



Department for
Communities and
Local Government

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Our Ref: APP/Z2830//A/11/2165035

Your Ref: Spring Farm Ridge-
181122.000002

22 December 2014

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY BROADVIEW ENERGY LTD
SPRING FARM RIDGE, LAND TO THE NORTH OF WELSH LANE BETWEEN
GREATWORTH AND HELMDON
APPLICATION REF: S/2010/1437/MAF**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Woolcock BNatRes (Hons) MURP Dip Law MPIA MRTPI, who held an inquiry beginning on 8 October 2013 into your client's appeal against the refusal of South Northamptonshire Council ("the Council") to grant planning permission for the erection of 5 wind turbines plus underground cabling, meteorological mast, access tracks, control building, temporary site compound and ancillary development at Spring Farm Ridge, land to the north of Welsh Lane between Greatworth and Helmdon. On the 11th October 2013 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 on the grounds that it involves a renewable energy development.

Inspector's recommendation and summary of the decision

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

Procedural matters

3. In reaching this position the Secretary of State has taken into account the submitted Environmental Statement (ES) dated October 2010 and the Further Environmental Information Report (FEI) submitted in February 2012 (IR2) and the updated noise assessment in August 2013 (IR5). Overall, and like the Inspector (IR188), the Secretary of State is satisfied that the ES and FEI comply 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.
4. The Secretary of State has taken into account the planning guidance published in March 2014.
5. The Court of Appeal issued a judgment on 18 February 2014 in the case of Barnwell Manor Wind Energy Limited v East Northamptonshire District Council concerning the weight to be attached to harm to listed buildings and the overall balancing exercise that decision makers must undertake. The Secretary of State wrote to parties on 15th July 2014 inviting comments. The responses received, which were circulated to parties, have been taken into account in this Decision. He has carefully considered these representations but does not consider that they raise new matters that would affect his decision. Copies of these representations can be provided on application to the address at the bottom of the first page of this letter.

Policy 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, he agrees with the Inspector (IR9) that the development plan comprises the saved policies of the South Northamptonshire Local Plan 1997 (LP).
7. The Secretary of State notes that the emerging West Northamptonshire Draft Core Strategy (eCS) is in preparation. He has also had regard to SPD2007, SPD 2010 and SPD 2013 as set out in IR10.
8. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ("the Framework") and the planning practice guidance; the National Policy Statements (NPS) for Energy (EN-1) and Renewable Energy (EN-3); the Community Infrastructure Levy (CIL) Regulations 2010 as amended. The Secretary of State has also taken into account the Written Ministerial Statements on renewable energy published in June 2013 by the Secretaries of State for Energy and Climate Change and for Communities and Local Government and the Written Ministerial Statement on renewable energy published by the Secretary of State for Communities and Local Government in April 2014.
9. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LB Act), the Secretary of State has paid special regard to the desirability of preserving those listed structures potentially

affected by the proposals before him or their settings or any features of special architectural or historic interest which they may possess.

Main Considerations

10. The Secretary of State agrees with the Inspector that the main issues in this case are those set out at IR189.

Character and appearance

11. The Secretary of State has given careful consideration to the Inspector's conclusions at IR190-208. He agrees that the proposed development would have a major adverse effect on the local landscape in the immediate setting of the turbines, reducing to moderate/major up to about 2.5km from the turbines and with no significant adverse impact beyond this distance (IR199).
12. As to the likely visual effects, it is noted that the appellant's assessment acknowledges that the proposed development would have significant adverse visual effects from 9 of the 19 viewpoints assessed (IR201). The Secretary of State agrees with the Inspector's analysis on the likely impact on the relevant viewpoints (IR202 to 205) and agrees that the proposed turbines would have a major adverse effect on many local views, diminishing with distance (IR206).
13. The Secretary of State agrees with the Inspector that the overall adverse effect on the landscape character and the visual amenity of the area would be of major to moderate/major significance (IR208). This harm weighs against the proposal and is in conflict with the aims of LP policies G3 (A), EV1 and EV25.

Living conditions - outlook

14. The Secretary of State agrees with the Inspector at IR217 that the proposal would not, by reason of deprivation of outlook, unacceptably affect the amenities and the use of the land and buildings which ought to be protected in the public interest.

Living conditions – noise and disturbance

15. The Secretary of State agrees with the Inspector at IR226 that noise from the turbines would be audible at nearby homes at times which would sometimes be heard at levels significantly above background levels. He agrees with the Inspector that the imposition of suitable planning conditions could minimise such impacts. Therefore he attaches little weight to this in the planning balance.

Living conditions – other considerations

16. The Secretary of State agrees that there is no compelling evidence to demonstrate that the appeal proposal would give rise to unacceptable infrasound or adversely affect the health of local residents. Like the Inspector, he gives such fears little weight in the planning balance (IR227).

Heritage Assets (HAs)

17. The Secretary of State has carefully considered the Inspector's reasoning and conclusions at IR231-244. He agrees with the adverse effects of the appeal proposal on the individual HAs identified by the Inspector at IR232-242. He further agrees that overall, the minor to moderate adverse effects of the proposed development on HAs would result in less than substantial harm to be weighed against the benefits of the scheme in accordance with the provisions of paragraphs 134 and 135 of the Framework (IR244). The Secretary of State has given considerable importance and weight to the identified harm and to the desirability of preserving the setting of the listed buildings.

Public Rights of Way

18. The Secretary of State agrees with the Inspector that some limited weight should be given in the planning balance to the perception of harm to safety by users of the PROW and further agrees that this issue is not determinative in the decision (IR245).

Highway safety

19. The Secretary of State notes that the Highway Authority raises no objection to the proposal on technical highway grounds. He agrees with the Inspector that there is no basis to reject the proposal on highway grounds and he too finds no conflict with LP policies in this regard.

Other considerations

20. The Secretary of State notes that some biodiversity enhancements are proposed as part of the appeal scheme and agrees that there is no evidence that the proposal would have a significant adverse effect on protected species or nature conservation (IR247).
21. The Secretary of State agrees that the imposition of suitable conditions on any grant of planning permission would overcome concerns about drainage (IR248), impact on radio and television reception (IR249), land restoration following removal of the turbines (IR253).
22. The Secretary of State agrees with the Inspector's conclusion on the issues raised in IR250, 251, 252 and 254.
23. The Secretary of State agrees with the Inspector at IR255 that although the proposal would result in some socio-economic benefits, the impact on the local economy would be limited.

Renewable energy (RE)

24. The Secretary of State agrees with the Inspector that the appeal proposal would, even using the bottom of the predicted range, make a significant contribution to meeting national targets for the generation of RE and this is a consideration which weighs heavily in favour of the proposal (IR258).

Planning Balance and conclusions

25. 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. The Secretary of State agrees with the Inspector that the proposal does not accord with the development plan taken as a whole (IR263).
26. The Secretary of State has considered whether there are material considerations which indicate that planning permission should be granted notwithstanding that the proposal is not in accordance overall with the development plan. He agrees with the Inspector that the main considerations to be weighed in the planning balance are the adverse effects on the character and appearance of the area and on heritage assets, against which must be weighed the RE benefits which would be generated for the lifetime of the proposed wind farm (IR260).
27. The Secretary of State has given serious consideration to the requirements in paragraph 97 of the Framework that all communities have a responsibility to help increase the use and supply of green energy, but also that this does not mean that the need for renewable energy will automatically override environmental protection and the planning concerns of local communities. The Secretary of State agrees with the Inspector at IR260 that the proposed development would make a significant contribution to RE targets, the reduction of greenhouse gases and to energy security. He further agrees that these are important public benefits and he too gives them significant weight in favour of the appeal. The Secretary of State notes the Inspector's comments regarding the national Planning Statement (NPS) EN-1 at IR206 and IR264. However, whilst EN1 acknowledges that it will not be possible to develop necessary large-scale energy infrastructure without some significant residual adverse impacts, this is in the context of the Appraisal of Sustainability which incorporates Strategic Environmental Assessment for the NPS and not an individual scheme. In light of paragraph 98 of the NPPF, the Secretary of State considers that the proposal conflicts with paragraph 98 for the reasons stated below.
28. The Secretary of State agrees that, in so far as noise and disturbance is concerned, and subject to the imposition of suitable planning conditions, the proposed development would not unacceptably harm the amenities of any property or cause noise problems and he finds that there would not be a conflict with LP Policy G3(D) and (E) (IR261).
29. The Secretary of State agrees with the Inspector at IR262 that the benefits and disadvantages of the proposal are finely balanced. However he disagrees with the Inspector as to where the balance falls. The proposal would not accord with the DP. Although there are some material considerations which weigh in favour of the proposal, including the RE benefits, the Secretary of State finds that those benefits are not sufficient to outweigh the likely adverse impacts, in particular the identified harm to the HAs as well as the character and visual amenity of the area. In accordance with section 66 of the LB Act, the Secretary of State has attached considerable importance and weight to the desirability of preserving the setting of the HAs.

30. The Secretary of State disagrees with the Inspector's judgement at IR277 and considers that the likely harm from the proposed development would not be outweighed by the RE benefits. He agrees that the proposal conflicts with the development plan and there are elements of the Framework which do not support the scheme. He considers that there would be harm to a range of heritage assets which, while not being substantial, merits considerable importance and weight in the planning balance in line with section 66 of the LB Act.
31. Having weighed up all relevant considerations, the Secretary of State concludes that the factors which weigh in favour of the proposed development do not outweigh its shortcomings and the conflicts identified with the development plan, statutory requirements and national policy.

Conditions

32. The Secretary of State has had regard to the schedule of conditions at Annex 1 of the IR. He is satisfied that the Inspector's proposed conditions are reasonable and necessary and would meet the tests of the paragraph 206 of the Framework. However, he does not consider that they would overcome his reasons for dismissing this appeal.

Formal Decision

33. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission.
34. This letter serves as the Secretary of State's statement under Regulation 21(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

35. 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.
36. A copy of this letter has been sent to South Northamptonshire Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Richard Watson

Authorised by the Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by John Woolcock BNatRes(Hons) MURP DipLaw MPIA MRTPI

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

Date 14 April 2014

Town and Country Planning Act 1990

South Northamptonshire Council

appeal by

Broadview Energy Developments Limited

Inquiry held on 8 to 11, 15 to 18 and 22 to 24 October 2013

Spring Farm Ridge, land to the north of Welsh Lane between Greatworth and Helmdon

Report Appeal Ref: APP/Z2830/A/11/2165035

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ABBREVIATIONS

AONB	Area of Outstanding Natural Beauty
AM	Amplitude modulation of aerodynamic noise
BHS	British Horse Society
BOAT	Byway Open to All Traffic
BS4142	<i>Method for rating industrial noise affecting mixed residential and industrial areas</i>
CD	Inquiry Core Document
CLVIA	Cumulative landscape and visual impact assessment
DMV	Deserted medieval village
DNO	Distribution Network Operator
EA	Environment Agency
eCS	emerging Core Strategy
EH	English Heritage
EIA	Environmental Impact Assessment
EN-1	<i>Overarching National Policy Statement for Energy</i>
EN-3	<i>National Policy Statement for Renewable Energy Infrastructure</i>
ES	Environmental Statement
ETSU-R-97	<i>The Assessment and Rating of Noise from Wind Farms, ETSU-R-97, Energy Technology Support Unit</i>
FEI	Further Environmental Information
<i>Framework</i>	<i>National Planning Policy Framework</i>
GHG	Greenhouse gases
GLVIA	<i>Guidelines for Landscape and Visual Impact Assessment, Third Edition, Landscape Institute</i>
HS2	High Speed 2 rail scheme
HSGWAG	Helmdon Stuchbury and Greatworth Windfarm Action Group
ID	Inquiry Document – document submitted at Inquiry
IoAGPG	<i>A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise, Institute of Acoustics, 20 May 2013</i>
LP	South Northamptonshire Local Plan 1997
LVIA	Landscape and visual impact assessment
MoD	Ministry of Defence
NATS	National Air Traffic Services
NE	Natural England
<i>Guidance</i>	<i>Planning Practice Guidance</i>
NPSE	<i>Noise Policy Statement for England</i>
OAM	Other Amplitude Modulation
PPGRE	<i>Planning practice guidance for renewable and low carbon energy, DCLG July 2013 [now replaced by the Guidance]</i>
PROW	Public Rights of Way
PPS5 Practice Guide	<i>PPS5 Planning for the Historic Environment: Historic Environment Planning Practice Guide at CD10.2</i>
PPS22	now replaced <i>Planning Policy Statement 22: Renewable Energy</i>
PPS22CG	now replaced <i>Planning for Renewable Energy – A Companion Guide to PPS22</i>
RE	Renewable energy

RHPG	Registered Historic Park and Garden
SAM	Scheduled ancient monument
SLA	Special Landscape Area
SNC	South Northamptonshire Council
SOAEL	Significant observed adverse effects level
SoCG	Statement of Common Ground between South Northamptonshire Council and appellant
SPD2007	<i>Energy and Development 2007</i>
SPD2010	<i>Wind Turbines in the Open Countryside 2010</i>
SPD2013	<i>Low Carbon and Renewable Energy SPD 2013</i>
SSSI	Site of Special Scientific Interest
T1-T5	Proposed wind turbines 1 to 5 in appeal scheme
VP	View Point
WMS	Written Ministerial Statements at CD2.3 and CD2.4
ZTV	Zone of Theoretical Visibility

Appeal: APP/Z2830/A/11/2165035

Spring Farm Ridge, land to the north of Welsh Lane between Greatworth and Helmdon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (hereinafter the 1990 Act) against a refusal to grant planning permission.
 - The appeal is made by Broadview Energy Developments Limited against the decision of South Northamptonshire Council (SNC).
 - The application Reference S/2010/1437/MAF, dated 18 October 2010, was refused by notice dated 11 July 2011.
 - The development proposed is the erection of five wind turbines plus underground cabling, meteorological mast, access tracks, control building, temporary site compound and ancillary development.
 - This report supersedes the decision issued on 12 July 2012. That decision on the appeal was quashed by order of the High Court.
-

Summary of Recommendation:

The appeal be allowed, and planning permission granted subject to conditions.

Preliminary matters

1. The appeal was recovered, by letter dated 11 October 2013, for determination by the Secretary of State because the appeal involves a renewable energy (RE) development.¹ In the redetermination of the appeal this report deals with considerations afresh. I have had regard to the judgment in *Arun DC v SSLG*, and to the submissions by the parties about whether the previous Inspector's decision is a material consideration.² However, in this case the approach adopted in the previous decision to the development plan and to the overall balance was found to be unlawful by the Court. I have, therefore, dealt with the matter *de novo*, with no reference made in this report to factual findings or conclusions in the previous appeal decision, except in relation to the possible micro-siting of turbines.
2. The planning application was accompanied by an Environmental Statement dated October 2010 (ES). Further Environmental Information (FEI) was submitted in February 2012, which included provisions for micro-siting of the proposed turbines (T1-T5).³ The ES and FEI were advertised in accordance with the Environmental

¹ ID14B and ID15.

² At the Pre-Inquiry Meeting it was agreed by the parties that the previous decision was a material consideration. The appellant's opening submissions stated that *Arun DC v SSLG* [2013] EWHC 190 (Admin) [ID4] suggests that the previous decision is not capable of constituting a material consideration in this redetermination Inquiry [ID7 paragraph 1.3 and ID55 paragraph 1.4]. The Council considers that *Arun DC v SSLG* does not preclude the decision maker from having regard to factual findings and conclusions of the previous Inspector [ID20]. HSGWAG puts it no higher than that the previous factual conclusions are capable of being material considerations in the *de novo* redetermination as one expression of opinion on those issues [ID19].

³ Turbines T1-T5 are numbered from west to east.

Impact Assessment (EIA) Regulations.⁴ The ES and FEI reasonably comply with the relevant provisions of the EIA Regulations, and the Environmental Information, as defined in the EIA Regulations, has been taken into account in this report and its recommendation.

3. On application Helmdon Stuchbury and Greatworth Windfarm Action Group (abbreviated to HSGWAG in this report) was granted Rule 6(6) status pursuant to the Town and Country Planning (Determination by Inspectors) (Inquiries Procedure) (England) Rules 2000, which then applied. HSGWAG participated fully in the Inquiry, opposing the proposed development.
4. The Statement of Common Ground (SoCG) refers to clarification on the ground of the definitive line of Footpath AN10, which crosses the appeal site, and to possible micro-siting. SNC and the appellant agree to the micro-siting of T3 to the north and east of the location specified in the application, which would site it 56 m from the legal line shown on the Definitive Map, a distance that would avoid the blades oversailing Footpath AN10.⁵ A condition is proposed to fix the coordinates of T3 accordingly.⁶ This would effectively be a minor amendment to the FEI scheme, which proposed that T3 would be 41 m from the definitive line of Footpath AN10. The assessment of the scheme at the Inquiry was on the basis of the revised siting.⁷ I do not consider that dealing with the appeal on this basis would be prejudicial to the interests of any party.
5. The appellant's noise assessment was updated in August 2013. Some of the existing baseline data was re-interpreted in accordance with the Institute of Acoustics *A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise*, which was published in May 2013 (IoAGPG).⁸ The re-interpretation, amongst other things, removed data which was described as the dawn chorus, and added reference to a second candidate turbine. It was clarified at the Inquiry that this new assessment replaced that in the ES and FEI. This revised assessment was discussed at the Inquiry and it is appropriate to take it into account in determining the appeal. No one would be prejudiced by doing so.
6. RenewableUK published research about Other Amplitude Modulation (OAM) on 16 December 2013, and the parties were given the opportunity to comment.⁹ This research includes a suggested template for a planning condition concerning OAM.¹⁰ The responses from the parties are included in their respective cases set out below.¹¹ The Secretary of State issued a decision for a wind farm in Maldon District Council on 13 February 2014, which included a condition to control

⁴ The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 continue to apply in accordance with the transitional arrangements for the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.

⁵ SoCG section 15.

⁶ Suggested Condition 17 specifies these coordinates for T3 [ID52].

⁷ This was also discussed at the previous Inquiry and a condition was imposed on the quashed permission to site T3 at these coordinates.

⁸ Appendix 1 to PoE10.

⁹ IDa 56.1 which includes links to the documents on RenewableUK's website.

¹⁰ IDa 56.2.

¹¹ IDa 57, IDa 58.1 and 58.2, and IDa 59.1-3.

amplitude modulation.¹² The parties were invited to comment on this.¹³ Responses are summarised in the parties' case.¹⁴

7. The *Planning Practice Guidance* (hereinafter the *Guidance*) was published on 6 March 2014 and replaced a number of circulars and guidance that had been cited at the Inquiry. Some of these references remain in the summary of the parties' cases in this Report, but a footnote has been added to note replacement by the *Guidance*. The parties were given the opportunity to comment on the *Guidance* and these representations have been taken into account in my conclusions and recommendations.¹⁵
8. The accompanied site visit took place on 31 October 2013. HSGWAG flew blimps at either end of the proposed wind farm on that day.¹⁶ However, the blimps were not tethered at the proposed locations of any of the turbines. Furthermore, the wind affected both the height and position of the blimps in relation to the proposed turbines. The blimps were of some assistance in providing a broad orientation in the wider landscape, but I have not relied upon them in judgements about visual impact, and have given more weight to the photomontages and wireframe illustrations for this purpose. I undertook unaccompanied site visits on 25 October and 4 November 2013, which included visiting Low Spinney wind farm.¹⁷

Planning policy and guidance

9. Following the revocation of the East Midlands Regional Plan in April 2013 the adopted development plan for the area comprises saved policies of the South Northamptonshire Local Plan 1997 (LP).¹⁸ The emerging West Northamptonshire Draft Core Strategy (eCS) is in preparation. This was at examination stage in December 2012, but a further assessment of the need for new housing is currently in progress.¹⁹ Relevant policies of the LP and eCS are set out in Annex 1 to this report.
10. SNC adopted *Energy and Development*, in 2007 (SPD2007).²⁰ This provides general advice about energy efficiency and maximising the use of RE. *Wind Turbines in the Open Countryside*, which was adopted in 2010 (SPD2010) provides, amongst other things, that the decision-maker would need to be satisfied that the living conditions of local residents would not be unreasonably affected.²¹ It also refers to national advice about driver distraction. SPD2010 notes that historically more dynamic landscapes, particularly where the prevailing character is industrial or agriculturally intensive, may be more suited to

¹² IDa 60.1. Condition 25 states "No generation of electricity to the grid from the wind turbines shall take place until a Scheme for the regulation of amplitude modulation has been submitted to and approved in writing by the local planning authority. The scheme should be implemented as approved."

¹³ IDa 60.2.

¹⁴ IDa 61, IDa 62 and IDa 63.

¹⁵ IDa 64, IDa 65 and IDa 66.

¹⁶ ID51.

¹⁷ ID45.

¹⁸ CD1.1.

¹⁹ CD4.4, CD4.6, CD4.7 and CD4.8.

²⁰ CD4.2.

²¹ CD4.1.

accommodating large-scale wind energy development. *Low Carbon Energy Opportunities and Heat Mapping for Local Planning Areas Across the East Midlands: Final Report* was published in 2011.²² This assessment of RE potential represents the technical potential and not the deployable potential, and notes that it does not provide guidance on the development of specific sites. The objective of the mapping in *Low Carbon and Renewable Energy SPD*, which was adopted by SNC in 2013, was to identify areas that are subject to potential environmental constraints (SPD2013).²³ It also adds that applications for RE development would be judged for their impact on visual amenity and the quality of the District's landscape.

11. Paragraph 3 of the *National Planning Policy Framework* (hereinafter the *Framework*) states that national policy statements are a material consideration in decisions on planning applications.²⁴ I deal in more detail later with the *Framework*. However, it replaced *Planning Policy Statement 22: Renewable Energy* (PPS22). Footnote 17 to paragraph 97 of the *Framework* states that in assessing the likely impacts of potential wind energy development in determining such planning applications the approach in the *National Policy Statement for Renewable Energy Infrastructure* (EN-3), read with the relevant sections of the *Overarching National Policy Statement for Energy* (EN-1), should be followed.²⁵ In accordance with paragraph 1.2.1 of EN-1 and paragraph 1.2.3 of EN-3 there are no reasons here why these national planning statements should not apply in the interests of consistency, notwithstanding that the appeal scheme falls below the 50 MW threshold for national infrastructure projects. *PPS5 Planning for the Historic Environment: Historic Environment Planning Practice Guide* remains extant.²⁶ This refers to English Heritage's *Conservation Principles*, which identifies four types of heritage value that an asset may hold: aesthetic, communal, historic and evidential value.
12. The *Guidance* replaced the *Planning practice guidance for renewable and low carbon energy*, which was published by DCLG in July 2013 (PPGRE).²⁷ The PPGRE was foreshadowed in the Written Ministerial Statements (WMS) to Parliament dated 6 June 2013, and replaced *Planning for Renewable Energy – A Companion Guide to PPS22* (PPG22CG).²⁸
13. The *Noise Policy Statement for England* 2010 (NPSE) aims through the effective management and control of environmental noise within the context of Government policy on sustainable development to; avoid significant adverse impacts on, mitigate and minimise adverse impacts on, and where possible, contribute to the improvement of, health and the quality of life.²⁹ The Explanatory Note refers to, but does not set specific values for, the noise level above which significant observed adverse effects level on health and quality of life occur (SOAEL).

²² CD4.3.

²³ CD4.10.

²⁴ CD2.1.

²⁵ CD2.7 and CD2.8.

²⁶ CD10.2.

²⁷ CD2.5.

²⁸ CD2.3 and CD2.4.

²⁹ ID31.

The appeal site and surrounds ³⁰

14. The appeal site lies between the villages of Greatworth (about 0.9 km to the south-west), Helmdon (about 1.4 km to the east), and Sulgrave (about 1.9 km to the north). The nearest town is Brackley, which lies about 4.5 km to the south of the appeal site. The Cotswold Area of Outstanding Natural Beauty (AONB) is located some 20 km to the west, and a Special Landscape Area (SLA) designated in the LP lies about 1.8 km to the west. Helmdon Disused Railway Site of Special Scientific Interest (SSSI) is about 950 m to the east of the site.³¹ Vehicular access to the site is from Welsh Lane, which is here a part of the B4525. The B4525 is used as a link between the M40 and the A43/M1.
15. The site comprises an area of agricultural land predominantly in arable use, with hedgerows and trees forming field boundaries. The main part of the site drops down to the north, partly forming one side of a minor enclosed valley.³² The undulating landscape was described at the Inquiry as comprising broad ridges, with the valleys between referred to as interfluve areas.³³ There are some commercial uses in the vicinity of Greatworth Hall, and an anaerobic digester facility with access off the B4525 to the west of the appeal site. Tanks a Lot is a commercial enterprise, using military vehicles in open fields, which operates from Spring Farm.³⁴
16. Long distance footpaths, the Ouse Valley Way and Macmillan Way, are located about 6 km and 5.7 km, respectively, away from the appeal site. Regional Cycle Route 70 passes through the village of Weston, some 3.8 km from the site. There is also a local network of footpaths, bridleways and the byway, which are collectively referred to in this report as the Public Rights of Way (PROW). Footpath AN36 is a Byway Open to All Traffic (BOAT), which extends north/south across the appeal site between Stuchbury Hall Farm and the B4525. Footpath AN10 crosses the appeal site in an east/west direction.³⁵
17. Within 5 km of the appeal site there are over 300 listed buildings, eight Scheduled Ancient Monuments (SAM), one Registered Historic Park and Garden (RHPG), and eight Conservation Areas.³⁶ Other RHPG, including those at Canons Ashby and Stowe lie within 15 km of the appeal site.³⁷ Undesignated heritage assets in the area include Stuchbury deserted medieval village (DMV) ³⁸, the DMV at Astwell ³⁹, which are both currently being assessed by English Heritage (EH) for possible designation, and the disused Helmdon railway viaduct.
18. The site lies at the south-eastern boundary of Character Area 95: Northamptonshire Uplands in the national landscape character context, but is

³⁰ Based on SoCG and evidence at the Inquiry.

³¹ The wider context and landscape designations in the locality are shown on Figure 7.1 ES Vol 3 2010.

³² SoCG paragraph 4.2.

³³ ID17, Appendix B PoE5 and Figure 1.1 Appendix 2.5 PoE2.

³⁴ CD13.2.

³⁵ The local network of footpaths, bridleways and the byway are shown on Figure 1 of PoE 3.

³⁶ Figures 8.2, 8.3 and 8.4 ES 2010 Appendices Volume 4.

³⁷ Figure 7.1 ES Volume 3 2010.

³⁸ Figure 8.1 ES 2010 Appendices Volume 4 and ID2.

³⁹ ID6.

close to other national character areas.⁴⁰ Within the East Midlands Regional Landscape Character Assessment the site lies within area 5C: Undulating Mixed Farmlands, which is characterised by a varied landform of broad rolling ridges, steep sided valleys, rounded hills and undulating lowlands, remote, rural and sometimes empty character, with frequent and prominent ridge and furrow and evidence of deserted medieval settlements. In Northamptonshire's landscape character assessment the site lies within an area described as Undulating Claylands - 6a Tove Catchment Area.⁴¹ This is characterised by a broad, elevated undulating landscape drained by broad, gentle convex sloped valleys, with wide panoramic views across elevated areas with undulating landform creating more contained and intimate areas. It adds that because streams are of limited scale, the subtle form of the many undulations do not 'read' in the landscape as river valleys, but appear as a complex series of interlocking undulations. It also states that this is a simple, and in places colourful landscape, with texture provided by hedgerow and streamside trees and occasional woodland blocks punctuating the landscape. This is a long settled landscape with many historic remnants evocative of the medieval period, including rural villages and extensive areas of ridge and furrow. On the whole the Undulating Claylands is a well maintained and managed landscape of moderate scenic quality, which on a county scale is considered to be generally unremarkable, although occasional estate houses and associated parkland are of note, as are wooded horizons. To the west lies an area described as Undulating Hills and Valleys – 13a, a rural landscape with a cohesive and recognisable unity of character, along with a number of significantly sized settlements.⁴²

19. The proposal for High Speed 2 rail link (HS2) would locate the route to the west of the appeal site.⁴³ However, the scheme is at an early stage and cannot properly form part of the baseline for the assessment of the appeal scheme. Proposals for HS2 are a material consideration, but can be given very little weight at this stage.⁴⁴

The proposed development⁴⁵

20. The proposed development includes five wind turbines (T1-T5) with a maximum height to blade tip of 125 m, along with associated underground cabling, meteorological mast, access tracks, control building, temporary site compound and ancillary development.⁴⁶ The scheme would have a life of 25 years, after which the wind farm development would be decommissioned and the land reinstated. Based on a wind turbine with a maximum generating capacity of 2-3 MW, the proposed wind farm would have an installed capacity of 10-15 MW.
21. The appellant has based estimates of electricity generation and carbon dioxide savings on two candidate turbines, which are the Repower MM92 turbine and the

⁴⁰ CD8.19, Figure 7.2 ES Volume 3 2010.

⁴¹ Figure 7.3 ES Volume 3 2010.

⁴² PoE2 Appendix 2.5 and Figure 1 FEI 2012 Volume 2.

⁴³ CD14.1.

⁴⁴ There was a measure of agreement about this at the Inquiry [ID54 paragraph 25, ID53 paragraph 2, ID55 paragraph 4.17.]

⁴⁵ SoCG.

⁴⁶ Proposed infrastructure layout is shown on Figure 5.1 *Indicative Site Layout* Further Environmental Information Volume 3 Appendix G (February 2012).

Vestas V90 turbine. The estimates are based on two years measurement of wind speed and direction on site, along with a correlation with off-site reference data to provide a 20-year wind regime prediction for the site. The MM92 turbines with 10.25 MW installed capacity are predicted to generate 33,700 MWh per year with a capacity factor of 37.5%. The V90 turbines with an installed capacity of 15 MW are predicted to generate 35,000 MWh per year with a capacity factor of 26.6%. The number of homes supplied based on regionally specific values would be 8,400 for the MM92 turbines and 8,700 homes for the V90 turbines, with projected carbon dioxide savings over the lifetime of the scheme of 143,200 tonnes and 148,900 tonnes respectively.⁴⁷

22. The appellant has proposed the creation of a permissive path to the north of Footpath AN10.⁴⁸
23. Grid connection works were considered in the ES, but are not part of the appeal scheme and would need to be the subject of separate consideration by the distribution network operator (DNO).⁴⁹

Statement of Common Ground, photomontages and wireframes

24. A Statement of Common Ground (SoCG) between SNC and the appellant, dated 19 July 2013, sets out, amongst other things, a procedural history and documentation for the application. It refers to relevant policy, and Appendix 2 helpfully sets out a summary of national RE policy. The SoCG identifies principal issues between SNC and the appellant, and states that commercial viability is not a material land use consideration. It clarifies that SNC has no objections to the proposal on a number of grounds, subject to the imposition of appropriate planning conditions. These include archaeology, cultural heritage tourism, ecology, noise, shadow flicker, impacts on radar or aviation interests, public safety of motorists on the highway, ice-throw, access and impact of traffic on the local highway network, loss of agricultural land, hydrology and flood risk, contamination, electro-magnetic interference, human rights, along with cumulative impacts of any kind.⁵⁰ However, other parties at the Inquiry objected to the proposal on some of these grounds.
25. I asked for clarification about the plans and drawings that comprise the application. The SoCGPlans sets out relevant documentation, but it is clear from the suggested conditions that only Figure 1.1 *Site Location* Environmental Statement Volume 4 Appendix L (October 2010), and Figure 5.1 *Indicative Site Layout* Further Environmental Information Volume 3 Appendix G (February 2012) comprise plans describing the appeal scheme. The latter includes the site boundary edged in red. The other drawings submitted are indicative or illustrative, and do not form part of the application. These include some matters that would need to be addressed by the imposition of appropriate planning conditions were the appeal to succeed.

⁴⁷ PoE11 Appendix 10 and ID42.

⁴⁸ The route of the proposed permissive path is shown at ID49. Suggested Condition 18 would provide for the prior approval of details and require its implementation for the duration of the permission [ID52].

⁴⁹ ID50.

⁵⁰ SoCG section 16.

26. The respective noise experts for SNC and the appellant set out an agreed position about noise, dated 3 September 2013 (SoCGNoise). This provides that the assessment has been carried out in accordance with the guidance in *The Assessment and Rating of Noise from Wind Farms*, ETSU-R-97 (abbreviated to ETSU-R-97 in this report⁵¹), and has been updated to reflect the IoAGPG.⁵² It includes a suggested condition setting out revised noise limits. HSGWAG suggested a different condition and limits in the event that the appeal was to succeed. ETSU-R-97 refers to the measurement of noise levels in terms of $L_{A90,10 \text{ min}}$. However, for ease of reading, references to all noise levels in this report do not repeat the $L_{A90,10 \text{ min}}$ descriptor.⁵³
27. The FEI includes maps showing the Zone of Theoretical Visibility (ZTV) of the proposed turbines.⁵⁴ A cumulative assessment is included in the 2010 ES.⁵⁵ A number of photographs, photomontages and wireframe illustrations were submitted by the parties and are cited in this report. These are referred to by the following abbreviations.

FEI VP 1-19	Viewpoints in the FEI Volume 2.
FEI VP A-F	Cultural heritage viewpoints in FEI Volume 2.
VP OV-1 and OV-2	Supplementary viewpoints in PoE9 Appendix 12.
WF 1-11	Wireframes in PoE9 Appendix 9.
HSGWAG VP 1-11	Viewpoints in PoE5 Appendix A. [Pack A 75 degree angle, Pack B 40 degree angle]
HSGWAG SuppVP 1-6	Supplementary viewpoints in PoE5 Appendix A.

The case for South Northamptonshire Council (SNC)

SNC's case refers to visual harm, and harm to the residential amenity of the occupants of Stuchbury Hall Farm, along with additional harm to the setting of nearby heritage assets, and harm (and perception of harm) to the visual outlook of users of PROW. This cumulative harm would significantly and demonstrably outweigh the benefits of the scheme.⁵⁶ The main points are as follows.⁵⁷

Character and appearance

28. Reliance should not be placed on the study about low carbon opportunities in the East Midlands because it represents technical potential at a strategic level and does not consider deployable potential that could be achieved following site

⁵¹ *The Assessment and Rating of Noise from Wind Farms*, ETSU-R-97 at CD9.1. This was drafted by the Noise Working Group for ETSU, which is an abbreviation for Energy Technology Support Unit.

⁵² CD9.12.

⁵³ For example, 40 dB $L_{A90,10 \text{ min}}$ would be specified simply as 40 dB in this report.

⁵⁴ FEI 2012 Volume 2 Figures 2-5.

⁵⁵ ES 2010 Volume 3 Figures CLVIA 1-16 and visualisations 14c and 18c.

⁵⁶ SNC revisited its case and sought authorisation of its Development Control Committee as to the grounds on which it would contest this appeal (Update 6 June 2013 at ID1).

⁵⁷ Based on closing submissions at ID54.

selection and screening on a case by case basis.⁵⁸ Recognition of the intrinsic character and beauty of the countryside is a core principle of the *Framework*. A landscape does not have to be designated to be valued. The PPGRE specifically emphasises the importance of topography.⁵⁹

29. There is a degree of consensus by the experts as to the extent of landscape effects at a local level to the west and south of the appeal site, but SNC considers that those effects extend further east down the Helmdon valley, and significantly further to the north of the site and Sulgrave.⁶⁰ At a county level the scheme would have a major significant adverse effect on the Undulating Claylands landscape type (Tove Catchment character area) up to 3-4 km from the appeal site. There would be a fundamental adverse effect on the character of the local landscape. The moving turbines perceived on the skyline above Sulgrave would have a strong characterising effect (HSGWAG VP 1 and VP 2).
30. SNC and the appellant disagree about the sensitivity of this landscape. The appellant's assessment focuses on the less sensitive interfluvial landscape and fails to reflect the higher sensitivity in parts of the landscape which are more intimate, enclosed, and tranquil in character with little modern development to affect the predominantly rural character. The valley crests, slopes and floor together combine to make up one landscape unit, and siting most of the turbines on the upper valley sides would serve to exaggerate their effect on the valley landscape.⁶¹ There is a quick transition between the character types of the interfluvial (medium/high sensitivity) and the springs and valleys (high sensitivity).⁶² The turbines would be positioned within the transitional area between these types. The primary landscape impact of this scheme would be five large utilitarian structures with moving blades counteracting the sense of permeability. Furthermore, there is consistent evidence that residents have continued to enjoy a tranquil environment, notwithstanding the representation from Tanks a Lot concerning increased activity.⁶³
31. The appellant acknowledges that there would be significant visual amenity effects at all eight of the viewpoints up to 4 km from the site.⁶⁴ These are related to public vantage points and show the scheme would affect visual receptors. Views from the north of the site in the vicinity of Stuchbury Hall Farm would be of dominant structures out of scale with the grain of this small scale valley landscape, with the turbines three times the height of the subtle valley, which only has a 40 m difference in contours from valley floor to valley crest. From PROW to the north of Sulgrave the turbines would be prominent on the skyline, would conflict with the church tower, and would affect the setting of the village.⁶⁵ This impact is distinct from the landscape effects, and should be counted as separate to the impacts on residential amenity, which is considered in the effects on living conditions.

⁵⁸ *Low Carbon Opportunities and Heat Mapping for Local Planning Areas Across the East Midlands* CD4.3.

⁵⁹ This is carried forward into the *Guidance*.

⁶⁰ ID17.

⁶¹ PoE1 paragraph 3.26.

⁶² PoE2 Appendix 2.5 Figures 1.2 and 2.5.

⁶³ ID37.

⁶⁴ FEI Volume 1 page 31 Table 7.5 and PoE1 Section 4.

⁶⁵ PoE2 paragraph 4.11.

Heritage assets

32. Cultural heritage assets here are afforded statutory protection and their national importance is recognised. Separate consideration should be given to these duties in accordance with recent judgments.⁶⁶ English Heritage (EH) has grappled with the effects of climate change and given equal emphasis to the potential for RE technologies to cause serious damage to irreplaceable historic sites.⁶⁷ The conservation of heritage assets in a manner appropriate to their significance is a core planning principle in the *Framework*, and the wider benefits that conservation of the heritage environment can bring is the counterpoint to the wider environmental and economic benefits of RE. PPGRE places importance on the great care that should be taken, including impacts on views important to the setting of heritage assets.⁶⁸ This also indicates that the Government is concerned that its policy of preservation of cultural heritage assets appropriate to their significance is not being maintained. What setting contributes to the significance of an asset depends on a wide range of physical elements as well as perceptual and associational attributes pertaining to the assets surroundings.⁶⁹
33. Views of, from and including an asset, and visual dominance/prominence are attributes of setting, which are highly relevant to Castle Ringworks, church towers, and Astwell Castle SAM, which were deliberately positioned to see and be seen from, so demonstrating command in height. The categories of significance in the Glossary to the *Framework* are not exhaustive and aesthetic and associational aspects should not be downgraded.⁷⁰ Such experiential attributes are more subjective, but this does not detract from their relevance and significance to the impact on setting.
34. The Council and the appellant agree that the proposal would have a moderate adverse effect on Sulgrave Castle Ringwork, Church of St James, Astwell Castle, Greatworth Hall and Sulgrave Conservation Area; and a minor adverse effect on the Church of St Peter at Greatworth and Greatworth Conservation Area. Notwithstanding this agreement, the Council highlights concerns about Greatworth Hall, Greatworth Conservation Area and Astwell Castle, and other assets are covered in more detail by HSGWAG, including the DMV at Stuchbury.⁷¹
35. Greatworth Hall has a classical façade that faces south towards the village, from which it is designed to be appreciated. The turbines would be visually dominant from this viewpoint and nearby PROW, whereas the appellant has given too much emphasis to the modern access to the property from the north.
36. The *Greatworth Conservation Area Appraisal* provides an up to date policy basis for assessing the effects on the conservation area.⁷² Glimpsed views of the open countryside from within the conservation area are strong reminders of the village's setting and rural heritage. The only public view to the east is from the

⁶⁶ *East Northamptonshire DC v SoSCLG* at CD5.17 and *Bedford BC v SoSCLG* at ID3.

⁶⁷ CD10.3 and CD10.5.

⁶⁸ This is carried forward into the *Guidance*.

⁶⁹ CD10.1.

⁷⁰ CD10.4.

⁷¹ PoE1 Section 1.1.165 states that the Council has sought to focus on those assets which it considers would be most affected by the development.

⁷² CD10.8.

churchyard, and the limited views available mean that this of greater significance. Parts of all five turbines with moving blades would be visible from the churchyard beyond the deciduous trees. The three PROW leading out from the churchyard draw out views of the open countryside. There are also locations to the south of the village from where the turbines would be seen competing with the tower of the church.⁷³

37. Commanding views are important to the siting and significance of Astwell Castle because of its setting within the landscape to demonstrate wealth and power. Views to the west would be disrupted by the presence and movement of the turbines, and the sense of remoteness disrupted, notwithstanding the limited arc of view.
38. There is a difference of expert opinion about the likely effects on Sulgrave Manor and its RHPG. The appellant considers the effect would be neutral, but SNC finds a minor adverse effect arising from the visibility of rotating blades in views out of the garden.⁷⁴ SNC also notes that the proposal would have a negative impact on an important view out from Culworth Conservation Area.⁷⁵
39. The appellant states that there would be no confusion as to the significance of an asset by the presence of the turbines, but this would set the threshold too high, where experiential elements of setting are an important attribute of an asset's setting. Within the broad categories of moderate or minor adverse effects, the impacts should be increased from the appellant's assessment, and all these impacts must still be weighed in the balance under paragraph 134 of the *Framework*. The reversibility of the development is a relevant consideration, but its impact would be present for a generation. The *Framework* aims to conserve heritage assets so that they can be enjoyed for their contribution to the quality of life of this and future generations, so this is a factor that should not be given significant weight.

Living conditions

40. A high degree of caution should be exercised before identifying a pass/fail test of whether an impact on residential amenity would be acceptable, for the following reasons. No such test is set out in statute, policy or guidance. PPGRE does not do so, and refers to the protection of local amenity as an important consideration, which should be given proper weight in planning decisions.⁷⁶ Each case must be determined on its merits and other decisions, whilst capable of being material, are not binding. The decision in the *Enifer Downs* appeal does not refer to a test.⁷⁷ Inspectors have articulated acceptability or otherwise on a case by case basis, exercising professional judgement. Against that background key factors are proximity, screening, orientation, spread of turbines and blade stacking or overlapping one behind another in the view. Visual impacts are only one element of residential amenity, and impacts in terms of noise and shadow flicker should be added to the overall assessment.

⁷³ PoE1 paragraph 1.1.120.

⁷⁴ Table 1 PoE1 page 6.

⁷⁵ PoE1 Section 1.1.152 and CD10.6.

⁷⁶ This is carried forward into the *Guidance*.

⁷⁷ CD6.8.

41. The fact that impacts on residential amenity are considered significant in EIA terms should not be ignored, and must weigh in the planning balance. In this case there are 16 properties or groups of properties within 2 km that would experience major and significant adverse effects, 10 of which would be within 1 km of the turbines.⁷⁸ The appellant acknowledges that of those 10 properties, 8 would be within the 'dominant' range of at least one turbine. All these impacts should be weighed in the planning balance.
42. At Stuchbury Hall Farm T5 would be about 800 m from the property and around 200 m from the landholding. The turbines would appear on the opposite side of the valley with their bases at the same height, or higher, than the occupier of the Farm, such that their vertical prominence would be exaggerated. They would also be prominent from the main approach to the house. There are principal views from the south facing windows of the lounge and upstairs bedroom, and the garden amenity area, towards the appeal site, from which the proposed turbines would be viewed directly and obliquely. Intervening buildings are low level and would only screen turbine blades from vantage points close to these buildings. The deciduous trees would provide some degree of screening depending on the season, but moving blades would be apparent and seen overtopping the trees in places, and whether prominent or partially screened, would fill a large arc in the view to the south of the property. The visual impact would render the property an unpleasant and significantly less attractive place to live, at the threshold of acceptability.
43. The agricultural holding at Stuchbury Hall Farm extends to the boundary of the appeal site and the occupiers of the farm would have little respite from the presence of the turbines. There will be another residence to the south of the existing dwelling following the grant of planning permission for residential conversion of a barn, which might be affected. The limited tree felling to the south of this barn was carried out for good land management reasons.⁷⁹ There would be perceptible noise effects for the occupiers of the farm both during the day and at night, which would be easily distinguishable in terms of its character. The dominant wind direction from the south-west would place the property and the landholding downwind from the turbines for the largest proportion of the year. The impacts of the appeal scheme on Stuchbury Hall Farm when considered in the round, including the visual impact and noise effects, would be unacceptable.
44. The visual impacts at Grange Farm would render it a significantly less attractive place to live. The proximity of turbines, with direct views channelled along the rural Helmdon Valley, along with blade stacking of T2, T3 and T4, all perceived at different heights, would provide an uncomfortable viewing experience. Some of the occupiers work the land around their properties, which the *Brightenber* appeal decision established could be taken into account.⁸⁰ The turbines would be a pervasive presence in direct views from within and around the properties and gardens of Grange Farm, Orchard End and The Granary. As for all properties

⁷⁸ ES Volume 4 page 25 Table 1. SNC point out that T5 was moved closer to Stuchbury Hall Farm, Stuchbury Lodge and Stuchbury Gatehouse by the relocation in the FEI with no discernible change in the assessed effect (FEI Volume 3 page 51 Table 9).

⁷⁹ ID35.1-3.

⁸⁰ CD6.27.

within 1 km of the turbines, noise effects would be distinguishable from the background, both day and night. There would also be a degree of shadow flicker, albeit limited and conditioned.

45. Turning to RenewableUK's research about amplitude modulation, SNC considers that in the absence of either the Institute of Acoustics or the Government formally peer reviewing the research, it generally supports the recommended template planning condition, subject to this being updated in the future from findings of any further research.⁸¹ In the *Turncole* appeal decision the Secretary of State recognised the need to protect residential amenity by imposing a condition concerning any potential unacceptable levels of amplitude modulation. The same approach should be adopted here. In the absence of a more robust condition, it is suggested that the condition should be based on the wording of the RenewableUK template planning condition.⁸²

Safety and perceive harm

46. The fears and concerns of the public may itself constitute a material consideration if these relate to a matter, such as public safety, which itself is a material consideration, or if the fact that they exist may have land use consequences. The impacts here would be on the use made of the PROW network. In other cases conditions have been imposed or permissive paths accepted in order to deal with impacts on PROW and to make the proposal acceptable.⁸³ These went beyond the minimum requirement that turbines should be located so as not to oversail a PROW.
47. The revised siting for T3 would mean that footpath AN10 was not oversailed, but T1-T4 would remain within the fallover distances of footpaths.⁸⁴ Rotating blades at a height of 125 m would be within a range that would be perceived as harmful to users of the footpath. Micro-siting would also bring T3 closer to the proposed permissive path. Footpath AN10 provides the most direct route for people on foot between Greatworth and Helmdon, avoiding the B4525, which has no pavement, as much as possible. But it would run alongside the proposed wind farm and between T3 and T4. Perceived safety would be an issue for people using this network of PROW. Greatworth is not well served by bridleways and so AN36 is a particularly important link towards the bridleways around Sulgrave, Helmdon and beyond. The British Horse Society's (BHS) guidance seeks a 200 m exclusion zone, and to the extent that that guidance is well known to horse riders, it would have a behavioural effect, which would influence whether equestrians would use the BOAT.
48. PPGRE does not provide guidance on acceptable separation distances from PROW, but emphasises the protection of local amenity.⁸⁵ The *Guidance* provides that public rights of way form an important component of sustainable transport links and should be protected or enhanced.⁸⁶ The issue is to be considered on a

⁸¹ IDa 57.

⁸² IDa 61.

⁸³ CD6.13, CD6.30 and CD6.26.

⁸⁴ Figure 2 PoE 3 shows blade oversail, turbine height and 200 m buffering for T1, T2, T4 and T5, but T3 with micro-siting would be 56 m from AN10.

⁸⁵ This is carried forward into the *Guidance*.

⁸⁶ IDa 65.

case by case basis. In this case there would be multiple impacts to several PROWs. The footpaths between Greatworth, Sulgrave and Helmdon would be within a windfarm landscape. The likely effect is difficult to quantify and highly subjective, but the network of paths is locally promoted and currently well used, both functionally and for recreation. The impacts on PROW in terms of both visual outlook and perceived safety carry considerable weight in the planning balance.

Planning balance and policy

49. The policies in the LP remain relevant and are not out of date simply because they were adopted in 1997 and prior to the publication of the *Framework*. Due weight should be given to relevant policies according to their degree of consistency with the *Framework*, but there are difficulties in analysing an individual policy for consistency against the *Framework* as a whole, especially where their ambit is wide.
50. LP Policy G2's restriction of development in the open countryside reflects the core principle of recognising the character and beauty of the countryside and the re-use of brownfield land. LP Policy G3 is a permissive policy reflecting core principles on securing good standards of amenity, the conservation and enhancement of the natural environment, and conservation of heritage assets. LP Policy EV1 seeks high quality design consistent with paragraph 17 of the *Framework*. The list of exceptions in LP Policy EV2 is not exhaustive and apt to include development such as is proposed here. LP Policy EV11 is a normal conservation area policy, and Policy EV12 seeks to preserve and enhance the setting of listed buildings by control of design of new development within their vicinity. Sulgrave RHPG may be included within the ambit of LP Policy EV28.
51. The development plan does not contain specific RE provisions, but it cannot be expected that it would cover every conceivable form of development. Each of the relevant LP policies is broadly consistent with the *Framework*. Cultural heritage policies are consistent with conservation aspects of the *Framework*, notwithstanding that they do not contain a balancing provision, and should be accorded full weight. The visual impacts would result in development that was contrary to LP Policy G3(A) and (D) and LP Policy EV2. The proposal would cause significant impact to the setting of heritage assets and perceived safety and outlook for users of the PROW network, and so would conflict with LP Policies G3(A), (I) and (J), EV11 and EV12. There would be an overall conflict with the development plan.⁸⁷
52. Relevant policies of the eCS must carry significant weight because the draft is well advanced and the only further assessment relates to housing and strategic environmental assessment. Policy S1 emphasises enhancing and maintaining the distinctive character of rural communities, and respecting the quality of tranquillity, and should be given some weight. Policy S10 is a high level policy setting out sustainable development principles, but falls to be considered and applied. Policy S11 provides that wind energy proposals should have no significant adverse impact, which depends on how 'significant' is interpreted. Read with the recognition that potential adverse impacts should be minimised, it is clear that a relatively high threshold is set. Policy BN5 recognises that some

⁸⁷ PoE4 Section 6.

harm could result to heritage assets and their setting, but that it should be minimised. The absence of a balancing provision does not make Policy BN5 inconsistent with the *Framework*.

53. SPD2010 and SPD2013 establish a positive approach to the provision of RE development if environmental considerations are met. The legally binding target of sourcing 15% of energy from RE by 2020 is acknowledged. However, this urgent need should be tempered by reference to performance of the UK in deploying onshore wind within the strategy contained in the Roadmap. This shows a rapidly accelerating performance in onshore wind in the last two years, with a healthy pipeline of onshore wind projects in the planning system. Various national energy policy documents are all capable of being material considerations, but the weight attached to them should recognise that national planning policy should be the starting point and should carry considerable weight. There is a balance to be struck, but where planning policy statements post date energy policy, they can be taken to reflect the thrust of energy policy.
54. The *Framework* is the method by which national energy policy was read into the planning system. There is no express presumption in favour of RE contained in the *Framework*. Encouraging the use of RE resources is one of twelve core planning principles, each of which carries equal weight. The 'test' to be applied is whether the impacts are (or can be made) acceptable (paragraph 98 of the *Framework*). Footnote 17 and reference to National Policy Statements should not be construed so as to elevate energy statements to be read as a substitute for the *Framework*. The proposal must be assessed against the *Framework* as a whole, and be reasonably compliant with it, for it to be considered sustainable development. The proposal is in conflict with the development plan, which it cannot be said is silent in its application to this proposal. In any event, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Conclusions

55. This is an intimate landscape, with attractive designated villages, nationally designated cultural assets, and a well used network of rights of way, which are valued by local people. The fact that the scheme is 'reversible' would still mean that the turbines would be in place for 25 years plus a period for decommissioning, and their impacts would endure for at least a generation. The fact that several of the impacts here are felt at a more localised level does not mean that they should be easily overridden by the national need for RE. This is an issue which strikes right at the heart of central government policy in the PPGRE, which is more than a streamlined restatement of policy for RE stemming from the Taylor review.⁸⁸ The effect of the PPGRE when read with the Ministerial Statements is that decision makers should scrutinise impacts on the local environment carefully to ensure that they are afforded proper and appropriate weight, and that previous decisions on impacts on the local environment should carry less weight as material considerations given central government concern that decisions are not always reflecting a locally led planning system, and that action is needed to ensure that the local environment is properly considered.

⁸⁸ The PPGRE is now replaced by the *Guidance*.

56. The appellant has underestimated the landscape and visual, residential amenity, cultural heritage and PROWs impacts of the appeal proposal, and overstated the RE case for approval. In SNC's submission, the landscape and visual impacts (including impacts on residential amenity and visual outlook) are sufficient to justify refusal of the scheme alone, and significantly and demonstrably outweigh the benefits; the impacts on cultural heritage assets and perception of harm to users of the PROW network would not justify refusal of the scheme alone, but would each carry significant weight in the planning balance, and the appeal should be dismissed.

The case for HSGWAG

HSGWAG supplements SNC's case by giving a more local perspective. There are large areas of overlap, but HSGWAG addresses some matters which SNC did not pursue at the Inquiry, including noise and highway safety. The main points are as follows.⁸⁹

Landscape impact

57. The local landscape is highly valued, and predominantly rural. Its key characteristics include; sparse settlement patterns with limited modern development; remote, rural and sometimes empty character; views across elevated areas; and churches providing local landmarks and punctuating the horizon.⁹⁰ The degree to which perceptual aspects of the landscape would be altered should be taken into account in considering landscape effects. The extent of characterising effects extends to where the wind farm would be prominent and contributes to the perception of the landscape character, with decreasing influence dependent on distance and other factors, such as elevation, topography and orientation of views. The appeal scheme would lessen the rural character of the countryside and the sense of tranquillity. The local landscape is relatively undisturbed by noise from human caused sources that undermine the intrinsic character of the area, and so the relevant provisions of the *Guidance* applies.⁹¹
58. The local topography is important, with a sequence of valleys and ridges.⁹² There is an intermediate ridge between Sulgrave and the appeal site. However, from Sulgrave and its surrounds the turbines would appear to be sited on that intermediate ridge, and because of their scale and the influence of topography their effect on the landscape around Sulgrave would be greater. Local ridges are narrow and form skylines and a backdrop in the local landscape, especially in the Helmdon valley and for other land to the north of the B4525. This is not a medium to large scale landscape that is exposed and elevated, as described by the appellant. Local landscape sensitivity is important and makes some locations unacceptable for wind turbine development.

⁸⁹ Based on closing submissions at ID53.

⁹⁰ CD8.12 page 167 and PoE9 Appendix 3 pages 72-73.

⁹¹ IDa 66.

⁹² Appendix B PoE5.

59. Characterising effects of the proposed turbines extend north of Sulgrave (HSGWAG VP 1 and VP 2). From these vantage points the turbines would be prominent on the skyline and have a characterising effect, despite the distance, because of their scale in relation to the small patterns in the landscape and the orientation of views southwards. The whole of the Helmdon valley would be within the wind farm landscape, and it would be artificial to use an 800 m cut-off. This would also be so from Grange Farm (HSGWAG SuppVP 4) and its surrounds. Characterising effects would reach as far as Helmdon village (HSGWAG SuppVP 5 and SuppVP 6) which would be within the wind farm sub-type. It would also extend to the south, where in the vicinity of Greatworth the turbines would be dominant features in the landscape (HSGWAG VP 9 and VP 10). In other directions, such effects would reach about 900 m.
60. The historic character of the landscape is also relevant, as the area has ridge and furrow, a DMV, a defended medieval site, along with the remains of the railway.⁹³ Historic landscape features make a contribution to the local landscape character, and the strategy for the area recommends that inappropriate large-scale development in the open countryside should be avoided.⁹⁴ There would be a direct character effect on the relict landscape from the proposed development.
61. The scale and number of turbines would have a major impact on the landscape. They would be at odds with the present landscape composition, especially the absence of tall, man-made features. The pattern of valleys and ridges to the north of the appeal site is sensitive to the proposed development, and could not satisfactorily accommodate the turbines. The landscape effects would be contrary to LP Policies G3, EV1 and EV31, eCS Policy S11, provisions of the *Framework* and SNC's SPD.

Cultural heritage

62. EH's significant concerns about the proposal remain.⁹⁵ The *Framework* refers to significance and substantial harm, and PPGRE draws attention to the impact of proposals on views important to the setting of assets.⁹⁶ Experience of the asset is at the heart of the idea of setting, and a raft of factors which can make a contribution to significance can be affected by wind farm development, including sightlines, sound, light and unaltered settings.⁹⁷ Harm for 25 years cannot be dismissed, as equal weight should be given to effects on this generation, and future generations. Substantial harm is not defined in the *Framework*, but is serious harm which would very much reduce the significance of an asset.⁹⁸ PPGRE notes that the siting of wind farms within the setting of heritage assets may cause substantial harm to the significance of the asset, and that this is a topic which requires great care and careful consideration.⁹⁹ The section 66 duty is additional to, and different from, anything set out in the *Framework*.

⁹³ PoE9 Appendices 3 and 7.

⁹⁴ *Historic Landscape Character Strategy and Guidelines* PoE9 Appendix 7.

⁹⁵ These are set out in more detail below in the Consultee section.

⁹⁶ This is carried forward into the *Guidance*.

⁹⁷ CD10.1.

⁹⁸ ID3.

⁹⁹ The PPGRE is now replaced by the *Guidance*, which makes it clear that heritage assets can be affected by change in their setting, and account should be taken of the degree to which

63. Sulgrave Conservation Area contains a collection of heritage assets, which form a significant group, and give the village its historic feel. The ringwork, Castle Green and church formed a group which reflected medieval life. Key views from the main street, the ringwork and Castle Green would be affected by the proposed development.¹⁰⁰ As an agricultural settlement it has a functional relationship with the surrounding countryside, with the church tower forming a landmark in some views. EH highlighted the impact on views from the north of Sulgrave on the setting of the church and the contribution its tower makes to the character of the conservation area.¹⁰¹ All five turbines would be seen on the skyline, with moving blades, behind the core of the village. They would detract from the prominence of the church, and the rural and historic character of the countryside which surrounds Sulgrave. Similar considerations apply to the setting of listed buildings in Sulgrave. The turbines would be part of the setting of Sulgrave Manor in the future, because the turbine blades would be visible, even if the land to the south does not currently play a role in the setting of the building.
64. Sulgrave Castle Hill ringwork is an important part of the conservation area, but also an important asset in its own right, particularly as hillforts were located to take advantage of their commanding views. Views out from the ringwork and the Registered Village Green are of great importance to its significance, as due to modern encroachment they remain the only views to and from Castle Hill.¹⁰² In these views the turbines on the horizon would be a prominent distraction. They would affect the perception of the ringwork having a dominating position in the landscape, its role and function, and to a degree the perception of tranquillity and timeliness of the wider countryside. Given the importance of views in and around Sulgrave for the significance of heritage assets in the conservation area, the effects of the turbines would be serious and would cross the line of substantial harm, albeit finely balanced.
65. The Stuchbury DMV and fishponds, although currently undesignated, should be treated as designated assets because this combination is rare, the site is comparatively intact, and EH is currently assessing it for addition to the schedule.¹⁰³ Accordingly, they should be treated for the purposes of the *Framework* as if they were a SAM. Buried remains can often be appreciated in relation to their surroundings.¹⁰⁴ The origins and function of the DMV are linked to the sunken way, the valley hydrology/topography, and to the remaining historic enclosure patterns. This historic asset is very much dependent upon, and supported by, its setting. The contribution which the setting makes to significance is important in understanding and appreciating the significance in relation to the settlement, farming and fish farming. The DMV is an asset where a large amount of the 'reservoir' of significance is to be found in the setting. The DMV earthworks would be within the wind farm landscape. Noise effects, along

proposed changes enhance or detract from the significance of the asset and the ability to appreciate it. IDa 66.

¹⁰⁰ CD10.7.

¹⁰¹ These are identified on Figures 40 and 42 of CD10.7 as important views into the conservation area.

¹⁰² Section 4.6 of CD10.7.

¹⁰³ ID2.

¹⁰⁴ CD4.1 and CD10.1.

with views of the turbines with moving blades, and sight of the access track, would mean that the DMV would feel a very different place. The feel of the topography and the quiet, rural character of the setting would be changed. This would reduce its significance, have a major impact, and cross the threshold of substantial harm. The *Guidance* expressly includes non-designated sites of archaeological interest which are yet to be formally assessed for designation.¹⁰⁵

66. Greatworth Church was an important part of rural village life, and views out from the churchyard, which contains listed headstones, to the countryside are a reminder of the setting and rural heritage of the village.¹⁰⁶ The churchyard is a quiet, rural location, not intruded upon by modern life, which contributes to the experience of visiting the church. From the eastern end of the churchyard the turbines would be seen in a row, with some, at least, of the blades unscreened. They would form a major element in the views out of the churchyard and would affect the perception of tranquillity. This would erode the historic significance of these assets to a discernible extent, but would not constitute substantial harm. For similar reasons, the turbines would affect the setting of the village, but would not be seen in views behind the village, and would not intrude into Greatworth Conservation Area, except at its eastern edges. Effects on the significance of the conservation area would be slight.¹⁰⁷
67. Priory Farm Helmdon is functionally linked with the surrounding countryside, with principal views south towards the appeal site over intact ridge and furrow. The historic field patterns reinforce perceptions of the historic function of the farmhouse. The turbines would be visible from Priory Farm, and also in views of the building from the road, and would be prominent and distracting. They would contrast with the rural agricultural landscape and erode the significance of the listed building. The effects would not constitute substantial harm, but would be unacceptable in terms of the *Framework*.
68. Helmdon viaduct is undesignated, but is part of the local identity of Helmdon. The landscape setting of the viaduct in this valley contributes to its significance, and the turbines would be lined-up in front of, or behind, the viaduct in most views. The turbines would not fit within the valley topography, and would take over from the viaduct as the local landmark. These effects should weigh against the proposed development.
69. Greatworth Hall and its setting would form part of the wind farm landscape, and the turbines would diminish its wider rural context, especially in views from the west and south. However, principal views from the Hall are towards the south and east away from the appeal site. The development would impose on the setting of the Hall and affect its historic significance, but its architectural significance would be less affected. Overall the proposed development would not constitute substantial harm. Astwell Castle and its SAM would be about 3.5 km east of the nearest turbine. The turbines would compromise understanding and appreciation of the historic function of the castle and appear distracting. But overall the significance of the assets would not be greatly affected, and the development would not constitute substantial harm.¹⁰⁸

¹⁰⁵ IDa 66.

¹⁰⁶ CD10.8.

¹⁰⁷ PoE5 paragraphs 122-126.

¹⁰⁸ PoE5 paragraphs 127-132.

70. For Sulgrave Conservation Area and Stuchbury DMV and fishponds the contribution to significance made by the landscape setting is so great that the serious harm to the setting would amount to substantial harm to the significance of the asset, for others the impact on significance, although less than substantial would still be appreciable. The collective or cumulative effect is an important factor in the overall balancing exercise. The proposal would conflict with LP Policies G3(I and J), EV11 and EV12. It would also be at odds with eCS Policies S11 and BN5, the *Framework* and the SNC's SPD. Permitting the development would be inconsistent with the proper performance of the statutory duty in section 66. If substantial harm was to be found to either Sulgrave Conservation Area, or Stuchbury DMV, then paragraph 133 of the *Framework* directs that permission should be refused. If less than substantial harm was found, this would need to be weighed against the benefits in the overall planning balance, and so LP heritage policies are not inconsistent with the *Framework* for want of a specific balancing provision within the policy itself. The proposal would not satisfy the requirement to avoid or minimise conflict between heritage assets and development proposals.

Local amenity and PROW

71. The PROW network in the area is well used and includes locally promoted routes for recreation. The amenity of PROW is important to the local area, forming a network of historical routes in the triangle between the three villages, which are primarily used by local walkers for relatively short walks. Visual impacts on those using the paths are important, and the local landscape is relatively tranquil, which can be affected by more than just noise.¹⁰⁹ Noise levels for some PROW would be around 50 dB, which many people would find annoying. These would be high noise levels for this rural area, and would severely detract from the pleasure of those using the paths. Some walkers would choose not to walk these routes. In particular, the turbines would dissuade people from walking in the Helmdon valley. This major effect on the amenity of the local landscape and its PROW network would be unacceptable, and contrary to LP Policies G3 and EV1, and the provisions of the *Framework*.

Residential amenity - visual impacts

72. Those most susceptible to visual change include residents at home and communities where views contribute to the setting enjoyed by residents.¹¹⁰ Stuchbury Hall Farm includes a house, garden and farm holding, on the south facing valley slope, across from the appeal site. The outlook from the garden and south facing windows in the main living room on the ground floor and upstairs bedroom is currently entirely rural and agricultural. Parts at least of the turbines would also be visible from the drive, Sulgrave/Helmdon Road and the B4525, all of which provide access to the farm. The farm would be within the wind farm landscape, with the turbines would be aligned in a row on the opposite side of the valley. The barn conversion would have a sun room facing towards the appeal site, and the nearby limited tree felling was undertaken for safety

¹⁰⁹ CD8.13 paragraphs 6.14 and 6.33. GLVIA defines tranquillity as "a state of calm and quietude associated with peace."

¹¹⁰ CD8.13 paragraphs 6.33 and 6.36.

reasons prior to the grant of planning permission for the conversion.¹¹¹ The turbines would form an overwhelming presence.

73. The nearest turbine would be about 850 m from Grange Farm and the nearby properties. There would be views from the rear of these dwellings and their gardens. All five of the turbines would be visible, and would appear at different heights, with overlapping blades. The turbines would dominate the skyline at close range, filling the central part of the view, and the effects would be unacceptable.
74. The houses in Astral Row, Greatworth (HSGWAG VP 9), face towards the appeal site over agricultural fields and Greatworth Hall parkland. Their main outlook would be towards the wind farm. The nearest turbine would be about 850 m away, and all five would be visible, with moving blades. There would be uninterrupted views from front gardens, living rooms on the ground floor and main upstairs bedrooms, which would have a considerable adverse effect on the visual amenity and living conditions of the occupiers.
75. The main views from dwellings in and near to Church Street, Helmdon (HSGWAG SuppVP 5 and SuppVP 6) are westward towards the appeal site. The current view of a rural and still landscape, with no intrusive elements, would be disrupted by the turbines; four clustered together, one out on a limb, at different heights and overlapping with moving blades, in the middle of these views. The presence of the turbines in the main views from these homes would feel intrusive and distracting for the occupants.

Residential amenity – noise impacts

76. ETSU-R-97 is assessment guidance and sets out a methodology for defining noise limits. There may be other factors that it does not take into account, as it is a framework for the measurement of wind farm noise which gives indicative noise levels thought to offer a reasonable degree of protection to wind farm neighbours without placing undue restrictions or burdens on wind farm developers.¹¹² It seeks to constrain rather than avoid adverse noise impacts, does not take into account the actual increase in noise provided it is within the ETSU-R-97 limits (which should not be exceeded¹¹³), and does not require noise increases to be minimised. As such it builds in recognition of the RE benefits of wind farms. To consider noise only in terms of ETSU-R-97, and then to take account of benefits of the scheme, would lead to double-counting. Furthermore, if ETSU-R-97 establishes an absolute upper limit, then noise levels below that limit would be material in land use planning terms. Reference to noise effects beyond ETSU-R-97 would accord with EN-1, which provides that assessments should contain a prediction of how the noise environment would change, and the effects of predicted changes on noise sensitive premises and sensitive areas.¹¹⁴ The guidance in EN-3 goes to weight not relevance. This accords with the *Framework's* aims concerning a good standard of amenity, general amenity, whether impacts would be acceptable, and adverse impacts on quality of life and

¹¹¹ ID35.1-3.

¹¹² CD9.1 page 43.

¹¹³ CD9.12 page 5.

¹¹⁴ CD2.7 paragraphs 5.11.3 and 4. Noise impacts should be considered according to both ETSU and EN-1 (EN-3 paragraph 2.7.57).

tranquillity.¹¹⁵ It also accords with relevant LP and eCS policies, and SPD2010, which deal with real-world concepts linked to actual effects in terms of noise and amenity. The *Guidance* requires decision-makers to consider whether an adverse effect, or a significant adverse effect, is likely to occur, and whether or not a good standard of amenity can be achieved.¹¹⁶ ETSU-R-97 does not deal with the questions posed by these policies; it operates in very different terms.

77. The local 'soundscape' indicates that this is a peaceful and tranquil area, where agricultural noise is expected, but would be intermittent and exceptional at night. Use of the BOAT is occasional and not at night. Noise from Silverstone race track is wind dependent and heard only once or twice a year, and not at night. Noise from Tanks a Lot is not significant. Noise problems from the turbines would apply, in particular at night. Turbine noise has a distinctive character which causes distraction, loss of concentration and annoyance. The *Guidance* includes factors that would influence whether noise would be a concern, such as time of day, the spectral content and tonal character, the local topology and topography, and duration, and provides that the acoustic environment of external amenity spaces should be considered so that they can be enjoyed as intended.¹¹⁷
78. At Stuchbury Hall Farm with the MM92 turbine, noise levels would be on the ETSU-derived limit during the day for wind speeds between 5 m/s and 7 m/s, and with a V90 turbine, would be 1-2 dB below the limit. At other properties near the wind farm noise levels for the MM92 turbines would be around or below 1 dB of the limit, which would be minimal.¹¹⁸ For the V90 turbine, margins would be between 1.5 dB and 2.8 dB at four properties. There is very little headroom between predicted noise levels and the ETSU-derived limits, a significant potential for noise limits to be exceeded, and a distinct possibility that the living conditions of residents would be unacceptably affected by noise. It would not be desirable to create a situation where noise conditions were brought into play with some frequency.
79. There is uncertainty about which turbine would be used, which is important where the appellant is seeking 'headroom' up to 43 dB at night, even though the assessment predicts that the wind farm would be able to operate below 40 dB. There is further potential for noise increases due to the concave ground across the valley, with its additional reflection paths, albeit not sufficient to warrant the + 3 dB correction set out in the IoAGPG. The overall uncertainty with modelling might mean that levels at Stuchbury Hall Farm could be 1-2 dB higher. The dominant wind direction would mean that this property was disproportionately affected compared to others.
80. The increase in turbine noise over background levels is an indication of audibility and intrusiveness. The V90 turbines would result in exceedences above background at night of more than 10 dB at 9 properties.¹¹⁹ For Stuchbury Hall Farm and three other properties, at night with windows open, the noise level would reach or exceed 30 dB, which is the WHO level which is not to be exceeded if negative effects on sleep are to be avoided. Depending on wind direction

¹¹⁵ Paragraphs 17, 120, 98 and 123 of the *Framework*.

¹¹⁶ IDa 66.

¹¹⁷ IDa 66.

¹¹⁸ Spring Farm, Bungalow Farm and Greatworth Hall.

¹¹⁹ Table 7.22 page 27 PoE6.

turbine noise would be audible inside a bedroom at night, with windows open, for homes within 1 km of the site, which for some residents would be annoying and distracting. The situation here is worse than at *Treading Bank*, where noise was a significant factor in the refusal.¹²⁰ The operation of the Spring Farm Ridge wind farm would give rise to substantial and unacceptable noise impacts in terms of the effects on amenity and tranquillity. The ETSU-derived limits do not represent SOAEL for the purposes of applying the NPSE, and the noise effects here would be above the level at which significant adverse effects on the quality of life occur, and the *Guidance* says that the planning process should be used to avoid this effect from occurring, as it is undesirable for such exposure to be caused.¹²¹

81. It would not be good practice to allow a limit of 43 dB at night when predictions show that 40 dB could be met. With the higher limit it would be possible to operate at a higher noise mode at night, resulting in a step-change in noise levels, which would be unacceptable. Furthermore, limits should be set on the basis of what was assessed. Accordingly, HSGWAG suggests alternative night-time noise limits were the appeal to succeed, and considered at the Inquiry that a condition concerning amplitude modulation of noise would be necessary.¹²²
82. Amplitude modulation (AM) is an unknown, but it might occur here, and if it did so it would be likely that the noise would be more intrusive. The position on AM has moved on recently and it is anticipated that a test and means of mitigation should soon be formulated, which would be known in the early part of the period for which any planning permission would be granted if the appeal succeeded. The need for an AM condition is made out, and the suggested condition would satisfy the relevant tests. Absent such a condition, the possibility of AM would have to be taken into account and counted against the development as an unmitigated effect which could arise. The statutory nuisance regime is not a suitable alternative to the suggested planning condition for dealing with AM, because it has a higher test for harm and there is a defence of Best Practical Means. The AM condition would be necessary because NPSE contains the precautionary principle, which applies when there is scientific doubt.
83. HSGWAG considers that RenewableUK's research has significantly advanced the state of knowledge about the causes of OAM, the means of mitigation, and an appropriate methodology for measuring amplitude-modulated noise from wind turbines.¹²³ In HSGWAG's submission the research addresses concerns expressed by Inspectors who in the past have rejected conditions to address AM, and that the appellant's view that an OAM condition is unnecessary, imprecise and unenforceable, can no longer be substantiated. The methodology for the template condition is logical and robust, but the assessment criteria and the penalty provisions have not been fully tested or validated.¹²⁴ It would, therefore, be premature to impose the template condition. However, there is reasonable

¹²⁰ *Treading Bank* appeal decision at ID14. HSGWAG argues that in the current appeal more properties would be affected, the land is undulating not flat, and excesses above background would be higher.

¹²¹ IDa 66.

¹²² ID39.

¹²³ IDa 58.1.

¹²⁴ These criteria include the thresholds for level of modulation, and the frequency and duration of occurrence above which mitigation would be required to avoid unreasonable annoyance and disturbance to residents.

certainty that a condition based on RenewableUK's template will be formalised and validated in the next 12-18 months, and so a condition in a 'scheme to be agreed' format should be applied, as was suggested at the Inquiry by HSGWAG and was imposed by the Secretary of State in the *Swinford* appeal. The *Turncole* decision supports HSGWAG's contention that a condition would be necessary to protect the living conditions of nearby residents from excessive AM, should it occur. This should take the form of a 'scheme to be agreed' as imposed in *Turncole*, or an appropriate form of words having an equivalent meaning and effect.¹²⁵

84. This form of condition does not define precisely what the scheme would involve, but this is commonplace for conditions, such as for archaeology or land contamination, where the extent of necessary work cannot be anticipated at the time planning permission is granted. The *Swinford* condition was imposed by the Secretary of State and has not been challenged by the appellant in that case. A condition of this type has been imposed at *Dunsland Cross*.¹²⁶ The appellant objects to the imposition of such a 'precautionary' condition. But any condition to address OAM would be precautionary, as are all noise conditions to some extent. The IoAGPG factually states that at that time it was current practice not to assign a planning condition to deal with amplitude modulation, but this predates RenewableUK's research and template. It is now clear that the possibility that amplitude modulation effects may occur should be given significant consideration. This represents a significant shift of opinion.¹²⁷ The suggested condition would comply with the six tests for conditions, which have been carried forward into the *Guidance*.¹²⁸

85. Details of the model of turbine to be erected would need to be approved. In practice some investigations of non-compliance with noise conditions have taken longer than 12 months to resolve, and so in the suggested noise condition the data retention period should be not less than 24 months.¹²⁹

Residential amenity - conclusions

86. The so-called Lavender test is not a test, and has no status in statute, policy or guidance. It was only ever advanced as an example. However, it might make sense as an absolute upper limit on the acceptability of effects, but not as a lower threshold of relevancy. Impacts below this threshold are material. No land use impact can legitimately be ignored. Local and national policy on amenity cannot easily be equated with whether a property is rendered an unacceptable place in which to live.

87. Visual and noise impacts considered together are relevant in considering effects on residential amenity and living conditions, along with whether people are at home, or out in the local area, travelling to and from home. The effect in relation to those working the land is a living conditions material consideration rather than just a visual impact issue.¹³⁰ Given the substantial visual impact on the house and holding at Stuchbury Hall Farm, along with the noise impact, the property

¹²⁵ IDa 62.

¹²⁶ Appeal Ref: APP/W1145/A/13/2194484.

¹²⁷ IDa 58.2.

¹²⁸ IDa 66.

¹²⁹ In accordance with the IoAGPG page 35.

¹³⁰ *Brightenber* decision at CD6.27.

would become an unattractive place to live, and the scheme should be refused for this reason alone. Other affected properties would have real effects, where the development would be overbearing, which would breach policy and should be taken into account.¹³¹ The impacts on residential amenity would be contrary to LP Policies G3(D) and (E), eCS Policy S11 and provisions of the *Framework* and SPD2010.

Highway safety

88. The B4525 forms a link between the M40 and the A43, has a mix of vehicles, and contains a number of junctions with potential for a significant number of turning movements. Distracted drivers have difficulty controlling their speed and distance from other vehicles, meaning that they are more likely to fail to anticipate hazards. Wind turbines should not be located where motorists need to pay particular attention to the driving task.¹³² The Red Route Study demonstrates that motorists need to pay particular attention along this part of the B4525.¹³³ It identifies a severity ratio much higher than the national average, which includes one fatal and three serious accidents. Most of the accidents were in good weather and in daylight, and there is nothing to be done in engineering terms to improve the road. Evidence at the Inquiry about more recent accidents and frequent near misses needs to be added to accidents statistics to appreciate the inherent risks in using this road.¹³⁴
89. There is a corporate objection from Northamptonshire County Council on highway safety grounds.¹³⁵ This is not based on a technical objection from highway officers.¹³⁶ However, it shares local concerns about driver distraction. A speed limit of 50 mph would not overcome this because it would not touch upon the physical characteristics of the road, nor would all drivers comply with such a restriction. There is an existing highway safety issue on the B4525, and the proposed development would result in unacceptable harm. This is a significant factor weighing against the proposed development, in relation to both its construction and operation.

Planning policy

90. Paragraph 14 of the *Framework* does not apply in this case because the scheme would result in substantial harm to heritage assets, and so would engage the restriction cited in Footnote 9.¹³⁷ In any event, the LP is not silent, and nor are relevant policies out of date. It is not reasonable to expect a plan to contain specific policies on every type of development. All aspects of the development can be reviewed in the light of LP policies.¹³⁸ Even if the plan was judged to be silent, or some policies out of date, only those policies found to be so could be

¹³¹ ID43 and ID44.

¹³² SPD2010, ID46 and ID47.

¹³³ PoE7 Rebuttal Appendix 2.

¹³⁴ WR1 Appendix 4.

¹³⁵ ID22.

¹³⁶ ID48.

¹³⁷ HSGWAG considers that this appeal is different from *Treading Bank* (ID14) where the limited heritage impacts did not engage the restrictive policies on designated heritage assets.

¹³⁸ In HSGWAG's submission the proposal can be matched up to the intention of LP Policy EV31 because wind turbines could be "public utility equipment" and the policy sets a test of acceptability similar to that in paragraph 98 of the *Framework* (PoE7 paragraphs 4.8 & 4.37).

left out of account. Due weight would need to be given to the others according to their degree of consistency with the *Framework*. Moreover, were the LP to be held to be silent in relation to RE development, other material considerations would include both the *Framework* and emerging local policy in the eCS.¹³⁹ Policy S11 of the eCS is compliant with the *Framework* because it includes an inherent allowance by reference to “significant adverse impact”. Even if paragraph 14 of the *Framework* applied in lieu of local policy, the adverse impacts of permitting this development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* as a whole.

91. The *Framework* encourages RE development, but also seeks a good standard of amenity for occupiers, recognises the intrinsic character and beauty of the countryside, aims to conserve and enhance the natural environment, and 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.¹⁴⁰ PPGRE¹⁴¹ has a notable focus on “local environmental impact”.¹⁴² The WMS has not been overtaken by the PPGRE, and makes clear that there was dissatisfaction with the “current planning decisions on onshore wind” and that “action is needed to deliver the balance expected” with planning concerns raised by local communities given proper weight.¹⁴³ These initiatives, along with the *Treading Bank* decision, signal a change, and it is untenable to suggest that the PPGRE is nothing more than stream-lining of guidance in accordance with the Taylor Review.
92. The *Framework* and WMS highlight the importance of community engagement.¹⁴⁴ There was no meaningful engagement with the local communities in this case, and what was done does not meet the measures to strengthen community engagement outlined in DECC’s *Onshore Wind Call for Evidence: Government Response*.¹⁴⁵ This led in part to the poor quality of the development and is a material consideration weighing against the grant of planning permission.

Planning balance and conclusions

93. Current energy policy is an important material consideration, and there is an urgent need for RE development, which should be afforded great weight. There is no requirement to demonstrate the overall need for RE, but the extent of the benefit should be assessed, and the weight attributed to need should be proportionate to the extent of the development’s actual contribution.¹⁴⁶ The benefits here are uncertain, as the installed capacity could range between 10 MW and 15 MW. To ensure that the benefits are not overstated, the bottom of the

¹³⁹ Public examination of the eCS has substantially taken place, there are no outstanding objections to Policies S1, S10 or S11. HSGWAG considers that the provision in Policy S10 to minimise pollution from noise is consistent with the *Framework*. Policy BN5 recognises that there could be some harm to cultural heritage assets, and can be given very close to full weight.

¹⁴⁰ Submissions about other national policy is set out in ID53 paragraphs 13-29.

¹⁴¹ The PPGRE is now replaced by the *Guidance*.

¹⁴² The *Treading Bank* decision gave weight to this where no landscape case was advanced by the local planning authorities (ID14 paragraph 19).

¹⁴³ CD2.5 and ID15.

¹⁴⁴ Paragraphs 188-189 of the *Framework*.

¹⁴⁵ ID36 and CD7.21 Section 3.

¹⁴⁶ *Framework* paragraph 98, *Bayliss* decision (CD5.9) and EN-1 paragraph 3.2.3.

range should be assumed. This is a modest amount of electricity. The appellant's energy report should be approached with caution because it was not explained how the predicted energy generation had increased so much when the wind speed measured was less than predicted.¹⁴⁷ It also shows that carbon dioxide saving would be 41% of that previously calculated. This revised calculation would now apply to all RE schemes, but the absolute amount of carbon dioxide that would be saved is a relevant consideration.

94. The proposed development would have a substantial and unacceptable impact on the character and amenity of the highly sensitive landscape, the settings of important historic assets, the historic character of settlements and of the local landscape. The impacts coincide at Stuchbury Hall Farm, where the character and amenity of the Helmdon valley landscape would be destroyed for a generation. The setting and significance of the DMV and fishponds would suffer. Visual impacts would affect users of PROW and the occupiers of the house and farm, and noise effects would be at their most serious here. The effects on the living conditions would make the farm an unattractive place to live. The concentrated impacts in this one location would be enough to mean that this appeal must be rejected. Policy support for RE development is subject to limits or caveats, and should not be elevated above other planning interests. It is one aspect of sustainable development, which sits alongside, and equal to, others. The impacts here are not, and cannot be made, acceptable. It would be contrary to the development plan and other policy, including the *Framework*, would cause significant harm, and pursuant to section 38(6) of the 1990 Act it must be refused permission.

The case for others opposing the proposed development

The following people gave evidence to the Inquiry and a summary of their submissions is included below.

95. David Powell [Local resident].¹⁴⁸ The visual impact, including possible pylons, would be overwhelming. The noise modelling does not take into account the contours of the land, nor does it take into account the swish and thump noise generated by wind turbines, which can be overwhelming. The danger from turbines catching on fire, shedding blades or throwing ice is increased when they are sited close to homes, roads, footpaths and bridleways. A risk assessment should be required. The landscape impact would result in a loss of amenities like footpaths that may have to be diverted. Foundations for the turbines would impact on the many springs in the area and could increase flood risk in Helmdon. The threat of development has seen a drop in house prices, and there are fears about job losses, for example at horse liverys. Shadow flicker would affect properties nearby, people with epilepsy, and can unsettle horses on bridleways. There would be an impact on heritage assets at Sulgrave Manor, Canons Ashby and Stowe gardens. The wake of spinning turbines generates turbulence and vertical mixing of heat and vapour, which leads to warming at night and cooling

¹⁴⁷ ID42.

¹⁴⁸ ID11 and Second Red Folder repres7.

during the day. Turbines are an inefficient source of energy generation. The local community supports the green economy with a green waste recycling centre.

96. Cllr Andre Gonzalez de Savage [Councillor Northamptonshire County Council].¹⁴⁹ The Councillor informed the Inquiry that he does not challenge the evidence of technical officers on highway matters, but that he shares the concern of local residents about driver distraction on the B4525 and the effects on users of PROW. He supports greater use of natural energy, but not the installation of a wind farm at this location. The revocation of the East Midlands Regional Plan, which included regional targets for RE, is a key material consideration. Policy BN5 concerning the protection of the historic environment should be given more weight given the stage the emerging Core Strategy has reached. The principles of localism should be given priority.
97. Veronica Ward [Member of Greatworth Parish Council].¹⁵⁰ The B4525 is a designated Red Route, and since the last Inquiry there has been another fatal accident near the site at Spring Farm. There are 12 junctions between the Sulgrave to Marston St Lawrence cross roads and the Helmdon to Radstone cross roads. The turbines would appear and disappear constantly along this stretch. Because of their size this would cause a dangerous distraction to drivers. The anaerobic digester at Stuchbury Manor Farm has increased the number of tractors and trailers using the B4525. The junction to Greatworth, located one mile to the west of the site of proposed T1, is hidden from motorists due to a rising left hand curve in the road until 100 m from the junction. At this point an unexpected view of all the turbines would appear, with a stacking effect from four of the turbines. If a vehicle turning right towards Greatworth was stationary at the turn because of oncoming traffic this sudden distraction (maybe even flicker from a rising winter sun) could cause multiple collisions. The B4525 is a link between the M40 and the M1, and HGVs and commuters mingle with local traffic, farm vehicles and the twice daily school run. It is straight in places and through traffic is fast moving. The dangers of the road should be one of the reasons for not allowing this appeal.
98. Bob Haynes [Local resident].¹⁵¹ The proposed turbines would be out of scale and proportion to this part of the countryside, and irritating to look at (HSGWAG VP 10). Driving onto Welsh Lane would be highly dangerous. Accident statistics do not show near misses. The high turbines would make it too intimidating to walk the local paths. A local questionnaire found that in 222 households in Greatworth 325 people opposed the wind farm, 15 were in favour, and 46 undecided. Parts of the proposed wind farm site are tranquil. The appellant's claim that there is increased traffic from Tanks a Lot that will reduce the tranquillity of the area is disputed. Noise from Tanks a Lot has not been heard in Helmdon Road Greatworth, whereas noise is heard from the yearly practice and Grand Prix activity from Silverstone motor racing circuit, which is some six miles further away.

¹⁴⁹ ID22 and Second Red Folder repres26.

¹⁵⁰ ID38 and Second Red Folder repres25.

¹⁵¹ ID34 and Second Red Folder repres37.

99. Ken Christy [Local resident].¹⁵² Objects to the proposal on heritage, landscape and local amenity grounds. The proposal would have an adverse effect on the setting of Sulgrave Conservation Area. This is a quintessential English rural landscape, which would be permanently blighted by the turbines, leaving a brownfield site for industrial use. The turbines would ruin the tranquillity currently enjoyed, and their shadows would dwarf the surrounding fields.
100. Cllr Rebecca Breese [SNC Ward Member for Greatworth].¹⁵³ The subsidies the scheme would receive would be comparable to the savings SNC has to make to essential services. Photomontages of the Low Spinney wind farm are not comparable with their reality. Initial public consultation took place well away from the site and anemometer results were not made available. The local community, SNC and objectors have been treated with disdain. Fund raising to oppose the scheme reflects the strong community concerns about the proposal, but these funds will not now be given to local charities and voluntary groups. The wider social impacts of a proposal which is unpopular, unaffordable and of miniscule social use should be taken into account, along with the impact on the much loved rural countryside.
101. Nick Peart [Chair Greatworth Parish Council].¹⁵⁴ There has been a lack of real consultation with the local community. The localism agenda is designed to allow communities to have a say. Viability of this location should be taken into account. The value of the scheme, beyond contributing to RE targets, has not been defined, and cannot be balanced against the losses to the local community. This point alone should be enough to dismiss the appeal. In addition, local issues of heritage, environment and PROW have not been addressed. The turbines would be visible from the eastern and southerly aspects of Greatworth Conservation Area. HSGWAG VP 11 shows the turbines dominating the horizon in views from the cemetery at St Peters Church in Greatworth, which is a quiet, secluded and valued location. HSGWAG VP 9 and VP 10 show the turbines sitting on top of a slight hill, out of scale with the surrounding environment. The turbines have not been moved far enough away from the flight path of bats. The new locations significantly impact on the use of PROW, and do not allow for their continued safe public use. The bridleways are amongst the few in the area that allow horses to be exercised safely off a main road. There is currently consultation on reducing the speed limit to 50 mph on the B4525, but concerns about driver distraction by the turbines remain. There is also concern that the turbines would degrade the service if wireless broadband technology was established in the area.
102. Colin Wootton [On behalf of Sulgrave Parish Council].¹⁵⁵ The Parish Council objected to the planning application on the grounds of the unacceptable visual impact the turbines would have upon the settings of Sulgrave Conservation Area, Sulgrave Castle SAM, Sulgrave Manor and the Church of St James, along with the impact on the unspoilt local countryside, the loss of visual amenity by parishioners, the impact upon the network of byways, bridleways and footpaths linking Sulgrave with Helmdon, Stuchbury and Greatworth, and additional

¹⁵² ID29 and Second Red Folder repres10.

¹⁵³ ID45.

¹⁵⁴ Second Red Folder repres1.

¹⁵⁵ Second Red Folder repres40 including Appendices 1-4 and WR1.

dangers to residents using the already dangerous B4525. At the Inquiry Mr Wootton referred to the statement by the chairman of the Sulgrave Manor Trust.¹⁵⁶ The Manor has links with the ancestral family of George Washington and so is of international importance. It is a rare example of a modest Tudor manor house, but because of its association with the first President of the United States of America is a significant symbol of the special relationship between the UK and the USA. The proposal would have a very serious adverse effect on Sulgrave Manor and its setting, and would make it more difficult to attract visitors and funding.

103. Appendix 1 sets out the Parish Council's assessment of the implications for heritage assets at Sulgrave. This concludes that the assets are of the highest sensitivity, that the adverse effects of the proposal would be major rather than moderate, and could not be mitigated. The appellant failed to properly analyse the visual impact on the setting of Sulgrave heritage assets as viewed from the north of the village. The latest photomontage from this view point confirms that all five turbines would be seen on the horizon to the south of the village, with the full circle of the rotating blades visible, completely dominating the setting of the Sulgrave Conservation Area and replacing the ancient church as the most significant feature in the landscape. This harm would be substantial and the wider environmental benefits of the proposal would not justify this as an exceptional case where the harm should be permitted.
104. Appendix 2 sets out the Parish Council's assessment of the implications for users of local PROW. This is traditional heart of England enclosure landscape of small fields, intact hedgerows, copses, ancient barns, byways, green lanes and minor roads. Walks and rides here can be enjoyed in a silence, which is sometimes almost profound, with views uncluttered by modern intrusions. This is an area of tranquillity to which the guidance in the *Framework* should apply. This aims to protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value. The turbines would be totally out of scale in a small scale landscape and completely at odds with its present composition. The turbines would render the use of considerable lengths of these ancient rights of way at best unpleasant, and at worst potentially dangerous, which would constitute a significant loss of amenity to both villagers and the many visitors to the area. Appendix 3 concerns visual amenity and concludes, that in views from the gardens and main rooms of houses in Sulgrave facing to the south, the moving turbines would result in a significant loss of visual amenity.
105. Appendix 4 concerns traffic implications for Sulgrave residents. The short and long term adverse traffic implications of the proposal would render the site totally unsuitable for a wind farm. The known dangers of the substandard section of the B4525, which provides the only access, would be substantially increased during the construction period. These dangers would be exacerbated by the presence of the turbines at such close distances because of driver distraction. Further information was submitted prior to the Inquiry in response to the appellant's Highways Technical Note about the Red Route Study, which was published in

¹⁵⁶ Second Red Folder repres2.

September 2012, and additional accident data.¹⁵⁷ T1 would not meet the Highways Agency setback; being no more than 160 m, rather than the required 175 m, and would not accord with guidance about a clear, continuous view of turbines, where particular attention would need to be paid to the driving task. Considerable weight should be attached to local experience about the inherent dangers of the B4525, and to the County Council's endorsement of objections to the wind farm by the local community.

106. Energy capture is a material consideration when the decision is finely balanced. Given the revised figures for carbon emissions savings, less weight should be given to this benefit of the proposal compared with that which was given at the previous Inquiry. The negligible contribution the scheme would make to the reduction of carbon emissions can only be described as insignificant and cannot constitute a wider environmental benefit sufficient to outweigh the disadvantages of the proposal.

107. Edward Tims [Local resident].¹⁵⁸ The turbines would totally dominate the landscape to the south of Stuchbury Hall Farm in an arc of 100 degrees. They would be dominant from the drive off the Sulgrave to Helmdon Road. T3 would be seen from the doorstep, and parts of three turbines would be visible from the sitting room, which faces south and has patio doors. These open onto the garden, where HSGWAG VP 4 shows that the full turning circles of three turbines would be visible over the low buildings forming the southern garden boundary. Turning blades would be seen amongst the tree cover, which is seasonal. The south facing window of the main bedroom would have an uninterrupted view of three turbines, and this room would be the main recipient of the noise increase. Even if predicted noise levels were acceptable under current Government guidance, they would be likely to be heard because of the prevailing wind direction a great deal of the time at the house, and almost all of the time in the majority of the fields. Noise at the house could be doubled, especially at night when it is exceptionally quiet.

108. At least three-quarters of the holding would be within the area subject to flicker and shadows from the turbines. The threat of this development has caused great distress, and the combined effect of the noise increase, visual intrusion, flicker and shadow would have a dramatic impact on the occupiers' working and social lives. A proposed barn conversion would bring a new home 40 m closer to T5 than the existing farmhouse.¹⁵⁹ Trees along this boundary were taken down in July 2013 because they were leaning dangerously over a fence into stock, which was unsafe. The farm has acquired additional land, which includes Helmdon viaduct, and NE is keen to encourage wildlife and a permissive path over the viaduct and along disused railways. Noise from Tanks a Lot is very infrequent and vehicular use of the BOAT is limited. The area retains outstanding tranquillity.

109. Richard Fonge [Local resident]. The B4525 is an inherently dangerous road, with bends, double bends and dips, with short straights for overtaking. Both through traffic and slow farm traffic use the road. The area has considerable

¹⁵⁷ WR1. Including accident data up to June 2013, which included a serious accident and a fatality.

¹⁵⁸ Second Red Folder repres38 and ID35.1-3.

¹⁵⁹ ID18.

natural beauty, with great tranquillity. Five wind turbines would harm the outlook from nearby houses looking across the valley.

110. Robert Cross [Local resident].¹⁶⁰ The local bridleways, Helmdon/Stuchbury Road and sometimes the B4525 are used by local and visiting riders.¹⁶¹ The proposed development should follow BHS guidelines for separation from riding routes. None of the proposed turbines would achieve this. Horses are likely to be frightened by turbines because of shadows, turbines starting suddenly, noise, and conflict with construction vehicles. Horses are popular in the local area and an important source of local employment. To avoid the risks riders would be forced to stop riding in the area of the turbines, and so would be denied what is currently a safe off-road cantering and riding area.
111. Roger Miles [Helmdon Parish Paths Warden].¹⁶² Local paths run through a very attractive, undulating, rural landscape and join with other excellent paths. Walkers of varying abilities enjoy a wide range of circular walks, including weekly Helmdon Health Walks, which average 20 walkers. Other Health Walks also use these paths. Path AN10 through the site is a vital link to other paths and its amenity value would be destroyed by the proposed development. AN10 is also an alternative for pedestrians to the dangerous B4525. The bridleway is a popular route through open flat pasture, including two ridge and furrow pastures, and turbines would be very close to walkers and riders. Major housing development to the north of Brackley, along with other initiatives to encourage walks in relation to former and proposed rail links, will increase the number of people who use these paths. Habitat improvement along footpath AP35 has opened up views which would be affected by the proposed turbines. This landscape cannot be characterised as noisy. In four years walks on Thursday afternoons and Monday evenings have never encountered a vehicle on the BOAT. Movements of military vehicles on AN10 are rare events for these walks. Strong visual and auditory perceptions of the presence of turbines would still exist for those using the proposed permissive path diversion for AN10. Consultation with residents has been a one-way process, and questions about footpaths have not been answered.
112. Natalie Atkins [Local resident].¹⁶³ The combination of noise and visual impact would be substantial and would unacceptably affect the ability of the occupiers of the four houses at Grange Farm to enjoy their homes. The approach to the houses would be affected by uninterrupted views of all five turbines. There is no comparison of lighting columns (3-4 m high) in the appellant's photomontage (FEI VP 1) with turbines 125 m high. They would also be visible from the houses and gardens, with no escape from their dominance and overpowering presence. The main reception rooms, kitchens and gardens of The Old Farmhouse and The Granary would look directly at the turbines. For those working in nearby fields the turbines would dominate all aspects of their lives. The turbines would be located to the west, and so afternoons and evenings would be disturbed by flicker. There is concern about the effects of this on horses and the implications

¹⁶⁰ Second Red Folder repres39 and ID23.1.

¹⁶¹ The plan at ID23.2 shows in red the route along the B4525 used by Mr Cross.

¹⁶² Second Red Folder repres19 and ID36. The latter includes four Circular Walk leaflets that use footpaths in the local area, and an aerial photograph with local footpaths annotated.

¹⁶³ Second Red Folder repres34.

for local businesses. ETSU-R-97 permits substantial increases in actual noise. This should be taken into account, along with the fact that residents here have chosen to live in a quiet rural area. Residents are also concerned about increases of noise at night-time affecting sleep and health. No definitive route for a connection to the grid has been identified and the visual impact of the scheme may be worse than predicted if pylons were used. The concrete used in foundations would increase the risk of flooding.

113. Emma Deverall [Local resident].¹⁶⁴ The turbines would have an overwhelming and dominating effect. They would affect both work in the nearby fields and views from the garden and windows at Grange Farm. High performance horses are kept at the farm and these are highly strung and easily startled. There is a real risk that these horses would be scared by the turbines, and it may not be possible to safely exercise horses then along the routes currently used. Existing clients have indicated that they would remove their horses from the stables if the turbines were built.¹⁶⁵
114. Morag Underwood [Local resident].¹⁶⁶ The beautiful rolling countryside in Northamptonshire should not be blighted with enormous wind turbines. The turbines with associated pylons, roads and substations would have an urbanising effect. The concrete used would raise the water table and increase the risk of flooding. The system of subsidies has made energy a side issue. The turbines, which would be likely to be replaced by even larger ones in the future, should not be allowed in order to pay lip service to a RE target. Consideration should not only be given to whether the turbines would be in keeping with the local environment, but also how efficient they would be in this location, and whether there is any more efficient, more reliable and less intrusive way of providing that power. The site is also close to the proposed route of HS2. Neither developments would be of direct benefit to the rural community. The local community has raised a substantial sum to fight this proposal in order to defend the local countryside and show that 'localism' carries some weight.
115. Peter Burns [Chairman Helmdon Parish Council].¹⁶⁷ Helmdon village is bowl shaped and the turbines would dominate the village aspect. They would be lined up directly across from the entrance to the church, and would affect the open scenic view of the viaduct and Priory Farm from the war memorial (HSGWAG VP 7 and FEI VP 3). Barn conversions close to the church have large windows facing west towards the appeal site. The turbines would significantly harm the amenity of local footpaths. They would be far too close to the village and its amenities, and would put at risk efforts to minimise the risk of flooding. The energy benefits would be overwhelmingly outweighed by the negative impacts.

¹⁶⁴ ID24.

¹⁶⁵ ID33.

¹⁶⁶ Second Red Folder repres6 and ID32.

¹⁶⁷ ID12 and Second Red Folder repres30. The latter includes a report on surface water drainage by David Smith Associates, which concluded that the FRA be reassessed to determine whether proposals for collecting run-off would be sustainable, that design and maintenance should be clarified rather than dealt with by planning conditions, and that impacts on surface water should assess effects on Helmdon Brook and any increased risk of flooding.

116. Richard Chamberlayne [Local resident].¹⁶⁸ A risk assessment for equipment failure should be undertaken given the proximity of roads and bridleways. Some 2 km of the B4525 lie within 600 m of the proposed turbines. Milton Keynes Borough Council has established exclusion zones for turbines, which if applied here would disallow four, if not all, of the turbines. The development is inherently unsafe and should be disallowed.
117. Hugh Walmsley [Chair of Church of St Mary Magdalene Helmdon].¹⁶⁹ This mainly 14th Century church has been a dominant feature upon the skyline above the village for over 600 years. It lies on the same ridge as the proposed turbines, on high ground intended to reinforce the central role of the church as a focal point of village life. The turbines would dwarf the church, and significantly degrade the appearance of this listed building in its historic setting.
118. Karin Smith [Local resident].¹⁷⁰ The turbines would have an adverse visual impact that would affect views from the garden and dining room facing south-west. Helmdon has flooded in July and November 2012 and the proposed development would increase the propensity to flood. Mrs Smith informed the Inquiry that solar panels are effective locally in adding electricity to the grid.

The case for the appellant

The appellant considers that the principal issues here concern cultural heritage, landscape and visual amenity. Other considerations concern PROW, equestrian activity, impact on the highway network and noise. The main points are as follows.¹⁷¹

Cultural heritage

119. Recent litigation indicates that the statutory duty concerning heritage assets is separate from the policy position, and that each and every asset within the study area should be considered separately under both regimes.¹⁷² EH does not object to the proposal, and there is little disagreement between SNC and the appellant. SNC finds a minor effect on Greatworth Conservation Area and Sulgrave Manor and its RHPG, whilst the appellant finds a neutral effect for both. HSGWAG disagrees with the appellant's assessment because it considers substantial harm would result to Sulgrave Conservation Area and Stuchbury DMV, and that significant but unacceptable harm would be caused to the Church of St Peter at Greatworth and the Helmdon railway viaduct. However, substantial harm would result from an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced.¹⁷³ HSGWAG has set the threshold too low. The *Guidance* states that in

¹⁶⁸ ID25 and Second Red Folder repres20.

¹⁶⁹ ID26 Second Red Folder repres24.

¹⁷⁰ Second Red Folder repres3.

¹⁷¹ Based on closing submissions at ID55.

¹⁷² CD5.17 and ID3.

¹⁷³ ID3.

general terms, substantial harm is a high test, so it may not arise in many cases.¹⁷⁴

120. The appellant's assessment is set out in PoE8. In summary it provides that the appeal scheme would have a moderate adverse effect on Greatworth Hall because principal views from the house are to the south-east and away from the appeal site. Views towards the proposed wind farm would be from within the group of farm buildings at Greatworth Hall.
121. The appeal site lies to the west of, and is physically and visually separate from, Astwell Castle. Views from the road are limited because it has no footway, and so the proposed wind farm would have a moderate adverse effect on this asset.
122. Views of the turbines from Castle Hill Sulgrave would be at a considerable distance. Space between turbines would provide visual permeability to the landscape beyond. The heritage significance of the site would still be understood without any confusion. No views of the monument would be disturbed, only views out from this panoramic viewpoint would be affected by the addition of turbines as a new feature. The perception of the ringwork having a dominating position in the landscape would not be unacceptably affected, nor would perceptions of tranquillity and timeliness of the wider countryside be altered. There would be no adverse effect on the ridge and furrow which lies to the south, and a moderate adverse effect overall.
123. Only very limited views of the Church of St James Sulgrave would be disturbed by the turbines and its heritage significance would clearly remain to be appreciated. There are no views of Greatworth Church obtainable from St James Church. A moderate adverse effect would result from the appeal scheme.
124. Public views of the turbines from within Sulgrave Conservation Area would only be possible from around Castle Hill/Church and Helmdon Road. In views from PROW to the north the village would clearly be appreciated as a historic settlement identifiably different from the turbines. The landscape surrounding the village has been heavily influenced over time, and is not evocative of the medieval, with the effects of Parliamentary enclosure and modern development evident.¹⁷⁵ It has not been buffered against modern life. This is not an asset where such a large amount of the reservoir of significance is to be found in its setting, and that the wind farm would result in much, if not all of that significance draining away. The wind farm would have a moderate adverse effect on the conservation area.
125. The ES also includes listed buildings in the northern section of Helmdon (including Priory farmhouse), Sulgrave Bowl Barrow, and Marston Hill Farmhouse.¹⁷⁶ These assets would also experience a moderate adverse effect from the proposed wind farm.
126. Open views of the countryside beyond the churchyard of Church of St Peter Greatworth with its listed headstones are only possible at its eastern end because

¹⁷⁴ IDa 64.

¹⁷⁵ CD10.7.

¹⁷⁶ ES 2010 Volume 2 paragraph 8.1. Sulgrave Bowl Barrow is SAM5 on Figure 8.4 and Marston Hill Farmhouse LB165 on Figure 8.3 of Appendix C of ES 2010 Volume 4.

of the church building and key trees within the churchyard. There are few locations to the south and west of Greatworth in which the church tower is dominant and the turbines would be seen in close proximity to it. The turbines would not compete with the church tower. The walking guide to Greatworth identifies panoramic views of churches, but these are from the north towards Greatworth, and away from the appeal site.¹⁷⁷ This is an insight into what the community considers is important about Greatworth. The appeal scheme would have a minor/slight adverse effect on these assets.

127. The setting of Greatworth Conservation Area is largely provided by the surrounding twentieth-century housing, although small parts on the eastern boundary abut agricultural land, with the view from the churchyard making a visual connection between the village and its rural setting.¹⁷⁸ Setting makes a limited contribution to the significance of the asset. The turbines would have a minor/slight adverse effect.¹⁷⁹
128. The approach to the Church of St Mary Magdalene Helmdon with its listed headstones/tombs is from the west, and views towards it would not be affected by the turbines, the nearest of which would be located about 1.6 km to the west. Views out from the church and its graveyard are limited by mature trees, although the turbines would be visually dominant in views from the lych-gate and the western end of the churchyard. Overall the appeal scheme would have a minor/slight adverse effect on these assets.
129. Sulgrave Manor and RHPG is an important visitor attraction and its link with the family of George Washington gives it particular historic interest. Its setting comprises the adjacent section of the village and agricultural land to the east, which is mostly screened in ground level views, but some views to the south are possible from upper floors. Views towards the appeal site make very little contribution to the significance of Sulgrave Manor. The proposed turbines, at a distance of about 2 km, would be seen from parts of the orchard and garden to the west of the house, but views would be very limited. The appeal scheme would have a neutral effect on these assets.
130. Views at a distance of about 7 km would be possible from the church tower, upper floors of the house and higher ground within the park at Canons Ashby and its RHPG. Trees would provide screening from many ground level viewpoints and the turbines would not be seen on or close to any axial views, and so the appeal scheme would have a neutral effect.
131. The turbines would be seen in long distance views, especially from the northern section of the park at Stowe and RHPG (FEI VP 18b), but would not be on or close to axial views from the house or gardens. The impact on the listed buildings and garden would be neutral.
132. The agricultural land surrounding Culworth contributes to the significance of Culworth Conservation Area, but views to it from within the village are limited. The turbines would be visible at a distance of about 3.5 km from the open space in the vicinity of the church and the cricket ground, but given the screening from

¹⁷⁷ PoE3 Appendix 3.2.4.1.

¹⁷⁸ CD10.8.

¹⁷⁹ ID55 lists this with assets where the impact would be neutral.

intervening trees, along with the wide landscape, the effect on the conservation area would be neutral.¹⁸⁰

133. Stuchbury DMV is not equivalent to a designated asset. DMV with or without fishponds are not rare in this part of Northamptonshire.¹⁸¹ EH are undertaking further work and the outcome is uncertain.¹⁸² The turbines would not remove the ability to understand and appreciate the significance of the asset in relation to the settlement, farming and fish farming. HSGWAG's case relies on the majority of the heritage significance of the DMV being in its setting, as opposed to its physical fabric, and then concluding that the visibility of the turbines in views from the DMV in one direction would be so harmful that very much, if not all, of the heritage significance would be drained away. This is not credible.¹⁸³
134. HSGWAG does not argue that the Helmdon railway viaduct is equivalent to a designated asset. The proposed turbines would be located about 800 m away, but would be dominant in views to and from this heritage asset. The disused railway and the surrounding agricultural would remain largely unaltered, and its architectural and historic interest would not be affected.
135. Wind energy projects can satisfactorily co-exist with the heritage environment. No substantial harm to heritage assets would result from the appeal scheme. The modest degree of harm that would result from the wind farm should be weighed against the wider benefits of the proposed development.

Landscape character

136. The appeal site lies in the western portion of the Undulating Claylands Landscape Type (6a Tove Catchment). The immediate landscape consists of pasture land of medium sized fields with hedgerows and scattered trees, of medium-large scale, and has been a working farming landscape throughout history. It lies in an unconstrained area of landscape in SPD2013. Table 4.2 of PoE9 sets out how the appeal scheme would square with landscape sensitivity criteria.
137. The wind turbines would be the dominant landscape characteristic in an area extending to about 800-900 m, which would comprise a wind farm landscape. There is some agreement about the geographical extent of the resultant landscape sub-type (Undulating Claylands with Wind Farm) to the south, east and west of the proposed development, but disagreement about its extent to the north.¹⁸⁴ The villages of Greatworth, Helmdon and Sulgrave are sufficiently strong and individual in character to contrast markedly with the surrounding landscape, and their character would be substantially unaffected by the wind farm. Beyond these villages there would be a palpable sense of separation from the wind farm. Visual effects may arise from such locations when viewed in the

¹⁸⁰ PoE8 Rebuttal.

¹⁸¹ PoE9 Appendix 7.

¹⁸² ID2.

¹⁸³ ID55 lists this with assets where the impact would be neutral.

¹⁸⁴ The appellant considers the judgements in the ES, which conflate visual and landscape impacts, to be overcautious in finding significant character effects extending up to 3-4 km from the turbines. The FEI refers to significant character effects up to 2.5 km from the turbines. PoE9 paragraphs 4.10-4.39.

direction of the turbines, but the area would not be characterised by them.¹⁸⁵ The extent of the likely 'on ground experience' of character effects is shown on ID17.

138. SNC suggests that the appeal site falls into two distinct local character areas; Helmdon valleys and Greatworth interfluves, with high and medium/high sensitivity respectively.¹⁸⁶ However, the appeal site reads as an exposed open plateau, notwithstanding that it lies on the gentle southern slope of the valley side. T1-T4 would be embedded in the interfluve, and T5 would be in a landscape more closely associated with the attributes of interfluve than with the tighter, more intimate and sheltered landscape adjacent to the stream. All the turbines would be sited on a simpler and less sensitive part of the local landscape. All the landscape character elements would remain and the turbines would be additive. The underlying characteristics of the landscape are strong enough to persist for the 25 year duration of the wind farm. The site is not very tranquil with road traffic noise evident, as well as noise from Tanks a Lot when operating, and other development in the area, such as the anaerobic digester. There is evidence that noisy tank based activity is increasing.¹⁸⁷ There would be no significant landscape character effects at the regional level, and no designated landscape resources would be significantly affected.

Visual amenity

139. Viewpoints were agreed with SNC and all parties accept that there is sufficient environmental information to decide the appeal. Viewpoint analysis at Table 7.5 of FEI Volume 1 indicates significant visual effects from 9 of the 19 viewpoints assessed. Such effects would extend out to a theoretical distance of about 4-5 km in open and reasonably unconstrained views, but would only be of local concern and would not be unacceptable.
140. The distances between the proposed wind farm and other cumulative impact possibilities are too great for significant cumulative landscape or visual effects to arise. Commercial wind turbines inevitably affect landscape and visual amenity and this is written into policy.¹⁸⁸ Furthermore, landscape and visual effects are only one consideration to be taken into account, and in this case Natural England (NE) has never objected to the proposed development on the basis of landscape impacts.

Residential amenity

141. Residential amenity is made up of at least three strands; a visual component, noise and shadow flicker. The separation between what is a private interest and what should be protected in the public interest is clear.¹⁸⁹ Residential amenity has been assessed in line with the benchmark case of *Burnthouse Farm*.¹⁹⁰ Relevant factors and thresholds of acceptability which have guided decision-makers include whether the proximity, size and scale of the turbines would render a residential property so unattractive a place to live that planning

¹⁸⁵ FEI VP 6, VP 8 and VP 9.

¹⁸⁶ PoE2 Appendix 2.5 Figure 1.1 and PoE9 Appendix 5.

¹⁸⁷ ID37.

¹⁸⁸ EN-1 paragraph 3.2.3 and EN-3 paragraph 2.7.48.

¹⁸⁹ CD6.8, CD6.5 and CD5.6.

¹⁹⁰ Appeal decision at CD6.4.

permission should be refused. The public interest would be engaged if the majority of citizens, viewing the property objectively, would consider it to be unattractive. This is a settled threshold test.¹⁹¹ Even a fundamental change in outlook is not necessarily unacceptable.¹⁹²

142. An assessment of likely impact on representative dwellings within 2 km of the proposed turbines is included in Table 9 of Appendix A FEI Volume 3. The only property alleged by both SNC and HSGWAG to fail the public interest test is Stuchbury Hall Farm. If the impacts here were acceptable they would be acceptable at any other dwellings. However, impacts that fall below the public interest threshold remain material considerations and should be added to the planning balance, but are not fatal to the proposal, even on the cases of SNC and HSGWAG.

143. The closest turbine (T5) to Stuchbury Hall Farm, at about 800 m, would not be visible from the main elevations or from the garden area. However, other turbines would be potentially visible in winter at a distance of between 910 m and 1,110 m. Given that the southern elevation is less important in views from the house, and the rear amenity area has a substantial treescape, along with the spacing and distance of turbines and openness of the view, the property would remain attractive with the wind farm in place. The likely effects on the barn with planning permission for conversion for residential occupation, which is located to the south of the main dwelling's amenity area, should be accorded less weight as it may or may not be implemented. The trees along this part of the residential curtilage were removed in the knowledge that the appeal was being redetermined, and so the occupiers made a choice that with the wind farm present they would prefer to have an open view to the south than have mature trees in place. The circumstance which applied at *Brightenber* would not apply here because of differences in stand off distance, orientation, arc of view, screening, views and shadow cast.¹⁹³ Furthermore, the occupiers of the farm have purchased agricultural land near to Helmdon, and so during the working day there would be respite from the turbines, and they would not be all pervasive both at home and in the field.

144. Each case must be decided on its own merits, but other appeals provide a useful benchmarking exercise and granting permission here would be entirely in line with such decisions. Given the scale of the development, spacing between turbines, distances involved, orientation of properties and amenity space, and openness of views, any effects on outlook would not cross the public interest line. There would be no unacceptable effects on the visual component of residential amenity for either individual dwellings or settlements.

145. SNC does not object on noise grounds, and it must be the case that it does not believe that there would be any noise related harm which might serve to magnify any harm to the visual component of residential amenity at Stuchbury Hall Farm. This is because, like the appellant, SNC equates compliance with ETSU-R-97 with no additional harm to go into the planning balance. HSGWAG takes no issue with

¹⁹¹ ID14.

¹⁹² CD6.33.

¹⁹³ CD6.27 and CD14.2. The appellant considers that the *Brightenber* appeal decision is seen as a high water mark case, in which a wind farm scheme, which was otherwise acceptable, was refused permission because of likely effects on a single dwelling.

the ETSU-R-97 assessment which has been undertaken. This concluded that predicted turbine noise emissions using candidate turbines would meet the ETSU-derived noise limits under all conditions at all locations for both quiet daytime and night-time periods. Downwind propagation conditions are assumed so the use of warranted sound power levels, coupled with a ground absorption factor of 0.5, produces a realistic worst case.¹⁹⁴ HSGWAG did not pursue any point about directional filtering at the Inquiry, but referred to a possible shortcoming in the predictions due to the local topography. However, the IoAGPG terrain correction is not triggered here, and there is no way to quantify any likely topographical effect that might apply to the appeal site and its surrounds.

146. The NPSE sets out broad high level aspirations, but in the context of Government policy, which is set out in EN-1, EN-3 and the *Framework*. The first bullet point of paragraph 123 of the *Framework* is not engaged because the development would comply with ETSU-derived limits and would not give rise to significant adverse effects. The second bullet point is engaged, but satisfied because the application of ETSU-R-97 would minimise noise effects to an acceptable level. Use of the NPSE in a determinative approach would be inconsistent with the policy provisions in EN-3 and the *Framework*.
147. The turbines would change the local noise environment, and at times inevitably exceed current background levels. But in absolute terms it would remain a low noise environment, would not cause disturbance, result in an unacceptable level of amenity, or breach any development plan policy. EN-3 is clear that ETSU-R-97 should be used, and compliance with it indicates that decision makers may decide to give little or no weight to claimed impacts on amenity, and may completely ignore any changes to the background noise environment that would occur below ETSU-R-97 limits. Compliance with ETSU-R-97 means that there would be no significant effect in terms of the EIA Regulations, no breach of SOAEL within the meaning of the NPSE and no breach of paragraph 17 of the *Framework*.
148. ETSU-R-97 should be followed unless there are good reasons to depart from it. New scientific information, other factors specific to an individual case, or actual experience elsewhere can be taken into account. But the Government is steering decision makers away from giving other factors weight in the planning judgement. This point was raised in the challenge that has resulted in this redetermination, and the Court held that it was unsurprising that ETSU-R-97 had been used as the exclusive and sole criteria for determining the acceptability of noise impacts.¹⁹⁵ It is desirable for decision makers to consider any of the points raised by HSGWAG, including BS4241 and the WHO guidelines, but then to decide, lawfully and rationally, that ETSU-R-97 should be used for determining the acceptability of impacts and as the basis for imposing a suitably worded condition.¹⁹⁶ In this regard the shortcomings of BS4142 were known and enshrined in ETSU-R-97 by its authors.¹⁹⁷ The 1999 WHO guidelines are not regulatory, and the recommendations in BS8233 have been superseded by the

¹⁹⁴ PoE10 Appendix 1.

¹⁹⁵ CD5.6.

¹⁹⁶ PoE6 Appendices 4 and 5.

¹⁹⁷ CD9.1 and CD9.13.

WHO *Night Noise Guidelines for Europe*, which refers to the lowest observed adverse effect level (LOAEL) for night noise.¹⁹⁸

149. At the Inquiry the appellant argued that it is currently not possible to construct a lawful condition to control Other Amplitude Modulation (OAM). The causal mechanism is unknown and a scheme to predict and abate it cannot be devised.¹⁹⁹ The condition suggested by HSGWAG cannot be claimed to be necessary in the sense of mitigating foreseeable impacts, and planning permission would not have to be refused without its imposition because there is no evidence of demonstrable harm. It would not be lawful to impose a condition now on the basis that at some unknown future date a mitigation solution might come along. There is no certainty that OAM will ever be understood sufficiently well such that an accurate predictive methodology could be constructed. The suggested OAM condition would be unnecessary, imprecise and unreasonable. Statutory nuisance and private nuisance remain methods of control, which can and should be relied on.
150. HSGWAG argues for a lower night-time noise limit of 40 dB in the suggested noise condition. However, Footnote 33 to EN-3 paragraph 2.7.55 states the Government is satisfied, on the balance of scientific research, that the key conclusions in ETSU-R-97, and in particular the limits it recommends, remain a sound basis for planning decisions.
151. RenewableUK's research does not change the appellant's case and an OAM condition, either in the form suggested by RenewableUK or of the *Swinford* variety, would be outside the terms of Circular 11/95.²⁰⁰ Such a condition would not be necessary in the sense of mitigating foreseeable impacts, and planning permission would not have to be refused if the condition was not imposed, because there is no evidence of demonstrable harm. It would not be lawful to impose a condition on the basis that at some unknown future date a mitigation solution might come along. It is not possible now to conclude that there is a genuine likelihood of a procedure for indentifying, predicting and curing OAM, being finalised, were it even to occur on the appeal site. Therefore, such a condition would be unnecessary, imprecise, unenforceable and unreasonable.²⁰¹ The appellant notes that the Institute of Acoustics considers that the research is a significant step forward in understanding what causes amplitude modulation and how people react to it, but that the planning condition needs testing and validation before it could be considered to be good practice.²⁰² This remains valid notwithstanding the condition imposed at *Turncole*, where the Council and the appellant ultimately agreed that a condition to control OAM was necessary at that site. The wording of the condition imposed at *Dunsland Cross* was also agreed by the Council and the appellant in that case, and the Inspector referred to high wind shear where turbines could be more prone than average to exhibiting excess AM. The *Turncole* decision does not set a precedent for a stand alone OAM condition in other cases.²⁰³

¹⁹⁸ Mr Arnott's answers to questions at the Inquiry.

¹⁹⁹ CD6.12 and ID27.

²⁰⁰ Although Circular 11/95 has now been cancelled, no substantive changes on the use of conditions have been introduced in the *Guidance*. IDa 64.

²⁰¹ IDa 59.1 and IDa 59.3.

²⁰² IDa 59.2.

²⁰³ IDa 63.

152. SNC does not object on grounds of likely shadow flicker. The assessment indicates a theoretical occurrence at five dwellings.²⁰⁴ The maximum possible occurrence would be 36.4 hours between 0800 and 0915 in the winter at Stuchbury Hall Farm. However, mitigation measures could be imposed by condition.

Public Rights of Way

153. The highest SNC puts its case is that local people have a perception that harm would result. Fear of harm can be a material consideration, but only if it relates to a matter that is itself a material consideration, is objectively justified, or if the fact such fears exist, even if baseless, may have land use consequences. However, there is no robust evidence about deterrence rates for the use of paths close to turbines or through 'wind farm landscapes'. In this case micro-siting would avoid oversailing, and the creation of a permissive path is proposed. Perception of harm to safety and any consequential impact can in law be a material consideration, but the weight to be attached to it is extremely low.

Equestrian activity

154. There is nothing which requires a separation distance of 200 m between a turbine and any bridleway.²⁰⁵ BHS guidance about a separation distance of three times tip height from bridleways is just a starting point.²⁰⁶ It indicates that 200 m would normally be the minimum, but that where this cannot be achieved the developer is expected to demonstrate details of an alternative route, fund improvements, create a new route, or provide facilities for allowing horses to become accustomed to turbines, such as familiarisation days. Accordingly, the appeal scheme complies with BHS guidance. There is no reliable empirical evidence to demonstrate that commercial wind farms are unsafe for horses and riders. The more up-to-date Scottish BHS advice recognises that horse riding and turbines can safely co-exist, and provides practical advice regarding habituation.²⁰⁷ There is no credible evidence that the proposed development would sterilise the rights of way network in the locality. The ZTVs shows that the turbines would be visible to horses and riders for considerable distances, and there would be no element of surprise. The appellant is prepared to offer a scheme of horse familiarisation days for riders, but does not consider that this would be necessary or would comply with Circular 11/95.²⁰⁸

Impacts on the local highway network

155. There is no objection from SNC and no technical objection from the Highway Authority on safety grounds. The DfT Circular does not directly apply to the B4525, but its general principles are relevant.²⁰⁹ There is no dispute that the road has an accident record, but the technical appraisal is clear that given the nature of the road, good visibility of the turbines along it, and the nature of the driving tasks close to the appeal site, the proposed wind farm would not present

²⁰⁴ Section 14 FEI Volume 1.

²⁰⁵ The appellant considers that this appears to have originated with the 200 yard stand off distance in the Turnpike Act of 1822.

²⁰⁶ CD11.2.

²⁰⁷ CD11.3.

²⁰⁸ The Circular is now replaced by the *Guidance*.

²⁰⁹ ID47.

a safety risk. There are now many wind turbines in the vicinity of B roads and evidence of accidents would exist if they posed a problem. Furthermore, if a speed restriction was introduced, notwithstanding that it would not be required to allow the appeal scheme to proceed, slowing traffic would only make the road safer.

Other issues

156. The ES addresses ecology and concludes that there would be no significant effects on protected species.²¹⁰ Biodiversity and enhancement measures are proposed, including hedgerow establishment, provision of new ponds for newts and the creation of amphibian and reptile refuges. This would accord with LP Policy EV21 and eCS Policy BN2.²¹¹
157. Grid connection would be the subject of a separate application under the Electricity Act if it used a new overhead line or an application for planning permission (or use of permitted development rights by a statutory undertaker) for an underground connection.²¹² A preliminary network study identified three possible connection points.²¹³
158. HSGWAG and individual local objectors make much of local opinion. The reasons for such objections, where of substance, must be given due weight, but there is no requirement on third party objectors to take into account all relevant factors and come to a balanced decision on the basis of relevant policy. This is for decision-makers, and the PPGRE says nothing new in this regard. There is also criticism about consultation with the local community. However, the Statement of Community Consultation details the degree of effort in relation to community engagement, and shows a good fit with current good practice.²¹⁴ However, local opposition to the proposal is entrenched and the gulf cannot be breached by community engagement. Nevertheless, the effective consultation exercise resulted in amendment of the scheme from six to five turbines, which were then re-sited in response to ecology and PROW concerns.

Energy policy and planning balance

159. The energy policy documents set out in Appendix 2 to the SoCG establish the seriousness of climate change, the need to cut carbon dioxide emissions, and the Government's intentions regarding deployment of RE generation. There is no cap or limit on RE generation by onshore wind in the Roadmap, and no target or cap for any given technology type.²¹⁵ The national pipeline of RE schemes to 2020 may be healthy, but it is dependent upon on proposals in the planning system coming to fruition on time. There are no technical impediments to rapid deployment of the Spring Farm Ridge wind farm. It is erroneous to suggest that the weight attaching to the need for onshore wind has drastically reduced, and consequently that it is necessary that a scheme should do less harm than in circumstances when need was more urgent. EN-1 provides that need for RE remains urgent and unabated, which was confirmed in the recent *Treading Bank*

²¹⁰ ES 2010 section 9.

²¹¹ PoE11 section 3.7.

²¹² ES Vol 2 (2010) paragraph 5.3.5.

²¹³ ID50.

²¹⁴ CD7.21.

²¹⁵ CD7.6.

appeal decision.²¹⁶ No case is taken by SNC and HSGWAG to weigh against the proposal in relation to available wind speed, predicted output, or other performance related matters. The capacity factor of both candidate turbines would exceed the five year national average load factor for onshore wind of 26.1%.²¹⁷ The recalculation of carbon savings since the previous Inquiry would apply to all schemes across the UK. Need is an important material consideration which should be afforded significant weight in the planning balance.²¹⁸

160. The unacceptable harm alleged concerns significant landscape character and visual effects over a limited, localised geographical area; residential amenity effects on a small number of identified properties; perception of harm to safety of users of PROW; and impacts on cultural heritage assets, none of which would in SNC's view result in substantial harm. Against this, the benefits of the scheme include; 10-15 MW of installed capacity in a broad canvas of urgency of need, and a contribution to the national 15% energy and 30% electricity targets for 2020, and associated reduction in carbon dioxide and greenhouse gas (GHG) emissions and climate change benefits; contribution to diversity and security of energy supply; stimulus to economic development, with direct employment opportunities and indirect or induced economic benefits, along with retention of business rates; ecological enhancement and biodiversity gain; and the benefit of the development contributing to the attainment of emerging development plan policy to encourage sustainable development and RE infrastructure. The reversibility of adverse effects can only serve to mitigate any harm arising and militate in favour of granting planning permission.²¹⁹ The balance here falls in favour of the proposal.

Planning policy and guidance

161. The proposed development would not accord with LP Policies G3, EV2 and EV11, but largely because these policies have not been framed to deal with RE development. Policy G3(J) requires there to be no harm to the character, appearance or setting of a conservation area. It does not strike a balance. Neither does Policy EV11. Policy EV2 concerning the open countryside should carry little weight. eCS Policy S11 is not a facilitative policy, and it seeks general minimisation of harm not limited to the application site itself, and so is inconsistent with the *Framework*. EN-3 makes clear that commercial wind farms will inevitably result in significant landscape and visual effects, which would be adverse in character, and so no commercial wind farm could ever comply with Policy S11. Substantially less weight can be placed on the inevitable breach of this policy, as currently drafted, than might have been so if the wording referred to 'unacceptable' harm. In these circumstances the *Framework* is clearly the most important "other material consideration". SNC's SPD is inconsistent with the *Framework* in so far as they contain requirements relating to alternative sites and the need to compare a scheme with other sources of RE generation. However, the appeal site lies in an unconstrained area as defined by SNC, and the scheme comes forward on the sort of site envisaged by SNC.²²⁰

²¹⁶ ID14 Report paragraph 69.

²¹⁷ CD7.22. Calculated average for the period of 2008-2012.

²¹⁸ CD5.5.

²¹⁹ EN-3 paragraph 2.7.17.

²²⁰ The appellant argues that this is corroborated by the conclusions of the *Heat Mapping Study for the East Midlands* at CD4.3.

162. The *Framework* supports RE proposals in trenchant terms.²²¹ The reference to 'acceptable' in paragraph 98 can be interpreted to mean that permission should follow unless interests of acknowledged importance would be unacceptably harmed, and such harm would significantly and demonstrably outweigh benefits. The policy imperative translates to providing as many schemes as possible, providing that the impacts of a given scheme would be acceptable. Footnote 9 in paragraph 14 suggests that the presumption in favour of sustainable development does not apply when a policy restriction is engaged. However, once the relevant policy restriction has been satisfied (paragraphs 132, 133 and 134 for heritage assets, which deal with single heritage assets and do not provide for combining impacts), the presumption would be re-engaged.²²² HSGWAG's case on the policy restriction could only apply if substantial harm was found to Sulgrave Conservation Area.
163. The WMS do not constitute a change in Government planning policy, and gave notice about the preparation of the PPGRE. The *Government Response to the Onshore Wind Call for Evidence* was published at the same time and makes it plain that the updated and streamlined advice in the PPGRE was being prepared according to the Taylor Review.²²³ The matters for careful consideration set out in the PPGRE were already addressed in national policy and guidance.²²⁴ They gain no greater weight from being repeated, and the PPGRE does not seek to recalibrate the threshold for acceptable change or say that greater weight should be afforded to local concerns.
164. The LP is silent in relation to RE and the full force of paragraph 14 of the *Framework* is engaged. The second limb of the second part of paragraph 14 applies, as it did in the *Treading Bank* decision, and it makes no difference that the point was not in dispute in that case, but is in this appeal.²²⁵ The presumption in favour of sustainable development bites. The identified harm does not come close to significantly and demonstrably outweighing the benefits. Secretary of State Davey recently reaffirmed that appropriately sited onshore wind, as one of the most cost effective and proven RE technologies, has an important part to play in a responsible and balanced UK energy policy.²²⁶ Spring Farm Ridge wind farm is appropriately sited and should play its part in a low carbon future.

Conclusions

165. The proposal would involve change, but the type and magnitude of this change is an acknowledged impact of a policy of deployment of wind turbines in the English countryside. There is nothing so special, out of the ordinary, or rare and unique at Spring Farm Ridge to suggest that the likely significant environmental effects would be unacceptable in the public interest. The threshold of acceptable change has to be set at a level which provides adequate protection for the local environment and communities, but which provides for vital policy objectives to be

²²¹ Paragraphs 17, 93, 96 and 98.

²²² ID14.

²²³ CD7.21 Table on page 31.

²²⁴ The six bullet points were (1) the need case (2) cumulative matters (3) topography (4) heritage assets (5) national designations, and (6) amenity.

²²⁵ ID14.

²²⁶ CD2.4.

met. The environmental, economic and social impacts of the proposed development would be acceptable and planning permission should be granted.

Written representations

Application stage

166. The Council received over 580 letters objecting to the application, and over 270 letters in support. The main reasons for objecting/supporting the proposal are summarised in section 9 of the Council's 2011 Report.²²⁷ The reasons cited for objections encompass those matters raised by SNC and HSGWAG, and in addition refer to adverse effects on local ecology, flood risk, television and radio reception, aviation interests, construction traffic, constraint on any alterations to HS2, loss of property values, loss of productive farmland, along with reference to inefficient wind energy development. Reasons given in support of the proposal reiterate points made by the appellant and include energy security, success of wind power elsewhere, creation of a landmark, and that the proposed wind farm would provide another income stream to support agriculture.

Appeal stage

167. There were 34 written submissions at the earlier Inquiry, including some in support of the proposal.²²⁸ Others raised objections on landscape, residential amenity, heritage, birds and wildlife, flooding, safety, and wind speed grounds. Andrea Leadsom MP wrote objecting to the proposal, urging that the Localism Act be taken into account, and stating that Northamptonshire has already provided more than its fair share of RE.

168. There were 41 written submissions at this second Inquiry stage, some of which reiterated representations made at the earlier Inquiry.²²⁹ Many of those who made submissions subsequently appeared at the Inquiry and their views are documented above. Others raised concerns similar to those expressed by SNC, HSGWAG and in third party submissions to SNC and to the earlier Inquiry. In addition, concern was expressed about funding for removal of turbine foundations and land restoration at the end of the life of the turbines.²³⁰ The effect on the residential amenity of specific dwellings was referred to in other representations.²³¹ The implications for air traffic control systems was raised, given that there are three active aerodromes and one military installation within 10 miles of the site. It was argued that the scheme would not prevent the continued operation at Turweston aerodrome, but would result in a significant risk to safety, particularly in poor weather conditions, unless mitigated by a GPS approach or lighting system.²³² Some considered that an assessment of the effects of the turbines on all digital signals, including television, radio, mobile

²²⁷ ID1.

²²⁸ First Red Folder.

²²⁹ Second Red Folder.

²³⁰ Second Red Folder repres4.

²³¹ Second Red Folder repres8 and 9.

²³² Second Red Folder repres18 and 28.

communications, satellite navigation and wireless free internet should be undertaken.²³³

Summary of other written submissions to the Inquiry

169. Susan Wallace [local resident].²³⁴ The Spring Farm Ridge site and network of footpaths are valued for recreational purposes. There are trees, hedges, wildlife, fields, some with ridge and furrow, along with the remains of the railway with its viaduct, but little of modern life to see. Moving out from the site in any direction it is some distance before you come upon anything considered 'industrial'. Sound from a tractor, a tank moving on Spring Farm land, or traffic along Welsh Lane may sometimes be heard, but at times none of these are heard. There is a need for such places for people to come and enjoy. Placing 125 m high turbines in such a location would destroy the scale and tranquillity of the whole area.
170. Mr and Mrs Woolmer [local residents].²³⁵ The 125 m high turbines would cause blade flicker and would also be noisy. They would have a major impact, would destroy a beautiful rural tranquil setting and would be constantly visible from the house and farm.
171. Northamptonshire County Council.²³⁶ The Leader and Deputy Leader endorse the submissions by Cllr Andre Gonzalez de Savage, which are set out above.
172. Northamptonshire Highways advised on 21 October 2013 that the updated accident data, which post-dated the Red Route Study, had been taken into account. However, the Officer's position remained the same - that there was no objection on technical highway safety grounds.²³⁷
173. Paul Hardy, Pamela Ibbotson and Elizabeth Crew-Read [local residents].²³⁸ The landscape has a delicate character, with reminders of medieval influences throughout, which is cherished by local residents. The clash between the appearance, size and movement of turbines with the sensitive landscape would be overwhelming. Road safety is also a concern. If drivers' attention was distracted by the turbines there is a fear that the right turn towards Greatworth from the B4525 might become even more dangerous.
174. Geraldine Neuhoff [local resident].²³⁹ This is an area that is not very windy. The local area and countryside is treasured – the triangle between the M40 and M1 is a hidden gem. The Helmdon railway viaduct is a special landmark and part of the village's identity. This would change with a wind farm overhanging it. The calmness and tranquil beauty, which local residents do appreciate, would not remain the same with five giant turning wind turbines. The Red Route B4525 is dangerous and drivers would be distracted by the turbines. It is imperative that drivers have full concentration on this fast road. This is a very special place, with

²³³ Second Red Folder repres31 and 32.

²³⁴ ID16 and Second Red Folder repres27.

²³⁵ ID21.

²³⁶ ID22.

²³⁷ ID48.

²³⁸ ID28.

²³⁹ ID30.

walking groups, horse riders, cyclists and runners regularly enjoying the area. The consequences of such an enormous visual distraction on Welsh Lane are a terrifying prospect.

175. Mr and Mrs Tomlinson [local residents].²⁴⁰ Concerned that rotating blades and turbine noise would frighten horses and put both rider and horse at risk. If the appeal was allowed their five high performance horses would be moved from their present livery yard because of the proximity of the turbines to the manège and nearest bridleway. This would affect a local business.
176. Tanks a Lot [local business].²⁴¹ Advised by letter dated 18 October 2013 that following the grant of planning permission in August 2012 for a change of use from agricultural to corporate and private entertainment facilities, using amongst other things, military motor vehicles, business activities have noticeably increased. In particular, the number of car crushing events, which involves the use of military tanks, has increased from 21 in 2012 to 45 in 2013.

*Consultees*²⁴²

177. EH initially requested that the moderate harm to the setting and significance of six heritage assets be given full consideration in the overall analysis of impact, and that where harm was unavoidable that the public benefits of the proposal were seen to outweigh the harm caused to the significance of the historic environment.²⁴³ The six assets were Sulgrave Castle Hill Ringwork, St James Church, The Church of St Mary Magdalene, Astwell Castle, Canons Ashby Estate and The Stowe Estate. Potential for a significant degree of harm was identified for Sulgrave Manor. Reference was also made to the DMV at Stuchbury where earthworks, although un-designated, are of regional significance and their extent and degree of survival suggest that they have the potential to be of national significance. EH advised that the impact of the proposal on the significance of the earthworks should be fully considered. It also recommended additional analysis and view points.
178. Following consideration of further information, EH advised in June 2011 that its recommendation remained as stated in January 2011. This reiterated concern about St James Church, particularly long distance views of the church from the rising ground to the north and north-west, along with the contribution the church tower makes to the character of Sulgrave Conservation Area. EH did not consider that sufficient information had been submitted to assess the likely effects of the proposal on Sulgrave Manor, and maintained its finding of moderate harm to the significance of the Church of St Mary Magdalene, having regard to views from approaches to the church and the Helmdon medieval manorial site. Concerns remained that elements of the proposed wind farm would be visible from The Stowe Estate and would be viewed as an intrusion that would damage the setting of the park. EH also noted that the effects on non-

²⁴⁰ ID33.

²⁴¹ ID37.

²⁴² Responses are included in the Questionnaire and red and blue folders of third party correspondence.

²⁴³ Letter dated 14 January 2011 at PoE1 Annex 2.

designated assets and their setting, such as Helmdon viaduct, is a material consideration.²⁴⁴

179. The Highways Agency advised by letters dated 26 November 2010 and 7 December 2011 that it had no objection to the proposal.
180. The Environment Agency (EA), by letter dated 2 March 2012, considers that the proposal would only be acceptable if a planning condition was imposed concerning drainage details.
181. The Ministry of Defence advised by letter dated 27 February 2012 that it had no objection to the proposal, but required the imposition of aviation lighting in the interest of air safety.²⁴⁵ NATS has no safeguarding objection to the proposal.
182. Natural England (NE) withdrew its holding objection by letter dated 20 February 2012, and considers that the surveys undertaken indicate that the proposed development would be likely to pose a low risk to bat populations.
183. The Joint Radio Company raised no objection concerning interference with radio systems operated by utility companies.
184. The National Trust considers that there would be noticeable and adverse impacts on Stowe Historic Park and Garden (FEI VP 18), and Canons Ashby (FEI VP 14).²⁴⁶

Conditions and obligations

185. The Council and the appellant agreed suggested conditions in the event that the appeal was to succeed and planning permission to be granted. HSGWAG participated in the without-prejudice round table discussion at the Inquiry about suggested conditions. I also questioned the wording of some conditions. The discussion had regard to Circular 11/95 *The Use of Conditions in Planning Permissions*, which has now been replaced by the *Guidance*, but the tests for planning conditions have been carried forward. The outcome of the discussion was a revised list of suggested conditions.²⁴⁷ These are dealt with in more detail in the Conclusions section of this report.
186. No planning obligation pursuant to section 106 of the 1990 Act has been submitted. No submissions were made at the Inquiry that an obligation would be necessary in this case.

My Conclusions begin on page 53 of this report.

²⁴⁴ ID10.

²⁴⁵ Which was confirmed by letter dated 20 March 2013 in Second Red Folder repres41.

²⁴⁶ PoE1 Annex 3.

²⁴⁷ A final version is at ID52.

Conclusions

Preliminary matters

187. The following conclusions are based on the evidence given at the Inquiry, the written representations and my inspection of the site and its surroundings. In this section the figures in parenthesis [] at the end of paragraphs indicate source paragraphs from this report.

188. The ES and FEI reasonably comply with the relevant provisions of the EIA Regulations. I am satisfied that the Environmental Information is adequate for the purposes of determining this appeal. [2]

Main considerations

189. In the absence of any matters set out, about which the Secretary of State particularly wishes to be informed for the purposes of considering this appeal, the evidence indicates that the main considerations here are as follows.

- (1) The effects of the proposed development on:
 - a) The character and appearance of the area.
 - b) The living conditions of nearby residents, with particular reference to;
 - (i) outlook,
 - (ii) noise and disturbance, and
 - (iii) shadow flicker and other considerations.
 - c) Heritage assets.
 - d) Users of the local public rights of way network and the byway open to all traffic (BOAT).
 - e) Highway safety.
 - f) Other considerations.
- (2) The contribution of the proposed development towards the generation of energy from renewable sources.
- (3) Whether any benefits of the scheme would be sufficient to outweigh any harm that might be caused.
- (4) The extent to which the proposed development would be in accordance with the development plan for the area.
- (5) The extent to which the proposed development would be in accordance with the *National Planning Policy Framework* (the *Framework*) and the *Planning Practice Guidance* (the *Guidance*).
- (6) Whether any permission should be subject to any conditions or obligations and, if so, the form that these should take.
- (7) Overall conclusions.

The remainder of this report addresses the matters outlined above, and my recommendation is based on these findings.

(1a) Character and appearance

Landscape and visual impact assessment (LVIA)

190. The assessment of RE potential in *Low Carbon Energy Opportunities and Heat Mapping for Local Planning Areas Across the East Midlands: Final Report* represents the technical potential and not the deployable potential, and notes that it does not provide guidance on the development of specific sites. Given that the intrinsic character and beauty of the countryside is a core principle of the *Framework*, more reliance should be placed on site selection and screening on a case by case basis. The Landscape Institute's third edition of the *Guidelines for Landscape and Visual Impact Assessment* (GLVIA) provides advice on the completion of such assessments. [10,28]
191. GLVIA defines landscape receptors as aspects of the landscape resource with potential to be affected by the proposal. Visual receptors are individuals or groups of people with potential to be affected by the proposal. For both landscape and visual effects the GLVIA methodology combines sensitivity of receptors (value of receptor/particular view and their susceptibility to the change proposed) with magnitude of effects (size/scale, geographical extent, duration and reversibility of effects) to indicate the significance of effects.
192. GLVIA also notes that people living in an area might be affected by changes in views and visual amenity, and that the visual receptors most susceptible to change are likely to include residents at home or engaged in outdoor recreation. It adds that effects on private property are frequently dealt with through 'residential amenity assessments', which are separate from LVIA. This distinction is recognised by dealing in this section only with the visual amenity of residents as a character and appearance issue, and dealing separately with deprivation of outlook from specific dwellings as a living conditions issue later in this report.
193. EN-3 advises that the length of time the development would be operational is a material consideration. The appeal scheme would have a limited duration of 25 years, and conditions could ensure that decommissioning reversed significant harmful effects. However, this would be a substantial period for those who would have to endure any adverse effects from the proposed wind farm. The proposed wind farm would be a long-term development and the reversibility of the scheme should not be a determinative factor in assessing the effects of the proposal on the character and appearance of the area. [55,62,160]

Landscape character

194. In the national landscape character context the site lies at the south-eastern boundary of Character Area 95: Northamptonshire Uplands, and within the East Midlands Regional Landscape Character Assessment the site lies within area 5C: Undulating Mixed Farmlands. These areas are characterised by a varied landform of broad rolling ridges. In Northamptonshire's landscape character assessment the site lies within an area described as Undulating Claylands - 6a Tove Catchment Area. This is characterised by a broad, elevated undulating landscape drained by broad, gentle convex sloped valleys, with wide panoramic views across elevated areas with undulating landform creating more contained and intimate areas. The assessment states that this is a simple landscape. [18]
195. The area is valued for its perceptual qualities and for some recreational activities like walking, where experience of the landscape is important. There is

a dispute about the sensitivity of this landscape. SNC considers that there is a quick transition between the character types of the interfluves (medium/high sensitivity) and the springs and valleys (high sensitivity), and that the turbines would be positioned within the transitional area between these types, and in this location would counteract the sense of permeability. Those parts of the landscape which are more intimate, enclosed, and tranquil in character with little modern development to affect the predominantly rural character have higher sensitivity. However, in the vicinity of the appeal site, such areas are largely confined to the immediate valley bottom and stream, and are set back some distance from the B4525. T1-T4 would be sited on the more open and partly exposed wide ridge that comprises the interfluve landscape, and T5 would be sited on the gentle slope rising up to this area. In this context the turbines would be more associated with the interfluve landscape, and any adverse effect on the transitional area between these local character types would not exaggerate the impact of the creation of a wind farm landscape in this locality, which I deal with next. [29,30,57,58,138,136]

196. The appeal scheme would create a wind farm landscape, in which the turbines would be the dominant landscape characteristic, for an area extending to about 800-900 m from the turbines. Beyond this distance, there is some agreement about the geographical extent of the resultant landscape sub-type, which was described at the Inquiry as 'Undulating Claylands with Wind Farm', to the south and west of the proposed development, but disagreement about its extent to the east and north. Helmdon to the east has a character that contrasts markedly with the surrounding landscape, and its character would not be substantially affected by the wind farm. Seen from the north of Sulgrave, the turbines would be visible on the skyline above the village. However, they would not have a significant characterising effect at this distance, given that the village itself has a strong and particular character. Similar considerations apply to Greatworth to the south. I do not consider that the turbines would have a major adverse effect on the landscape for up to 3-4 km. It seems to me that the area shown on ID17 is a reasonable representation of the extent of likely significant characterising effects. Elements of the landscape have historic significance with reminders of medieval influences, along with dismantled railways. Large utilitarian structures such as the proposed turbines would, to some extent, diminish the local significance of these features of the historic landscape. [18,29,58,59,60,137,138,173]

197. However, this is a simple landscape of broad rolling ridges. There is some 40 m difference between the valley bottom and crest of the ridge, but this is over a considerable distance because of the gentle valley and the wide separation between the broad ridge and interfluve. The interplay of the interfluve and ridge features of the landform here is contained within what is, overall, a relatively large scale and open landscape. The turbines would not break or interrupt any significant feature of the skyline, and as relatively slender structures, they would have a limited impact on the sense of permeability in this landscape. This is an area where the open and relatively large scale landscape has considerable capacity for wind turbine development. [29,30,31,58,61,138]

198. Noise from the turbines would, to some extent, adversely affect the tranquillity of the area at times. However, with the commercial development in the locality, which includes Tanks a Lot and an anaerobic digester, along with road traffic noise from the busy B4525, it is not, for the purposes of applying the provisions

of both the *Guidance* and the *Framework*, an area that has remained relatively undisturbed by noise from human caused sources that undermine the intrinsic character of the area. Any impairment of tranquillity here would not result in substantial harm to the landscape character of the area.

[15,30,57,77,98,99,138,104,109,111,138,169,170,174,176]

199. I find that the proposed development would have a major adverse effect on the local landscape in the immediate setting of the turbines, which would reduce to moderate/major up to about 2.5 km from the turbines. Beyond this distance, the proposed wind farm would not have a significant adverse impact on the landscape resource.

Visual effects

200. The assessment of visual effects concerns the effects of the proposed wind farm on the views available to people and their visual amenity. The zone of theoretical visibility (ZTV) for such large and moving structures in this landscape is extensive. Visual receptors here include people living and working in the area, along with visitors and those engaged in recreational activities. These people are likely to be particularly susceptible to the change in views that would result from the proposed turbines, and there is evidence that the visual amenity of the area is valued. GLVIA notes that residents at home, especially using rooms normally occupied in waking and daylight hours, are likely to experience views for longer than those briefly passing through an area. I consider that visual receptors here would have high sensitivity to the change in views that would result from the appeal scheme. Those using the PROW network close to the turbines would experience a high magnitude of visual effect, resulting in a major visual significance for those receptors. [31,95,114]

201. In assessing the size/scale of visual effects this section of the report considers the effects, for various vantage points/locations, so as to come to a judgement about the overall significance of visual effects. This is based on the expert evidence, wireframes and photomontages, along with my observations on site visits. The following considers likely visual effects on four broad areas; (1) the area in the vicinity of the proposed wind farm and extending east to Helmdon and north-east to Milthorpe, (2) the area to the south and west, including Greatworth, (3) to the north and north-east including Sulgrave and Culworth, and (4) more distant vantage points. The appellant's assessment acknowledges that the proposed development would have significant adverse visual effects from nine of the nineteen viewpoints assessed. [31,61,104,139,140]

202. In views from the east of the appeal site in the vicinity of Grange Farm the turbines would be prominent above the trees and vegetation in local field boundaries, and so would have a visual effect of major significance, but in some views the turbines would not appear much higher than the lighting columns of the manège (FEI VP 1 and HSGWAG SuppVP 4). A major effect would also be apparent from vantage points from within Helmdon that face towards the appeal site (FEI VP 3 and HSGWAG VP 7) where the turbines would be seen beyond open fields and the railway viaduct. A similar visual effect would apply to the southern parts of Helmdon, although the turbines would not appear as high because of the additional separation distance (HSGWAG SuppVP 5 and 6). Views from further to the north-east from Milthorpe and Weedon Lois, and roads and footpaths in the vicinity and leading to these settlements, the visual effects of the turbines would be of major to major/moderate significance (FEI VP 8 and 9). This would also be so for vantage points to the east of Helmdon (PoE8 App5

viewpoint 2).

203. Views from the south and from along this part of the B4525 can be envisaged from some of the wireframes (WF 2, 3, 4 and 5). From Greatworth and the west the turbines would appear above a local ridge beyond open countryside, and the visual effect would be of major significance (FEI VP 2, HSGWAG VP 9, 10 and 11, VP OV-1, WF 7). Further to the west and south the visual effects of the turbines would be of major to major/moderate significance (FEI VP 6 and 7).
204. To the north and where visible from within Sulgrave, at a distance of more than 2 km, the turbines would be of major to major/moderate significance (FEI VP 4 and 5, HSGWAG VP 3, HSGWAG SuppVP 1). Where the turbines were seen from gardens and main rooms of houses in Sulgrave their movement would attract the eye and result in some loss of visual amenity. From vantage points to the north of Sulgrave (HSGWAG VP 1 and 2, VP OV-2) the visual effects would reduce with the greater separation distance. The turbines would be prominent on the skyline, but I do not consider that any conflict with the church tower would add significantly to the adverse visual effects from these vantage points. Closer to the proposed turbines, and in the vicinity of Stuchbury Hall Farm, the visual effect would be of major significance (WF 11, HSGWAG VP 4 and 5, HSGWAG SuppVP 2, 3 and 3a). The turbines would not have much visual effect from vantage points further to the north-west from areas such as Culworth (PoE8 App5 viewpoint 3).
205. From more distant vantage points the turbines, because of the intervening distance, topography and vegetation, would not have a significant adverse effect on the visual amenity of the area (FEI VP 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19).
206. In terms of overall visual effects of the proposed turbines, such large structures would have a major adverse effect on many local views, but this influence would diminish with distance.

LVIA conclusions

207. Other existing or proposed wind turbines in the wider area are sufficiently distant so as to not give rise to any likely significant cumulative landscape or visual impacts. Proposals for HS2 are not finalised, and in any event, cumulative effects of a high speed rail link with a wind farm would not be likely to materially increase the overall landscape and visual impact, because they are very different forms of development. [114,140]
208. The proposed development would have an adverse effect on landscape character of major to moderate/major significance within some 2.5 km of the turbines. It would have an adverse effect on visual amenity of major to major/moderate significance from nine of the nineteen vantage points assessed. The overall adverse effect on landscape character and the visual amenity of the area would be of major to moderate/major significance. This harm to the character and appearance of the area is a consideration which weighs against the proposal, and brings it into conflict with the aims of LP Policies G3(A), EV1 and EV25.

(1bi) Living conditions - outlook

209. The Council and some local residents, in written representations to the Council and at the appeal stage, expressed concern about the effects of the proposed turbines on the residential amenity of nearby occupiers. There is no test

prescribed by law or policy to assess deprivation of outlook. The Secretary of State in the *Burnthouse Farm* appeal considered that in assessing the effect on visual outlook it is helpful 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?" The *Guidance* notes that the Courts have generally taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations.

210. It seems to me that where decision makers have asked whether the impact would make a property an 'unattractive' or 'unsatisfactory' or 'unsuitable' place to live, they were articulating effects on outlook in this way as an aid to making a judgement about whether a private interest was, in the particular circumstances, required to be protected in the public interest. In considering deprivation of outlook in relation to a wind farm scheme, it is useful to ask whether the presence of turbines, by reason of their number, size, layout, proximity and movement, would have such an overwhelming and oppressive impact on the outlook from a dwelling and its amenity space that they would result in unsatisfactory living conditions, and so would unacceptably affect amenities and the use of land and buildings which ought to be protected in the public interest. This public interest threshold is a matter to be determined in the particular circumstances which apply. However, the level of impact or threshold at which the public interest would be so engaged should be no different for wind turbines than would be the threshold applicable to other types of development. [86,107,109,112,141]
211. Where the impairment of outlook for any dwelling was so deleterious that this threshold was breached, then the resultant harm to living conditions would be a weighty consideration against allowing the development proposal to proceed. If this applied to more than one dwelling in the locality then the greater would be the harm. Conversely, if the effects of development fell below this threshold the protection afforded to the public interest by the planning system would not be engaged. As a result, any such adverse effect on outlook would not feature in the planning balance, irrespective of how many dwellings were so affected. But to reiterate, this would not preclude weighing in the balance, as a component of the character and appearance issue, the effects on the locality generally that would derive from visual effects on resident receptors, including those using the local roads and working nearby fields, which nonetheless fall short of impacting adversely on living conditions by deprivation of outlook. [40,43,108,112]
212. The EIA identified 16 properties or groups of properties within 2 km of the proposed turbines that would experience a significant effect. However, I do not consider that establishing significance for the purposes of the EIA Regulations necessarily equates to a finding that deprivation of outlook would breach the public interest threshold referred to above. I was able to make a reasonable assessment of the likely relationship between the properties and the proposed turbines on the basis of the submitted documentation, including the wireframes, along with my observations on accompanied and unaccompanied site visits to the area. It is clear from the wireframes and photomontages that the outlook from some dwellings and their amenity space would be significantly altered by the siting and height of the proposed turbines. References to other decisions and

separation distances are not of much assistance, as so much depends on local circumstances, such as the specific configuration of the turbines, orientation and layout of dwellings, topography and vegetation. The *Enifer Downs* appeal decision is not comparable to the circumstances which apply here because three dwellings in that case were located less than 500 m from the proposed 120 m high turbines. [40,41,144]

213. T5 would be about 800 m from Stuchbury Hall Farm, but would not be prominent from vantage points within the dwelling because of its orientation, position of main windows and screening by buildings and trees. The other turbines would be more apparent from the property, but at a distance of between about 910 m and 1,110 m (HSGWAG VP 4 and VP 5, HSGWAG SuppVP 2, 3 and 3a). Turbines, or parts of them, would be visible in an arc of about 100 degrees from this property, and the approach to it. The permitted barn conversion, with its sunroom, would bring a dwelling closer to the turbines, but I do not consider that the outlook from these properties would be dominated by the turbines. Even with the removal of some trees for safety reasons, the remaining trees would offer a degree of screening and would soften the impact of the proposed wind farm on the outlook from the existing and proposed dwellings at Stuchbury Hall Farm. Given the layout of these dwellings and amenity space, along with the degree of screening and separation distance, the turbines would not have a dominating effect on the outlook from Stuchbury Hall Farm. I do not consider that the wind farm would render this property an unpleasant and significantly less attractive place to live. [42,43,72,107,108,143]
214. Grange Farm and the approach to the four houses at this location would have direct views of the turbines along this part of the Helmdon valley (HSGWAG SuppVP 4). There would be some blade stacking of T2, T3 and T4, but although this might attract attention and be distracting, it would not provide an uncomfortable viewing experience as suggested by SNC. The main reception rooms, kitchens and gardens of The Old Farmhouse and The Granary would look directly at the turbines, but at this distance I do not consider that they would have a dominating impact. Nor would they unduly affect those working in nearby fields. [44,73,112,113]
215. The turbines would be apparent from dwellings in Helmdon, such as those at Manor Barn/Farm (HSGWAG SuppVP 5 and SuppVP 6) and from other dwellings in or near Church Street that face towards the appeal site. The separation distance would limit the likely effects on the outlook from these properties, and I do not consider that they would appear intrusive in the outlook from these homes. [75,115,118]
216. The houses in Astral Row, Greatworth (HSGWAG VP 9) face towards the appeal site over open farmland, and the turbines would be visible, with the nearest about 850 m from the front of these dwellings. At this distance, and given the wide view from these properties, I do not consider that the turbines would have an overbearing or dominating impact on the outlook. [74]
217. I have had regard to all the representations, but it was clear from my site visits that the outlook from other dwellings in the wider area, and from other dwellings within settlements, not specifically addressed in this section of the report, would not be materially affected by the proposal. In my judgement, the proposed turbines would not result in an overwhelming and oppressive impact on the outlook from nearby dwellings or their associated amenity space that would

result in unsatisfactory living conditions. The proposal would not, by reason of deprivation of outlook, unacceptably affect amenities and the use of land and buildings which ought to be protected in the public interest. If the Secretary of State were to come to a different conclusion on this point, the resultant harm and policy conflict would weigh heavily against allowing the appeal.

(1bii) Living conditions - noise and disturbance

218. The *Guidance* states that ETSU-R-97 should be used when assessing and rating noise from wind energy developments. The IoAGPG has been endorsed as a supplement to ETSU-R-97.²⁴⁸ The *Noise Policy Statement for England* (NPSE) is also relevant. This aims through the effective management and control of noise within the context of Government policy on sustainable development to avoid significant adverse impacts on health and quality of life, mitigate and minimise adverse impacts on health and quality of life, and where possible, contribute to the improvement of health and quality of life. [5,13]
219. SNC takes no issue with the predicted noise levels, except to note that impacts in terms of noise, along with visual impacts and shadow flicker, should be added together in assessing the effects on residential amenity. There is considerable local concern about noise, and HSGWAG argues that wind turbine noise would be audible at nearby dwellings, and at times at levels significantly above the background noise level. HSGWAG argues that turbine noise has a distinctive character, which causes distraction, loss of concentration and annoyance. There is concern that noise levels at Stuchbury Hall Farm could be doubled, especially at night when it is considered by the occupiers to be exceptionally quiet. [40,77,95,107,112,145,170]
220. ETSU-R-97 is not to be interpreted as statute or applied inflexibly, especially as the document describes a framework for the measurement of wind farm noise and gives indicative noise levels thought to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on wind farm development or adding unduly to the costs and administrative burdens of developers or local authorities. The noise limits set out in ETSU-R-97 are fixed limits within the range of 35-40 dB during the day and 43 dB during the night (with higher limits for dwellings with a financial interest in the scheme), or 5 dB above the prevailing background level, whichever is the greater. The actual value chosen within the 35-40 dB range depends upon three factors: the number of dwellings in the neighbourhood of the wind farm, the effect of noise limits on the number of kWh generated, and the duration and level of exposure. Taking these factors into account there is no reason to doubt that a lower fixed limit of 40 dB would be appropriate during the day.²⁴⁹ EN-3 provides that where the correct methodology has been followed and a wind farm shown to comply with ETSU-R-97 recommended noise limits, the decision maker may conclude that it will give little or no weight to adverse noise impacts from the operation of the wind turbines.²⁵⁰ [145,146]

²⁴⁸ EN-3 states at paragraph 2.7.56 that ETSU-R-97 should be used in the assessment of noise from the operation of wind turbines, and footnote 32 to paragraph 2.7.55 provides that ETSU-R-97 includes any supplementary guidance to it endorsed by the Government.

²⁴⁹ ES 2010 paragraph 12.3.3.

²⁵⁰ EN-3 paragraph 2.7.58.

221. Turbine noise would result in a significant increase above the low background noise levels that are apparent in the area at night. With the V90 turbine these exceedences would be more than 10 dB for nine properties. For some properties, with windows open, the noise level would be above 30 dB, which is the WHO level not to be exceeded if negative effects on sleep are to be avoided. BS4142 *Method for rating industrial noise affecting mixed residential and industrial areas* and the WHO revised guidelines can help inform an overall judgement about the likely effects of noise. However, ETSU-R-97 found that a literal interpretation of BS4142 difficult to apply to an assessment of wind farm noise and that it might not be appropriate. Given the policy support for ETSU-R-97, I do not consider that other standards or guidelines should be determinative in this case. HSGWAG argues that the margins between the predicted noise level at dwellings in the area, particularly Stuchbury Hall Farm, and the ETSU-R-97 derived limits, would, at some wind speeds, be very small. However, even allowing for some uncertainty, and any disproportionate impact attributable to the dominant wind direction here, the methodology is generally based on conservative assumptions that should provide for a worst-case analysis. There is no evidential basis to impose any penalty because of the local topography, and I am satisfied that the evidence indicates that a turbine could be installed in the proposed wind farm that would reasonably comply with the ETSU-R-97 limits. It would be undesirable to create a situation where the noise condition was frequently brought into play, but there is no convincing evidence that the suggested limits would result in such an outcome. [76,78,79,80,145,147,148]
222. HSGWAG considers that a 40 dB lower fixed limit should also apply at night. Candidate turbines could operate within this limit. A higher night time noise limit could allow turbines to operate at a higher noise mode at night than during the day. Such a change might be particularly intrusive late at night when background levels might be low, and so could affect sleep patterns of nearby residents. A restriction to 40 dB at night would accord with the second bullet point in paragraph 123 of the *Framework* and the NPSE, which aim to minimise adverse impacts on the quality of life arising from noise. Notwithstanding the advice in ETSU-R-97, I consider that there is a strong case here for imposing a 40 dB lower fixed limit at night. This would accord with the *Guidance* about the impact of noise on those affected, which includes as a relevant factor, that some types of noise will cause a greater adverse effect at night than if they occurred during the day because people tend to be more sensitive to noise at night as they are trying to sleep. [79,81,150]
223. ETSU-R-97 incorporates some consideration of blade swish, but there is local concern that wind turbine noise might be more intrusive due to amplitude modulation (AM) that would be in excess of that acknowledged by the Noise Working Group. This was referred to as Other Amplitude Modulation (OAM) at the Inquiry. There was a dispute at the Inquiry between HSGWAG and the appellant about whether it would be necessary and reasonable in this case to impose a condition concerning AM. [81,82,149]
224. After the close of the Inquiry RenewableUK published research about OAM, including a template for a planning condition. The parties to the appeal have submitted written representations about this research. The Government has endorsed the IoAGPG, which states that at the time of writing (May 2013) current practice is not to assign a planning condition to deal with AM. There is a measure of agreement between the parties that it would be premature to impose a

condition in the form set out in RenewableUK's template before it has been properly validated and tested. What is in dispute is whether it would be necessary and reasonable to impose a condition that would require a scheme to be submitted, approved and implemented for the control of OAM, were it to occur. [83,151]

225. The circumstances where OAM might arise cannot currently be predicted, and there is no general consensus about what factors would be likely to increase the likelihood of its occurrence. But such uncertainty does not mean that it is a consideration that falls outside the scope of the planning regime. There are many situations where planning conditions are properly imposed on a precautionary basis. RenewableUK's research indicates that OAM is a potential problem that can make wind turbine noise more intrusive and annoying. ETSU-R-97 states that developers have to consider the interests of individuals as protected under the Environment Protection Act 1990. However, legal remedies such as an action in nuisance might take considerable time to resolve, during which any unacceptable OAM would result in harm. The risk of uncontrolled OAM is, therefore, a factor which weighs against the proposal in the planning balance. If the harm from this risk was sufficient to tip the balance, such that the benefits of the scheme did not outweigh its disadvantages, then the imposition of a condition to deal with OAM would be both necessary and reasonable to allow the scheme to go ahead. I return to this point after having considered the planning balance in this case. [84]

226. Noise from the turbines would be audible at nearby homes at times. It would sometimes be heard at levels significantly above background levels. However, the imposition of planning conditions could minimise such impacts. The expert evidence indicates that the scheme could operate within acceptable ETSU-R-97 limits. I deal later with how this consideration should weigh in the overall planning balance, and how the proposal squares with LP Policy G3(D) and (E).

(1biii) Living conditions – other considerations

227. There is local concern about possible shadow flicker from moving turbine blades. However, given the separation distance from dwellings, this is a matter that could be adequately addressed by the imposition of an appropriate planning condition. Large portions of the holding at Stuchbury Hall Farm would be affected at times by shadows cast by the turbines, but there is no convincing evidence that this would unduly affect those working in these fields. Flashes of reflected light from blades could be minimised by approving the surface treatment. The imposition of such conditions would accord with the advice in the *Guidance*. There is no compelling evidence before the Inquiry that the proposed wind farm would give rise to unacceptable infrasound or adversely affect the health of local residents. Any fears about such possible adverse effects cannot be given much weight. [95,108,112,152,170]

228. The *Guidance* states that protecting local amenity is an important consideration which should be given proper weight in planning decisions, but does not define the term 'local amenity'. It seems to me that it includes more than 'visual amenity', and should, therefore, be given its ordinary meaning. As such the *Guidance* seeks to safeguard the pleasantness of a place or locality. However, reference to a particular place would not preclude this being a specific dwelling. Local amenity could therefore include an element that derives from residential amenity. This report draws a distinction between the effects of the

proposal on the character and appearance of the area, and the effects on living conditions of nearby residents attributable to shadow flicker, noise and disturbance, and any deprivation of outlook. Protecting local amenity should be given significant weight. I have found that the proposal would have an adverse impact on the character and appearance of the locality, but that any adverse effects on living conditions arising from deprivation of outlook or shadow flicker, would not weigh heavily against the proposal.

229. The evidence indicates that the effects of the proposed turbines on the outlook of nearby occupiers, along with likely shadow flicker, health fears, and any disturbance or disruption during construction, operation or decommissioning, would not have a significant adverse effect on the living conditions of local residents. Noise would be audible from dwellings at times, especially when background levels are low, but there is evidence that the scheme could accord with ETSU-R-97, which is a matter to be weighed in the overall planning balance in determining whether the proposal would be acceptable, and whether the proposal would conflict with LP Policy G3(D) and (E) concerning noise.

(1c) Heritage assets

230. Within 5 km of the appeal site there are over 300 listed buildings, eight Scheduled Ancient Monuments (SAM), one Registered Historic Park and Garden (RHPG), and eight Conservation Areas. Other RHPG, including those at Canons Ashby and Stowe lie within 15 km of the appeal site. Undesignated heritage assets in the area include Stuchbury deserted medieval village (DMV), the DMV at Astwell and the disused Helmdon railway viaduct. [17]
231. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be given to the desirability of preserving the setting of a listed building. Section 72 provides that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. It was clarified at the Inquiry that any adverse effect on a heritage asset, even if slight or minor, would not preserve the asset. The *Framework* provides that development resulting in substantial harm to the significance of heritage assets should not be permitted unless it would be necessary to achieve substantial public benefits that would outweigh the harm. The *Guidance* states that in general terms, substantial harm is a high test, so it may not arise in many cases. Where less than substantial harm would result, this should be weighed against the public benefits of the proposal. A balanced judgement is required for non-designated assets, having regard to the scale of any harm and the significance of the asset. [11,32,119]
232. At the application stage English Heritage (EH) raised concerns about the likely effects of the proposed development on St James Church, particularly long distance views of the church from the rising ground to the north and north-west, along with the contribution the church tower makes to the character of Sulgrave Conservation Area. EH did not consider that sufficient information had been submitted to assess the likely effects of the proposal on Sulgrave Manor, and maintained its finding of moderate harm to the significance of the Church of St Mary Magdalene, having regard to views from approaches to the church and the Helmdon medieval manorial site. Concerns remained that elements of the proposed wind farm would be visible from The Stowe Estate and would be viewed as an intrusion that would damage the setting of the park. EH also noted that the effects on non-designated assets and their setting, such as Helmdon viaduct,

is a material consideration. However, there is no formal objection from EH, and further information has been provided at the appeal stage. [62,177,178]

233. The main parties reached a degree of consensus about the likely effects on some of the heritage assets in the locality. I have taken into account the submissions from other parties and interested persons about these assets, and have given considerable importance and weight to the desirability of preserving the setting of listed buildings, but there was nothing apparent at my site visits, or in other evidence before the Inquiry, to indicate that a different judgement should apply to these particular assets. I therefore find that the proposed development would have a minor or slight adverse effect on the Church of St Mary Magdelene Helmdon, and Stowe Park (FEI VP 18); and a neutral effect on Canons Ashby (FEI Vol 2 Visualisations B-F). I note that the National Trust considers that there would be noticeable and adverse impacts on Stowe RHPG, and Canons Ashby (FEI VP 14). However, the more detailed evidence before the Inquiry, along with my observations at site visits, did not bear this out. The following conclusions therefore focus on those assets where the assessment was disputed by the main parties. In doing so I have had regard to the aesthetic, communal, historic and evidential value of these heritage assets, and have taken into account that experiential elements of setting can be an important attribute of an asset's setting. [11,34,39,95,101,115,117,128,130,131,184]
234. HSGWAG, Sulgrave Parish Council and others are concerned that the turbines, with rotating blades, would dominate the setting of Sulgrave Conservation Area (HSGWAG VP 1 and VP 2, HSGWAG SuppVP 1) and replace the church tower as the most significant feature. I do not share this view because the conservation area has a strong character, which derives from the overall integrity of the historic core of the village, and that any adverse effect on the church tower would not unduly affect the character or appearance of the area as a whole. Visual prominence is an attribute of the setting of Sulgrave Castle Ringwork (HSGWAG VP 3), and to a lesser extent, the Church of St James. The ringwork, Castle Green and the church formed a group which was important to medieval life in the village. The agricultural settlement also had a functional relationship with the surrounding countryside, which is evident from ridge and furrow in the area. However, given the separation distance from the proposed turbines, along with the development in the immediate context of these assets, I do not consider that the proposed wind farm would result in major harm to the setting and significance of these assets. I share the Council and the appellant's view that the wind farm would have a moderate adverse effect on Sulgrave Castle Ringwork, the Church of St James and Sulgrave Conservation Area. [33,34,63,64,99,103,122,123,124]
235. There is also a difference of expert opinion about the likely effects on Sulgrave Manor and its RHPG. Sulgrave Manor Trust is concerned that views of the turbines would affect the setting of the Manor, and make it more difficult to attract visitors and funding. The turbines might be apparent in the distance from some parts of the building and its grounds. However, as the Manor is set within the village, the landscape in which the building lies has no significant bearing on its setting in terms of its status as a listed building. It seems to me that the limited adverse impact on this important heritage asset would be unlikely to deter visitors or to materially affect its finances. I find that the proposal would have a minor or slight adverse on Sulgrave Manor and its RHPG. [38,63,95,102,119,129]

236. Commanding views were probably important in the siting of Astwell Castle (PoE8 App5 viewpoint 2) and make a contribution to its significance. However, at a distance of about 3.5 km the proposed turbines would not, particularly because of the limited arc of view, significantly disrupt views towards the west. I find that the proposal would have a moderate adverse effect on Astwell Castle and its SAM. [34,37,69,121]
237. The classical façade of Greatworth Hall would face south away from the proposed turbines. It would be seen in some views from the village and nearby footpaths with the turbines in the background beyond the remaining parkland that is associated with the listed building. This would, to some degree, adversely affect the setting of Greatworth Hall. However, the setting of the Hall is also affected by modern development and the access from the B4525 from the north. Overall, I find that the proposal would have a moderate adverse effect on this heritage asset. [35,69,120]
238. Glimpsed views of the open countryside from within the grounds of Greatworth church are an important reminder of the village's setting and rural heritage, and so the view to the east from the churchyard is important (HSGWAG VP 9 and VP 10). Mature trees in and near to the churchyard would provide some filtering of views towards the proposed turbines, but moving blades would be visible and would attract attention, and so would detract from the graveyard as a place of quiet reflection. The graveyard and its immediate rural context form part of the setting of the church. I consider that the turbines would have a minor to moderate adverse effect on the setting of the Church of St Peter at Greatworth (HSGWAG VP 11) and the listed headstones within its graveyard. However, other views from within Greatworth Conservation Area would be limited by development within the village, and so the turbines would only have a slight adverse affect on the character and appearance of Greatworth Conservation Area. [36,66,119,126,127]
239. Stuchbury DMV and fishponds is currently being assessed by EH to determine whether it should be designated as a SAM. The origins and function of the DMV are linked to the sunken way and the local hydrology. Its local context is of some importance to understanding the relationship between the settlement, farming and fish farming. However, I do not consider that much of the significance of this asset lies within its setting. The historic features relate strongly to the immediate water course and the sides of its valley. The DMV would be sited within the wind farm landscape that would result from the appeal scheme, and its associated access track would be visible from some vantage points in or near to the DMV. This, along with turbine noise at times, would alter the feel of the area, but not to such an extent that it would erode the contribution its wider context makes to the significance of the DMV. I find that the appeal scheme would have a minor to moderate adverse effect on this undesignated heritage asset. [65,133]
240. Priory Farm is a listed building on the outskirts of Helmdon (HSGWAG VP 7). Its wider context includes the surrounding countryside, with some ridge and furrow. The historic field pattern makes some contribution to the setting of the farmhouse, but the turbines when seen beyond the railway viaduct would not unduly affect the appreciation of this asset. I consider that the proposal would have a moderate adverse effect on the significance of Priory Farm. This would also be so for other listed buildings in the northern section of Helmdon.

[67,115,125]

241. Helmdon railway viaduct is undesignated, but regarded locally as a special landmark and part of the village's identity (HSGWAG VP 7). The turbines would, to some extent, compete with the viaduct for prominence as a local landmark in the wider landscape. However, they would be seen as very different features in views from the village, with the viaduct appearing as a solid construction across the valley floor, and the turbines slender vertical structures set back towards the ridge. I find that the wind farm would have a minor or slight adverse effect on this undesignated asset. [68,115,174,134]
242. It was evident from my site visits that from Culworth (PoE8 App5 viewpoint 3) the separation distance, along with the intervening trees, would mean that the proposed wind farm would have neutral effect, and so would preserve the character and appearance of Culworth Conservation Area. The proposed wind farm would not have a significant adverse effect on the setting of other heritage assets in the area not specifically referred to in this section of the report. [38,132]
243. The proposed wind farm would be temporary and endure for a short period relative to the longevity of some of the historic assets likely to be affected by it. The reversibility of the development is a relevant consideration, but the harm to heritage assets would last for a generation, and the *Framework* aims to conserve such assets for both this and future generations. This is a consideration which limits the weight that should properly be given to any time limited element of the harm that would result to cultural heritage from the proposed wind farm. [39,62]
244. In coming to an overall judgement about the effects on heritage assets, I have given considerable importance and weight to the desirability of preserving the setting of listed buildings, and to the desirability of preserving or enhancing the character or appearance of conservation areas. The adverse impacts I have identified would not preserve the setting of the listed buildings cited above, nor preserve the character or appearance of two conservation areas. However, these adverse effects would be of moderate or minor significance. The likely harm to Sulgrave Conservation Area and Stuchbury DMV, and to the other heritage assets in the locality, would not result in a serious impact that would either vitiate or very much reduce the significance of the asset. The proposal would not result in substantial harm for the purposes of applying the policy set out in the *Framework*. The harm I have identified would be sufficient to bring the proposal into conflict with the aims of LP Policies G3(I),(J) and (K), EV10, EV11 and EV12. However, the proposal would not seriously affect the setting of a RHPG, and so would not conflict with LP Policy EV28. Overall, the minor and moderate adverse effects of the proposed development on heritage assets would result in a less than substantial level of harm to be weighed against the benefits of the scheme in accordance with the provisions of the *Framework*. [39,62,64,70,119,135]

(1d) Public Rights of Way

245. The appeal site is traversed by an east-west footpath, which provides an alternative to walking along the B4525, and a north-south BOAT. These and other linking PROW are well used and valued by local residents. Sulgrave Parish Council considers that the wind farm would render considerable lengths of these ancient rights of way at best unpleasant and at worst potentially dangerous. SNC

argues that local people have a perception that harm would result. Micro-siting could prevent turbine blades oversailing paths, and the creation of a permissive path would provide an alternative route for those who had a particular objection to walking close to such large structures. Noise levels might be high close to the turbines, but there is no convincing evidence that the turbines would deter a significant number of people from using PROW in the vicinity of the proposed wind farm. Some people might prefer to avoid the area, but others would be unaffected. There is nothing to indicate likely deterrence rates for those walking through wind farm landscapes. The harm to visual amenity arising from the impact of the wind farm on those using the PROW network has been assessed above in the LVIA section of this report and so should not be double counted. Some weight should properly be given to the perception of harm to safety for those using the local PROW network, but by comparison with the other main issues in this appeal it is not a weighty consideration, or one that would be likely to tip the balance against the proposal.
[16,46,47,48,71,95,101,104,111,153,174]

(1e) Highway safety

246. There is concern about the turbines affecting highway safety because of possible driver distraction, based on local experience of using the B4525. The B4525 is a busy route linking main roads, has a number of junctions in the vicinity of the appeal site, and is used by through traffic, local business and agricultural vehicles, and by local residents. There have been a number of road traffic accidents, which cannot be attributed to any particular features of the road that would indicate a design or construction problem. However, the turbines would be such large structures in the local landscape that drivers would be likely to be aware of their existence at some distance. Even where they might be seen in line, with overlapping blades, such as from the turnoff to Greatworth, I do not consider that they would appear as a surprise or a significant distraction for motorists. The setback of T1 from the road would fall slightly short of the recommended setback distance for turbines sited near to trunk roads, and there might not be a clear, continuous view of the turbines from all parts of this section of the B4525. This advice applies to the strategic road network, but its general principles are relevant. However, considerable weight should be given to Northamptonshire Highway's view that there is no objection on technical highway safety grounds. There is no basis to reject the proposal on highway safety grounds, and I find no conflict with LP Policy G3(B) or (F).
[88,89,96,97,98,101,105,109,155,171,172,173,174,179]

(1f) Other considerations

247. Concerns have been raised about the effects on the local ecology, and particularly the flight paths for bats. However, Natural England considers that the surveys undertaken indicate that the scheme would be likely to pose a low risk to bat populations. Some biodiversity enhancement measures are proposed, and there is no evidence that the proposal would have a significant adverse on protected species or nature conservation. [101,156,182]

248. Helmdon has experienced flooding in the past and local residents consider that the concrete foundations and other impermeable surfaces would exacerbate the flood risk by raising the water table. However, the scheme could be designed and constructed so as to limit any changes in the local hydrology. This could address the matters raised by Helmdon Parish Council. The Environment Agency

considers that the proposal would be acceptable if a planning condition was imposed concerning drainage details. Subject to the imposition of such conditions the proposal would not conflict with LP Policy G3(M). [95,112,114,115,118,180]

249. There is no evidence that the proposed turbines would result in any interference with electro-magnetic transmissions in the locality, or that they would degrade the service if wireless broadband technology was established in the area. The Joint Radio Company has objections concerning interference. Any adverse impact on television and radio reception is a matter that could be addressed by condition. [101,168,183]
250. Aviation interests were raised at the application stage. However, the MoD has no objection to the proposal, subject to the provision of aviation safety lighting. NATS has no safeguarding objection. It is acknowledged that the scheme would not prevent operations at Turweston aerodrome, and as lighting is proposed, there is no evidence that the turbines would result in a significant risk to safety. There is no reason to find against the proposal on aviation safety grounds. [168,181]
251. Horses are popular in the local area and an important source of local employment. There is local concern that riders would avoid bridleways in the area because the turbines would frighten horses. High performance horses are kept at Grange Farm, and it is argued that these horses are easily startled. BHS guidelines aim for a separation distance of three times tip height from bridleways, but also provide for other considerations to be taken into account, such as facilities to allow horses to become accustomed to turbines. In the absence of reliable evidence about any adverse experience from other localities where turbines have been erected, it is difficult to give much weight to representations about likely harm to the local economy because of impacts on equestrians. I do not consider that the likely effect on equestrians, or safety perceptions, should weigh significantly against the proposal. [47,110,112,113,154,175]
252. The possibility of danger from a turbine fire, or blade or ice shedding was raised because of the proximity of the proposed turbines to PROW and the B4525. However, given the separation distances there are no grounds for requiring a risk assessment for equipment failure, and no basis for finding against the proposal on safety grounds. [95,116]
253. The removal of turbines and land restoration is a matter that could be addressed by planning conditions. [168]
254. There is local concern that the visual impact of the scheme could be worse if pylons were used for the connection to the Grid. This would be a matter for the relevant regional Distribution Network Operator (DNO). There are no obvious reasons why such a connection would not be possible, or that the necessary approvals would be refused, but this remains a matter for the DNO, and a commercial risk for the appellant. A preliminary network study identified three possible connection points. Proximity of a likely grid connection is not a consideration which would weigh against the proposal. [112,114,157]
255. The proposal would result in some socio-economic benefits, primarily from the construction of the wind farm, but the impact on the local economy would be

limited. [160]

(2) Renewable energy (RE)

256. There is a wide measure of agreement about relevant policy for RE, which is helpfully set out in Appendix 2 to the SoCG. In summary, the European Union Renewable Energy Directive has a commitment to a binding target of 20% of its energy coming from renewable sources by 2020. The UK Renewable Energy Strategy confirms the 15% contribution which the UK is expected to make to the EU's 2020 target, and in order to be achievable, it will require more than 30% of the UK's electricity generation to come from renewable sources. The Government has since confirmed in the UK Renewable Energy Roadmap the scale of the development of RE that will be required to meet the 2020 targets. [24,53,159]

257. The *Framework* provides that applicants do not need to demonstrate the overall need for RE development. The *Written Ministerial Statement by Edward Davey: Onshore Wind* provides that appropriately sited onshore wind, as one of the most cost effective and proven RE technologies, has an important part to play in a responsible and balanced UK energy policy as it reduces reliance on imported fossil-fuels and helps keep the lights on and our energy bills down. The statement adds that the UK has some of the best wind resources in Europe, and that the Government is determined that the UK will retain its reputation as one of the best places to invest in wind energy. [95,96,100,101,106,114,118,159,174]

258. The candidate MM92 turbines with 10.25 MW installed capacity are predicted to generate 33,700 MWh per year with a capacity factor of 37.5%. With the V90 turbines and an installed capacity of 15 MW the scheme is predicted to generate 35,000 MWh per year with a capacity factor of 26.6%. With either turbine the scheme would make a significant contribution towards the generation of RE. However, the application is based on a wind turbine with a maximum generating capacity of 2-3 MW, and that the proposed wind farm would have an installed capacity of 10-15 MW. The bottom of this range should properly be used in assessing the RE benefits of the scheme for the purposes of determining this appeal. Even so, the scheme would make a significant contribution to meeting national targets, reducing GHG emissions and providing energy security, which are important public benefits. The RE generation that would result from the proposed wind farm is a consideration which weighs heavily in favour of the proposal. [20,21,93,]

(3) Planning balance

259. The planning balance is a matter of judgement. The proposed wind farm would harm the landscape character and visual amenity of the area. However, its likely effects, by reason of outlook or shadow flicker, on the living conditions of those residing in the area would not be significant. I deal with noise later. There would be some harm to local amenity, but this would largely be attributable to the effects on the local landscape and visual amenity of the area, which should not be double counted in the balancing exercise. The proposal would have an overall moderate adverse effect on cultural heritage. This less than substantial harm should be weighed against the public benefits of the proposal. Subject to the imposition of appropriate conditions the wind farm would not unduly affect air safety, biodiversity or highway safety. Some minor benefits would accrue to the local economy. The main considerations here are

the adverse effects on the character and appearance of the area, and on heritage assets, against which must be weighed the benefits of the RE that would be generated during the lifetime of the proposed wind farm.

260. EN-3 recognises that the landscape and visual effects will only be one consideration to be taken into account and that these must be considered alongside the wider environmental, economic and social benefits that arise from RE projects. The balancing exercise should be made within the context of Government policy on sustainable development, and in light of the fact that EN-1 acknowledges that it will not be possible to develop necessary large-scale energy infrastructure without some significant residual adverse impacts. The proposed development would make a significant contribution to RE targets, and towards the reduction of GHG and to energy security. These are important public benefits, which should be given significant weight. I consider that these benefits would outweigh the harm I have identified above, but it is also necessary to determine how any noise impact should be taken into account in the overall balancing exercise. [140]

261. The scheme could operate within acceptable ETSU-R-97 limits, which were formulated on the basis of a balancing exercise. Furthermore, the NPSE aims are to be applied in the context of policy on sustainable development. So the benefits of the RE generated by the appeal scheme are a relevant matter. Taking all these considerations into account, and subject to the imposition of appropriate planning conditions, I find that the proposal, insofar as noise and disturbance is concerned, would not unacceptably harm the amenities of any neighbouring properties, or cause noise problems, and so would not conflict with LP Policy G3(D) and (E).

262. Taking into account the combined effects on outlook, of shadow flicker and likely noise, the proposal would not have a significant adverse effect on the residential amenity of those living nearby. I find no conflict with SPD2010. The harm to the character and appearance of the area, and any adverse effects on the local amenity of the area, along with the moderate adverse effect on heritage assets, would be outweighed by the public benefits of generating electricity from a renewable source. The benefits and disadvantages are finely balanced in this case, but in my judgement, the planning balance falls in favour of the proposed development. [87]

(4) Development plan and emerging Core Strategy ²⁵¹

263. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be decided having regard to the development plan, and to be determined in accordance with it, unless material considerations indicate otherwise. The proposal would be at odds with the underlying aims of LP Policy G2 to severely restrain development in the countryside. But this policy aims to focus development on towns where large turbines would be unlikely to be appropriate, and regard should be given to more recent national policy in the *Framework* and EN-1. The scheme would not meet certain of the criteria in LP Policy G3; it would not be compatible with the existing character of the locality (A), and there would be some conflict with (I), (J) and (K) concerning the likely effects on heritage assets. The latter would also bring the proposal into conflict

²⁵¹ A summary of these policies is included at Annex 1 of this Report.

with LP Policies EV10, EV11 and EV12 concerning conservation areas and listed buildings. There would also be some conflict with LP Policy EV1 which requires particular attention be paid to various elements of the development in relation to the site and its surroundings. Policy EV2 would not be satisfied because the wind farm does not fall within the exceptions for development in the open countryside, but again it is unlikely that large turbines were a form of development considered at the time the LP was drafted, and more weight should be given to more recent national policy. The landscape of a dismantled railway would, to some extent, be adversely affected by the turbines, which would bring the proposal into conflict with LP Policy EV25. To the extent that the proposed wind farm and its associated works might be considered to be a public utility for the purposes of applying LP Policy EV31, the scheme might be considered to be at odds with the requirement that such development should not be visually intrusive. Overall, the proposal conflicts with the development plan when read as a whole. 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*. [49,50,51,161]

264. The eCS has reached an advanced stage and can be given some weight, but again the weight which can be given to relevant emerging policies must accord with their degree of consistency with the *Framework*. The proposal would be at odds with the aims of Policy S1 with respect to maintaining the distinctive character of rural communities. Policy S10 sets out principles for sustainable development that are similar to the provisions of the *Framework*, which I consider in the next section. Policy S11 is relied upon by SNC because it concerns RE. However, it states, amongst other things, that the location of wind energy developments should have no significant adverse impact on amenity and landscape character. 'Significant' here should be given its ordinary meaning, and so would not set a very high threshold for such a requirement to be breached. It is difficult to square this with EN-1 which indicates that some significant residual adverse impacts would inevitably result from large-scale energy infrastructure. Not much weight should be given to any conflict with emerging Policy S11. The proposal would at least maintain biodiversity and so would accord with Policy BN2. Policy BN5 concerns the historic environment and has similar aims to the *Framework* insofar as it refers to the conservation and enhancement of the significance of assets. Policy BN9 seeks to reduce the adverse impacts of noise, which is consistent with the NPSE. The proposal would be at odds with Policy R2 because it is not a type of development that is specified as acceptable, notwithstanding the contribution it would make to the rural economy. Again, such a requirement does not sit well with the overall provisions for sustainable development in the *Framework*. Overall, I do not consider that any conflict with emerging policies in the eCS weighs significantly against the proposed development. [52,90,96,161]

(5) National Planning Policy Framework and Planning Practice Guidance

265. The economic, social and environmental roles for the planning system, which derive from the three dimensions to sustainable development in the *Framework*, require in this case that a balancing exercise be performed to weigh the benefits of the proposed wind farm against its disadvantages. Core planning principles in the *Framework* support the transition to a low carbon future in a changing climate, and encourage the use of renewable resources, for example by the development of RE. Supporting the delivery of RE is central to the economic,

social and environmental dimensions of sustainable development. Other core principles recognise the intrinsic character and beauty of the countryside, along with conserving and enhancing the natural environment, and conserving heritage assets in a manner appropriate to their significance. It also provides that a proposal for RE should be approved if its impacts are, or could be made, acceptable. This is a matter to be judged, not in some absolute sense, but in the context of the *Framework's* overall objectives for sustainable development. [54,91]

266. The LP does not include criteria-based policies to enable the assessment of RE schemes. The provisions in the LP are not consistent with the *Framework*. On matters about which the development plan is silent, paragraph 14 of the *Framework* advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole; or specific policies in the *Framework* indicate development should be restricted. With respect to the latter, the moderate adverse effect on designated heritage assets in this case would not be sufficient to justify such a restriction. The *Framework* provides that in this case the less than substantial harm should be weighed against the public benefits of the proposal. Furthermore, the *Framework* requires that a balanced judgement is required for non-designated assets, having regard to the scale of any harm and the significance of the asset. [90,162,164]
267. I have found that the planning balance here falls in favour of the proposal. This is not a case where the adverse impacts I have identified would significantly and demonstrably outweigh the benefits of the scheme. The proposal would not accord with the development plan, but I consider that it would be acceptable having regard to the *Framework's* objectives for sustainable development. The encouragement given in the *Framework* for RE is sufficient here to outweigh any harm to the intrinsic character and beauty of this part of the countryside, and to heritage assets. The suggested conditions would make this scheme acceptable, and in accordance with the *Framework* this would indicate that the RE proposal should be approved. The proposed development gains considerable support from the *Framework*, when read as a whole. There are grounds here to find that the proposal would be sustainable development, to which the presumption in favour set out in the *Framework* would apply. The proposal would accord with specific requirements of the *Guidance*. However, the *Guidance* notes that the need for RE does not automatically override environmental protections and the planning concerns of local communities, and I return to this balancing exercise in my overall conclusions below. [162]

(6) Conditions and obligations

268. The parties reached a measure of agreement at the Inquiry about possible conditions in the event that planning permission was granted for the proposal. The conditions agreed at the Inquiry, with some minor alterations in the interests of precision and enforceability would be necessary to minimise the impact of the proposed development. The conditions set out in the Schedule of Conditions attached to this report would reasonably relate to the proposed development and would appropriately address some of the issues raised at the Inquiry. The reason for each condition is set out in more detail below. No planning obligation has been submitted and none is necessary. [185,186]

269. A three year commencement period would be appropriate (Condition 1). This was not disputed at the Inquiry. Otherwise than as set out in any decision and conditions, or approval pursuant to a condition, it would be necessary that the development be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning (Condition 2). This would be a temporary permission and a condition would need to specify that it would expire 25 years from the date that electricity was first exported to the grid (Condition 3).
270. HSGWAG suggested that details of the model of turbine to be erected would need to be approved. This would be necessary as the scheme has been assessed on the basis of candidate turbines, and the ES states that should the proposal receive planning permission further data should be provided for the final choice of turbine to demonstrate compliance with the derived noise limits.²⁵² The scheme has been assessed on the basis of the RE that would be generated by turbines with an installed capacity of at least 2 MW. It would be necessary to impose a condition to ensure that this was so (Condition 4).
271. Provision for the removal of structures and restoration, including any turbines which ceased to operate for a continuous period of 9 months, would be necessary in the interests of the appearance of the area (Conditions 5 and 6). Site access details would need to be approved and implemented in the interests of highway safety (Condition 7). For similar reasons, a construction traffic management plan would need to be approved and implemented (Condition 8). A construction method statement would also be necessary in the interests of the amenity of the area (Condition 9). So too would be a restriction on hours for works and deliveries (Conditions 10 and 11).
272. To accord with the details of the scheme assessed, the turbines would need to be of three bladed construction, rotating in the same direction, with an overall height not exceeding 125 m and hub height not exceeding 80 m (Condition 12). Details of colours and finishes would need to be approved, and restrictions imposed on names, signs, or logos, in the interests of the appearance of the area (Condition 13). For similar reasons, the details of the electricity substation would need to be approved (Condition 14). On-site cabling would need to be underground in the interests of the appearance of the area (Condition 15). Similarly, external lighting would need to be controlled and infra-red aviation lighting specified (Condition 16). Coordinates for siting and provision for some micro-siting would need to be set out in a condition to accord with the scheme assessed (Condition 17). Provision of the permissive path would be necessary and reasonable to create an alternative route, which did not pass between T3 and T4, for users of Footpath AN10 (Condition 18).
273. A scheme for pre-construction wildlife surveys and mitigation would need to be approved and implemented in the interests of biodiversity (Condition 19), as would a habitat enhancement plan (Condition 20). It would be necessary to secure the implementation of a programme of archaeological work in accordance with an approved scheme of investigation (Condition 21). Aviation lighting would need to be approved, and relevant authorities notified about the wind farm for air safety reasons (Conditions 22, 23 and 24). A surface water drainage scheme

²⁵² ES 2010 Volume 4 Appendix G paragraph 6.1.5.

would need to be approved and implemented for flood risk reasons (Condition 25). Conditions would be required to deal with any electro-magnetic interference to TV and radio reception, and any shadow flicker (Conditions 26 and 27).

274. A noise condition would be necessary to accord with the provisions of ETSU-R-97 (Condition 28). The suggested form of the condition and associated Guidance Notes would generally accord with the *Institute of Acoustics' Good Practice Guide* (IoAGPG). HSGWAG properly points out that the data retention period should be not less than 24 months, in accordance with the IoAGPG (page 35), because in practice some investigations of non-compliance with noise conditions have taken longer than 12 months to resolve. SNC and the appellant agree about noise limits. However, for the reasons set out above I consider that it would be necessary and reasonable to impose the night-time 40 dB lower fixed limit suggested by HSGWAG. [85]

275. I have found that the benefits of the scheme and its disadvantages are finely balanced, and in these circumstances the risk of uncontrolled OAM could tip the balance against the proposal. If the Secretary of State were to come to the same judgement about the planning balance which applies here, then the imposition of an amplitude modulation (AM) condition would be both necessary and reasonable to allow the scheme to go ahead. I consider that it would be premature to impose a condition in the form of RenewableUK's template until it has been tested, validated and endorsed. Of the other two AM conditions referred to in evidence, I consider that the condition suggested by HSGWAG should be preferred because this would require action only if an AM problem arose. On this basis, my recommendation is that *Version II with AM condition (i)* of the noise condition should be imposed.

(7) Overall conclusions

276. There is local criticism about the way the community was consulted and engaged by the appellant in bringing forward this proposal. The *Written statement to Parliament Local planning and onshore wind* proposes amended secondary legislation to make pre-application consultation with local communities compulsory for the more significant onshore wind applications, to ensure that community engagement takes place at an earlier stage in more cases. The *Guidance* states that the views of local communities likely to be affected should be listened to. In this case consultation and engagement with the local community was undertaken before the application was submitted. The Statement of Community Consultation indicates that the measures taken here reasonably accord with current good practice, and resulted in the modification of the scheme. Furthermore, there has been extensive community involvement in the processing of the application and the appeal. There is considerable local opposition to the proposed development, which is evident from the written representations and the submissions made at the Inquiry, but also some support. One of the aims of national planning policy is to strengthen local decision making.²⁵³ However, local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons. The proposal therefore falls to be determined on its planning merits.

²⁵³ *National Planning Policy Framework* Annex 1: Implementation.

[92,96,98,100,101,111,114,158,163,166-168]

277. The proposed development would result in some harm. EN-1 states that without significant amounts of new large-scale energy infrastructure, the objectives of the Government's energy and climate change policy cannot be fulfilled, but it will not be possible to develop the necessary amounts of such infrastructure without some significant residual adverse impacts. It seems to me that this is applicable to smaller schemes, which cumulatively would also contribute to these objectives. The *Framework* seeks an increase in the supply of green energy, but the *Guidance* notes that the need for RE does not automatically override environmental protections and the planning concerns of local communities. In my judgement, the likely harm from the proposed wind farm would be outweighed by the RE benefits of the proposal. However, in this case the matter is finely balanced. The scheme would conflict with the development plan, but gains support from the *Framework*. National policy and guidance is a consideration in this case which indicates that the appeal should be determined other than in accordance with the development plan. Taking all these considerations into account, I consider that the proposed wind farm would be acceptable in this location. [55,56,93,94,165]

278. All other matters raised in evidence have been taken into account, but there is nothing to outweigh the main considerations that lead to my conclusions. I conclude that the appeal should be allowed.

Recommendation

279. It is recommended that the appeal be allowed and that planning permission be granted for the erection of five wind turbines plus underground cabling, meteorological mast, access tracks, control building, temporary site compound and ancillary development, at Spring Farm Ridge, land to the north of Welsh Lane between Greatworth and Helmdon in accordance with the terms of the application, Reference S/2010/1437/MAF, dated 18 October 2010, as amended, subject to the conditions set out in the attached Schedule of Conditions with *Version II (i)* for the noise condition.

John Woolcock

Inspector

ANNEX 1 Summary of relevant LP and eCS policies

Saved policies of the South Northamptonshire Local Plan 1997 (LP) [CD1.1]

The policies highlighted by '*' are listed in the SoCG as those which the Council considers the appeal scheme to be in conflict with.

Policy G2 provides for new development to be concentrated in specified towns, and limited in villages and severely restrained in the open countryside.

Policy G3 states that planning permission would normally be granted where certain criteria were met. These include that the scheme would:

- (A)* be compatible in terms of type, scale, siting, design and materials with the existing character of the locality;
- (B)* possess a satisfactory means of access;
- (D)* not unacceptably harm the amenities of any neighbouring properties;
- (E) be neither hazardous or likely to cause pollution problems, including noise;
- (F)* not unduly affect the transportation network;
- (G) or could be provided with access to infrastructure and services without causing unacceptable visual intrusion into the surrounding landscape;
- (H) not result in the irreversible loss of the best and most versatile agricultural land
- (I)* be sympathetic to the quality and character of any listed building or its setting;
- (J)* not harm the character, appearance or setting of a conservation area;
- (K) not adversely affect sites of nature conservation or archaeological importance;
- (M) provide for satisfactory drainage.

It adds that the policy applies to all proposals for development.

Policy E7 concerns industrial and commercial development in rural areas, and is of limited relevance to this proposal.

Policy EV1 expects particular attention to be paid various elements of design, including site characteristics, the relationship with adjoining land, the scale, density, layout, height, massing, landscape and materials in relation to the site and its surroundings.

Policy EV2* states that planning permission would not be granted for development in the open countryside, although exceptions may apply. However, none of these include the proposed development in this appeal.

Policy EV10 seeks to preserve or enhance the special character or appearance of conservation areas.

Policy EV11* provides that planning permission would not be granted for any development proposals outside a conservation area which would have an adverse effect on its setting or on any views into or out of it.

Policy EV12* seeks, amongst other things, to preserve and enhance the setting of listed buildings by control over the design of new development in their vicinity.

Policy EV21 seeks to retain landscape features which make an important contribution to the character of the area.

Policy EV24* aims to protect regionally important geological sites and County wildlife sites.

Policy EV25* provides that development which would adversely affect the wildlife value or landscape of dismantled railways would not be permitted.

Policy EV28* provides that planning permission would not be granted for development which would have a seriously adverse effect on the character or setting of an historic parkland or garden.

Policy EV29* sets out the details to be included in a landscaping scheme, where one is required, which is primarily where the proposal would have a significant visual impact.

Policy EV31 provides that proposals for overhead lines and public utility equipment would be permitted provided that they would not be visually intrusive, detract significantly from any existing landscape feature, and adds that all proposals should be sited and designed so as to minimise their visual impact.

Policy T2 concerns motorway and trunk road schemes, and is of limited relevance to this proposal.

emerging West Northamptonshire Joint Draft Core Strategy Local Plan (eCS) [CD4.8]

Policy S1 sets out criteria for the distribution of development. Criterion (D) states that new development in rural areas would be limited with emphasis on, amongst other things, enhancing and maintaining the distinctive character and vitality of rural communities, strengthening rural enterprise and respecting the quality of tranquillity.

Policy S10 sets out sustainable development principals, including achieving the highest standards of sustainable design incorporating; a strong sense of place; improve environmental performance and energy efficiency and adapt to climate change over its lifetime; maximise the generation of its energy needs from renewable or low carbon sources; protect, conserve and enhance heritage assets; and minimise pollution from noise.

Policy S11 concerns low carbon and renewable energy. It refers to Policy S10 and, amongst other things, provides that proposals should be sensitively located and designed to minimise potential adverse impacts on people, the natural environment, biodiversity, historic assets and should mitigate pollution. It adds that the location of wind energy proposals should have no significant adverse impact on amenity, landscape character and access and provide for the removal of the facilities and reinstatement at the end of the operations.

Policy BN2 provides that development that would maintain and enhance biodiversity assets or deliver a net gain in biodiversity would be supported.

Policy BN5 concerns the historic environment. Amongst other things, it provides that designated and non-designated assets and their setting would be conserved and enhanced in recognition of their individual and cumulative significance and contribution to local distinctiveness and sense of place. Where assets are at risk, it and its setting will be appropriately conserved and managed. Development will be

required to sustain and enhance the features which contribute to the character of the area, including conservation areas, significant historic landscapes, the skyline and settings of towns and villages, sites of known or potential significance, and demonstrate an understanding of the impact of development on assets and their setting in order to minimise harm.

Policy BN7 concerns flood risk and reflects national policy in the *Framework*.

Policy BN9 aims, amongst other things, to reduce the adverse impacts of noise.

Policy R2 supports proposals which would sustain and enhance the rural economy where they were of appropriate scale, would respect the environmental quality and character of the rural area and would protect the best and most versatile agricultural land. The type of development proposed in the appeal scheme is not included in the list specified in the policy that are considered to be acceptable.

SCHEDULE OF CONDITIONS 1-28

- 1) The development hereby permitted shall begin not later than three years from the date of this decision. Written confirmation of the commencement of development shall be provided to the local planning authority no later than seven days after the event.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans; Figure 1.1 *Site Location* Environmental Statement Volume 4 Appendix L (October 2010), and Figure 5.1 *Indicative Site Layout* Further Environmental Information Volume 3 Appendix G (February 2012).
- 3) This permission shall endure for a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid ("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) No development shall take place until details of the model of turbine to be erected have been submitted to and approved in writing by the local planning authority. The development shall then be carried out and thereafter retained in accordance with the approved details. Each wind turbine installed as part of the development hereby permitted shall have an installed capacity of at least 2 MW.
- 5) No later than 12 months prior to the end of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the local planning authority. The scheme shall make provision for the removal of the wind turbines and associated above ground works (inclusive of access tracks) approved under this permission and details of the depth to which the wind turbine foundations will be removed. The scheme shall also include the management and timing of any works and a traffic management plan to address potential traffic impact issues during the decommissioning period, location of material laydown areas, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats and details of site restoration measures. The approved scheme shall be fully implemented within 12 months of the expiry of this permission.
- 6) If any wind turbine generator hereby permitted ceases to export electricity to the grid for a continuous period of 9 months, unless otherwise approved 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 9 month period for the repair or removal of that turbine. The scheme shall include as relevant a programme of remedial works where repairs to the relevant turbine are required. Where removal is necessary the scheme shall include a programme for removal of the relevant turbine and associated above ground works approved under this permission, details of the depth to which the wind turbine foundations will be removed and for site restoration measures following the removal of the relevant turbine. The scheme shall thereafter be implemented in accordance with the approved details and timetable.

- 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 including a programme of works have been submitted to and approved in writing by the local planning authority. These details shall include visibility splays in both directions along the B4525, details of proposed boundary treatments (including any gates), swept path diagrams for turbine delivery vehicles using the site entrance and reinstatement of the land after decommissioning of the development hereby permitted. The scheme shall thereafter be implemented in accordance with the approved details and programme of works.
- 8) No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Traffic Management Plan shall include proposals for the routing of construction traffic, scheduling and timing of movements, the management of junctions to and crossings of the public highway and other public rights of way, details of escorts for abnormal loads, temporary warning signs, temporary removal and replacement of highway infrastructure/street furniture, reinstatement of any signs, verges or other items displaced by construction traffic, details of the site access and banksman/escort details. The approved Construction Traffic Management Plan including any approved improvements or works to accommodate construction traffic where required along the route, shall thereafter be implemented and carried out in accordance with the approved details.
- 9) Prior to the commencement of construction, a Construction Method Statement (CMS) shall be submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall only be carried out in accordance with the approved statement. 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 measures in respect of water courses and ground water, bunding of storage areas and foul sewerage;
 - (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 to include their decommissioning and subsequent reinstatement of the land and any remediation required if damage is caused to any Public Right of Way or any Permissive Footpath by their construction;
 - (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;

(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.

- 10) All construction and decommissioning works shall only take place between the hours of 07:00 to 19:00 Monday to Friday inclusive and 08:00 to 13:00 Saturdays. No construction or decommissioning works shall take place on a Sunday or a Public Holiday. Exceptions for work outside these hours, including turbine erection because of weather dependence, may be carried out only with the prior written approval of the local planning authority. Emergency works may be carried out at any time provided that the operator retrospectively notifies the local planning authority in writing of the emergency works undertaken within 24 hours.
- 11) The delivery of any construction materials or equipment for the construction of the development, other than turbine blades, nacelles and towers, shall be restricted to the hours of 07:00 to 19:00 on Monday to Friday inclusive, 07:00 to 13:00 on Saturdays with no such deliveries on a Sunday or Public Holiday unless otherwise approved in writing by the local planning authority having been given a minimum of two working days notice of the proposed delivery.
- 12) All wind turbine generators shall be of three bladed construction. The blades of all wind turbine generators shall rotate in the same direction. The overall height of the wind turbines shall not exceed 125 m to the tip of the blades when the uppermost blade of the turbine is in the vertical position, and the hub height shall not exceed 80 m, as measured from natural ground conditions immediately adjacent to the turbine base.
- 13) Prior to the erection of any wind turbine, details of the colour and finish of the towers, nacelles and blades including measures to minimise the risk of ice throw and any external transformer units and for the finish and colour of the meteorological mast shall be submitted to and approved in writing by the local planning authority. No name, sign, or logo shall be displayed on any external surfaces of the turbines or any external transformer units or the meteorological mast other than those required to meet statutory health and safety requirements. The approved colour and finish of the wind turbines and any external transformer units shall be implemented prior to the turbines becoming operational and shall not be changed without the prior consent in writing of the local planning authority. The development shall be carried out in accordance with the approved details.

- 14) Prior to the commencement of construction of the electricity substation, details of the design and the external appearance, dimensions and materials for the building and any associated compound or parking area and details of surface and foul water drainage from the substation building shall be submitted to and approved in writing by the local planning authority. The development of the substation building and any associated compound or parking area shall be carried out in accordance with the approved details.
- 15) All electrical cabling between (1) the individual turbines (2) the turbines and the on-site electricity substation and (3) the on-site electricity substation and the boundary of the application site shall be installed underground only.
- 16) There shall be no permanent illumination on the site other than a passive infra-red operated external door light for the substation building door to allow safe access; temporary lighting required during the construction period or during maintenance; or emergency lighting; and infra-red aviation lighting.
- 17) The turbines hereby permitted shall be erected at the following coordinates (British National Grid):
- | | | |
|----|--------|--------|
| T1 | 456246 | 243261 |
| T2 | 456623 | 243211 |
| T3 | 457093 | 243239 |
| T4 | 457401 | 243123 |
| T5 | 457463 | 243556 |

Notwithstanding the terms of this condition, the turbines and meteorological mast may be micro-sited subject to the following restrictions and subject to an absolute requirement that in no case would turbine blades oversail any Public Right of Way or any Permissive Footpath:

- (a) Turbine T1 shall not be micro sited greater than a distance of 14 m and not to the west or south of the permitted coordinates;
- (b) Turbine T2 shall not be micro-sited;
- (c) Turbine T3 shall not be micro-sited;
- (d) Turbine T4 shall not be micro-sited greater than a distance of 28 m and not to the south of the permitted coordinates;
- (e) Turbine T5 shall not be micro-sited;

The consequential realignment of the associated infrastructure is also permitted. A plan showing the position of the turbines and tracks established on the site shall be submitted to the local planning authority within one month of the First Export Date.

- 18) Prior to commencement of development a scheme for the construction, implementation (including signage), maintenance and retention (including signage) of a permissive footpath shall be submitted to and approved in writing by the local planning authority. The permissive footpath shall follow the route as indicatively shown on plan 1 and labelled "Permissive Path Route" between grid co-ordinates 456894, 243314 and 457749, 243251. The scheme shall be implemented as approved for the duration of the permission.
- 19) Prior to the commencement of development a specification for pre-construction checking surveys for great crested newts, badgers and breeding birds shall be submitted to and approved in writing by the local planning authority. The survey results and a programme of any mitigation required as a consequence shall be submitted to and approved in writing by the local planning authority prior to any works associated with the construction of the

development taking place. The pre-construction checking surveys and programme of mitigation work shall be implemented as approved.

- 20) Prior to the commencement of development, a Habitat Enhancement Plan shall be submitted to and approved in writing by the local planning authority. The Habitat Enhancement Plan shall include:

- (a) details of the construction of five new ponds to provide for great crested newt mitigation measures;
- (b) details of the provision of log and rubble piles on site to provide for great crested newt mitigation measures; and
- (c) details of the tree and hedgerow planting necessary to offset any unavoidable removal of existing hedgerow habitat and to enhance retained hedgerows (including details of replacement hedging on either side of the site entrance onto the B4525) including details of replacement planting for plants which become diseased or are destroyed or die within 5 years of the date of planting.

The Habitat Enhancement Plan shall be implemented as approved.

- 21) No development shall take place until the applicant or its agents or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation including a timetable which has previously been submitted to and approved in writing by the local planning authority. Work shall be carried out in accordance with the approved programme of archaeological work.
- 22) No development shall take place until a scheme for the provision of Ministry of Defence accredited aviation lighting for each of the turbines has been submitted to and approved in writing by the local planning authority. Aviation lighting shall be carried out in accordance with the approved scheme.
- 23) The applicant/developer shall provide written confirmation of the following details to the local planning authority, Ministry of Defence and Civil Aviation Authority not less than 42 days prior to the commencement of development on site:
- (a) The proposed date of commencement of the erection of the turbines.
 - (b) The maximum extension height of any construction equipment.

No development shall commence until this confirmation has been given.

- 24) Within 14 days of the commissioning of any of the turbines hereby permitted, the applicant/developer shall provide written confirmation of the following details to the local planning authority, Ministry of Defence and Civil Aviation Authority:
- (a) Date of completion of construction;
 - (b) The height above ground level of the highest potential obstacle; and
 - (c) The exact position of that structure in latitude and longitude.
- 25) Prior to the commencement of development a surface water drainage scheme for the site to include a programme of works, based on the sustainable drainage principles contained within the Flood Risk Assessment (FRA) produced by Wardell Armstrong, dated January 2012, reference SH1-40-/RPT-008a, shall be submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the First Export Date. The scheme shall specifically include:

- (a) Detailed design information on the proposed surface water drainage system for the site, using the rates of runoff contained with the FRA, and containing details for all elements such as swales, pipes, attenuation facilities and flow control devices;
 - (b) Full details of the proposed maintenance programme for the entire drainage system;
 - (c) Details of overland flood flow routes and depths in the case of design event exceedance or system failure; and
 - (d) Details of measures intended to mitigate and manage flood risk during the construction of the scheme.
- 26) Prior to the First Export Date a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to television caused by the operation of the turbines shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a lawfully occupied dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission, where such complaint is notified to the developer by the local planning authority within 12 months of the First Export Date. Where impairment is determined by the qualified television engineer to be attributable to the development hereby permitted, mitigation works shall be carried out in accordance with the scheme which has been submitted to and approved in writing by the local planning authority.
- 27) Prior to the First Export Date a written scheme shall be submitted to and approved in writing by the local planning authority setting out a shadow flicker protocol for the assessment of shadow flicker in the event of any complaint from the owner or occupier of a dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission. The written scheme shall include remedial measures. Operation of the turbines shall take place in accordance with the approved protocol unless the local planning authority gives its prior written consent to any variations.

Condition 28 concerns noise. The form it should take and the limits imposed would depend upon a determination as to whether it would be necessary and reasonable to impose the night-time lower fixed limit suggested by HSGWAG, along with whether a condition to control amplitude modulation (AM) would be necessary, and if so, the form that it should take.

If no AM condition was imposed, Version I below would apply if the condition was imposed in the form agreed by SNC and the appellant, and Version II below would be appropriate if HSGWAG's noise limits were imposed.

If the Secretary of State determines that it would be necessary and reasonable to impose a condition to control AM, then it would be necessary to decide whether AM Condition (i), (ii) or (iii) below should be imposed.

28) Version 1

The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, which are to be read with and form part of the noise conditions, shall not exceed the values for the relevant integer wind speed set out in or derived from Tables 1 and 2 attached to these conditions and:

- (A) Prior to the First Export Date, the wind farm 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 7 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 farm 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 farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the local planning authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the local planning authority made under this paragraph (B), the wind farm 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 attached to these conditions, the wind farm operator shall submit to the local planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The 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 turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the local planning authority for the complainant's dwelling.
- (D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm 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 the Tables attached to these conditions 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 farm 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.
- 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.
- (F) The wind farm operator shall provide to the local planning authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 1 month 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 farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (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 farm operator shall continuously log nacelle wind speed, nacelle orientation, power generation and nacelle wind direction for each turbine in accordance with this consent, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind

turbine shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) 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 decision.

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

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	L_{A90} Decibel Levels											
Peter's Farm (457860,244535)	35	35	35	35	36	37	39	42	45	49	49	49
Property on Station Road (458499,243509)	37	37	37	37	37	37	38	39	42	46	46	46
Grange Farm (458271,243265)	37	38	38	38	38	39	40	42	46	51	51	51
Spring Farm (457629,242682)	40	40	40	40	40	41	42	44	48	53	53	53
Bungalow Farm (457124,242579)	40	40	40	40	40	40	41	43	46	50	50	50
Greatworth Hall (456265,242731)	40	40	40	40	40	40	41	43	46	50	50	50
Greatworth (455486,243028)	37	37	37	38	38	39	40	41	42	44	44	44
Manor Farm (456129,244089)	38	38	38	38	38	39	41	44	47	52	52	52
Stuchbury Hall Farm (456912,244024)	37	37	38	38	38	38	40	42	45	50	50	50
Stuchbury Manor Farm (455689,243641)	38	38	38	38	38	39	41	44	47	52	52	52
Ash Vale (457862,242621)	40	40	40	40	40	41	42	44	48	53	53	53

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

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	L_{A90} Decibel Levels											
Peter's Farm (457860,244535)	43	43	43	43	43	43	43	43	44	44	44	44
Property on Station Road (458499,243509)	43	43	43	43	43	43	43	43	43	43	43	43
Grange Farm (458271,243265)	43	43	43	43	43	43	43	43	45	45	45	45
Spring Farm (457629,242682)	43	43	43	43	43	43	43	43	44	44	44	44
Bungalow Farm (457124,242579)	43	43	43	43	43	43	43	43	44	44	44	44
Greatworth Hall (456265,242731)	43	43	43	43	43	43	43	43	44	44	44	44
Greatworth (455486,243028)	43	43	43	43	43	43	43	43	43	43	43	43
Manor Farm (456129,244089)	43	43	43	43	43	43	43	43	46	46	46	46
Stuchbury Hall Farm (456912,244024)	43	43	43	43	43	43	43	43	45	45	45	45
Stuchbury Manor Farm (455689,243641)	43	43	43	43	43	43	43	43	46	46	46	46
Ash Vale (457862,242621)	43	43	43	43	43	43	43	43	44	44	44	44

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 attached Guidance Notes.

Guidance Notes for Noise Conditions

These Notes are to be read with and form part of the noise conditions. They further explain the conditions and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Note 2 and any penalty applied in accordance with these Notes, 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 Farms* (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 Note 3.
- (b) The microphone shall be mounted at 1.2 metres to 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 farm 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 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 farm 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 each wind turbine on the site. The hub height wind speeds recorded from the nacelle anemometers or as calculated from the power output of each 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 3 metres 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

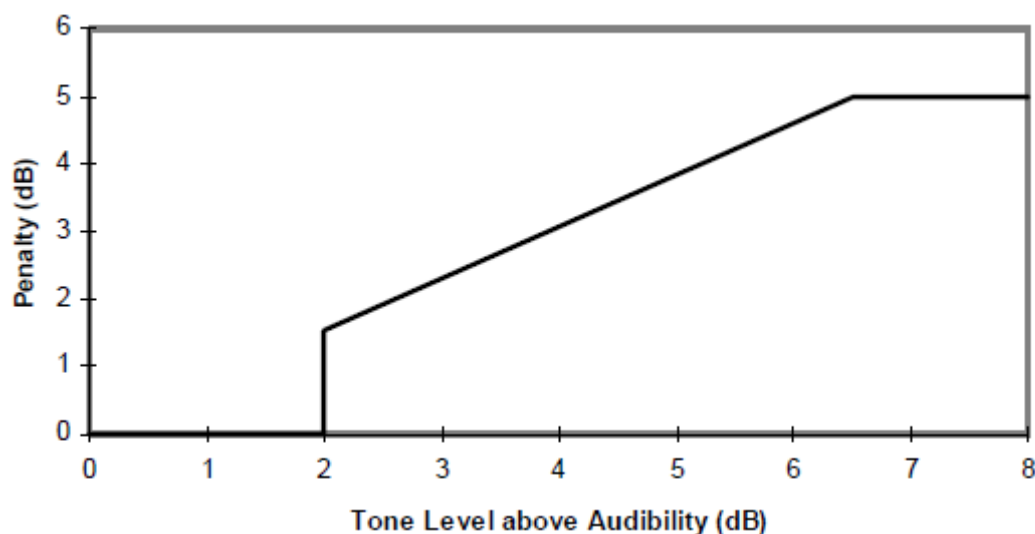
- (a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).
- (b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the local planning authority under paragraph (E) of the noise 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 the lowest reasonably practicable 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 farm 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 in writing to the local planning authority.

- (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 to 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. 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 immissions only.
- (d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant 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 farm 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 farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

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

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

Version II is on next page -

Version II

As for *Version I* except Table 2 replaced by the following;

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

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	L_{A90} Decibel Levels											
Peter's Farm (457860,244535)	40	40	40	40	40	40	40	40	41	44	44	44
Property on Station Road (458499,243509)	40	40	40	40	40	40	40	40	41	41	41	41
Grange Farm (458271,243265)	40	40	40	40	40	40	40	40	45	45	45	45
Spring Farm (457629,242682)	40	40	40	40	40	40	40	40	44	44	44	44
Bungalow Farm (457124,242579)	40	40	40	40	40	40	40	40	44	44	44	44
Greatworth Hall (456265,242731)	40	40	40	40	40	40	40	40	44	44	44	44
Greatworth (455486,243028)	40	40	40	40	40	40	40	40	41	41	41	41
Manor Farm (456129,244089)	40	40	40	40	40	40	40	40	46	46	46	46
Stuchbury Hall Farm (456912,244024)	40	40	40	40	40	40	40	40	45	45	45	45
Stuchbury Manor Farm (455689,243641)	40	40	40	40	40	40	40	40	46	46	46	46
Ash Vale (457862,242621)	40	40	40	40	40	40	40	40	44	44	44	44

Alternative AM conditions referred to by the parties.

AM Condition (i) – which is similar to the condition imposed by the Secretary of State in the Swinford appeal.

Additional paragraph (J) of Condition 28 and Note 5 as follows:

(J) On the written request of the local planning authority, following a complaint to it considered by the local planning authority to relate to regular fluctuation in the turbine noise level (amplitude modulation), the wind farm operator shall at its expense employ an independent consultant approved in writing by the local planning authority to undertake the additional assessment outlined in Note 5 to ascertain whether amplitude modulation is a contributor to the noise complaint as defined in Note 5. If the said assessment confirms amplitude modulation to be a contributor as defined in Note 5, the local planning authority shall request that within 28 days of the completion of the noise recordings referred to in Note 5, the developer shall submit a scheme to mitigate such effect. Following the written approval of the scheme and the timescale for its implementation by the local planning authority the scheme shall be activated forthwith and thereafter retained.

Note 5

Amplitude Modulation (AM) is the regular variation of the broadband aerodynamic noise caused by the passage of the blades through the air at the rate at which the blades pass the turbine tower. ETSU-R-97, *The Assessment and Rating of Noise from Wind Turbines*, assumes that a certain level of AM (blade swish) is intrinsic to the noise emitted by the wind turbine and may cause regular peak to trough variation in the noise of around 3 dB and up to 6 dB in some circumstances. The noise assessment and rating

framework recommended in ETSU-R-97 fully takes into account the presence of this intrinsic level of AM when setting acceptable noise limits for wind farms.

Where the local planning authority considers the level of AM may be at a level exceeding that envisaged by ETSU-R-97, they may require the operator to appoint an approved independent consultant to carry out an assessment of this feature under paragraph (J). In such circumstances, the complainant(s) shall be provided with a switchable noise recording system by the independent consultant and shall initiate recordings of the turbine noise at times and locations when significant amplitude modulation is considered to occur. Such recordings shall allow for analysis of the noise in one-third octave bands from 50Hz to 10kHz at intervals of 125 milliseconds. The effects of amplitude modulation are normally associated with impacts experienced inside properties or at locations close to the property, such as patio or courtyard areas. For this reason the assessment of the effect necessarily differs from the free-field assessment methodologies applied elsewhere in these Guidance Notes.

If, over a period of 6 months, commencing at a time of the first occasion at which the local planning authority records an amplitude modulation event, the complainant fails to record 5 occurrences of significant amplitude modulation, in separate 24 hour periods, then its existence as a contributor to the noise complaint shall be excluded. If, however, the independent consultant, on analysis of the noise recordings, identifies that amplitude modulation is a significant contributor to the noise complaint then the local planning authority shall be informed in writing.

AM Condition (ii) – which is similar to the condition imposed by the Secretary of State in the Turncole appeal.

No generation of electricity to the grid from the wind turbines hereby permitted shall take place until a Scheme for the regulation of amplitude modulation has been submitted to and approved in writing by the local planning authority. The Scheme should be implemented as approved.

AM Condition (iii) – which is based on RenewableUK's template condition.

Condition 28 with modifications to incorporate RenewableUK's template condition. This would involve amending the condition to include any penalties for tonal and/or amplitude components, and amending the Guidance Notes accordingly. It would also require addition of RenewableUK's Guidance Note 4 setting out the methodology for determining an AM penalty.

My recommendation, for the reasons set out above, is that Version II should be imposed with AM condition (i).

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

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of Counsel

Instructed by South Northamptonshire District
Council.

He called

Naomi Archer BA(Hons) PGDip
PGCert

Conservation Officer, South Northamptonshire
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Kate Ahern BSc MSc MLI

Principal, Land Use Consultants.

Richard Hall BSc(Hons) PgDip

Principal Engineer, Development Management,
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Daniel Callis MSc BSc MRTPI

Principal Planning Officer, South
Northamptonshire District Council.

FOR THE APPELLANT:

David Hardy

Partner Eversheds LLP.

He called

Andrew Brown BA BArch MSc
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Director, Woodhall Planning and Conservation.

Jeffrey Stevenson MA MPhil Dip
Econ Dev CMLI MRTPI

Jeffrey Stevenson Associates Ltd.

MInstEnvSci FRGS

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MIOA

Principal Associate Consultant, TNEI Services.

David Bell BSc(Hons) Dip UD
MRTPI MCIHT

Regional Director, Jones Lang LaSalle.

FOR HSGWAG Rule (6) party:

Richard Honey
of Counsel

Instructed by HSGWAG.

He called

Alison Farmer BA(Hons) MLD MLI
Robert Davis BSc(Eng) MIOA
Michael Muston BA(Hons) MPhil
MRTPI

Principal of Alison Farmer Associates.
Robert Davis Associates.
Director of Muston Planning.

INTERESTED PERSONS:

David Powell CEng FICHEME
Cllr Andre Gonzalez de Savage
Veronica Ward
Bob Haynes

Local resident.
Councillor Northampton County Council.
Member of Greatworth Parish Council.
Local resident.

Ken Christy	Local resident.
Cllr Rebecca Breese	Ward Member for Greatworth.
Colin Wootton retired Chartered Town Planner and Chartered Surveyor	On behalf of Sulgrave Parish Council.
Edward Tims	Local resident.
Richard Fonge	Local resident.
Robert Cross	Local resident.
Roger Miles	Helmdon Parish Paths Warden.
Nick Peart	Chairman Greatworth Parish Council.
Natalie Atkins	Local resident.
Emma Deverall	Local resident.
Morag Underwood	Local resident.
Peter Burns	Chairman Helmdon Parish Council.
Richard Chamberlayne	Local resident.
Hugh Walmsley	Chair of Church of St Mary Magdalene Helmdon
Karin Smith	Local resident.

PROOFS OF EVIDENCE (PoE), WRITTEN REPRESENTATIONS (WR) AND
STATEMENT OF COMMON GROUND

South Northamptonshire District Council

- PoE1 Summary, Proof and Appendices of Naomi Archer
- PoE2 Summary, Proof and Appendices of Kate Ahern
- PoE3 Summary, Proof and Appendices of Richard Hall
- PoE4 Proof and summary by Daniel Callis

HSWAG

- PoE5 Proof of Alison Farmer
- PoE6 Proof of Robert Davis
- PoE7 Proof of Michael Muston

Appellant

- PoE8 Summary, Proof, Rebuttal and Appendices of Andrew Brown
- PoE9 Summary, Proof and Appendix of Jeffrey Stevenson
- PoE10 Summary, Proof and Appendices of Stephen Arnott
- PoE11 Summary, Proof, Rebuttal and Appendices of David Bell

- WR1 Written representations
Comments upon Mr Arnott's proof of evidence, Appendix 6 to Mr Bell's evidence by Colin Wootton on behalf of Sulgrave Parish Council, and appendix 1 - Red Route Study B4525 Crowfield to Middleton Cheney

Other representations

Written representations to the Council at the application stage - attached to Questionnaire.

Third party written representations at first Inquiry – First Red Folder marked on file.

Third party written representations at second Inquiry – Second Red Folder marked on file.

SoCG Statement of Common Ground dated 19 July 2013.

SoCGPlans Plans and Drawings.

SoCGNoise Including draft condition.

LIST OF PLANS

Figure 1.1 *Site Location* Environmental Statement Volume 4 Appendix L (October 2010).

Figure 5.1 *Indicative Site Layout* Further Environmental Information Volume 3 Appendix G (February 2012).

DOCUMENTS SUBMITTED AT THE INQUIRY (ID)

- ID 1 Development Control Committee 6 June 2013 Committee updates.
- ID 2 Letter from English Heritage dated 2 October 2013 concerning investigation of Stuchbury Deserted Medieval Village.
- ID 3 *Bedford BC v SSCLG* [2013] EWHC 2847 (Admin) CO/9953/2012.
- ID 4 *Arun DC v SSCLG* [2013] EWHC 190(Admin) CO/336/2012.
- ID 5 Extract from NPPG *How to assess if there is substantial harm?*
- ID 6 Letter from English Heritage dated 1 October 2013 concerning investigation of Astwell Castle Farm.
- ID 7 Opening submissions on behalf of the appellant.
- ID 8 Council's opening remarks.
- ID 9 AG Opening statement on behalf of HSGWAG.
- ID 10 Consultation letter from English Heritage, dated 16 June 2011.
- ID 11 Statement by David Powell, including letter from Andrea Leadsom MP.
- ID 12 Statement by Cllr Peter Burns, Chairman of Helmdon Parish Council.
- ID 13 *Seeing the History in the View*, English Heritage May 2011.
- ID 14 *Treading Bank* appeal decision and report, APP/D0515/A/12/2181777 and APP/A2525/A/122184954.
- ID 14A Superseded recovery letter.
- ID 14B Letter from Secretary of State recovering appeal, dated 11 October 2013.
- ID 15 *Local planning and renewable energy developments*, Written Ministerial Statement DCLG.
- ID 16 Statement by Susan Wallace.
- ID 17 Figure 1.2 Topography showing ridge and valley landform with annotation for character effects.
- ID 18 Design and access statement, plans and delegated report for barn conversion at Stuchbury Hall Farm.
- ID 19 HSGWAG Note on *Arun DC* case.
- ID 20 Council's position on *Arun DC* case.
- ID 21 Letter of objection from Mr and Mrs Woolmer, dated 13 October 2013.
- ID 22 Letter of objection from Leader and Deputy Leader of Northamptonshire County Council, dated 22 May 2013.
- ID 23.1 Statement by Robert Cross about equestrian safety.
- ID 23.2 Plan showing route used by equestrians along the B4525.
- ID 24 Statement by Emma Deverall.
- ID 25 Supplementary notes by RH Chamberlayne concerning safety.
- ID 26 Statement by Hugh Walmsley, The Friends of St mary Magdalene Church, Helmdon.
- ID 27 Chiplow appeal decision APP/V2635/A/11/2154590 and 2158966.
- ID 28 Letter of objection from Paul Hardy, Pamela Ibbotson and Elizabeth Crew-Read.
- ID 29 Statement by Ken Christy.
- ID 30 Letter of objection from Geraldine Neuhoff dated 15 October 2013.
- ID 31 *Noise Policy Statement for England* (NPSE) March 2010 defra.
- ID 32 Statement by Morag Underwood.
- ID 33 Letter from Mr and Mrs Tominson about equestrian safety.
- ID 34 Additional comments by Bob Haynes about tranquillity.
- ID 35.1 Plan showing land ownership at Stuchbury Hall.
- ID 35.2 Additional notes by Edward Tims.
- ID 35.3 Note concerning date and reason trees taken down.

- ID 36 Statement by Roger Miles including Circular Walk leaflets.
- ID 37 Letter from Tanks a Lot Ltd dated 18 October 2013 concerning frequency of use.
- ID 38 Statement by Ms V Ward concerning proximity of B4525 – a designated Re Route.
- ID 39 HSGWAG note on noise conditions.
- ID 40 HSGWAG note on benefit fund.
- ID 41 Extracts Fenland District-Wide Local Plan adopted 1993
- ID 42 Summary of key points from SFR Energy Report.
- ID 43 *The Planning System: General Principles* ODPM 2005 [now replaced].
- ID 44 Extract from NPPG *What is a material planning consideration*.
- ID 45 Presentation by Cllr Breese Including photomontages of Low Spinney Wind Farm.
- ID 46 *Planning applications for wind turbines sited near to trunk road*, Spatial Planning Advice Note: SP 12/09 Highways Agency.
- ID 47 *The Strategic Road Network and the Delivery of Sustainable*, DfT Circular 02/2013.
- ID 48 Email from Northamptonshire Highways dated 21 October 2013 concerning updated accident data and confirming Highways Officers not objecting on technical highway safety grounds.
- ID 49 Permissive path route.
- ID 50 Grid connection options Figure 5.7.
- ID 51 Letter to HSGWAG specifying location and height of blimps on 31 October 2013.
- ID 52 Final version of suggested conditions.
- ID 53 Closing submissions on behalf of HSGWAG.
- ID 54 Council's closing remarks.
- ID 55 Closing submission on behalf of the appellant.

DOCUMENTS CONSIDERED AFTER THE CLOSE OF THE INQUIRY

- IDa 56.1 PINS emails to parties about RenewableUK's research into Amplitude Modulation.
- 56.2 Template Planning Condition on Amplitude Modulation.
- IDa 57 Email from SNC dated 21 January 2014.
- IDa 58.1 Email from RA Davis on behalf of HSGWAG dated 21 January 2014.
- 58.2 Email from RA Davis on behalf of HSGWAG dated 8 February 2014.
- IDa 59.1 Email from appellant dated 21 January 2014.
- 59.2 Email from appellant dated 28 January 2014.
- 59.3 Email from appellant dated 10 February 2014.
- IDa 60.1 Appeal decisions APP/X1545/A/12/2174982, 2179484 and 2179225.
- 60.2 Email from PINS dated 14 February 2014.
- IDa 61 Email from SNC dated 24 February 2014 re *Turncole* decision.
- IDa 62 Letter from RA Davis dated 21 February 2014 on behalf of HSGWAG re *Turncole* decision.
- IDa 63 Letter from appellant dated 28 February 2014 re *Turncole* decision.
- IDa 64 Email from the appellant dated 25 March 2014 concerning *Planning Practice Guidance*.
- IDa 65 *National Planning Practice Guidance* Submissions on behalf of the local planning authority.
- IDa 66 Comments on the NPPG on behalf of HSGWAG.

CORE DOCUMENTS (CD)	
1.1	The South Northamptonshire Local Plan 1997 (saved policies) (extracts only)
2.1	Department for Communities and Local Government: <i>National Planning Policy Framework</i> (March 2012)
2.2	The Government Response to the Communities and Local Government Select Committee Report: NPPF
2.3	Written Statement to Parliament, Local Planning and Onshore Wind, Rt Hon Eric Pickles MP, DCLG, 6 June 2013
2.4	Written Statement to Parliament, The Rt Hon Edward Davey MP, DECC, 6 June 2013 and the DECC Press Release of the same date)
2.5	DCLG: <i>Planning practice guidance for renewable and low carbon energy</i> July 2013 [now replaced]
2.6	Circular 11/95: <i>The Use of Conditions in Planning Permissions</i> [now replaced]
2.7	DECC: <i>Overarching National Policy Statement for Energy</i> EN-1 (Designated Version, 19 July 2011)
2.8	DECC: <i>National Policy Statement for Renewable Energy Infrastructure</i> EN-3 (Designated Version, 19 July 2011)
2.9	Letter dated 6 July 2010 from the Secretary of State for Communities and Local Government to all Chief Planning Officers
2.10	DCLG press release <i>Greater community say on wind turbines and solar farms</i> , 29 July 2013
3.1	SI 243 Use of Energy from Renewable Sources Regulations (2011)
3.2	The Highways Act 1980 (extracts)
3.3	Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990
3.4	Section 38 of the Planning and Compulsory Purchase Act 2004
4.1	<i>The South Northamptonshire Wind Turbines in the Open Countryside</i> Adopted SPD (December 2010)
4.2	<i>The South Northamptonshire Energy and Development</i> Adopted SPD (2007)
4.3	<i>Low Carbon Energy Opportunities and Heat Mapping for Local Planning Areas Across the East Midlands: Final Report</i> (March 2011), including Appendices, Maps and Figures
4.4	West Northamptonshire Pre-submission Core Strategy February 2011(Extracts)
4.5	<i>Reviewing Renewable and Energy Efficiency Targets for the East Midlands Final Report</i> , prepared on behalf of the East Midlands Regional Assembly (EMRA) (June 2009) prepared by Faber Maunsell / Aecom (dated 12 June 2009)
4.6	West Northamptonshire Joint Core Strategy Local Plan Proposed Changes to the Pre-Submission Joint Core Strategy Schedule 1: Significant proposed changes July 2012
4.7	West Northamptonshire Joint Core Strategy Local Plan Proposed Changes to the Pre-Submission Joint Core Strategy Schedule 2: Minor proposed changes July 2012
4.8	West Northamptonshire Joint Core Strategy Pre-submission February 2011 (with minor changes made February 2013) Sections 1 – 20
4.9	<i>Energy Efficiency</i> Adopted SPD (July 2013)

4.10	<i>Low Carbon and Renewable Energy Adopted SPD (July 2013)</i>
4.11	<i>It's the economy, naturally</i> South East Midlands Local Enterprise Partnership (SEMLEP),
4.12	SEMLEP – Green Economy report launched by SEMLEP 1st August 2013
4.13	Midlands Business News Article 5th July 2013 – South East Midlands attractions are highlighted a must-see for overseas and UK visitors
5.1	<i>R (Lee) v Secretary of State for Communities and Local Government & Maldon District Council & RWE Npower Renewables</i> [2011] EWHC 807 (Admin)
5.2	<i>R (Hulme) v Secretary of State for Communities and Local Government</i> [2010] EWHC 2386 (Admin)
5.3	<i>Michael William Hulme v Secretary of State for Communities and Local Government & RES Developments Limited</i> [2011] EWCA Civ 638
5.4	<i>(1) Derbyshire Dales District Council (2) Peak District National Park - and - (1) Secretary of State for Communities and Local Government (2) Carsington Wind Energy Limited</i> [2009] EWHC 1729 (Admin)
5.5	<i>Sea & Land Power & Energy Ltd v Secretary of State for Communities and Local Government, Great Yarmouth Borough Council</i> [2012] EWHC 1419 (Admin)
5.6	<i>(1) South Northamptonshire Council (2) Deidre Veronica Ward v (1) Secretary of State for Communities and Local Government (2) Broadview Energy Developments Limited</i> [2013] EWHC 11 (Admin)
5.7	Intentionally left blank
5.8	<i>Coleman v Secretary of State for Communities and Local Government and others</i> [2013] EWHC 1138 (Admin)
5.9	<i>Gerald David Bayliss v Secretary of State for Communities and Local Government, Purbeck District Council, Purbeck Windfarm LLP</i> [2013] EWHC 1612 (Admin)
5.10	<i>Tesco Stores Ltd v Dundee City Council</i> [2012] 2 P&CR 162
5.11	<i>City of Edinburgh Council v Secretary of State for Scotland</i> [1997] 1 W.L.R. 1447
5.12	<i>Tegni Cymru Cyf v Welsh Ministers</i> [2010] EWCA Civ 1635
5.13	<i>Jarrett v Secretary of State for Communities and Local Government and others</i> [2012] EWHC 3642 (Admin)
5.14	<i>The Bath Society v Secretary of State for the Environment</i> [1991] 1 WLR 1303
5.15	<i>Heatherington v Secretary of State for the Environment and Westminster City Council</i> [1995] JPL 228
5.16	<i>South Lakeland District Council v Secretary of State for the Environment</i> [1992] 2 AC 141
5.17	<i>(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</i> [2013] EWHC 473 (Admin)
5.18	<i>Benacre Estates v SSCLG</i> [2009] EWHC 680 (Admin)
6.1	<i>Bradwell</i> (APP/X1545/A/06/2023805) (decision letters dated 10 September 2007 and 25 January 2010)
6.2	<i>Den Brook</i> (both decisions) (APP/Q1153/A/06/2017162)
6.3	<i>Crook Hill</i> – Coronation Power (APP/P4225/A/08/2065277) Secretary of State Decision Letter and Inspector's Report

6.4	<i>Burnt House Farm</i> Decision and Inspector's Report (APP/D0515/A/10/2123739 and APP/D0515/A/10/2131194)
6.5	<i>Carland Cross</i> (APP/D0840/A/09/2103026)
6.6	<i>Carsington Pastures</i> (APP/P1045/A/07/2054080)
6.7	<i>Low Spinney Farm</i> (APP/F2415/A/09/2109745)
6.8	<i>Enifer Downs/North Dover</i> (APP/X2220/A/08/2071880)
6.9	<i>Spaldington Airfield</i> (APP/E2001/A/10/213761729)
6.10	<i>Kelmarsh</i> (APP/Y2810/A/11/2154375)
6.11	<i>Sober Hill</i> (APP/E2001/A/09/2101421) (Decision Letter and Inspector's Report)
6.12	<i>Woolley Hill</i> (APP/H0520/A/11/2158702)
6.13	<i>Nun Wood</i> , nr Harold and Bozeat (APP/Y0435/A/10/2140401, APP/K0235/A/11/2149434 and APP/H2835/A/11/2149437)
6.14	<i>Airfield Farm</i> , Podington (APP/K0235/A/09/2108506) dated 23rd February 2010 & 13th August 2012
6.15	<i>Batsworthy Cross</i> (APP/x1118/A/11/2162070)
6.16	<i>Spring Farm Ridge</i> (APP/Z2830/A/11/2165035)
6.17	<i>Cleek Hall</i> (APP/N/2739/A/12/2172629)
6.18	<i>Fraisthorpe</i> (APP/E2001/A/12/2179233)
6.19	<i>Thacker Bank/Gayton le Marsh</i> (APP/D2510/A/12/2176754)
6.20	<i>Common Barn</i> (APP/H0520/A/12/2188648)
6.21	<i>Chiplow</i> (APP/V2635/A/11/2154590)
6.22	<i>Chelveston</i> (APP/K0235/A/11/2160077 and APP/G2815/A/11/2160078)
6.23	<i>Lilbourne</i> (APP/Y2810/A/11/2164759)
6.24	<i>Winwick</i> (APP/Y2810/A/11/2156527)
6.25	<i>Culworth Solar Farm</i> (APP/Z2830/A/11/2155999)
6.26	<i>Watford Lodge</i> (APP/Y2810/A/11/2153242/NWF)
6.27	<i>Brightenber Hill</i> (APP/C2708/A/09/2107843)
6.28	<i>Earls Hall Farm</i> (APP/P1260/A/08/2088548)
6.29	<i>Cotton Farm</i> (APP/H0520/A/09/2119385)
6.30	<i>Catshead Wood</i> (APP/G2815/A/11/2156757)
6.31	<i>Tedder Hill</i> (APP/E2001/A/09/2097720)
6.32	<i>Rossie</i> , Fife (P/PPA/250/675)
6.33	<i>Beech Tree Farm</i> (APP/K1128/A/08/2072150)
6.34	<i>Nantglyn</i> (APP/R6830/08/2074921)
6.35	<i>Grise</i> (APP/H0928/A/09/2093576)
6.36	<i>Matlock Moor</i> (APP/R1038/A/09/2107667)
6.37	<i>Moorsyde</i> (APP/P2935/A/08/2079520)
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7.1	<i>The UK Renewable Energy Strategy</i> DECC (2009)
7.2	<i>National Renewable Energy Action Plan for the United Kingdom</i> DECC (July 2010)
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7.4	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
7.5	Committee on Climate Change: Renewable Energy Review (May 2011)
7.6	UK Renewable Energy Roadmap (July 2011) DECC and update December 2012

7.7	DECC: White Paper - Planning our Electric Future - a White Paper for Secure, Affordable and Low Carbon Electricity (July 2011) (Extracts)
7.8	<i>Renewable Electricity in Scotland, Wales, Northern Ireland and the regions of England in 2011</i> , Special Feature Renewable Electricity DECC (September 2012)
7.9	<i>Consultation on Proposals for the level of banded support under the Renewables Obligation for the period 2013 – 2017 and the Renewables Obligation Order</i> (20 October 2011) (Extracts) DECC
7.10	HM Treasury & Infrastructure UK: National Infrastructure Plan (29 November 2011) (Extracts)
7.11	<i>The UK Low Carbon Transition Plan</i> , (LCTP), White Paper (July 2009) - Executive Summary DECC
7.12	The Coalition Government: <i>Our programme for Government</i> (Extract)
7.13	European Commission: <i>Directive on the Promotion of the Use of Energy from Renewable Sources</i> 2009/28/EC (2009)
7.14	<i>Best Foot Forward</i> Renewable Targets and Scenarios for Renewable Energy, 2006
7.15	<i>The Carbon Plan : Delivering Our Low Carbon Future</i> DECC (December 2011)
7.16	The economic impacts of wind farms on Scottish tourism (the Moffat Report) (March 2008) (extracts)
7.17	<i>Energy Trends</i> Report of March 2013 DECC
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7.21	Onshore Wind Call for Evidence: Government Response to Part A (Community and Engagement and Benefits) and Part B (Costs) Department of Energy and Climate Change June 2013 DECC
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7.29	<i>Position on Wind Energy</i> Natural England (March 2009)
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9.9	<i>The Measurement of Low Frequency Noise at Three UK Wind Farms</i> URN No:06/1412, Berr, 2006 (Extracts)
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10.5	English Heritage: <i>Wind Energy and the Historic Environment</i> (2005)
10.6	<i>Culworth Conservation Area Appraisal and Management Plan</i> January 2013
10.7	<i>Sulgrave Conservation Area Appraisal and Management Plan</i> June 2013
10.8	<i>Greatworth Conservation Area Appraisal</i> June 2012
11.1	<i>The Northamptonshire Rights of Way Improvement Plan 2077-2011</i>
11.2	The British Horse Society's Advice on wind turbines 2013/1
11.3	British Horse Society Scottish Wind Farm Advice Note
12.1	Planning application and supporting documents (provided in the Appeal Bundle)
12.2	Environmental Statement (provided in the Appeal Bundle) and Further Environmental Information (separately submitted and bound)
12.3	Development Control Committee Report (with updated representations) Spring Farm Ridge wind farm dated 30 June 2011
12.4	Decision Notice Spring Farm Ridge wind farm dated 11 July 2011
13.1	Planning permission for 9 wind turbines on land between Roade Courteenhall Hartwell and the M1(Wind Prospect Developments Ltd) – South Northamptonshire Council S/2011/1421/MAF
13.2	Planning permission for Tanks A Lot – South Northamptonshire Council S/2010/1117/MAF
14.1	Draft Environmental Statements and plans for HS2
14.2	Note by David Bell addressing points raised at the Brightenber Hill Wind Farm appeal – August 2013



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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