CMP). This sets out the vision for the AONB up to 2016, including tackling climate change. Policy CCE1 aims to promote and encourage appropriate renewable energy technologies of a scale and design which are able to be accommodated within the AONB. Section 10 of the CMP describes the significance of the South Coast Eastern part of the AONB, which includes the River Fowey. Policy GP10.8 aims to support the cultural heritage around Fowey. *(Appendix 5 of the Council's Statement comprises extracts from this Plan.)*
20. In 2011 the Council published 'Green Cornwall Our Strategy for a Greener, Sustainable, Low Carbon Cornwall 2011-2020 (biannual review)'. Amongst other things, this aims to promote the use of renewable energy, including supporting the increase in renewable energy production to meet and exceed the national 15% target of generation by 2020. *(Extracts from this document are attached to the Council's additional Statement).*
21. In 2011 the Council published the report 'An Assessment of the Landscape Sensitivity to On-shore Wind Energy & Large-Scale Photovoltaic Development in Cornwall' (ALS). This report forms part of the evidence base to the emerging LP. Amongst other things, the ALS categories wind turbine heights (turbines up to 25m to tip are categorised as "very small turbines") and sets out a Landscape Strategy and Siting Guidance for each of the LCAs. Within LCA39 and the AONB the Strategy is for a landscape without wind energy development except for occasional very small scale single turbines linked to existing buildings. The Siting Guidance for this LCA includes protecting factors which contribute to the scenic quality of the AONB, such as the views across the Fowey Estuary, ensuring wind energy developments do not prevent the understanding or appreciation of visible historic landmarks on the skyline, such as Castle Dore, and considering views from local viewpoints and popular routes such as Saints' Way. *(Extracts from the ALS are attached as Appendix 6 to the Council's Statement.)*
22. The National Planning Policy Framework ('the Framework') sets out the Government's planning policies. It identifies that the purpose of the planning system is to contribute to the achievement of sustainable development. The core principles of 'the Framework' include: encouraging the use of renewable resources such as the development of renewable energy; conserving and

enhancing the natural environment and; conserving heritage assets in a manner appropriate to their significance.

23. In determining planning applications for wind energy development, Footnote 17 of 'the Framework' states that planning authorities should follow the approach set out in the National Policy Statement for Renewable Energy Infrastructure (EN-3), which should be read with the relevant sections of the Overarching National Policy Statement for Energy (EN-1). Amongst other things, EN-1 states that the Government is committed to increasing dramatically the amount of renewable generation capacity.
24. The Government's Planning Practice Guidance (PPG) includes advice relating to renewable and low carbon energy schemes. Amongst other things, this states that all communities have a responsibility to help increase the use and supply of green energy, but this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. The PPG also includes advice relating to the historic environment.
25. In June 2013 the Secretary of State for Communities and Local Government issued a Written Statement in respect of onshore wind. A separate Written Statement was also issued at the same time by the Secretary of State for Energy & Climate Change.
26. Attention has also been drawn to various Acts¹, Directives², Strategies³ and Statements⁴ relating to renewable energy, including the 2007 energy white paper⁵. Amongst other things, these set out and identify progress towards achieving the legally binding target of reducing UK emissions by at least 34% by 2020 and 80% by 2050, as well as achieving the UK's obligation of 15% of energy consumption from renewable energy resources by 2020. They reflect the Government's commitment to renewable energy. *(These are set out in the Annex to the appellants Grounds of Appeal.)*

Planning History

27. In April 2011 the Council refused planning permission for the erection of a 50kW wind turbine (hub height 24.6m, tip height 34.2m) near the appeal site (Ref. PA11/00738). The appellants then put forward a proposal for two 20kW wind turbines (hub height 20.58m, tip heights 27.13m) near the site (Ref. PA11/05556). A Screening Direction issued on behalf of the Secretary State in September 2011 directed that this was EIA development.
28. A different proposal (ref. PA11/07444) for two 20kW wind turbines (hub height 15m) on lower ground than the previous scheme was the subject of another Screening Direction in November 2011. On behalf of the Secretary of State it was Directed that this scheme was not EIA development (DCLG Ref. DC/THM/8045). *(A copy of this Direction is attached to the Grounds of Appeal.)*

¹ The Climate Change Act 2008.

² Renewable Energy Directive 2009/28/EC.

³ Including the UK Renewable Energy Strategy (2009) and the UK Renewable Energy Roadmap and its updates.

⁴ Department of Energy & Climate Change Annual Energy Statement (2013).

⁵ 'Meeting the Energy Challenge' DTI (May 2007).

29. Following the erection of the wind turbines the Council has served a Planning Contravention Notice. The Council informed me that it is awaiting the outcome of this appeal before proceeding any further.

The Proposals

30. The development comprises two 20kW wind turbines (hub height approximately 15m, blade diameter about 13m and tip height approximately 21.5m) on galvanised poles with white coloured nacelles and blades. The cables to the turbines run underground to a stone outbuilding which forms part of the group of farm/holiday buildings on Torfrey Farm. This outbuilding also accommodates the turbine control system and converters. The Council's representative and the appellants' agent informed me that the development had been undertaken in accordance with the submitted plans.

Matters Agreed by Cornwall Council and the Appellants

31. With the exception of LP policy 33, which lacks the 'cost-benefit analysis' contained in Section 12 of 'the Framework', the above LP policies are broadly consistent with the provisions of 'the Framework'. These policies are the only relevant development plan policies to the determination of this appeal.
32. The provisions of the emerging LP should be given limited weight in the determination of this appeal. (This was also agreed on behalf of Mr Cooper.)
33. Significant weight should be given to the benefits of the appeal scheme when undertaking the planning balance.
34. The development results in less than substantial harm to the setting of Lanherriot Farmhouse. (*The Council's decision notice does not identify harm to the setting of this Grade II listed building and it did not submit any evidence to demonstrate a harmful impact.*) There is no harm to the settings of the Church of St. Winnow, the Church of St. Ciricus and Julitta or the setting of The Tristan Stone. (*At the Hearing I was informed on behalf of Mr R Cooper that the scheme does not harm the setting of The Tristan Stone. This differs to the written submissions.*)
35. The development does not harm the character or appearance of the area when viewed from Gribbin Head (approximately 5km to the south west) or harm the Heritage Coast. (*On behalf of Mr Cooper it was accepted that the development did not harm the Heritage Coast but had a "slight visual effect".*) There would be no cumulative harmful impact with any other renewable energy schemes.
36. If permission was granted it would be necessary to attach planning conditions regarding the following: specifying the approved plans; limiting a permission to a period of 25 years; requiring the removal of the turbines if they ceased to generate electricity for a period of twelve months or more; controlling noise from the wind turbines and; notifying the Ministry of Defence (MoD) of the exact locations of the turbines. As the development did not involve the loss of any trees or hedgerow a condition requiring new planting would be unnecessary.
37. The main issue below. (*This was also agreed on behalf of Mr Cooper.*)

The Case for the Appellants (Mr and Mrs S Andrew)

38. The proposal was submitted after considering a range of energy technologies, including a larger wind turbine and two turbines on higher ground. The scheme

had also been subject to a process of consultation with the local community. The appellants were not required to demonstrate the need for the development. Nevertheless, the scheme provides a number of important benefits.

39. These benefits comprise: the delivery of an environmentally clean electrical supply for the appellants organic farm and holiday complex and a reduction in energy costs (the annual electricity bill is about £10,000); reducing carbon dioxide emissions by displacing electricity that would otherwise have included fossil fuel generated power; carbon savings of about 50-60 tonnes/year; contribute towards national and local targets and aspirations for reducing greenhouse gas emissions; assist in tackling climate change; transmission loss savings of 10-15% from the National Grid due to reduced current from Hinckley Point; delivery of an installed capacity of up to 40kW; contribute to the diversity and security of supply. Over a two month period the turbines have generated about 10,000kWh compared to a monthly consumption on the farm of between 7,000-8,000kWh. *(The appellants' agent informed me that the turbines have a load factor of about 30% and that "not a great deal of weight" should be given to the Council's 'Green Cornwall' document.)*
40. The LCS identifies the qualities of the landscape. No separate landscape characterisation has been undertaken for the Cornwall AONB and no definition of natural beauty is provided for in the CMP. The qualities of the AONB that may be sensitive to wind energy schemes are the spectacular promontory from Gribbin Head and the panoramic views along the coast and across the Fowey Estuary. Whilst the AONB is a highly valued landscape this does not mean that it is automatically of high sensitivity to all forms or scales of development or that parts of it are uniformly of the same value and sensitivity.
41. The ALS is not prescriptive about which areas may be suitable for wind power development but is guidance on general principles. It provides more detail than the LCS and is the preferred guidance for assessing the impact of the appeal scheme. Many people think turbines have a positive impact on the landscape.
42. The Landscape and Visual Impact Assessment (LVIA) that was submitted in support of the application provides a detailed assessment of the scheme. This includes an analysis of landscape character and an assessment from viewpoints that were discussed with the Council. Some of these viewpoints, such as the Saints' Way, the hedge by the Church of St. Sampson, Castle Dore and the footpath west of St. Veep (*Document 4, photomontages 2, 5 and 6 there is no photomontage in this bundle from St. Veep*) are of high sensitivity whilst others, such as those from the B3269 and the road to Golant (*Document 4, photomontages 1 and 3*), are of medium to low sensitivity. The photomontages submitted on behalf of the owner of Lanherriot Farmhouse do not accord with best practice for assessing wind energy schemes.
43. The appeal site is not in a remote location. Vehicles moving along the B3269 create a localised sense of movement and some boats using the River Fowey add movement. There are also many modern man-made features in this area of medieval farmland. The site is of low-moderate sensitivity to the development.
44. Although the wind turbines are prominent they are very small in size and are only visible over a small area. They do not dominate the landscape character of the site and are too small to dominate the character of the surrounding landscape.

- The turbines are a very minor addition to the landscape pattern of the site and are very small features within this rolling plateau.
45. The development does not have a significant adverse effect on the appealing rural and coastal views and has a very localised impact on tranquillity. Moreover, it does not significantly affect the historic landscape character of the area. The turbines have a slight adverse but insignificant effect on the character of LCA39 and a negligible impact upon LCA21. They are too small to have a significant impact upon the strong character of the river valley and do not have a defining influence on the overall experience of the AONB. The development accords with the landscape strategy for the AONB which is for occasional very small turbines. There was no absolute ban on wind turbines within the AONB. Larger wind turbines have been permitted elsewhere in this designated landscape, including a scheme at St. Breock which is adjacent to the Saints' Way.
 46. From the Saints' Way the appeal scheme comprises a small feature in the landscape. The turbines are not dominant and have a slight adverse visual impact which is of no significance. From the hedge by the Church of St. Sampson only the tops of the turbines are visible. They do not dominate the view and have a moderate adverse visual impact of no significance. When viewed from Castle Dore, the turbines are seen against a backdrop of higher ground to the east and are small features in the landscape which are not dominant. They result in a slight adverse visual impact of no significance. From the other selected viewpoints the impact would be neutral adverse of no significance. *(At the Hearing the appellants' landscape consultant informed me that the adverse impacts were harmful but not significant. He also clarified that the LVIA should have stated 'negligible adverse visual impact' rather than "neutral adverse visual impact" from some of the selected viewpoints.)*
 47. There would be no cumulative landscape/visual impacts and the development would be helpful in tackling landscape change which is likely to arise to the Cornish landscape as a result of climate change. In quashing the previous appeal decision the High Court judgement does not mention or question the Inspector's reasoning relating to landscape and visual impact. The application was also recommended for approval by the Council's officers.
 48. The wind turbines affect the setting of some designated heritage assets. However, the Council, English Heritage and those objecting to the scheme have not explained how the appeal site contributes to the significance of any heritage asset. They have also failed to demonstrate how the scheme affects the ability to appreciate the significance of the heritage assets. In contrast, the appellants have submitted a detailed assessment of the settings of various heritage assets and an appraisal of the impact of the development upon their significance. *(The Heritage Rebuttal of Heritage Collective dated May 2014 is attached to the file. This also deals with the impact upon the setting of The Tristan Stone.)*
 49. The Church of St. Sampson has high historic, architectural and archaeological interest. Its setting encompasses the graveyard and the land around it north of Golant. In visiting and experiencing the church it is best viewed in its immediate vicinity. In these views the turbines are behind the viewer. Views out of the building also form part of its setting but are of less significance to an appreciation of its architectural interest. Standing in the churchyard and looking towards the appeal site is not a view of importance to the significance of this asset. The

- landscape around the church is also much changed since the church was built. This includes new houses which have been constructed near the church.
50. During the summer months the turbines are not visible from the churchyard. Only the blades are visible through a gap in the hedge. During the winter their movement might be perceptible due to less vegetation. However, visibility of a wind turbine does not equate to harm to significance or setting. The churchyard hedge does not point the way to the turbines and the development does not intrude into key views from the church. The change in a single view through a hedge does not erode the significance of this church. Photovoltaic panels have also been installed on the roof of the church.
51. The significance of Castle Dore is primarily its archaeological interest as an Iron Age hill fort. It lacks specific architectural or artistic interest and has historical interest due to the Civil War battle in 1644. The setting of this SAM is rural in character with undulating land in all directions. There are 360 degree views from the ramparts but views towards the SAM are limited. *(The appellants' heritage consultant was unable to gain access to the top of the ramparts and has stated that "The monument did not appear to be publicly accessible although it may have been at some stage in the past.")*
52. There is no evidence to indicate that views to the east from this SAM and towards the appeal site are of particular importance to the setting of Castle Dore. There are extensive views in all directions. Moreover, this is not an untouched and rare setting. The turbines are visible from the SAM but do not erode its significance as a defensive structure or its location the landscape. *(At the Hearing the appellants heritage consultant informed me that the appeal site forms part of the setting (rural context) of the SAM. It was argued that the turbines are not in the largely unaltered landscape that comprises the site of the Battle of Lostwithiel and during the Civil War the fighting occurred on the land to the north and not in the direction of the wind turbines. It was also argued that the appeal site does not actively contribute to the significance of the registered battlefield and does not form part of its setting.)*
53. The significance of Lanherriot Farmhouse is derived, amongst other things, from its historic function as a farmstead. The original core of the building and some of its outbuildings also have architectural interest. Its setting includes the outbuildings and the wider rural surrounds in which it is experienced. Views towards the farmhouse form part of its setting. One of the turbines is in a view from the south of the farmhouse. This alters the perception of the setting of this listed building and results in a very small amount of harm to the heritage significance, mainly because the turbine has the ability to distract the viewer away from the elevation of the building. The assessment undertaken on behalf of the occupiers of this listed building focuses on a 1975 extension to the farmhouse rather than its historic and primary element. Views out from the farmhouse towards the outbuildings are preserved. The harm to the setting of this asset would be at the very lowest end of the less than substantial category. *(On behalf of the appellants, I was informed that the turbines are seen in some key views of the farmhouse and comprise part of the back-drop to this listed building. It was argued that the turbines are sufficiently far away to avoid dominating the setting of the farmhouse.)*

54. Notwithstanding the Barnwell Manor judgement 'the Framework' still requires the decision-maker to weigh up harm and benefits. The ruling in Bedford Borough Council v Secretary of State for Communities and Local Government and NUON UK Ltd [2012] is also important. In this instance, less than substantial harm occurs to the setting of one Grade II listed building. The English Heritage guidance 'Wind Energy and the Historic Environment' (2005) states that consideration should always be given to the reversibility of wind energy projects. No objection was raised by Council's Historic Section. *(At the Hearing I was informed that the appeal site was a considerable distance from the churches of St. Winnow or St. Ciricus and Julitta and did not form part of their settings. The appeal site has no association with experiencing these designated heritage assets. There was no harm to the setting of any other heritage assets.)*
55. The development is more than 50m from the nearest tree or hedgerow. It would not harm nature conservation interests or cause harmful noise disturbance to neighbouring residents. *(The Desktop Ecology Survey and Acoustic Report are attached to the Grounds of Appeal.)* The turbines are also more than 10 times rotor diameter from any uninvolved building and are set apart from neighbouring properties so as not to result in a serious loss of outlook.
56. The wind turbines comprise sustainable development and the harmful impacts would be reversible. There is support for this type of development in 'the Framework' and the various Acts, Directives and Strategies relating to renewable energy. The benefits of the scheme outweigh the limited harm.

The Case for Cornwall Council

57. Under section 85 of the Countryside and Rights of Way Act 2000 (CROW) there is a duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB. This is reflected in LP policy 13. Paragraph 115 of 'the Framework' also requires great weight to be given to conserving the landscape and scenic beauty of the AONB. As set out in the ALS, which is extremely useful technical evidence, the area has a moderate-high sensitivity to wind energy development. *(At the Hearing the Council informed me that the ALS should be given limited/low weight. Its representatives also informed me that the special qualities of the AONB comprised: tranquillity; the prominence of the hillside locations; the undeveloped nature of the landscape; the lack of man-made vertical features; medieval farmland; twisting creeks; wooded valleys and; the skyline Castle Dore and medieval churches.)*
58. The introduction of the wind turbines into this part of the countryside is at complete odds with the characteristics of the landscape. It adds a harmful visual intrusion seen on the skyline from various viewpoints and, in particular, from the local road network and local footpaths. Although the turbines are located on a lower part of the hillside than previously proposed they are constructed on prominent high ground and are visible from sections of the Saints' Way to the south and higher ground to the north. They can also be seen from the higher section of the road leading down to Golant.
59. The development detracts from the attractiveness of the landscape for both the local population and visitors. It erodes the tranquil character and high scenic quality of the landscape and conflicts with the provisions of the LP, CMP and the ALS. The submitted photographic material shows the turbines breaking the skyline in many chosen viewpoints. *(At the Hearing the Council informed me that*

the image in Viewpoint 7 of the CEC report dated April 2014 showed the most harmful impact of the development upon the special qualities of the AONB. It was argued that the turbines "draw the eye" from the east across the estuary. The officers report to committee, which forms part of the Council's Appeal Questionnaire, includes the consultation responses of the Cornwall AONB Unit and Natural England. Amongst other things, Natural England advised that it was a member of the AONB partnership and the AONB Unit was best placed to give more detailed advice on landscape issues.)

60. There is a duty under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 [PLBCA] to have special regard to the desirability of preserving the setting of a listed building. 'The Framework' notes that the significance of a heritage asset can be derived from its setting. The ruling in Barnwell Manor Wind Energy Limited v East Northamptonshire District Council, English Heritage, the National Trust and the Secretary of State for Communities and Local Government [2014] EWCA Civ 137 held that considerable importance and weight should be given when undertaking the necessary balancing exercise.
61. Castle Dore is a well preserved Iron Age hill fort. It also now forms part of a registered battlefield. This SAM, registered battlefield and the Church of St. Sampson are all located on high ground. The SAM and the Church are both recognised in the ALS as important skyline features. These heritage assets are visible in views with the wind turbines. The development introduces prominent, tall, moving and alien features into the landscape. The wind turbines compete with and significantly detract from these historic features. *(At the Hearing the Council informed me that the appeal site contributed to the significance of the Church of St. Sampson as it formed part of its historic setting and was a focal point for the local community. Its representative also informed me that the site formed part of an important vista that revealed the topography of the area, traditional historic farmsteads and an unaltered landscape which were all important in understanding the significance of Castle Dore and the registered battlefield. The Council also informed me that the appeal scheme resulted in less than substantial harm to the settings of these designated heritage assets.)*
62. The Council agrees with English Heritage that the positioning of the wind turbines is unfortunate, both prominent and not obviously part of a farmstead group. Although the Church of St. Sampson is partially screened by trees its tranquil setting is harmed by the development. The prominent location of the turbines comprises an unwelcome intrusion into the superb landscape setting of the church and SAM. The development is a jarring note in the spectacular scenery of this part of the AONB. It detracts from the outlook from these heritage assets.
63. The Council's 'Green Cornwall' document indicates that the actual installed figure for renewable energy production in 2009 was 90MW. By March 2014 the installed capacity was about 318MW with a further 321MW permitted but not yet installed. These figures demonstrate that the Council is set to significantly exceed its 2020 target of 390MW. The Council does not require further renewable energy developments to meet its targets. As a consequence, the weight to be attached to the energy generating capacity of the appeal scheme should be reduced accordingly. *(The Council informed me that this document carries limited weight in the determination of this appeal.)*

64. When the benefits of the scheme are weighed with the harmful impacts, including the conflict with the development plan and other material considerations, permission should be withheld.

The Case for Interested Parties

65. Numerous representations were made in connection with the appeal. Most of these express concerns regarding the development. *(All of these are contained in the red folders attached to the files.)* These include letters from some local residents, Lanteglos-by-Fowey Parish Council, Lostwithiel Town Council and English Heritage, as well as a Statement from St. Sampson Parish Council. There are also various reports and Statements submitted on behalf of Mr R Cooper the owner of Lanherriot Farm. *(These are contained in the blue wallets attached to the files.)* Stephen Gilbert MP and Sheryll Murray MP also made representations *(separate blue folders on the files)*. The representations made at application stage are included as part of the Council's Appeal Questionnaire. Below is a summary of some of the representations.

English Heritage

66. Strong reservations about the potential impact upon the settings of Castle Dore SAM and the Church of St. Sampson (repairs grant-aided at public expense). The clear harm to the settings of these heritage assets would equate to the impact provided for in paragraph 134 of 'the Framework'. It would be for the Council to determine the case based on the balance of environmental harm versus public benefit.
67. The turbines would be located near the top of a small hill and would dominate many local views. They would not appear within any existing development envelopes. It is suggested that they are relocated so that they appear in line with existing development rather than as new development in the open setting of high grade nationally important monuments. The turbines are a backdrop to the church in views from the north east and at 1.5km from Castle Dore, they vie for dominance of the local landscape.

St. Sampson Parish Council

68. The Parish Council has supported a scheme for a 50kW ground mounted photovoltaic installation in the AONB. However, the appeal scheme occupies a prominent ridgeline location. The turbines break the skyline and can be seen from the River Fowey. They have a major impact on the landscape and surrounding area, including the Saints' Way.
69. There is full public access to Castle Dore SAM. The turbines are strikingly visible from this SAM. They dominate this asset, its surrounds, enjoyment, peace and tranquillity. There are also views of the site from the Church of St. Sampson and the churches of St. Winnow and St. Ciricus and Julitta (St. Veep). The turbines are significantly dominant from the car park to the church of St. Sampson. They also dominate the quiet sensitive setting of Lanherriot Farm. Following the Barnwell Manor case considerable weight must be given to heritage assets.
70. The turbines are visible from many properties on the east bank of the River and cause flicker. The appellants' LVIA is misleading and the development conflicts with the LP and other policy documents. Applying a capacity factor of 22%, the development generates the electricity equivalent to fewer than 13 properties.

The Council is on course to exceed its renewable energy target and there would be no public benefit from the scheme. There is considerable local opposition to the development.

Lanteglos-by-Fowey Parish Council

71. The development has an impact on parishes on the eastern side of the River Fowey. They have a considerable detrimental effect on the peace and tranquillity of the Fowey Valley and a much loved landscape. It introduces an element of creeping industrialisation into the area and could set a precedent. Tourism is a huge part of the local economy and anything that could harm this should be resisted. There is no benefit to local residents. The Parish Council supports the concerns raised by St. Sampson Parish Council.

Fowey Town Council

72. There is no justification for siting the turbines in the Fowey River AONB. They would have an extremely detrimental effect on this unique, protected landscape, particularly when viewed from the river and the adjacent Saints' Way.

Lotwithiel Town Council

73. The development has a detrimental impact on the skyline, the landscape and the ambience of the Fowey Estuary.

CPRE Cornwall

74. The turbines would be detrimental to the surrounding countryside and AONB. They would endanger wildlife in nearby woods, spoil the tranquillity along the Saints' Way, add to the cumulative and negative impact that wind turbines are having across Cornwall and could set a precedent for further turbines in this area of Cornwall.

Mr R Cooper (Lanherriot Farm)

75. In assessing the impact of the scheme the Council failed to consider Lanherriot Farm and did not have proper regard to the duty under section 66(1) of the PLBCA and the ruling in the Barnwell Manor case. The extant Practice Guide to PPS5 and the English Heritage guidance 'The Setting of Heritage Assets' are useful in assessing the impact of the scheme upon heritage assets.
76. Lanherriot Farmhouse is an 18th century, two storey cob and rubble dwelling with some slate hanging and a slate hipped roof. It has been extended over the years and forms part of a range of farm buildings which nestle into the hillside. This group of buildings has been maintained and repaired to an extremely high standard using traditional materials. Despite its domestic conversion the farmstead still expresses a sense of order and functionality. The relationship of the farmhouse to the farmstead is architecturally self-evident, as is their joint relationship with the historic pastoral landscape they were designed to both exploit and nurture. The house and the farmstead have a simple, almost elemental and picturesque relationship with the wider landscape.
77. The wind turbines are about 510m and 550m from Lanherriot Farmhouse and about 400m from the curtilage. They sit on the crest of the open hillside and are square on to and address this listed building. The turbines dominate the quiet, sensitive setting of the farmstead complex which this range of buildings has

enjoyed for over two hundred years. The appellants' photomontages do not show the true impact of the scheme upon the setting of heritage assets. The development materially harms the setting of Lanherriot Farmhouse. *(The reports from Studio 2 Planning Consultants relate to the impact upon the settings of various heritage assets. At the Hearing Mr Clarke informed me that the appeal site contributed to the significance of Lanherriot Farmhouse as it comprised part of the surrounding farmland to the farmstead and was a defining ridge along the valley. I was also informed that Viewpoints 1 and 2 in the CEC Addendum showed the most harmful impact of the development upon the setting of this Grade II listed building. It was argued that this amounted to substantial harm to the setting of this heritage asset.)*

78. During the winter months the whole of both wind turbines' blades would be visible above the open hillside when viewed from the churchyard of the Church of St. Sampson. The pathway from the church porch points the way to one of the turbines. The flickering array of the turbines would affect the solitude, peace and calm of the setting of this Grade I listed building. The turbines intercede into key views from the Church and introduce a new, overtly alien structure into the open, undeveloped landscape. This would compromise the elemental relationship of church to historic, pastoral landscape of which it forms an intrinsic and positive part. *(At the Hearing Mr Clarke agreed with the Council that this would amount to less than substantial harm to the setting of the Church of St. Sampson.)*
79. Castle Dore is one of the most prominent features in the landscape. The earthworks are a serene and remarkable place overlooking the plain or vale below. This SAM retains a simple, unassuming functional and picturesque relationship with the wider landscape, especially when viewed from the east. It has two entrances, one facing east, the second faces west. The most spectacular vista from Castle Dore is through the east entrance over open farmland and the River Fowey. This hill fort has remained the most dominant feature in the extensive landscape setting for at least 2,000 years. It was also a scene of fighting during the Civil War. Daphne du Maurier, who lived in Fowey, named one of her novels 'Castle Dor'. This story re-enacts the doomed love of Tristan and Iseult from the Arthurian legend. This site has public access, including visits by groups of schoolchildren. Its largely unaltered setting is a rare survival.
80. The two wind turbines are at a similar level to Castle Dore and are clearly in the view line of people on the Monument. The full heights of the turbines are visible through the east entrance of the SAM. They compromise the setting this spiritual place. *(At the Hearing Mr Clarke informed me that the proposal would result in substantial harm to the setting of the SAM and less than substantial harm to the setting of the registered battlefield.)*
81. The Saints' Way features historic remains, ancient footbridges, old tracks, churches and ancient field systems. It was probably used by early Celtic traders. The wind turbines detract from the peaceful and remote feel of this mid-distance footpath and non-designated heritage asset.
82. Due to the small size of the proposals and the vast expanse of NCA 152 it is more appropriate to rely on the descriptions and characteristics of LCAs. The site lies within a highly valued landscape which has a greater sensitivity than ascribed in the appellants' LVIA. From some locations the actual impact of the turbines is

greater than predicted in the appellants' photomontages. The previous Inspector's decision was based on incorrect and insufficient information.

83. The site is located on a prominent local ridge adjacent to the River Fowey in the AONB. It forms part of a remote and visually tranquil rural landscape and has a high to moderate sensitivity. The turbines comprise a skyline element on a high exposed rounded ridge in an otherwise uncluttered landscape. The development introduces tall new structures into the area and rotating movement into views. From important vantage points, such as Saints' Way and Castle Dore within the AONB, the turbines are seen by 'high sensitivity' receptors. From these areas the development changes the scenic quality of the area and reduces tranquillity. This new vertical modern infrastructure alters perceptions of the skyline and the character of the area.
84. The development results in significant landscape and visual impacts (moderate/substantial effects). The turbines are not appropriate in this location and landscape context. They conflict with the provisions of the LP, CMP, ALS and 'the Framework'. *(The various reports and addendum from CEC, which include tables, maps, photomontages and photographs, were all submitted in support of the case made on behalf of Mr R Cooper. Photographs, taken from the River Fowey, are attached to the Statement from Ivan Tomlin dated April 2014.)*
85. The turbines are also prominent in views from key living areas in Lanherriot Farmhouse, as well as the garden and terrace. The close proximity of the turbines has a significant effect upon the occupiers of this neighbouring dwelling.

Cllr Hughes

86. People come from all over northern Europe to visit Castle Dore. It was rare for the Cornwall AONB Unit to appear at a Hearing. This was indicative of the extent of harm to this designated landscape. The claimed benefits regarding transmission losses were insignificant as low diameter cables also result in losses.

Mrs B Whell

87. The benefits of the scheme should not be under-estimated and it was important for farmers and landowners to be able to make their businesses profitable. This small-scale renewable energy scheme does not harm the landscape which, in itself, is a product of modern farming methods. There is permissive access to Castle Dore but few people visit this SAM. The appeal should be allowed.

Other Residents

88. Pages 34 and 35 of the officer's report to committee (part of the Council's Appeal Questionnaire) summarises the objections and letters of support from some other residents and visitors.

Planning Conditions

89. Suggested planning conditions and the reasons for them are set out in section 11 of the officer's report to committee. *(At the Hearing conditions limiting a permission to a 25 year period and requiring notification to be given to the MoD were also discussed.)*

Inspector's Conclusions

90. The numbers in brackets [] below refer to preceding paragraphs in this report.

Preliminary Matters

91. I note the arguments concerning the accuracy of the various photomontages that have been submitted by the respective parties. However, unlike the previous Inspector, I have not had to rely on these as I was able to observe the wind turbines when undertaking my site visits. As part of my site visits I viewed the appeal site from the inner and outer ramparts of Castle Dore SAM, as well as from the River Fowey. [42, 77, 82]

92. I am aware of the principle that having been quashed a previous Inspector's decision never existed. Where I make remarks in respect of the quashed decision they are made in the context of this principle.

Planning Policy and Other Documents

93. LP policies 6, 10 and 13 are broadly consistent with the provisions of 'the Framework'. However, LP policies 25 and 33 do not include the 'cost-benefit analysis' contained in Section 12 of 'the Framework'. There is some 'tension' between LP policies 25 and 33 and 'the Framework'. [15, 31]

94. The emerging LP has not reached an advanced stage towards adoption and can only be given limited weight in the determination of this appeal. As consultation has yet to take place in respect of the 'Appendix 2' policy and there appears to be some tension with 'the Framework' this policy is not determinative to this appeal. [16, 17, 18, 32]

95. 'The Framework' is an important material consideration that can be given substantial weight in the determination of this appeal. [22, 23]

96. The CMP has been subject to a process of public consultation and has been adopted by the Council. It can be given considerable weight in the determination of the appeal. [19]

97. The Council's 'Green Cornwall' document is not planning policy and should be given limited weight in the determination of this appeal. [39, 63]

98. The ALS includes a detailed assessment of the impact of wind energy schemes on the Cornish landscape. This helpful document is used regularly by the Council and the renewable energy industry in considering proposals. As it has yet to be tested as part of the evidence base to the emerging LP it can only be given moderate weight in the determination of this appeal. [21, 41, 57]

99. The Acts, Directives, Strategies and Statements above that refer to renewable energy are important material considerations that can be given considerable weight in the determination of this appeal. [26, 56]

The Main Issue

100. The main issue is: whether the benefits of the scheme, including the production of electricity from a renewable source, outweighs any harmful impacts, having particular regard to the effects upon the character and appearance of the area, including the Cornwall AONB and the settings of

designated heritage assets, with particular regard to the Grade I listed Church of St. Sampson, the Grade II listed Lanherriot Farmhouse, Castle Dore SAM and the Lostwithiel registered battlefield. [37]

Benefits

101. The environmental and economic benefits of the scheme, which include assisting in meeting national and local aspirations for reducing greenhouse gas emissions and offsetting the electricity costs on the appellants' farm enterprise, can be given substantial weight in the determination of this appeal. Whilst noting that the Council appears to be on course to meet its own target for renewable energy production, neither this nor the national targets are ceilings that cannot be exceeded. Moreover, although some interested parties have queried the power output from the turbines and their contribution towards tackling climate change, 'the Framework' states that even small-scale renewable or low carbon energy projects provide a valuable contribution to cutting greenhouse gas emissions. In combination with other renewable energy schemes they also assist in increasing the security of supply. The development accords with the thrust of emerging LP policy 2. [26, 33, 39, 63, 70, 86, 87]

Character and Appearance

102. The appeal site occupies a prominent and elevated position in a landscape which is recognised as being of national importance and where there is a duty to have regard to the purpose of conserving and enhancing the natural beauty of the area. The special qualities of this valued landscape include its open qualities and the very attractive unspoilt views along and across the Fowey estuary, as well as the views to and from historic landmarks on the skyline such as Castle Dore. Notwithstanding modern farming methods and the movement of traffic along the local road network and the River Fowey, this part of the Cornwall AONB retains a structure/pattern of medieval farmland and a pleasing sense of visual tranquillity. The area is cherished by residents and visitors alike and the site can be seen from a number of high sensitivity viewpoints. I agree with the Council that this landscape has a moderate-high sensitivity to wind turbines. [8, 9, 10, 11, 14, 40, 42, 43, 57, 68, 82, 83]

103. The development has a very small 'footprint' and does not alter the pattern of fields or the agricultural character of the area. The turbines have been sited off the ridge of land that runs across this part of the appellants' farm and this wind energy scheme fits within the category of very small turbines as defined in the ALS. There is no preclusion on wind energy schemes within the AONB and the appellants, through a series of proposals and a consultation process, have attempted to locate the turbines so as to limit the landscape and visual impact. [7, 21, 27, 28, 30, 35, 38, 44]

104. However, the development has introduced two tall structures with movement, at height, within this very attractive area of countryside. The wind turbines are readily apparent from numerous sections of the local road and public rights of way network, including part of the Saints' Way and public rights of way on the opposite side of the estuary. Whilst being able to see the wind turbines does not in itself equate to harm, within about 2km of the appeal site the turbines comprise a conspicuous feature within the landscape. This includes high sensitivity viewpoints such as the Saints' Way, Castle Dore and the River Fowey,

which are popular with residents and visitors. [42, 44, 45, 46, 58, 59, 67, 68, 69]

105. These tall, man-made additions within this part of the AONB protrude above the skyline and the ridge of land on the appellants' farm. I note the previous Inspector's findings regarding the likely impact from the Saints' Way and the River Fowey. However, during my visits, which were undertaken during good weather, I experienced the turbines looming above me from the section of the Saints' Way to the south west of the site, as well as from a section of the River Fowey to the south east. From these parts of the public realm the turbines comprise prominent additions to the landscape and detract from these pleasing rural scenes. (There appears to be no photomontage showing the impact from the section of Saints' Way just above Colvithick Wood to the south west of the site and it is unclear to me if the previous Inspector viewed the site from here. The previous Inspector also referred to one of the submitted plans which illustrates the turbine visibility from the River Fowey. I assume this is drawing No. 16 which shows a line of sight from the centre of the river. My river trip was along the eastern side of the river from where I was able to clearly see the turbines.) [46, 58, 68, 72, 82, 83]
106. The rotating motion of the turbine blades also 'draws the eye' and from some other locations, such as Castle Dore, there is a perception of 'blade clash'. This accentuates the harmful impact of the turbines within the landscape. The development erodes the open qualities of the countryside and intrudes into the views across and along the Fowey estuary. As noted by the previous Inspector, from the opposite side of the estuary the turbines are small features in a wide view that includes the settlement of Golant. However, unlike the buildings they break the skyline and the movement of the turbine blades detracts from the serenity of the rural scene. Whilst on its own the impact from the opposite side of the estuary may not be unacceptable, the turbines have an adverse effect upon the character and appearance of this valued landscape. Unlike the distant turbines, which appear to be on less elevated sites and are remote from the Fowey estuary, the appeal scheme also disrupts views to and from Castle Dore and diminishes the pleasing sense of visual tranquillity, especially when looking towards the River Fowey. [46, 58, 59, 71, 72, 73, 74, 81, 83]
107. The appeal scheme is set well apart from other wind energy developments and does not result in any pronounced simultaneous or sequential cumulative impacts. Each case must also be determined on its own merits. Other appeal decisions relate to different turbines on other sites and do not set a precedent. Moreover, the Council would not be bound to approve any other wind energy scheme if this appeal were to be allowed. However, these two wind turbines are not visually linked to any existing buildings and detract from the scenic qualities and natural beauty of the AONB. The development is at odds with the landscape strategy and siting guidance in the ALS and conflicts with the provisions of LP policies 6 and 13, emerging LP policy 15 and CMP policy CCE1. This harm to a nationally important landscape and the conflict with the development plan weighs against granting planning permission. 'The Framework' states that great weight should be given to conserving landscape and scenic beauty in the AONB. [15, 17, 19, 21, 35, 47, 59]

Settings of Heritage Assets

108. One of the Core Principles of 'the Framework' 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. In determining planning applications, paragraph 131 of 'the Framework' includes a requirement for local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets. Furthermore, paragraph 132 of 'the Framework' states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. There is also a duty to have special regard to the desirability of preserving the setting of a listed building. [22, 60, 75]
109. The appeal site forms part of the wide rural surrounds and the countryside setting of the Church of St. Sampson. The significance of this Grade I listed building, which dates from the 13th century, lies primarily in its inherent architectural and historic qualities. As set out in the Glossary to 'the Framework' significance can also be derived from the setting of a heritage asset. Although some distance from this church, the appeal site contributes to the largely unspoilt open qualities of the landscape that surrounds the church. This provides a tranquil setting to this important listed building and makes a positive contribution to the significance of this asset as a place for worship and calm contemplation. [12, 49, 62, 69, 78]
110. As I saw during my visits, the development can be seen in views of the church from the Saints' Way to the north west of the church and from public rights of way on the opposite side of the estuary. Whilst I was only able to glimpse the tips of the turbines from the churchyard, during the winter months the upper parts of the turbines are likely to be more visible from the churchyard and possibly the pathway from the main entrance. As I have noted above, visibility does not necessarily equate to harm. However, when seen from the Saints' Way to the north west of the church, public rights of way on the opposite side of the estuary and, in all likelihood, from the churchyard during the winter months, the turbines disrupt the tranquillity of the rural scene/setting of the church and the contribution this makes to the significance of this heritage asset. I agree with the Council and English Heritage that in the context of 'the Framework' this amounts to less than substantial harm to the setting of this church. [49, 62, 66, 67, 69, 78]
111. The significance of Castle Dore SAM lies primarily in its archaeological interest as an indicator of past human occupation during the Iron Age. Nevertheless, the appeal site forms part of the commanding and panoramic views that are available from this hill fort. These views add to an understanding and appreciation of the defensive function of this designated heritage asset. As I saw during my visits, the appeal scheme is clearly visible from this SAM, including the approach from the information plaque adjacent to the B3269. Whilst the turbines comprise a small part of the view, they are much closer than any other wind energy scheme and the distant telecommunication masts. The introduction of these tall new structures in close proximity to this asset vies for dominance of the local landscape and detracts from an understanding and appreciation of the function of this hill fort. There is a risk that some of those visiting this hill fort will be distracted by the turbines, especially the movement of the blades which appear

- to 'clash' and accentuate the harmful impact of this new development upon the setting of this SAM. The turbines conflict with the provisions of LP policy 25. In the context of 'the Framework' this erosion to the setting of this asset amounts to less than substantial harm. [12, 25, 51, 52, 61, 62, 66, 67, 69, 79, 80, 86, 87]
112. Castle Dore SAM forms part of the registered site of the Battle of Lostwithiel. Whilst the Parliamentary forces retreated to this hill fort during the English Civil War battle of 1644, the main focus of the battle and the main body of the registered battlefield was to the north and away from the appeal site. Those who visit this site to study the course of this battle and appreciate the significance of this battlefield are likely to focus on the topography and landscape to the north west of the appeal site where the main battle was conducted. I was unable to see the wind turbines from the B3269 which runs through the centre of the battlefield and the movement of motor vehicles along this highway is far more likely to detract from an understanding of this registered site than the wind turbines. The appeal scheme does not harm the setting or significance of this registered site. I note that English Heritage did not object to the impact upon the setting of this designated heritage asset. [12, 52, 61, 80]
113. The appeal site forms part of the agricultural landscape in which the 18th century Lanherriot Farmhouse is set. There have been changes to this farmhouse over time, including a two storey extension that was built in the 1970s. The significance of this Grade II listed building lies primarily in its inherent architectural and historic qualities. Nevertheless, the arable fields in which the wind turbines are located provide an historic link with the agricultural landscape and add to an understanding of the value of this traditional Cornish farmhouse. The views to/from the appeal site encompass the 'experience' of this heritage asset in its rural surrounds and make a positive contribution to its setting. The wind turbines are visible in some views of this farmhouse, including those from the entrance driveway and the courtyard. These tall modern structures with the rotating motion of the turbine blades provides a distracting element in views of the farmhouse and erode the historic link between the farmhouse and its rural surrounds. The development alters the experience of this listed building and detracts from its setting. The extent of this harm is limited as those observing this asset are still able to understand and appreciate its farm setting and historic link with the surrounding agricultural landscape. In the context of 'the Framework' this amounts to less than substantial harm. [12, 34, 53, 75, 76, 77]
114. There is no cogent evidence to support the concerns of some interested parties that the development forms part of the setting of other heritage asset and harms the significance of these other assets. [34, 54, 69]
115. The harm that I have identified above to the setting of the Grade I listed Church of St. Sampson and the Grade II listed Lanherriot Farmhouse conflicts with the provisions of LP policy 33, emerging LP policy 24 and policy GP10.8 of the CMP.

Other Matters

116. There is no cogent evidence to demonstrate that the development would harm tourism interests or pose a significant risk to nature conservation interests. Whilst the turbines alter the outlook from some neighbouring properties they are not so tall or close as to create an overbearing or oppressive outlook for those

living in this part of Cornwall. Occupiers of neighbouring properties would continue to enjoy pleasing rural outlooks. The turbines have also been sited to minimise the risk of shadow flicker and noise disturbance. Whilst there is considerable opposition to the development from some members of the local community some others support the scheme. [55, 65, 71, 74, 85]

Planning Conditions

117. The Schedule below sets out those conditions which would be necessary if planning permission was granted. Given the 'life span'/temporary nature of the turbines and to safeguard the character and appearance of the area conditions would be necessary limiting the development to a 25 year period. I also agree with the appellants and the Council that to safeguard the qualities of the landscape a condition would be necessary requiring the turbines to be removed if they ceased to produce electricity over a continuous period of 12 months. To safeguard living conditions and air safety, it would be necessary to control noise from the turbines and require their coordinates to be sent to the MoD. [36, 89]
118. As the development has already been undertaken a condition specifying the approved plans would be unnecessary as the purpose of such a condition is to give an opportunity to seek minor amendments to an approved scheme before it is carried out, rather than an alteration to an already completed development.
119. The conditions in the Schedule below accord with the advice in the PPG.

Planning Balance/Overall Conclusion

120. I have found that the benefits of the development should be given substantial weight in the planning balance. I have also found that the wind turbines harm the scenic qualities and natural beauty of the AONB. I have noted that great weight should be given to conserving landscape and scenic beauty in this part of the countryside which is recognised as being of national importance.
121. In addition, I have found that the development harms the settings of a Grade I listed building, a SAM and a Grade II listed building. Following the Court of Appeal judgement in the Barnwell Manor case there is a need to give considerable importance and weight to the desirability of preserving the setting of a listed building when carrying out the planning balance. Less than substantial harm does not equate to a less than substantial planning objection. There is a presumption that preservation is desirable.
122. Whilst the development would be reversible and the harm limited to a 25 year period I find, on balance, that the benefits of the scheme do not outweigh the totality of the harm. This in turn leads me to find that the development also conflicts with LP policy 10 and emerging LP policy 16. In addition to the conflict with the development plan, the harmful impacts of the scheme are at odds with the environmental dimension to sustainable development as set out in 'the Framework'. I therefore recommend that the appeal should not succeed. In the event that the Secretary of State disagrees and decides to allow the appeal, it is recommended that the conditions in the Schedule below are attached to a planning permission for the reasons given above.

Neil Pope

Inspector

APPEARANCES

FOR THE APPELLANTS:

Mr D Tilney	Bond Dickinson LLP
Mr A Norfolk	AJN Landscape Consultants
Ms L Stephen BA, MSc, IHBC	Partner, Heritage Collective
Mrs D Andrews	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Holman MRICS, MRTPI, FAAV	Cornwall Council
Mr J Evans	Planning Officer, Cornwall AONB Unit

INTERESTED PERSONS:

Those acting on behalf of Mr R Cooper – Lanherriot Farm

Mr G Cridland	Ashfords LLP
Mr I Tomlin MSc, PPR, TP	Planning for Results Ltd
Mr T Clarke	Studio 2, Planning Consultants Ltd
Miss B Höntzsch Dipl-Ing, CMLI	Cornwall Environmental Consultants Ltd

Others

Cllr D Hughes	Ward Member Cornwall Council, Member of The Central Area Planning Committee and Member of the AONB Panel
Cllr D Robson	Lostwithiel Town Council
Mr R Strode	St. Sampson Parish Council
Mr and Mrs Bennett	Local residents
Mrs B Whell	Local resident
Mr D Guiterman	Local resident
Mr P Howard	Local resident
Mr G Estlick	Local resident

LIST OF DOCUMENTS SUBMITTED AT THE HEARING:

Document 1	Bundle of list entry descriptions for various heritage assets
Document 2	Updated plans to Appendix 2 of the Council's Statement
Document 3	Plans showing the boundary of the Heritage Coast
Document 4	A3 size copies of the appellants' photomontages
Document 5	Appendix 2 of the Council's Committee report – New emerging LP policy (Protection of the Countryside)
Document 6	Plans showing meeting point and route of accompanied boat trip along the River Fowey
Document 7	Plan showing the boundaries of LCAs 21 and 39 in the vicinity of the appeal site

SCHEDULE OF PLANNING CONDITIONS

1. The development hereby permitted shall be removed from the site within a period of 25 years from the date of this decision. Following the removal of the turbines the site shall be restored to its former condition in accordance with a timetable that shall have previously been submitted to and approved in writing by the Local Planning Authority.
2. If either of the turbines ceases to produce electricity for a continuous period of 12 months then it shall be removed from the site and the site shall be restored to its former condition in accordance with a timetable that shall have previously been submitted to and approved in writing by the Local Planning Authority.
3. The noise emissions from the wind turbines shall not exceed a sound pressure level $L_{Aeq, (T)}$ of 35dB at the curtilage of any dwelling lawfully existing at the date of this permission at wind speeds up to and including 8 ms^{-1} , at rotor centre height. Any noise measurement shall be made at a height of 1.2m and at a minimum distance of 3.5m from any façade or acoustically reflective surface. Within 21 days of a request by the Local Planning Authority (LPA) (or such longer time as agreed in writing by the LPA), and following a complaint relating to the turbines, the operator of the wind turbines shall, at their own expense, employ a suitably competent and qualified person to measure and assess, in accordance with a method agreed in writing by the LPA, whether noise from the turbines meets the level specified above.
A copy of the assessment report, together with all recorded data and audio files obtained as part of the assessment, shall be submitted to the LPA within 60 days of the request and shall be approved in writing by the LPA.
The operation of the turbines shall cease if the specified noise level above is confirmed as being exceeded.
4. Within 14 days of the date of this decision the appellants or operator of the wind turbines shall provide the Local Planning Authority with written confirmation that the Ministry of Defence (Defence Infrastructure Organisation Safeguarding) has been supplied with details of the latitude and longitude of the wind turbines.

Guidance Note for Condition 3

The noise criteria $L_{Aeq, (T)}$ measurement reference period shall be based on the British Wind Energy Association (now known as renewableUK) calculation $T=4*D$ where D is the rotor diameter in metres and T is the measurement time period in seconds (subject to a minimum period of 10 seconds). For the purpose of this condition 'curtilage' is used to describe an existing domestic garden area boundary. It is not used to describe the entire extent of a land parcel.



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.

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