



Department for
Communities and
Local Government

Ms S Grange
Shoosmiths LLP
3 Hardman Street
Manchester M3 3HF

Our Ref: APP/J0540/V/14/2220136
Your Ref: SG-M-00382668

21 September 2015

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION BY REG WINDPOWER LIMITED
INSTALLATION OF FOUR WIND TURBINE GENERATORS WITH A MAXIMUM
HEIGHT TO BLADE TIP OF 100 METRES ABOVE EXISTING GROUND LEVEL,
VEHICLE ACCESS TRACKS, HARDSTANDING, CONSTRUCTION COMPOUND
AND ANCILLARY DEVELOPMENT AT FRENCH FARM, FRENCH DROVE,
THORNEY, PETERBOROUGH PE6 0PQ. APPLICATION REF 13/00933/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Braithwaite BSc (Arch) BArch(Hons) RIBA MRTPI, who conducted an Inquiry on 4 and 5 February 2015, on your client's application to Peterborough City Council ("the Council") dated 23 June 2013 for planning permission for the installation of four wind turbine generators with a maximum height to blade tip of 100 metres above existing ground level, vehicle access tracks, hardstanding, construction compound and ancillary development at French Farm, French Drove, Thorney, Peterborough PE6 0PQ, application ref 13/00933/FUL.
2. Instead of being dealt with by the Council as the relevant planning authority, the application was called in for the Secretary of State's determination following a determination issued on 4 June 2014 in pursuance of section 77 of the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that planning permission be granted. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions and recommendation and

Department for Communities and Local Government
Philip Barber, Decision Officer
Planning Casework
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 030344 42853
Email: PCC@communities.gsi.gov.uk

refuses planning permission. All paragraph numbers, unless otherwise stated, refer to the Inspector's report (IR).

Procedural matters

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

Matters arising following the closure of the inquiry

5. Following the close of the inquiry the Secretary of State wrote on 19 June 2015 to you, the Council and other interested parties inviting further information for the purposes of his consideration of the application. This matter was: the implications of the terms of the Written Ministerial Statement (WMS) of the Secretary of State on local planning of 18 June 2015 for the proposed scheme.
6. The Secretary of State has taken account of all the representations received in his consideration of the application before him but does not consider that they raise any new issues requiring circulation to assist his decision. He does not consider it necessary to summarise the representations here or attach them to this letter. Copies of the correspondence can be made available upon written request to the address at the foot of the first page of this letter.

Policy and Statutory Considerations

7. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Peterborough City Council Core Strategy Development Plan Document (CS), which was adopted in February 2011, and the Peterborough City Council Planning Policies Development Plan Document (PP), which was adopted in December 2012.
8. The Secretary of State has had regard to his WMS of 18 June 2015. The statement explained that the Secretary of State was setting out new considerations to be applied to proposed wind energy development. Subject to a transitional provision, the statement explained that the new considerations had immediate effect. Given its relevance to this case, the Secretary of State attaches substantial weight to the statement as the most recent expression of government planning policy for onshore wind development.
9. The statement includes a transitional provision to apply where a valid planning application for wind energy development had already been submitted to a local planning authority at the date on which the statement was made and the development plan does not identify suitable sites. In such instances, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing. In applying the transitional

provision to this application proposal the Secretary of State has considered the representations reported in the Inspector's report and the correspondence referred to in paragraphs 5 and 6 above.

10. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ("the Framework") and the planning guidance published in March 2014; the National Policy Statements (NPS) for Energy (EN-1) and Renewable Energy (EN-3); the Community Infrastructure Levy (CIL) Regulations 2010 as amended and Planning Practice Guidance for Renewable and Low Carbon Energy (2013). The Secretary of State has also taken into account the 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, the Written Ministerial Statement on renewable energy published by the Secretary of State for Communities and Local Government in April 2014; and the English Heritage/Historic England guidance entitled "*The Setting of Heritage Assets*" as updated in July 2015.
11. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), the Secretary of State has paid special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance conservation areas, as required by section 72(1) of the LBCA.

Main Considerations

12. The Secretary of State agrees with the Inspector that the main issues are those set out at IR118. The other consideration he has taken into account when reaching his decision is the Written Ministerial Statement on Local Planning of 18 June 2015.

Impact on the character and visual amenity of the landscape

13. Having noted the Inspector's analysis at IR122-130, the Secretary of State has carefully considered the impact of the proposed development on the character and the visual amenity of the landscape. He has also considered the potential cumulative impacts with the two permitted turbines at French Farm and with other turbines in the vicinity.
14. He notes that the Inspector in the previous appeal concluded that the two permitted turbines would have a very limited impact on the character of the site and the wider landscape. However he agrees with the Inspector that the addition of four further turbines, resulting in a staggered line of six turbines, would have a significantly greater effect on the character of the landscape up to a distance of about 1.5km from the site (IR123).
15. He agrees with the Inspector at IR131, that the proposed development would result in a significant adverse impact on the character and visual amenity of the landscape, but that this impact would not be incurred or noticed from further than 1.5km from the site.

16. For the reasons given at IR124-125 the Secretary of State agrees with the Inspector at IR 129 that other turbines in the vicinity would not have any cumulative effect on the landscape when considered with the proposed development.

Impact on residential amenity - noise

17. The Secretary of State agrees with the Inspector at IR134, for the reasons given at IR132-134 that, with the imposition of a condition that includes daytime and night time noise level limits at noise sensitive properties, the proposed development, in addition to the two permitted turbines, would not be likely to result in noise and disturbance that would adversely affect the amenities of local residents.

Impact on residential amenity - outlook

18. For the reasons given by the Inspector at IR135-142, the Secretary of State agrees that the proposed development would have a significant adverse effect on the visual amenities of some residents of the area, particularly those of 27 French Drove detailed at IR138 and 139. The Secretary of State has given careful consideration to development plan policy PP3 in this regard, which states in material part that planning permission will not be granted for development which results in unacceptable overbearing impact on any nearby property. The Secretary of State notes the significant adverse impact on some residents that the Inspector finds at IR 143 and concludes that the adverse impacts as detailed in IR 135 to 143, in his planning judgment, result in unacceptable overbearing impact on nearby property and therefore amount to non-compliance with policy PP3. The Secretary of State therefore disagrees with the Inspector's conclusions at IR 158 that there is no conflict with development plan policy PP3.

Impact on the settings of listed buildings and heritage assets

19. As well as the statutory duties referred to at paragraph 11 above, the Secretary of State has had regard to the planning practice guidance which states that as the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of wind turbines on such assets; and that, depending on its scale, design and prominence a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset. He has also had regard to paragraph 131 and 132 of the Framework.

20. The Secretary of State agrees, for the reasons set out at IR144 that the development would not cause harm to the setting or significance of Crowland Abbey and the associated Scheduled Ancient Monument. He further agrees, for the reasons given in IR145, that the proposal would not cause harm to the setting or significance to Thorney Abbey or the Church of St Mary and St Botolph. He also agrees that the development would not cause harm to the character, appearance or significance of the Conservation Areas in Thorney and Crowland. He also agrees, for the reasons given at IR146, that the development is unlikely to cause any harm to the setting or significance of Peterborough Cathedral. He thus concludes, in agreement with the Inspector at IR147, that the proposed development (either on its own or cumulatively with other turbines) would not have any effect on the setting or significance of any heritage asset.

Impact on MoD radar operations

21. For the reasons given at IR148-149, the Secretary of State agrees that, subject to the imposition of the conditions referred to at IR149 and set out at paragraphs 22-24 of Schedule 1 of the IR, the proposed development would not have any adverse impact upon MoD radar operations, in particular the Precision Aviation Radar at RAF Wittering. He therefore concludes, for the reasons given at IR148-149, that the fears around aviation safety put forward by local residents and the constituency MP can be effectively ameliorated with the imposition of appropriate conditions.

Other matters

22. For the reasons given at IR153, the Secretary of State concludes that there is no evidence that the proposed development would result in any adverse consequences for the ecology and biodiversity of the area. He further concludes that piling activities associated with the introduction of foundations for the turbines are unlikely to cause structural harm to any buildings in the area. The Secretary of State notes, with the Inspector at IR154, that recommended conditions 11 and 12 would require a Traffic Management Plan and a scheme detailing works required to public highways to be submitted and agreed by the local planning authority, that all works to public highways would require the prior approval of the Highways Authority and any works to drain embankments would require the prior approval of the Drainage Board. He further notes that the construction and de-commissioning periods would be temporary and traffic associated with the proposed development would only be likely to cause occasional delays to the free flow of other traffic in the area. Furthermore, with the aforementioned conditions imposed on a planning permission for the four additional turbines, roads and drain embankments on the approved route to the site would be protected against any permanent damage.

Benefits of the scheme

23. For the reasons given at IR151-152, the Secretary of State agrees that the benefits of the proposal include the supply of up to 8MW of renewable energy. He further agrees that the Council has adopted local policy that is permissive of renewable energy developments; however he notes that proposals will not be supported where the proposal would have unacceptable impacts which are not outweighed by local and wider environmental, economic, social and other considerations of the development. For the reasons given at paragraph 27 below, he does not agree with the Inspector that the proposed development is fully consistent with Government planning policy and guidance for renewable energy developments.

Planning Balance and Conclusion

24. The Secretary of State agrees with the Inspector's conclusions at IR158 that the proposed development would not have any effect on the significance of any heritage asset and thus does not conflict with PP policy PP1 or CS policy CS17. He also agrees that the proposed development accords with the aspirations of, and thus does not conflict with, CS policy CS10. However, he considers that there would be some conflict with CS policy CS20 due to the significant adverse effect on the landscape, which he considers would be an unacceptable impact of

the proposal. He further considers, disagreeing with the Inspector, that the proposal would conflict with policy PP3, given the harm found by the Inspector at IR 135 - 143 and referred to at paragraph 18 above, [namely that the development would result in an unacceptable overbearing impact on the visual amenity of neighbouring properties.] On this basis, disagreeing with the Inspector, he concludes that the proposal conflicts with CS policy CS11, because he considers that the proposal would have unacceptable impacts which are not outweighed by local and wider environmental, economic, social and other considerations of the development. Overall, the Secretary of State concludes that the proposal would not be in accordance with the development plan as a whole. He has therefore gone on to consider whether there are any material considerations which might nevertheless justify granting planning permission.

25. The Secretary of State concludes that the proposal would produce up to 8MW of renewable energy, and that this would be a significant contribution towards achieving the national target of meeting 15% of the UK's energy demand from renewable resources by 2020. He considers that the contribution to combatting climate change is an important consideration.
26. However, the Secretary of State also attaches considerable weight to the significant adverse effect that the proposal would have on the character and visual amenity of the landscape as well as to residential amenity of some neighbouring properties in respect of outlook.
27. In addition, having applied the transitional provision set out in the June 2015 WMS, the Secretary of State is not satisfied that the planning impacts identified by affected local communities have been addressed. In their responses to the Secretary of State's letter of 19 June 2015, several members of the affected communities have repeated the concerns which they expressed previously about the planning impacts of the scheme. These include the harm to the residential amenity of some neighbouring properties in respect of outlook and the character and visual amenity of the landscape. It is clear from the IR that those planning impacts have not been addressed, as demonstrated in particular by the Inspector's conclusions at IR131 and IR143. As those planning impacts as identified by the affected communities have not been addressed, the proposed scheme would not meet the transitional arrangements set out in the WMS of 18 June 2015; and the Secretary of State also gives significant weight to this non-compliance.
28. 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 conflict identified with the development plan and national policy. He considers that there are no material considerations of sufficient weight which would justify granting planning permission.

Conditions

29. The Secretary of State has had regard to the schedule of conditions at Schedule 1 to 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 refusing this application.

Formal Decision

30. Accordingly, for the reasons given above, the Secretary of State refuses your client's application and refuses planning permission.

Right to challenge the decision

31. 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.

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

Yours faithfully

Philip Barber

Authorised by the Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI

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

Date: 14 April 2015

TOWN AND COUNTRY PLANNING ACT 1990

PETERBOROUGH CITY COUNCIL

APPLICATION

by

REG WINDPOWER LIMITED

Inquiry held on 4 and 5 February 2015

French Farm, French Drove, Thorney, Peterborough PE6 0PQ

File Ref: APP/J0540/V/14/2220136

File Ref: APP/J0540/V/14/2220136

French Farm, French Drove, Thorney, Peterborough PE6 0PQ

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 4 June 2014.
- The application was made by REG Windpower Limited to Peterborough City Council.
- The application Ref 13/00933/FUL is dated 27 June 2013.
- The development proposed is four wind turbine generators with a maximum height to blade tip of 100 metres above existing ground level, vehicle access tracks, hardstanding, construction compound and ancillary development.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
 - i. the extent to which the proposed development is consistent with Government planning policy and guidance for renewable energy developments;
 - ii. the extent to which the proposed development impacts upon the setting of listed buildings and heritage assets;
 - iii. the extent to which the proposed development impacts upon Ministry of Defence operations including radars, in particular, the Precision Aviation Radar at RAF Wittering;
 - iv. the extent to which the proposed development is consistent with the development plan for the area;
 - v. any other matters the Inspector considers relevant.

Summary of Recommendation: The application be granted.

Procedural Matters

1. A Pre-Inquiry Meeting (PIM) was held on Tuesday 21 October. At the PIM the main parties were informed that relevant matters to be considered at the Inquiry, in addition to those specified by the Secretary of State, were the effect of the proposed development on residential amenity, with particular regard to outlook and noise, and on the character and visual amenity of the landscape.
2. The application is not opposed by Peterborough City Council (PCC) and they indicated at the PIM that they would present evidence at the Inquiry only on the policy context of the application.
3. The application is opposed by Thorney North Landscape Protection Group (TNLPG) who, prior to the Inquiry, were granted Rule 6(6) status under the provisions of the Inquiries Procedure Rules. The application was opposed by the Ministry of Defence (MoD) and they were also granted Rule 6(6) status. However, the MoD withdrew their opposition and did not present evidence at the Inquiry after agreement had been reached on conditions to be attached to a permission that would mitigate any adverse consequences for the operation of radar at nearby military airfields.
4. The proposed four wind turbines are EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The planning application was thus accompanied by an Environmental Statement (ES). The ES has been found to meet the requirements of the EIA Regulations and is included in the Core Documents.

5. Documents submitted at the Inquiry (ID) are listed in an appendix to this Report as are Core Documents (CD).

6. The Applicants and the Council have agreed a Statement of Common Ground (SoCG). The SoCG is included as a Core Document (CD10.11). TNLPG have commented on the SoCG and these comments are also included as a Core Document (CD10.12).

The Site and Surroundings

7. The four proposed wind turbines would be located in an area of flat arable farmland subdivided by drains. The area is bounded to the south and west by straight country roads, French Drove and Fall's Drove respectively, and to the north-west and north-east by drains, Old South Eau and Dowsdale Arm respectively. Alongside French Drove is New South Eau, a deep straight main drain into which the aforementioned smaller drains flow.

8. On the north side of French Drove and within the aforementioned area, are the farmhouse and farm buildings of French Farm. To the west of the group of farm buildings is Third House Farm and Third House Farm Cottage, two residential properties, and further to the west and remotely located, are a pair of semi-detached dwellings, 26 and 27 French Drive, and Falls Farm where there is a dwelling. To the north-east of the area, just beyond Dowsdale Arm, is a group of about eleven dwellings on Dowsdale Bank. There is a public footpath alongside Old South Eau from Dowsdale Bank to Fall's Drove.

9. Within one kilometre of the proposed turbines are other scattered dwellings and groups of farm buildings. The wider area within which the proposed turbines would be located is known as North Fen. The North Fen area is, like French Farm, open arable farmland subdivided by drains within which are occasional stands of trees and scattered farms and dwellings. The nearest settlement to the application site is the hamlet of Nene Terrace about 2.4 kms to the north, whilst the village of Thorney is about 4 kms to the south and the village of Crowland is about the same distance to the north-west.

10. Crowland Abbey at Crowland, and Thorney Abbey and the Church of St Mary and St Botolph at Thorney, are Grade I listed buildings. The ruins and site of Crowland Abbey is also a Scheduled Ancient Monument (SAM). There are other SAMs and listed buildings in the area but none have featured in any representations; though reference has been made to the view across the Fen landscape from the tower of Peterborough Cathedral. There are conservation areas in Crowland and Thorney.

Planning Policy

Local planning policy

11. The development plan, for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, comprises the Peterborough City Council Core Strategy Development Plan Document (CS), which was adopted in February 2011, and the Peterborough City Council Planning Policies Development Plan Document (PP), which was adopted in December 2012.

12. CS policy CS10 states that development proposals will only be supported where they make a clear contribution to the aspiration of the Sustainable

Community Strategy for Peterborough to become the Environmental Capital of the UK. The policy includes a list of examples which the Council will take into account to determine whether a proposal will make a clear contribution. The list includes provision for the generation of electricity from decentralised renewable or low carbon sources.

13. CS policy CS11 relates specifically to renewable energy and states, in its last paragraph, that commercial scale renewable energy developments will be supported at locations where other policies of the development plan can be satisfied, that developments of this type will be subject to Environment Impact Assessment (EIA), and that regard will be given to the wider benefits of providing energy from renewable sources as well as the potential effects at the local scale. This particular provision of the policy is reinforced in the second paragraph where it is stated that proposals for renewable energy development will be supported and encouraged except where the proposal would have unacceptable impacts which are not outweighed by local and wider environmental, economic, social and other considerations of the development.

14. CS policy CS17 states that the Council will protect, conserve and enhance the historic environment through the special protection afforded to, amongst other things, listed buildings and conservation areas. CS policy CS20 states that new development in the countryside should be sensitive to its landscape setting and should retain and enhance the distinctive qualities of the landscape character area within which it would be situated.

15. PP policy PP3 states that planning permission will not be granted for development which would result in, amongst other things, an unacceptable overbearing impact on a nearby property. PP policy PP17 reiterates the provisions of CS policy CS17.

National Planning Policy

16. The National Planning Policy Framework (NPPF) contains provisions specific to renewable energy developments and other provisions relevant to the application. Paragraph 98 states that an application for a renewable energy project should be approved if its impacts are or can be made acceptable and if material considerations do not indicate otherwise. Paragraph 134 states that where a proposed renewable energy project will lead to less than substantial harm to the significance of a heritage asset this harm should be weighed against the public benefits of the proposal.

Planning History

17. The Decision in Appeal Ref. APP/J0540/A/09/2116682 was issued on 7 September 2010 and granted planning permission for application ref. no. 08/01365/FUL. The application was for 'alteration of existing planning consent 98/0094/FUL and re-submission of application 07/0156/FUL; 2 no. wind turbine generators in existing consented positions, proposed tower height of 60m (blade tip height of 100m); application to include control building and associated infrastructure, access tracks, temporary laydown areas and construction compound, and underground cabling'. The planning permission relates to land at French Farm and is subject to twenty-six conditions.

18. All pre-commencement conditions imposed on planning permission 08/01365/FUL have been discharged and the development has been commenced, though the turbines have not been erected. The two turbines (IT1 and IT2) would be located directly to the north of the farm buildings at French Farm. Turbine IT1 would be about 320 metres north of the buildings and IT2 would be about the same distance to the north of IT1. The turbines would be alongside a track that leads from an access that has been created off French Drove.

The Proposals

19. The proposed development is for four wind turbine generators plus ancillary infrastructure. The turbines (PT1-PT4) would be the same size as the two permitted turbines; 100 metres high to blade tip. Turbine PT4 would be about 280 metres to the east of turbine IT1 and turbines PT1-PT3 would be in a staggered line to the north-west of turbine IT2; turbine PT1, the furthest away, would be about 850 metres from turbine IT2. The Applicant has agreed to a condition that would limit the development to a period of 25 years. At the end of the 25 year period other agreed conditions would require the removal of the turbines and the reinstatement of the land to its former condition.

Statutory Requirements

20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, determination must be made in accordance with the plan unless material considerations indicate otherwise.

21. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be paid to the desirability of preserving the settings of listed buildings, and Section 72(1) of the same Act requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

The Case for Peterborough City Council (PCC)

The material points of the case made by PCC are:

22. Peterborough City Council, as local planning authority, resolved on 4th February 2014 to grant planning permission for the development. The Council was about to issue the decision notice when the Secretary of State called the application in for his own determination.

23. The stance of Peterborough City Council is neutral and evidence is presented only to ensure a proper understanding of the terms of the development plan and national planning policy. The Council remains of the opinion, consistent with the decision that it took on 4th February 2014, that this application is in conformity with the policies contained within the development plan and therefore that planning permission should be granted. In this regard it is the Council's view that the impact of the proposed development on the character and visual amenity of the countryside, on heritage assets, and on those who live around the site would not be so significant as to warrant refusal of the application.

24. Peterborough City Council is comparatively unusual in that it has in place an up-to-date local development plan. The local development plan records the Council's aspiration to be the Environment Capital of the United Kingdom and to lead the way in contributing to the accomplishment of the UK's statutory obligations to reduce carbon emissions, which have been assumed under the terms of the Climate Change Act. Onshore wind farm developments, such as that which is presently proposed, have a vital role to play in that objective. In this respect the development plan is entirely in conformity with the NPPF, which places emphasis on the need to meet the challenge of climate change and makes it clear that applications, which are in accordance with a development plan, should be approved without delay. That wind energy will continue to play a major role in the UK's energy mix was re-emphasised in the Ministerial Statement to Parliament on 6th June 2013. The Overarching National Policy Statement for Energy (EN-1) tells us that the need to respond to the threats imposed by climate change is urgent.

The local policy context

25. The Council submits that the primary policy document to which most weight is to be attached is the Peterborough Core Strategy Development Plan Document. This was adopted on 23rd February 2011 and covers the period to 2026. It is common ground between all parties that the development plan is up-to-date. All parties to the Inquiry called a planning policy witness and all of those witnesses were cross-examined. However, there was no challenge to the planning policy evidence given on behalf of the Council and the Applicant.

26. It is also common ground that, where a development plan contains a specific policy relevant to the development in question, that is the policy to which most weight should be given. Other policies are subordinate to any such specific policy. In the context of this case the specific policy is CS policy CS11, which is prefaced by CS policy CS10.

27. Policy CS10 sets the scene for policy CS11. It supports the aspiration for Peterborough to become the Environment Capital of the UK. It is a policy framed specifically in support of the Government's commitment to reduce the levels of the UK's carbon dioxide emissions and, in particular, to meet the targets enshrined in

the Climate Change Act 2008. The aspiration to become the Environment Capital of the UK is one of the four priorities stated as being necessary to achieve the vision set out in the CS. The policies in support of these priorities must therefore be given most weight in the decision making process.

28. Policy CS10 states that development proposals will only be supported where they make a clear contribution to the aspiration of the Sustainable Community Strategy for Peterborough to become the Environment Capital of the UK, and lists examples of the matters which the Council will take into account to determine whether the proposal will make such a clear contribution. The examples include the 'provision for the generation and distribution of electricity or heat from decentralised renewable or low carbon sources'. The proposed development is for the generation of renewable energy and therefore complies with policy CS10.

29. The most significant policy is CS policy CS11 'Renewable Energy'. This policy is specific to the proposal in question and is the policy to which most weight should be given. The policy provides, amongst other things, that proposals for development involving the provision of renewable energy will be supported and encouraged, except where the proposal would have unacceptable impacts which are not outweighed by local and wider environmental, economic, social and other considerations of the development. The final paragraph of the policy is:

"Commercial-scale renewable energy generation developments will be supported at locations where other policies of the development plan can be satisfied. Developments of this type will be subject to an Environmental Impact Assessment (EIA) which will be based on relevant regional and national guidance/best practice and the individual and unique circumstances of the case. When considering such assessments, regard will be given to the wider benefits of providing energy from renewable sources as well as the potential effects at the local scale."

With regard to the last sentence, CS policy CS11 includes the balancing exercise that is required and which forms part of the decision making process.

The national policy context

30. The NPPF identifies, at paragraph 7, three roles which the planning system is required to perform. The third of these roles is an environmental role which in part includes, "helping to...mitigate and adapt to climate change including moving to a low carbon economy". The Overarching National Policy Statement for Energy (EN-1) states, at paragraph 3.4.5, that "The need for renewable electricity generation projects is therefore urgent".

31. Paragraph 11 of the NPPF states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and paragraph 12 states that a proposed development that accords with an up-to-date Local Plan "...should be approved...unless material considerations indicate otherwise". Paragraph 14 states that for decision taking this means approving development proposals that accord with the development plan without delay.

32. The policy position is therefore clear; where there is a development plan in place it takes precedence over the NPPF. Development plans are created locally and have to be independently assessed as sound before they can be adopted. Local planning authorities may adopt plans for their own area which may not

conform with all the policies contained within the NPPF; this is what localism is about – plan making by local people for their local area. This is consistent with the first core planning principle in paragraph 17 of the NPPF, which states that planning should “be genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area. Plans should be kept up-to-date, and be based on joint working and co-operation to address larger than local issues. They should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.”

33. The core planning principles at paragraph 17 of the NPPF include “support (for) the transition to a low carbon future in a changing climate...and encourage the reuse of existing resources...and encourage the use of renewable resources (for example, by the development of renewable energy)” and “encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value”. It is unarguable that the proposed development accords with the first of these and, by using the existing infrastructure provided for the already permitted two wind turbines on the site, also satisfies the second.

34. Paragraphs 97 and 98 of the NPPF actively promote and support the increase in the use and supply of renewable and low carbon energy stating, “... local planning authorities should recognize the responsibility on all communities to contribute to energy regeneration from renewable or low carbon sources. They should have a positive strategy to promote energy from renewable and low carbon sources and design their policies to maximize renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts ...”.

35. EN-1 expressly acknowledges at paragraph 4.5.1 that “...the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the quality of the area”. The same sentiment may be found in the National Policy Statement for Renewable Energy Infrastructure (EN-3) at paragraph 2.7.48 where it is stated that “Modern onshore wind turbines that are used in commercial wind farms are large structures and there will always be significant landscape and visual effects from their construction and operation for a number of kilometres around a site”.

Conclusion

36. Government policy and guidance is clear that the generation of renewable energy is urgently needed and that there is no requirement to justify the need for it. The following policy principles are applicable to consideration of this development:

- Peterborough City Council has an up-to-date local development plan;
- Part of the up-to-date plan, the Core Strategy, includes two policies specific to consideration of this application – policies CS10 and CS11;
- Policies CS10 and CS11 reflect national planning policy as contained in the NPPF and National Planning Policy Statements;
- The proposal is sustainable because it will make use of existing infrastructure and it provides for the generation of renewable energy;

- The need for renewable electricity generating capacity is urgent;
- All communities are expected to make their contribution to it;
- Wind turbines, by their very nature, are intrusive structures in the countryside;
- The site is appropriate for wind turbine development; and
- There is no requirement to prove that the development is needed.

37. Applying these principles Peterborough City Council would have approved this application had it been at liberty to do so. The application is in conformity with the development plan.

The Case for REG Windpower Limited (REG)

The material points of the case made by REG are:

Background

38. The permitted development of two turbines at French Farm has been implemented but could not be completed and brought into operation because of a condition of the permission. This requires either that mitigation works relating to MoD radar are agreed or that four years should have elapsed since the date of the permission. No agreement on mitigation was reached with the MoD, and therefore only on 7 September 2014 was it possible for the Applicant to build and operate the wind turbines. For commercial reasons the development remains unbuilt but, irrespective of the outcome of the application for four additional turbines, the Applicant will build the two wind turbines.

Planning policy

39. All parties agree that the topic specific dominant policy for the purposes of this application is CS policy CS11. The policy contains a presumption in favour of development such as that proposed on appropriate sites. There is no further advice on what may be an appropriate site, but the policy sets out a number of matters which must be satisfactorily addressed if the presumption in favour of development is to result in a grant of planning permission.

40. What is meant by "satisfactorily addressed" is further addressed in advice that development should not have unacceptable impacts "...which are not outweighed by local and wider environmental, economic, social and other considerations of the development". Thus the policy incorporates its own planning balance, a matter which gives added weight to a finding that the proposed development would accord with the development plan, particularly with regard to the application of paragraphs 14 and 98 of the NPPF.

41. With regard to the first factor set out for individual consideration in CS policy CS11 there is no reason to question the Applicant's choice of onshore wind as the technology to be deployed at the application site. With regard to the second, third and fourth factors, air traffic operations, residential amenity, heritage assets and landscape character are addressed later. The fourth factor does include references to features of agricultural and ecological importance but these are not matters of importance in respect of this planning application.

42. CS policy CS11 states that commercial-scale renewable energy development will be supported "...if other policies of the development plan can be satisfied". This advice only assists in terms of pointing to the need to examine policies CS10, CS17 and CS20. However, and as a preamble to consideration of these policies, compliance with policy CS11 is of the greatest importance in consideration of the development plan. The other policies may marginally assist but, as will be shown, compliance with policy CS11 demonstrates compliance with the development plan for the purposes of determining this planning application. Policy CS11 explicitly requires that regard should be had to the wider benefits of renewable energy development as part of the inherent planning balance.

43. Policy CS10 is of assistance in underpinning the logic of policy CS11. It advises that development will only be supported if it makes a "clear contribution" to the aspiration of the Sustainable Community Strategy for Peterborough to

become the Environmental Capital of the UK. Examples of such clear contributions are given in the policy, and they include the generation of renewable energy.

44. It is clear that the Council attaches great importance to the improvement of its Environmental Capital and that it envisages the generation of renewable energy as a means to this end. Policy CS10 therefore not only supports the approach of CS11, but it is also evidence that the Council, which is clearly aware of the landscape and visual effects of renewable energy development, nevertheless views its Environmental Capital in the long term as a resource not merely limited to its landscape. Policy CS10 should be read closely with policy CS11 in regard to compliance of the proposal with the development plan.

45. Policy CS17 addresses the historic environment and requires the protection, conservation and enhancement of that environment through the special protection afforded to (for example) listed buildings and conservation areas. It must be noted however that the CS predates the NPPF and paragraph 134 of the NPPF may be of greater weight in consideration of cultural heritage issues.

46. Policy CS20 is the only advice on landscape character in the CS. The policy advises that a development should be sensitive to its landscape setting and that planning permission will only be granted if development would "...recognise and, where possible, enhance the character and qualities of the local landscape through appropriate design and management". It may be immediately noted that, odd though the wording of the policy may be, the fact that it may not be possible to enhance the character of the landscape through the design of a development means that there will be no breach of policy were that character not to be enhanced. The policy also refers to the need to reflect and enhance local distinctiveness and diversity, to the need to safeguard and enhance important views within the development layout, and to the need to protect landscape settings and the separate identities of settlements.

47. Policy CS20 contains a reference to certain landscape character areas but these areas do not cover the area of the application site. Nevertheless, the policy remains technically relevant because of the general requirements relating to development, noting the advice on the protection of landscape settings and local distinctiveness; the safeguarding of important views is not relevant in this case.

48. Policy CS20 should attract little weight when evaluated against policy CS11, which includes a clear development test and which should take priority over the aspirations of policy CS20.

49. With regard to the PP, policy PP1 echoes paragraph 14 of the NPPF, policy PP3 addresses impacts of new developments, but not in terms which add anything to policy CS11, and policy PP16 substantially addresses ecological and geological issues and the water environment though there are no issues relating to these matters. Finally, policy PP17 addresses heritage assets but not in terms which assist beyond advice in the NPPF.

50. The key paragraphs of the NPPF are those that advise on sustainable development and renewable energy (6-14, 97, 98 and 134). It is the Applicant's position that this development is supported by the development plan, so that permission should be granted without delay, subject to the need to consider other material considerations. If the development is found not to accord with the development plan then paragraph 98 of the NPPF is engaged.

51. Only one further comment on the NPPF is needed; on paragraph 109. If 'valued landscapes' in the paragraph means all landscapes then, on the basis that all are valued, the phrase is otiose. The phrase must mean something less than all landscapes, but there is no further explanation of the phrase in the NPPF. Little weight should be afforded to paragraph 109.

52. National Policy Statements EN-1 (CD 2.2) and EN-3 (CD 2.3) both give relevant advice and are brought directly into play through footnote 17 to paragraph 97 of the NPPF. Paragraph 3.1.4 of EN-1 invites decision makers to apply the wider benefits of renewable energy development in the planning balance. Paragraph 2.7.17 of EN-1, which advises that the temporary nature of development is a material consideration, should also be factored into decision making. The proposed development would have, given an agreed condition, a limited life of 25 years. The Secretary of State has given little weight to the temporary nature of the development in recent decisions but the advice stands as a statement of national policy.

MoD radar operations

53. When the application was submitted, the MoD objected on the basis of impacts on Primary Surveillance Radars and the PAR at RAF Wittering. The MoD's objections on the basis of potential impacts on Primary Surveillance Radars were withdrawn before the PIM subject to the imposition of conditions requiring mitigation of any impacts of the development on those radars.

54. At the time of the PIM the MoD maintained objections to the development because of the potential impact on the PAR at RAF Wittering. However, they subsequently withdrew these objections subject again to the imposition of a condition (agreed between the MoD, the Applicant and the Council) which provides for mitigation of impacts on the PAR. The MoD would not have withdrawn their objection to the development unless they were completely satisfied that impacts could be satisfactorily mitigated.

Residential amenity – noise

55. The Applicant and Council have agreed the wording of an operational noise condition for imposition on a planning permission. TNLPG have not brought forward any evidence on this matter and comments made by third parties at the evening session of the Inquiry cannot be considered to be cogent evidence. With the imposition of the agreed condition operational noise of the development would not cause disturbance to residents of the area.

Residential amenity – outlook

56. Mr Steele visited only three residential properties, in comparison to the fifteen such properties visited by Mr van Grieken, and his conclusions were drawn not in the terms of the test approved by the Secretary of State. For each of the properties there is a conclusion in terms of the significance of the impact in EIA terms, followed by a conclusion that the development would have detrimental effects on living conditions and residential visual amenity. The test, whether a property would become an unattractive place to live, was first used by the Inspector in the Burnthouse Farm appeal in 2011 and was subsequently endorsed by the Secretary of State in his Decision. The test has been used by all subsequent Inspectors and by the Secretary of State who all seem to have had no

difficulty in understanding the approach. The test is ultimately a planner's test, informed by visual information, and that has been the approach taken by the Applicant and its professional team in this Inquiry. The approach of the Secretary of State in the Burnthouse Farm case is correct and should be applied in this case.

57. The ES assessed the effect of the proposed development, over the baseline of the two permitted turbines, on the outlook from residential properties in the area around French Farm. The ES concluded that at only six of the residential properties assessed would the change from the baseline result in a moderate/substantial effect on outlook; these being Red Roofs, Third House Farm, Third House Farm Cottage, 26 and 27 French Drove, and Falls Farm. With this background and having carried out his own assessment Mr van Grieken has concluded that at no property would the development be overbearing, oppressive or dominant, and that no property would become an unattractive place to live.

Landscape and Visual Effects

58. By agreement with the Council Mr van Grieken, for the Applicant, treated the two permitted turbines at French Farm as part of the landscape and visual baseline for his assessment of the effects of the proposed development. He has assessed the impact of the four proposed turbines on the baseline of two permitted turbines before turning to look at the additional and in-combination impacts of turbines at French Farm with (a) other existing and permitted developments, and (b) other existing, permitted and proposed developments in the area.

59. In contrast Mr Steele, for TNLPG, chose to ignore the two permitted turbines in the baseline for his assessment of the proposed four turbines. He took this view because the two wind turbines have not been erected. This approach was incorrect for the following reasons:

- Since the Applicant controls both the permitted and the proposed development there is a greater likelihood than might otherwise be the case that the developments will proceed together, which is the Applicant's intention.
- Mr Steele agreed in cross-examination that the permitted and proposed turbines would for all purposes comprise one wind farm in terms of landscape and visual assessment.
- The proposed four turbines were never intended to be viewed as a stand-alone development. They are intended as an extension to the two turbine development, and were designed accordingly. Therefore any attempt to assess the four turbines without reference to the committed baseline proceeds on a false assumption concerning design.

60. Mr Steele has not criticised the proposed development in terms of design but any assessment will show that the design of the proposed development is less satisfactory without the two permitted turbines because of the substantial gap between three of the proposed turbines and the fourth; the gap being the location of the two permitted turbines. The Applicant's and the Council's approach is the only logical approach.

61. An important issue that was discussed in cross examination of Mr Steele is that of landscape capacity. He seemed to take a view that a landscape capacity

study was the only ultimate way of determining how much wind energy development could be satisfactorily permitted and built in any given area. This is a wrong approach. A true capacity study must have a target capacity. A typical question answered in a capacity study would be the best or the least worst way of accommodating a particular amount of a type of development in a particular area. Without a capacity target all that we have in landscape and visual terms is a relative sensitivity study, as indeed was acknowledged by Mr Steele.

62. In the absence of a landscape capacity study then the approach of Mr van Grieken, to assess the degree of change to the landscape from one state to another, is transparent and fair. For example, and having assessed the development's individual effect on the landscape, would the in-combination effects of development including the proposed development convert what is a landscape with wind farms into a wind farm landscape?

63. French Farm is located in the Peterborough Fen (4) landscape character area as identified in the Peterborough Landscape Character Assessment of 2007; specifically in sub-area 4a, Bedford North Level. As stated in the ES the change in landscape character would be focussed on the immediate site and surrounding area, up to a distance of about 1 km. Within this area the proposed turbine development would result in a medium magnitude of change to the character of the landscape but outside the area, and in neighbouring landscape character areas and sub-areas the effect on landscape character would be negligible.

64. A Cumulative Landscape and Visual Impact Assessment (CLVIA) undertaken in December 2014 considered two scenarios; the cumulative effect of the proposed development with all other existing and consented schemes (scenario A), and the cumulative effect with all existing and consented schemes and with schemes for which planning applications had been submitted (scenario B). In scenario A, the more certain scenario, the proposed extension alongside the implemented scheme at French Farm would fit with the general pattern of small to medium size wind energy developments in the landscape. It would be sufficiently distant from any other developments to be clearly separate and the key characteristics of the landscape would be retained.

65. Scenario B, which accords with an assessment for EIA purposes but carries very little weight in planning terms, is less certain because schemes 'in planning' may not be granted planning permission. Schemes 'in planning' are eight turbines at Gores Farm, five turbines at Willow Hall Farm, and a single turbine at Dogsthorpe. All of these schemes are sufficiently distant from French Farm, and would appear as clearly separate schemes, for the conclusion for scenario B to be the same as for scenario A.

66. Mr Steele's evidence, for TNLPG and on the visual effect of the proposed development, can be given no weight. The most detailed evidence on this matter is found in chapter 4 of the ES, and Mr van Grieken has provided his own independent and detailed assessment. Mr van Grieken concludes slightly differently to the ES only for cautionary reasons. As previously stated, the proposed four turbines would be in addition to the two permitted turbines, which would be, on their own, prominent in the area. Four additional turbines would increase the prominence of the scheme, particularly from roads in the immediate area such as French Drove, Fall's Drove and Cox's Drove, and the six turbine scheme would have a significant effect on the visual amenity of the area.

67. The ES concludes that from further afield, from the vicinity of nearby settlements such as Nene Terrace and Shepeau Stow, 2.4 kms and 4 kms from the site respectively, the increased prominence of the scheme would have only a slight adverse effect on visual amenity. It is here that Mr van Grieken disagrees because he concludes that the six turbine scheme would have a significant adverse effect on visual amenity in views from these two settlements.

68. Cumulatively, in both scenario A and scenario B, the effect on visual amenity would be slight and therefore less than substantial. This is because the four proposed turbines would be in addition to the two permitted turbines and they will be in addition to other larger developments in the same views.

69. The proposal is for four turbines in addition to two permitted turbines thus creating a six turbine wind farm. The development would have a significant landscape and visual effect only up to a distance of about 1 km from the site. Referring to the high level view expressed, in the June 2013 Written Ministerial Statement, by the Secretary of State on topography, this speaks to the effects of local shielding within a flat landscape. This shielding restricts longer distance views and confines significant effects to a small area in comparison with less flat landscapes. This in turn speaks to the appropriateness of the site for commercial scale wind energy development.

Cultural Heritage

70. English Heritage advised that the proposed development would 'exacerbate the harm' caused by the implemented permission, having made no claim of any harm to heritage assets in the course of the application and appeal relating to the two wind turbines. English Heritage's concerns extend to the following named assets: Crowland Abbey, the Church of St Mary and St Botoph in Thorney, Thorney Abbey and Crowland Conservation Area.

71. English Heritage have, however, made no effort to determine whether or not the proposed development would itself cause harm and they have not attempted to determine the level of harm which would be caused by the implemented development. Their position is cloudy at best. What is clear, however, is that whether or not the concerns of English Heritage relate primarily to the implemented development or to the proposed development, there is no contention that paragraph 133 of the Framework would be engaged. Any harm would be less than substantial. It may be noted that English Heritage did not appear at the Inquiry and did not submit any evidence beyond its consultation responses. English Heritage has made no response, furthermore, to the submitted proof of evidence of Dr Collcutt, for the Applicant.

72. TNLPG has not raised any issue on cultural heritage, and indeed the Statement of Common Ground concluded with the Council confirming that, save for Crowland Abbey, the Council is of the view that cultural heritage assets would not be harmed by the proposed development.

73. Against this background the evidence of Dr Collcutt, delivered as a written statement since there was no need for him to appear at the inquiry, is commended. This evidence gives the attention required to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Dr Collcutt very clearly attributes considerable weight and importance to the desirability of preserving or enhancing listed buildings.

74. Dr Collcutt and Mr Singleton, also for the Applicant, have demonstrated through their evidence that they have a thorough understanding of the requirements of paragraph 134 of the Framework, and of how to approach an assessment of the impact of a proposed development on the significance of a heritage asset. This explicit approach, which respects the advice given by English Heritage on the impacts of development on the setting of heritage assets, contrasts with the approach of English Heritage which entirely fails to analyse the contribution made by setting to the significance of those assets cited by it in its consultation responses.

75. Only in respect of one heritage asset does Dr Collcutt conclude that less than substantial harm would be caused by the proposed development (distinguishing between the proposed development and that permitted). This is Crowland Abbey, a Grade I Listed Building and a Scheduled Monument. It is important to note that the harm which Dr Collcutt determines would occur results from views only from Crowland Drove at a distance of 2km and with the abbey on the skyline. At this distance within this view only the overall architectural detailing of the abbey can be appreciated. The six French Farm turbines would appear to the left of the abbey, at a distance of over 6 kms. Dr Collcutt determines that the harm that would be caused would be at the lower end of the scale of less than substantial harm.

76. It is also worthy of note that the extension of the permitted wind turbine development may be compared with an entirely new wind farm development which, in most locations anywhere in southern England, would be bound to have effects on some cultural heritage assets. There is inherent mitigation built into the approach taken of seeking an extension to a permitted wind farm rather than planning for an entirely new development.

77. Less than substantial harm would be caused to the significance of Crowland Abbey, paragraph 134 of the NPPF is thus engaged, and there will be a presumption against the grant of planning permission. This presumption, in the planning balance, is outweighed by other material considerations.

Development Plan Compliance

78. In terms of CS policy CS11:

- The landscape and visual effects of the proposed development would be acceptable.
- The development would not give rise to unacceptable cultural heritage impacts and the less than substantial harm that would be caused to Crowland Abbey would be outweighed by the wider benefits of the scheme.
- The MoD has withdrawn its objection subject to the imposition of conditions, and therefore it could not be said on the basis of any evidence that the aviation related impacts of the development would be unacceptable.
- The development proposed would not cause any property to become an unattractive place to live and the impact on residential amenity would not thus be unacceptable.
- The development proposed would not have an unacceptable impact on the character of the landscape or on the visual amenity of the area.

79. The impacts of the development would be acceptable without the need to consider the balancing exercise. Nevertheless, that balancing exercise if applied would lead to the same conclusion.

80. The proposed development would be compliant with CS policy CS11 and is firmly supported by CS policy CS10. None of the other policies, for reasons already given, impact materially on the question of whether or not this development complies with the development plan.

Other Matters

81. Some members of the public addressed ecology, birds and transport at the Inquiry evening session, and these topics were also addressed by the TNLPG (in addition to noise) in earlier representations. However, no evidence was given which requires more than a reference to the detailed environmental information supplied by the Applicant and the consultation responses of (in particular) Natural England, the Highway Authority and the Environment Agency.

82. About 20 kms from the application site is Nene Marshes Special Protection Area (SPA). Natural England, as the Secretary of State's statutory nature conservation advisor, has determined that the proposed development would not be likely to have a significant effect on the interests of the SPA, and thus, and for reasons given in the ES no appropriate assessment is thus required. There is no requirement for appropriate assessment, and therefore there is no paragraph 119 constraint on the application for the presumption in paragraph 14.

Conclusions

83. It is common ground that the proposed development would cause less than substantial harm to Crowland Abbey and there is no claim by any consultee that the development would cause harm to any other heritage asset. Considerable weight and importance is given, under the duty imposed by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to the strong presumption in favour of the desirability of the preservation of heritage assets.

84. A finding of less than substantial harm to a single listed building as a result of the operational effects of the proposed development would be very substantially outweighed by the need for and benefits of the proposed development such that, other things being equal, permission should be granted.

85. The development plan is up to date and includes a policy, CS policy CS11, that is specific to the development proposed. The development complies with this policy and with the development plan. The first limb of paragraph 14 of the NPPF therefore applies and planning permission, for a four wind turbine extension to the permitted two turbine scheme, should be granted without delay.

The Case for Thorney North Landscape Protection Group (TNLPG)

TNLPG have been critical of the Council's handling of the application and of their contribution to the Inquiry. Mr Kelly's closing statement for TNLPG (ID20) included a section on 'the assessment by the Council and the Council evidence'. These matters are not considerations that are material. The material points of the case made by TNLPG are:

Introduction

86. One of the key issues is the actual reference to 'additional' turbines. The two turbines that have had various permissions have never been built. Therefore, for the locally affected households the reality of what they are faced with is potentially a change from no turbines to six turbines. This is an aspect of the case that has never properly been addressed in the determination of the application to date. Indeed, perversely, the opposite has almost applied with the applicant asserting that the site had been assessed as a suitable renewable energy location in the permitting of the two turbines.

87. The limitations of finance have dictated the approach of TNLPG to the Inquiry and have dictated that, out of the various areas of concern, only landscape and visual amenity evidence and planning policy evidence were presented at the Inquiry. In addition the group was not in a position to fund what might in effect be a new ES. A focussed critique with some field work to inform the key issues was the only possible approach.

The Written Ministerial Statement of June 2013

88. On 6th June 2013 the Secretary of State set out a number of matters in relation to local planning and onshore wind. In terms of the then intended new planning practice guidance the Statement:

- Recognised the concerns of local communities about the value given to landscape, heritage and amenity in decision making;
- Recognised that meeting our energy goals should not be used to justify the wrong development in the wrong location;
- Proposed new guidance that would set out clearly that;
- The need for renewable energy does not automatically override environmental protections and the planning concerns of local communities;
- Decisions should take into account the cumulative impact of wind turbines and properly reflect the increasing impact on (a) the landscape and (b) local amenity, as the number of turbines in the area increases;
- Local topography should be a factor in assessing whether wind turbines have a damaging impact on the landscape (i.e. recognise that the impact on predominantly flat landscapes can be as great or greater than as on hilly or mountainous ones);
- Great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting.

89. It is of fundamental importance to TNLPG and its case that this particular wind farm application raises every single one of the concerns set out by the Secretary of State. Indeed the Ministerial Statement could easily have formed TNLPG's Statement of Case.

The evidence at the Inquiry

90. In terms of the evidence for the Applicant and TNLPG the key evidence is the Landscape and Visual Impact Assessment (LVIA) evidence as the relevant submitted policy conclusions flow from that evidence. In reality there was less of a difference in assessments between the two witnesses than there was between the two witnesses and the submitted ES.

91. In terms of the capacity of the Fens landscape to accommodate any more wind farms it was common ground that there is no Fen wide landscape capacity study. The evidence of Mr van Grieken implied that there was capacity for the French Farm proposals with reference to his four fold classification of landscapes and wind farms, as a 'wind farm landscape' was not created. However, in cross examination, and despite his extensive knowledge of wind farms in the UK, he was unable to point to a 'wind farm landscape' anywhere in the UK other than the large single wind farm development at Whitelees to the south of Glasgow. Therefore, he was addressing the cumulative landscape effects with reference to a scale whose 'top' value, in his professional opinion, had only been reached once in the UK. That, then, is an impossibly high barrier to cross before the cumulative landscape effects become unacceptable.

92. Ultimately, TNLPG submit that the evidence of Mr Steele should be preferred over that of Mr van Grieken for two simple reasons:

- Mr Steele fully recognises that the two permitted turbines have not yet been built and so form part of a future baseline;
- Mr Steele explicitly addresses, within his overall assessment, the landscape and visual issues set out by the Secretary of State in the Ministerial Statement and he finds that, in regard to those aspects, there are significant adverse effects.

93. Policy conclusions flow from primarily that evidence and significant weight should be given to the evidence of Mr Kelly for TNLPG.

The character of the landscape (from Mr Steele's proof of evidence)

94. The proposed development, taking the absence of wind turbines at French Farm as the baseline situation, would have a moderate to major adverse effect on National Landscape Character Area 46 'The Fens', Regional Landscape Character Type 23 'Planned Silt Fen', the adjacent Regional Landscape Character Type 22 'Planned Peat Fen', and on Landscape Character Area 4 'Peterborough Fens'. This adverse effect on the landscape would be for a distance of up to 4 kms from the site, rather than the 1 km distance suggested by Mr van Grieken. The development, from the aforementioned baseline, would also have a minor and not significant adverse cumulative effect on the character of the landscape in both scenario A and scenario B.

The visual amenity of the area (from Mr Steele's proof of evidence)

95. Mr Steele has assessed the effect of the proposed development for the viewpoints identified in the ES. From nine of these viewpoints the development would have a significant adverse effect on the visual amenity of the area, particularly for walkers on public footpaths in the area. For walkers and residents, in six of these viewpoints, there would, in fact, be a very major significant visual adverse effect. ES viewpoints 5, 6 and 8 are representative of the visibility of the turbines from three settlements; Nene Terrace, Thorney and Shepeau Stow respectively. Unlike the Applicant it is TNLPG's view that the turbines would be intrusive in these views and would have a significant visual effect.

96. ES viewpoints 1-6, 8 and 9 are representative of the visibility of the turbines for road users on French Drove, the A16, the A1073, the B1040, the B1166 and unclassified roads. The turbines would be intrusive in views from these public roads up to a distance of 4 kms from the site and would have significant visual effects for road users. For scenario A the Wryde Croft wind farm is under construction and taken together with the turbines at French Farm there would be a significant cumulative adverse effect on visual amenity in ES viewpoints 1 and 9. In addition, for scenario B, Gores Farm and Willow Hall wind farms are at application stage and, taken together with the Wryde Croft wind farm and the turbines at French Farm, there would be, at the same two viewpoints, a significant cumulative adverse effect on the visual amenity of the area.

The visual amenity of residents of the area (from Mr Steele's proof of evidence)

97. Three residential properties were visited; Red Roofs, 27 French Drove and Blue Bell Farm. Red Roofs is at the northwest end of development alongside Dowsdale Bank and the proposed turbines would be to the south and south-east of the property. The turbines would be visible from the property access, the garden, and ground floor living room and first floor bedroom windows. The nearest turbine would be at a distance of 873 metres and the six turbines would be in an arc of about 73 degrees. Though partly screened by Dowsdale Plantation the six turbines would have a major, significant, adverse and pervasive visual effect resulting in a detrimental effect on residential visual amenity at Red Roofs.

98. 27 French Drove is on the north side of French Drove and is a two-storey semi-detached property. The six turbines would be to the north and north-east and would be visible from the property access, the rear garden, a ground floor conservatory and a first floor bedroom window. The nearest turbine would be at a distance of 833 metres and the six turbines would be in an arc of about 84 degrees. Though partially screened by a boundary hedge the six turbines would have a major, significant, adverse and pervasive visual effect resulting in a detrimental effect on residential visual amenity at 27 French Drove.

99. Blue Bell Farm is on the south side of French Drove and to the east, and accessed from, Bell's Drove. It is a two-storey dwelling with outbuildings in a substantial plot with adjoining paddock. The nearest turbine would be at a distance of 1032 metres and the six turbines would be in an arc of about 62 degrees. The six turbines would be visible from a first floor bedroom window and from the paddock and would have a major, significant, adverse and pervasive visual effect resulting in a detrimental effect on residential visual amenity at Blue Bell Farm.

Conclusions

100. In terms of the call in letter, the evidence for TNLPG addressed the landscape and visual impacts, including cumulative impacts, the visual component of residential amenity, the local landscape effects (all being issues raised in the Ministerial Statement), and the relevant planning policy context, and concluded that:

- The proposed development is not consistent with Government planning policy and guidance for renewable energy developments in that the assessed harm outweighs the benefit of the proposal;
- The proposed development is not consistent with the Development Plan for the area for the same reason.

101. In terms of the planning balance the position is very simple. The very significant harm that would arise from the combination of this scheme alongside the permitted two turbines is not outweighed by the relatively minor benefits. Notwithstanding the strong general policy support for renewable energy generation the planning balance conclusion weighs against the proposal.

Representations made by interested parties at the Inquiry

The material points of the cases made by those who appeared at the Inquiry and who are opposed to the development are:

Mr S Jackson – MP for Peterborough

102. The Council's Planning Committee were misdirected on the issue of radar. The PAR at RAF Wittering is only 25.5 kms away and there are serious concerns that aviation safety would be compromised by the proposed development. Local residents are rightly concerned and do not know what the mitigation measures would be that have alleviated the national security concerns of the MoD. The proposed development would have a significant adverse effect on the visual amenity of the area up to a distance of up to 1 km from the site. Harm would be caused to the settings of Crowland Abbey and Thorney Abbey. The additional four turbines would have a significant impact on residential amenity as a result of disturbance caused by turbine noise. There would also be a greater likelihood of collision between birds, particularly raptors, and turbine blades.

Mr D Godber

103. There are lots of turbines visible in the distance from viewpoints around French Drove and the proposed development would bring visually harmful development into an area which has yet to be blighted by turbines. The NPPF states that planning permission should be refused for poor design. This is a valued piece of open countryside where unacceptable visual effect should be avoided. Cumulatively, also, the development would harm the attractive fenland landscape and similar developments are proposed elsewhere in the area. CS policy CS20 requires new development to be sensitive but this development would undoubtedly not be sensitive. The overall balance is against the proposal.

Mrs Turner

104. The background noise measurement point, near to farm buildings at French Farm, was not representative of residential locations near to the application site. When the equipment was installed sounds that were audible included aircraft, farm equipment, road traffic, birdsong and wind in trees. These noises cannot be readily assigned to other residential properties in the area and doubt must therefore be cast on whether the condition that was formulated, using background noise measurements taken, would protect residents of the area against disturbance caused by wind turbine noise.

105. Wildlife surveys undertaken were inadequate to assess the possible adverse effects of the proposed development on the ecology of the area. Without understanding the baseline situation any conditions offering mitigation measures would be unlikely to protect the wildlife of the area. Local residents have serious concerns about the effect of heavy construction traffic on the condition of roads in the area; particularly Fall's Drove. This is a short cut between the A16 and the A47 and has deteriorated significantly in recent years due to its heavy use. This route is unsuitable for any construction traffic associated with the development.

Ms M Long

106. Planning permission was first granted for two turbines at French Farm in 1993 and a planning permission granted in 2010 allowed the turbines to be

increased in height from 50 metres to 100 metres. At a public exhibition for the current proposal a representative of the Applicant stated, having been asked why the turbines had not been built after so much time, that two turbines would not be financially viable.

107. Local roads would have to be modified to accommodate the large construction vehicles that would move to and from the site. The Highway Authority has been consulted on the weight limits of structures on the route but was not consulted on the suitability of the roads themselves. Furthermore, the Drainage Board have no knowledge of works that are proposed on Fall's Drove in the vicinity of Empsons Farm where there is a ditch on one side of the road and a sluice gate on the other. Consent to alter a water course is required even for a day and no consent has been applied for.

Mr S Lyons

108. The construction of the turbines would require piles to be driven into the ground and there are concerns for the structural stability of buildings on Dowsdale Bank and elsewhere in the vicinity of the site. There are many protected species, including bats, in the area and these have been given inadequate consideration. The proposed development would undermine the tranquillity of the area and would spoil the landscape.

Ms E Boswell

109. One of the stable blocks at Portsands Farm to the south-east of the site is crumbling into a ditch and the piling activities that are proposed would threaten the structural stability of this and other buildings. Horses are grazed on pasture that is open to the application site and, whilst they would get used to the turbines eventually, the adverse effect on their safety initially would be significant.

Mr D Harrington

110. The Heritage Officer of Peterborough City Council was concerned as was their Wildlife Officer. These concerns have not been properly addressed.

Mr D Sanders

111. There have been three major aircraft accidents in the vicinity in the past and the proposed development is on the flight path to RAF Wittering where Air Cadets are trained. Their safety and the safety of those on the ground would be jeopardised by the development.

Mr J Kitchen

112. 27 French Drove is an ex farmworkers cottage and has stunning views to the north across the fenland countryside. Buzzards, deer, hares and other wildlife are often seen in these views. The nearest proposed turbines would be only 800 metres away and three turbines would be prominent and intrusive in the views.

Mr A Convertino

113. The wildlife survey undertaken was inadequate by referring to only six species when there are many others in the area. The turbines would ruin the tranquil area and would undermine the amenities of residents of Dowsdale Bank.

Written Representations

The material points of the written representation by Peterborough Civic Society are, in summary:

114. The panoramic view looking east from the tower of Peterborough Cathedral is of the Fenland landscape within which are four of the five monastic sites of the area, Crowland, Thorney, Ely and Ramsey (the cathedral being the fifth). It is often remarked, however, by visitors to the cathedral, that the view is of a quasi-industrial landscape that blurs the character of the Fens. The additional turbines would add to this industrialisation of the landscape.

The material points of the cases made by others who submitted written representations and who are opposed to the development are, in summary:

115. The proposed development would have an adverse visual impact on the settings of Thorney Abbey and Crowland Abbey, would have an adverse effect on the character and appearance of Thorney Conservation Area, would render some properties in the vicinity unsuitable for occupation, and would have a significant adverse effect on the character and visual amenity of the landscape. The development would have an adverse impact on the PAR at RAF Wittering and would undermine air traffic safety.

116. The one background noise monitoring point was located close to a working farmyard and, for this reason, there can be no faith in any conditions that are imposed to protect local residents from the adverse effects of turbine noise. The area is known for its wildlife and there are real concerns that rare species and flora would be destroyed and biodiversity would be adversely affected. There are other applications for wind turbines in the pipeline and, together with the four proposed at French Farm, there are serious concerns for adverse cumulative impact.

Conditions

117. Recommended conditions are included in a Schedule attached to this report. The reason for each condition appears after the condition. They are in line with conditions agreed by the Council and the Applicant (ID15 and ID16) and were discussed at the Inquiry. Subsequent to the discussion PCC maintained their stance that the first bullet point of condition 6 is unnecessary. It has been retained, however, in the interests of certainty. Conditions 13 and 14 have been amended from their original wording, to accord with a request by TNLPG, to include a delivery and construction start time on Saturdays of 0800 hours.

Conclusions

Numbers in square brackets at the end of each paragraph refer to earlier paragraphs in this Report.

118. The Secretary of State wishes to be informed on three matters; the extent to which the proposed development impacts upon the setting of listed buildings and heritage assets, the extent to which the proposed development impacts upon Ministry of Defence operations including radars, in particular, the Precision Aviation Radar at RAF Wittering, and the extent to which the proposed development is consistent with Government planning policy and guidance for renewable energy developments. The main parties were also requested to submit evidence on the impact of the proposed development on residential amenity, with particular regard to outlook and noise, and on the character and visual amenity of the landscape.

119. Each of the five main matters will be considered individually and then considered together in an overall planning balance exercise where the extent to which the proposed development is consistent with the development plan for the area will also be considered. Beforehand, however, it is necessary to consider the baseline against which the proposed development will be assessed.

The baseline

120. The permitted development of two turbines at French Farm has been implemented and is therefore extant. The earliest date, without the agreement of the MoD, that the erection of the two turbines could have been commenced was 7 September 2014. Prior to this date the application that is the subject of this report was submitted to the Council; on 27 June 2013. It would have been illogical and financially disadvantageous for the Applicant to commence and complete the erection of the two permitted turbines if the pending application was to be successful. There is no reason to doubt the Applicant's statement that, if the application was to be unsuccessful, the two permitted turbines would be erected and brought into use. Only by doing so would the Applicant realise a financial return on the investment that has already been made which includes, on documentary evidence produced at the Inquiry, paying for a grid connection.

121. The proposed development will therefore be assessed on the basis that the two permitted turbines are in place at French Farm and that the proposed four turbines would be in addition to the two permitted turbines. This conclusion, it is worth noting, is the same as that reached by the Inspector who granted planning permission for the two turbines. In that case the baseline, or 'fallback' position, was the previous grant of planning permission for two smaller turbines on the same site as long ago as 1993. [38, 86-87]

Impact on the character and visual amenity of the landscape

122. French Farm is located within National Character Area 46 'The Fens' which is described as being a large, low lying, flat and intensively farmed landscape with a broad and open character, with wide open views across large rectilinear arable fields sub-divided by drainage ditches, intermittent hedgerows and linear shelter belts with pockets of woodland associated with farmsteads and settlements. The farm, at a local level, is within Landscape Character Area 4 'Peterborough Fen' and within sub-area 4a 'Bedford North Level'. The description of the character of this sub-area largely matches that of the national character area. There is no reason

to disagree with the conclusion in the ES that the national and local character areas, when assessed against guidance such as the Countryside Agency and Scottish Natural Heritage 'Landscape Character Assessment for England and Scotland', have a low sensitivity to wind energy development. [61, 91]

123. The Inspector in the previous appeal concluded that the proposal for two turbines would have a very limited impact on the character of the site and the wider landscape. The addition of four further turbines would have a greater impact on these considerations. The staggered line of six turbines, which has not been criticised on design grounds and which would appear to be a single wind farm development, would have a significantly greater effect on the character of the landscape up to a distance of about 1.5 kms from the site. In this regard, Mr Steele's assertion that the landscape would be adversely affected up to a distance of 4 kms is overstating their impact. This is a landscape of low sensitivity that can, given its flat openness, accommodate a development of six turbines with significant harm to the character of the landscape being limited to a relatively small area of up to 1.5 kms from the site. [63, 94]

124. In terms of scenario A there are permissions for single wind turbines, 46 metres high to top blade tip, at Hundreds Farm and Poultry Farm. These would be, if and when built, 3.8 and 4 kms away from French Farm respectively. These would be relatively small turbines and there would be no cumulative adverse effect on the character of the landscape together with either two or six turbines at French Farm. There are, in addition, two permitted wind farms within 6 kms of French Farm. The development at Wryde Croft, 4.9 kms away, is for six turbines of similar height to those proposed on the application site and the development at Nutsgrove Farm, 6 kms away, is for seven similar turbines. These developments, given the separation distances involved, would be unlikely, either singly or together, to have any cumulative adverse effect on the landscape with either two or six turbines at French Farm. [64, 94]

125. In terms of scenario B, there is a development proposed at Gores Farm, 7.1 kms from French Farm, which is for eight turbines 130 metres high to top blade tip. These would be added in the landscape in addition to those at Wryde Croft and Nutsgrove Farm. A development at such a distance, in a flat landscape, even one of eight large turbines, is too far away to have any cumulative adverse effect on the character of the landscape with those proposed at French Farm, Wryde Croft and Nutsgrove Farm. The Gores Farm development, even considered together with the two aforementioned permitted schemes, would not have any cumulative adverse effect on the character of the landscape when considered with either the two or six proposed wind turbines at French Farm. [65, 94]

126. The greatest effect on the visual amenity of the area would be experienced by walkers on the public footpath alongside Old South Eau from Dowsdale Bank to Fall's Drove. Walkers are regarded to be of high sensitivity to change to visual amenity. The nearest permitted turbine to the footpath, turbine IT2, will be about 825 metres from the footpath and the other, turbine IT1, will be about a further 300 metres away. While they will be prominent in views to the south-east from the footpath they will be set a significant distance away and will not thus be dominant or seriously intrusive.

127. Three of the four proposed turbines would be closer to the footpath. Turbine PT3 would be about 590 metres away, turbine PT2 would be about 465 metres away, and turbine PT1 would be only about 135 metres away. At 100 metres high to top blade tip the three turbines, particularly turbine PT1, would dominate the footpath and would be seriously intrusive. Though there would be no change in views to the north from the footpath, the view to the south would be significantly altered. The view would be dominated by the six turbine wind farm. [66, 95]

128. Drivers and passengers in vehicles on public roads are of less sensitivity to changes in the landscape; mainly because they pass through the landscape more quickly than do walkers on footpaths. Nevertheless, the view north from French Drove, and from further afield on Green Drove though to a lesser degree, would be dominated by the turbines; the closest to French Drove would be turbine PT4 which would be about 330 metres from French Drove. The view east from Fall's Drove would also be dominated by the proposed turbines; the closest would be turbine PT1 which would be about 390 metres from the road. Up to about 1.5 kms from the turbines they would also be prominent in the view south-west from Daniel's Drove and to the south from Sheppard's Drove.

129. For the reasons given in paragraphs 124 and 125 of this report, with regard to cumulative harm, the proposed development of four additional turbines at French Farm would not have any cumulative effect, in both scenario A and scenario B, on the visual amenity of the landscape. [68, 96]

130. The two permitted turbines will have a limited adverse effect on the character and visual amenity of the landscape up to a distance of about 1.5 kms from the application site. The four additional turbines would result in the wind farm development having a greater presence in the landscape and a greater adverse effect on its character and visual amenity. However, the adverse effect, whilst significant, would not be incurred or noticed from any further afield.

131. The proposed development would have a significant adverse effect on the character and visual amenity of the landscape but this adverse effect would be to a limited area up to about 1.5 kms from the site.

Impact on residential amenity

Noise

132. Background noise measurements, to inform an ES assessment of the effect of turbine noise on residential receptors, were taken at two properties, French Farm and Spinney Lodge, a house on Dowsdale Bank to the north-east of the site. The location of the measuring equipment at French Farm is set some distance from the farm buildings, and from French Drove, and there is no reason to suspect that the measurements taken were not representative of background noise conditions at other residential properties in the area. In this regard, farmyards are not necessarily noisy environments because most vehicular activity is on roads, for access to farmland, and on the farmland itself. [55, 81, 105]

133. No evidence, substantive or otherwise, has been submitted to cast any doubt on the assessment of the development in the ES or on the evidence submitted by the Applicant. The assessment, for operational noise, was appropriately carried out in accordance with guidance in ETSU-R-97 'The Assessment and Rating of Noise from Wind Farms' (ETSU-R-97), and, for

construction noise, with guidance in BS 5228. With the agreed conditions in place wind turbine noise would meet the upper amenity hours and night time noise criterion in ETSU-R-97 and, whilst construction noise might be audible at nearby dwellings at some times, noise level predictions would be below the 65 dB significance criteria in BS 5228.

134. With the imposition of a condition that includes daytime and night time noise level limits at noise sensitive properties the proposed development, in addition to the two permitted turbines, would not be likely to result in noise and disturbance that would adversely affect the amenities of local residents.

Outlook

135. The Inquiry site visit included visits to the three properties specifically referred to by TNLPG. Red Roofs is a new replacement dwelling nearing completion. There would be oblique views of three turbines, turbines PT1-3, from ground floor living room and first floor bedroom windows and from parts of the property outside the dwelling. The nearest turbine, PT1, would be 873 metres away and the other turbines would be slightly further away. The turbines, at 100 metres overall height and with turning blades, would be prominent in the outlook to the south-west from the property. However, views of the turbines from within the dwelling are oblique and limited, and the turbines would not be visible from parts of the garden area. The outlook from Red Roofs would not be so affected that the property would become an unattractive or unpleasant place to live. [97]

136. The nearest turbine to Blue Bell Farm would be more than 1 km away and the turbines would only be visible in the outlook from the property from a first floor bedroom window and from the paddock that adjoins the garden around the dwelling. The turbines would not otherwise be visible from within the dwelling or, given the presence of a dense coniferous hedge between the garden and the paddock, from the garden itself. The paddock is an amenity area associated with the residential property but is likely to be used only occasionally. The outlook from Blue Bell Farm would not be so affected that the property would become an unattractive or unpleasant place to live. [99]

137. The outlook to the north from 27 French Drove is valued by the current residents of the dwelling. The outlook, from the small rear garden, from the conservatory and from in front of the main entrance door into the dwelling, is over the flat open landscape. Turbines PT1-3 would be introduced into the outlook directly north of the dwelling (turbines IT1, IT2 and PT4 would be screened in the outlook, other than from the end of the garden area, by boundary vegetation). The nearest turbine would be PT3 at about 835 metres, turbine PT2 would be at about 855 metres and about 290 metres to the west of turbine PT1, and turbine PT1 would be at about 1140 metres and to the west of turbine PT2.

138. There is no doubt that the turbines, at 100 metres overall height and given their turning blades, would be intrusive in the outlook north from 27 French Drove. They would be prominent in the outlook from the pathway leading to the entrance door, from in front of the door itself, from the private garden area, and from the conservatory, which is likely to be a well-used room in the dwelling. The outlook northwards, furthermore, is focussed by coniferous vegetation along the east boundary of the garden and by vegetation within the garden area to the

neighbouring residential property to the west. In this regard, there is, from the rear elements of the property, nowhere else to look.

139. The three turbines that would appear in the outlook north from the dwelling would be prominent and intrusive but the nearest would be more than 800 metres away and the furthest more than 1 km away. This is a finely balanced judgement but, taking all considerations into account, 27 French Drove would not become an unattractive or unpleasant place to live. [98, 113]

140. The circumstances relating to 27 French Drove are likely to be representative of those relating to the adjoining dwelling, 26 French Drove. But this property was not visited during the Inquiry site visit so it has not been possible to verify whether they are truly representative. From the adjoining garden area it was noted that within the garden area at no.26, including along the rear boundary, there is well established vegetation and it is possible that this will screen, to some degree, the turbines in the outlook to the north of the property. In the absence of evidence to conclude otherwise 26 French Drove would not become an unattractive or unpleasant place to live.

141. Portsands Farm, to the east of French Farm, was visited during the Inquiry site visit. The outlook towards the application site from here, and from within a bungalow and two static caravans at the property, is screened by buildings and coniferous vegetation and the nearest turbine, PT4, would be more than 1 km away. The effect of the proposed development on the outlook from Portsands Farm would, as stated in the ES, be negligible, and the property would not become an unattractive or unpleasant place to live.

142. No dwellings, other than Portsands Farm and the three referred to by TNLPG, were visited during the Inquiry site visit. It was not possible, therefore, to gain first-hand information about the potential effect of the proposed development on the visual amenities of other residents in the area. The site visit did include a walk along Dowsdale Bank, which has residential properties on its north-east side and Dowsdale Plantation on its south-west side. There are about ten dwellings other than Red Roofs alongside Dowsdale Bank but the permitted and proposed turbines would be screened in the outlook from all of these properties by the plantation and, for some of the dwellings that are set down from the level of the road, by intervening topography. Neither properties on Dowsdale Bank nor any other properties in the vicinity of the site, on the evidence available, would become unattractive or unpleasant places to live.

143. The proposed development would have a significant adverse effect on the visual amenities of some residents of the area, particularly those of 27 French Drove. But no dwelling in the area around the application site would become an unattractive or unpleasant place to live. [57]

Impact on the settings of listed buildings and heritage assets

144. Crowland is about 4 kms to the west of the application site. Given various topographical and screening factors there is no intervisibility between the appeal site and the environs of the Abbey in Crowland. It is possible that the top elements of the Abbey and the turbines would be visible, though some considerable distance apart, from the same vantage point. This point is on a section of the B1040 between Thorney and Crowland where it approaches the

junction with French Drove. From here the top part of the Abbey may be glimpsed about 3 kms to the north-west and the two turbines at French Farm will be glimpsed about the same distance away to the east. But neither from this section of road nor from any other vantage point, including that referred to in Dr Collcutt's evidence, would the turbines and the Abbey be seen in the same view. The addition of four turbines would not exacerbate any perceived harm there might be to the setting of Crowland Abbey and the associated SAM and the proposed development would not thus cause harm to the setting or significance of these heritage assets. [75]

145. Thorney is about 4 kms to the south of the application site. There is a mature tree belt along English Drove, and other vegetation associated with Thorney Golf and Leisure Centre, between Thorney and the site so there is no intervisibility between the appeal site and the environs of the Abbey and the Church of St Mary and St Botolph in Thorney. Approaching Thorney along the B1104 and the B1167 the two turbines will be in the background and approaching the site in the opposite direction Thorney is in the background. It is unlikely that the top parts of the Abbey and the Church in Thorney will be visible in the same view as the two turbines. The addition of four turbines would not exacerbate any perceived harm their might be to the setting of Thorney Abbey and the Church of St Mary and St Botolph and the proposed development would not thus cause harm to the setting or significance of these heritage assets.

146. Neither the two turbines nor the additional four turbines, if planning permission is granted for the application, would be visible from within the Conservation Areas in Crowland and Thorney. No harm would be caused to the character, appearance or significance of these heritage assets. The Inquiry site visit did not include a visit to the tower of Peterborough Cathedral so it is not possible to reach a conclusion on the effect of the proposed development, individually or cumulatively, on the panoramic view across the Fen landscape. However, the site is about 12 kms from the Cathedral and the addition of four turbines to the permitted two turbines at French Farm would be unlikely to cause any harm to the setting or significance of Peterborough Cathedral. [77, 115]

147. The proposed development of four additional turbines at French Farm would not have any effect on the significance of any heritage asset.

Impact on MoD radar operations

148. Local residents, and the local MP, are anxious and fearful that the adverse effect of the proposed development, if it was to be completed, on the operation of radar at nearby military airfields would compromise the safety of air traffic. Case law has established that fear and anxiety are material considerations. One of the leading judgements on this subject was in the case of *Gateshead MBC v SoS for the Environment* in which Lord Justice Glidewell concluded that "...if in the end...public concern was not justified, it could not be conclusive. If it were, no industrial development – indeed very little development of any kind – would ever be permitted". It would, indeed, be perverse if any public concern, however unjustified, could prevent development. It is necessary, therefore, to consider whether the fears of local residents and the MP are justified or not.

149. There is no evidence to support the fear and anxiety felt in the area. In this regard it is not known whether any of the 'three major aircraft accidents' referred

to by Mr Sanders were the result of any failure in radar operations and all other comments made on this matter are general in nature. It is, furthermore, inconceivable that the MoD would withdraw their objection to the proposed development, which they had originally maintained by requesting Rule 6(6) status, if they retained any view that the adverse effect of the development on radar operations could not be overcome by mitigation measures that could be ensured by imposition of planning conditions. Such conditions have been put forward by the MoD, have been accepted by the Applicant, and are recommended in this report for imposition on a planning permission for the proposed development.

150. The fears of local residents and the MP are not justified. The proposed development, with the imposition of planning conditions, would not have any adverse impact upon MoD radar operations, in particular the Precision Aviation Radar at RAF Wittering. [53-54, 103, 112]

Policy and guidance for renewable energy developments

151. The NPPF is current national planning policy and supports renewable energy proposals. The transition to a low carbon future is one of its core planning principles and paragraph 93 states that planning plays a key role in supporting the delivery of renewable energy. Paragraph 97 states that local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable and low carbon sources. The Council has accepted that responsibility by embracing national policy and by adopting local policy (CS policies CS10 and CS11) that is permissive of renewable energy developments. National Policy Statement EN-1 gives relevant advice and is referred to in a footnote to paragraph 97 of the NPPF. Paragraph 3.1.4 of EN-1 invites decision makers to apply the wider benefits of renewable energy development. [30-35, 52]

152. Environmental benefits in favour of the development, to offset the effects of climate change, include the supply of up to 8MW of renewable energy. The proposed development is fully consistent with Government planning policy and guidance for renewable energy developments.

Other matters

153. There is no evidence, substantive or otherwise, to indicate that the proposed development of four turbines, in addition to the two permitted turbines, would result in any adverse consequences for the ecology and biodiversity of the area. The turbines would appear gradually in the landscape and horses turned out on pasture at Portsands Farm would become used to their presence and to their turning blades. Piling activities associated with the introduction of foundations for the turbines are unlikely to cause structural harm to any buildings in the area. [81, 103, 106, 109, 110, 111, 113, 114]

154. Recommended conditions 11 and 12 would require a Traffic Management Plan and a scheme detailing works required to public highways to be submitted to and agreed in writing by the local planning authority. The Traffic Management Plan would include details of the route to be used by construction vehicles to access the site. The scheme of works to highways in the area would include, amongst other things, details of pre and post-construction condition surveys of all relevant roads, track plots showing how all vehicles shall manoeuvre within the public highway, and details of any strengthening required to existing

embankments. All works to public highways would require the prior approval of the Highways Authority and any works to drain embankments would require the prior approval of the Drainage Board. [81, 108]

155. The construction and de-commissioning periods would be temporary and traffic associated with the proposed development would only be likely to cause occasional delays to the free flow of other traffic in the area. Furthermore, with the aforementioned conditions imposed on a planning permission for the four additional turbines, roads and drain embankments on the approved route to the site would be protected against any permanent damage. [81, 108]

156. All letters of representation sent to the Council and to The Planning Inspectorate in relation to the application, both in support and opposition to the proposed development, have been taken into account. They do not, however, either individually or collectively, contribute anything further to matters that must be considered in the overall planning balance.

The overall planning balance and consistency with the development plan

157. At the heart of the balancing exercise is Section 38(6) of the Planning and Compulsory Purchase Act 2004; which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, determination must be made in accordance with the plan unless material considerations indicate otherwise. A material consideration is the provisions of the NPPF but development plan policies are recently adopted and are consistent with the provisions of the NPPF, so are afforded full weight.

158. The proposed development of four additional turbines at French Farm would not have any effect on the significance of any heritage asset and does not thus conflict with PP policy PP1 or CS policy CS17. Paragraph 134 of the NPPF is not therefore engaged in this case. Though the development would be intrusive in the outlook from a few residential properties in the vicinity of the site no dwelling would become an unattractive or unpleasant place to live. Consequently, it may be concluded that the development would not have an unacceptable overbearing impact on any nearby property and thus does not conflict with PP policy PP3. The proposed renewable energy development clearly accords with the aspirations of, and therefore does not conflict with, CS policy CS10.

159. The proposed development would have a significant adverse effect on the character and visual amenity of the landscape but this adverse effect would be to a limited area. There is, however, some conflict with CS policy CS20 and the adverse effect on the landscape is an unacceptable impact that must be taken into account in consideration of compliance with CS policy CS11, which includes the requirement to consider the overall planning balance.

160. The landscape within which the turbines would be sited has been altered by man, for farming and other purposes, over the last several millennia. These farming and other activities, such as an increasing reliance on private transport in the last hundred years, have contributed to changes in the global climate that are having a detrimental effect on, amongst other things, the landscape. The landscape around Peterborough is not immune to the effects of climate change. Flooding is a serious issue and will have affected the area, and the lives of those who live within the area, as it has to devastating effect elsewhere in the country.

This one effect of climate change causes erosion of the landscape and alters how the landscape can be farmed and used. It also causes hardship for those who suffer the direct consequences; flooding of their homes and businesses.

161. Environmental benefits in favour of the development, to offset the effects of climate change, include the supply of up to 8MW of renewable energy. This would be a significant contribution towards achieving the national target of meeting 15% of the United Kingdom's energy demand from renewable resources by 2020.

162. The balancing exercise that must be conducted requires planning judgement to be exercised. In my judgement, the limited harm that would be caused by the proposed development to the character and visual amenity of the landscape is significantly and demonstrably outweighed by the environmental benefits of the wind energy scheme. The development thus complies with CS policy CS11 and is therefore compliant with the development plan as a whole. Paragraph 14 of the NPPF states that development proposals that accord with the development plan should be approved without delay.

Recommendation

163. I recommend that planning permission be granted for 'four wind turbine generators with a maximum height to blade tip of 100 metres above existing ground level, vehicle access tracks, hardstanding, construction compound and ancillary development' on land at French Farm, French Drove, Thorney, Peterborough, subject to conditions set out in a schedule appended to this report.

John Braithwaite

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Mitchell	Of Counsel instructed by Ms H Vincent, Planning and Highways Lawyer at Peterborough City Council
He called	
Ms L Lovegrove BSc PGDip	Senior Development Management Officer at Peterborough City Council

FOR THE APPELLANT:

Mr M Trinick	Queens Counsel instructed by Ms S Grange of Shoosmiths Solicitors
He called	
Mr P Singleton BSc MA MRTPI	Director of Turley Planning Consultancy
Mr M van Grieken FLI BNT	Principal of MVGLA Ltd

FOR THORNEY NORTH LANDSCAPE PROTECTION GROUP (TNLPG):

Mr I Kelly MRTPI	Head of Planning at Graham and Sibbald
He gave evidence and called	
Mr M Steele BA DipLD CMLI	Principal of Mark Steele Consultants Ltd

INTERESTED PERSONS:

Mr S Jackson	Member of Parliament
Mr D Godber	Local resident
Mrs Turner	Local resident
Ms F Fox	Ward Councillor for Paston Ward
Ms M Long	Local resident
Mr S Lyons	Local resident
Ms E Boswell	Local resident
Mr D Harrington	Ward Councillor for Newborough Ward
Mr D Sanders	Ward Councillor for Eye and Thorney Ward
Mr J Bartlett	Chairman of Thorney Parish Council
Mr J Kitchen	Local resident
Mr A Convertino	Local resident

INQUIRY DOCUMENTS LIST

- 1 List of appearances on behalf of the Applicant.
- 2 Council's letter of notification of the Inquiry and list of those notified.
- 3 Draft site inspection itinerary.
- 4 Opening statement on behalf of TNLPG.
- 5 Opening statement by the Council.
- 6 List of appearances on behalf of the Council.
- 7 Opening statement on behalf of the Applicant.
- 8 SoS for DCLG Decision in APP/E2001/A/13/2190363.
- 9 Appendix A – MSC LVIA Methodology.
- 10 Landscape Character Assessment for Peterborough City Council.
- 11 Letter from Dr S Collcutt to Mr O Seward dated 27 February 2015.
- 12 Representation by Peterborough Civic Council.
- 13 Micrositing Plan.
- 14 Offer for Electricity Connection Works by Western Power Distribution.
- 15 Draft non-noise conditions.
- 16 Draft noise condition and guidance notes.
- 17 Representation by Mr D Godber.
- 18 Representation by Mrs Turner.
- 19 Representation by Mrs M Long.
- 20 Closing submissions on behalf of TNLPG.
- 21 Closing statement by Peterborough City Council.
- 22 Addendum to closing statement by Peterborough City Council.
- 23 Closing submissions on behalf of the Applicant.

SCHEDULE 1 – RECOMMENDED CONDITIONS

1. The development hereby permitted shall be commenced before the expiration of five years from the date of this permission. Written confirmation of the commencement of development shall be submitted to the Local Planning Authority no later than 14 days after the event.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.

2. The planning permission shall be for a period not exceeding 25 years from the date when electricity is first exported to the electricity grid network from any of the wind turbines within the development hereby permitted ("First Export Date"). Written confirmation of the First Export Date shall be submitted to the Local Planning Authority no later than 28 days after the event.

Reason: In recognition of the expected lifespan of the wind farm and in the interests of safety and amenity once the plant is redundant.

3. Not later than 12 months before the expiry of the 25 year period referred to in condition 2, a decommissioning and site restoration scheme shall be submitted to the Local Planning Authority for approval in writing. The scheme shall include:

- a) provision for the removal of the wind turbines and associated above ground equipment, and foundations to a depth of 0.5 metres below ground level;
- b) proposals for the management and timing of any works;
- c) a traffic management plan;
- d) a site environmental management plan to include details of measures to be taken to protect wildlife and habitats; and
- e) details of all restoration measures.

The approved scheme shall be fully implemented within 12 months of the expiry of the 25 year period referred to in condition 2 or the approval of the scheme by the Local Planning, whichever is the later.

Reason: For the avoidance of doubt and to establish the duration of the planning permission.

4. If any wind turbine hereby permitted ceases to operate for a continuous period of 12 months, a scheme shall be submitted to the Local Planning Authority for written approval within 3 months of the end of that 12 month period for the repair or removal of that turbine. The scheme shall include either a programme of remedial works where repairs to the relevant turbine are required, or a programme for the removal of the relevant turbine. The programme for the removal of the relevant turbine shall include:

- a) provision for the removal of the relevant turbine and associated above ground equipment, and foundations to a depth of 0.5 metres below ground level;
- b) proposals for the management and timing of any works;
- c) a traffic management plan;

- d) a site environmental management plan to include details of measures to be taken to protect wildlife and habitats; and
- e) details of all restoration measures.

The scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: In the interests of visual amenity and to ensure that the turbines produce electricity whilst in situ and that they are removed from the land if they cease to function.

5. Subject to conditions 6, 7 and 8, the development hereby permitted shall take place in accordance with the terms of the submitted application and drawings (unless any additional drawings are submitted to and approved in writing by the Local Planning Authority in accordance with a condition attached to this planning permission) as set out below:

- 130524_SiteLayout_D_1_xyz_1.00
- 130524_SiteLayout_D_2_xyz_1.00
- 130524_SiteLayout_D_3_xyz_1.00
- 130524_SiteLayout_D_4_xyz_1.00
- 130524_SiteLayout_D_5_xyz_1.00
- 130524_1103_SiteLayout_O_xyz_1.00
- 130524_1103_ContextPlan_xyz_1.00
- 130524_1103_LocationPlan_xyz_1.00
- 130524_1103_BlockPlan_xyz_1.00

Reason: For the avoidance of doubt and to ensure that the development hereby permitted is carried out in accordance with the approved details.

6. The wind turbines hereby permitted shall be erected at the following co-ordinates:

Turbine ID	Easting	Northing
T1	527780	309390
T2	527939	309143
T3	528228	309134
T4	528901	308721

Notwithstanding the terms of this condition, but subject to the restrictions set out below, the turbines hereby permitted may be micro-sited within 40 metres of the co-ordinates set out in this condition and the access tracks, hardstanding and temporary construction compound forming part of the development may be micro-sited within 5 metres of the positions shown on Drawing No. 130524_1103_SiteLayout_O_xyz_1.00.

The following restrictions apply in relation to this condition:

- T1 shall only be micro-sited within and to the extent permitted by the red line shown on Drawing No. 130524_1103_BlockPlan_xyz_1.00;
- T4 shall not be micro-sited in any direction; and
- The turbines hereby permitted shall not be micro-sited in any direction so that the separation distance between each turbine blade tip and the nearest feature of ecological interest (which shall mean any tree, hedgerow or open land drain) within the site to the relevant turbine is less than 50 metres as measured in accordance with Natural England's Technical Information Note TIN051: Bats and onshore wind turbines Interim guidance (Third edition 11 March 2014).

A drawing showing the position of the turbines and tracks as constructed on the site shall be submitted to the Local Planning Authority within 28 days of the First Export Date.

Reason: To enable necessary minor adjustments to the position of the turbines and access tracks to allow for site-specific conditions.

7. No wind turbine shall be erected on site until details of the finish and colour of the turbines and any external transformer units have been submitted to and approved in writing by the Local Planning Authority. No name, sign, symbol or logo shall be displayed on any external surfaces of the turbines or any external transformer units other than those required to meet statutory health and safety requirements. The development shall thereafter be carried out and operated in accordance with the approved details.

Reason: For the avoidance of doubt and in the interests of visual amenity.

8. The wind turbines shall have 3 blades which rotate in the same direction. The overall height of the turbines shall not exceed 100m to the tip of the blades when the turbine is in the vertical position, as measured from original natural ground conditions immediately adjacent to the wind turbine base.

Reason: For the avoidance of doubt and in the interests of visual amenity.

9. All cabling between the wind turbines and between the turbines and the control building shall be laid underground.

Reason: In the interests of visual amenity.

10. There shall be no permanent illumination on the site other than lighting required during the construction period (as approved through the CMS referred to in condition 11(g)), lighting required during planned or unplanned maintenance or emergency lighting and a movement sensor-operated external door light for the control building.

Reason: In order to prevent unnecessary light pollution and in the interests of visual amenity.

11. No development shall commence on site until a Construction Method Statement ("CMS") has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the construction of the development shall be carried out in accordance with the approved CMS. The CMS shall address the following matters:

- a) A Traffic Management Plan (including, but not limited to, details of the route to be used by construction vehicles to access the site);
- b) Details of the phasing of all construction works;
- c) Details of the construction and surface treatment of all hard surfaces and tracks;
- d) Details of the proposed storage of materials and soils and disposal of surplus materials;
- e) Dust management;
- f) Siting and details of wheel washing facilities;
- g) Details of the proposed temporary site compound for storage of materials and machinery, including areas designated for car parking;
- h) Temporary site illumination during the construction period;
- i) 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;
- j) Pollution control, including the protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;
- k) Proposals for post-construction restoration/reinstatement of the temporary working areas;
- l) Details of emergency procedures and pollution response plans;
- m) A site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats;
- n) Disposal of surplus materials;
- o) Details of the methods to be adopted to reduce the effects of noise occurring during the construction period in accordance with BS5228; and
- p) The construction of the access into the site and the creation and retention of associated visibility splays.

Reason: To ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process.

12. No development shall commence on site until a scheme has been submitted to and approved in writing by the Local Planning Authority detailing works required within the public highway to enable the construction of the development. The scheme shall include:

- a) Details of pre and post-construction condition surveys of all relevant roads;
- b) Detailed geometric and construction plans for all works to relevant roads;
- c) Track plots showing how all vehicles shall manoeuvre within the public highway;

- d) Provision of any new kerbs, edging, drainage, signs and lining required;
- e) Details of any strengthening required to existing embankments; and
- f) Details of the removal and reinstatement of any highway structures and signs.

The scheme shall be implemented as approved.

Reason: In order to prevent any undue impact upon the integrity and safety of the public highway.

13. Construction work shall only take place on the site between the hours of 0730 – 1900 hours Monday to Friday (inclusive) and 0800 – 1400 hours on Saturdays with no such work on a Sunday or Public Holiday. Works outside these hours shall only be carried out (a) with the prior written approval of the Local Planning Authority; or (b) in the case of an emergency, including turbine erection and works delayed due to the weather, provided that the Local Planning Authority is notified by telephone and in writing as soon as reasonably practicable (and in any event within 2 working days) following the emergency first being identified. Such notification shall include both details of the emergency and any works carried out and/or proposed to be carried out; or (c) where they concern dust suppression or the pouring of wind turbine foundations.

Reason: In the interests of amenity to restrict noise impact and the protection of the local environment.

14. The delivery of any construction materials and/or equipment for the construction of the development, other than deliveries of (i) concrete for the wind turbine foundations and (ii) the turbine blades, nacelles and towers (referred to in this condition together as "abnormal load deliveries"), shall be restricted to the hours of 0730 to 1900 on Monday to Friday (inclusive) and 0800 to 1400 on Saturdays, with no such deliveries on a Sunday or Public Holiday. Abnormal load deliveries may take place outside of these hours, subject to not less than 2 working days prior notice of any such deliveries and the associated traffic movements being given in writing to the Local Planning Authority.

Reason: In the interests of highway safety and the free flow of traffic.

15. No vegetation removal or ground clearance shall take place between 1 March and 30 September unless a suitably qualified and independent ecologist has first confirmed in writing to the Local Planning Authority that appropriate measures are in place to ensure that no species protected under Schedule 1 of the Wildlife and Countryside Act 1981 as amended will be harmed.

Reason: In order to make appropriate provision for natural habitat within the approved development and to ensure that all species are protected having regard to the Wildlife and Countryside Act 1981 as amended and The Conservation of Habitats and Species Regulations 2010.

16. No development shall commence on site until a Biodiversity Management Plan ("BMP") has been submitted to and approved in writing by the Local Planning Authority. The BMP shall be implemented as approved and shall remain in place throughout the lifetime of the development.

Reason: In order to make appropriate provision for natural habitat within the approved development and to ensure that all species are protected having regard to the Wildlife and

Countryside Act 1981 as amended and The Conservation of Habitats and Species Regulations 2010.

17. No development shall commence on site until a scheme for post-construction bird monitoring (including the frequency of such monitoring and the period of time during which it will take place) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

Reason: In order to protect and preserve bird species within and surrounding the site.

18. No development shall commence on site until a scheme for surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a) Details of the proposed drainage systems for the development, including detailed specifications for any drainage elements;
- b) Written confirmation from the North Level District Drainage Board of their agreement should a positive discharge point be required for the site; and
- c) Details of ownership and maintenance for the lifetime of the development.

The scheme shall be implemented as approved prior to the completion of the construction of the development.

Reason: To reduce the risk of flooding.

19. No development shall commence on site until a programme of archaeological work has been implemented in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to protect any features of archaeological importance.

20. No generation of electricity to the grid shall take place until a scheme for the avoidance of shadow flicker at any residential dwelling (defined as a building within use Classes C3 and/or C4 of the Town and Country Planning (Use Classes) Order (as amended)) which is lawfully existing or has planning permission at the date of this permission has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

Reason: In the interests of residential amenity.

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

Reason: In the interests of residential amenity.

22. No development shall commence on site until a Radar Mitigation Scheme has been submitted to and approved in writing by the Local Planning Authority to address the impact of the development upon air safety. In this condition 'Radar Mitigation Scheme' means a scheme designed to mitigate the impact of the development upon the operation of the Primary Surveillance Radars at RAF Wittering, RAF Coningsby and RAF Waddington ("the Radars") and the air traffic control operations of the Ministry of Defence which are reliant upon the Radars. The Radar Mitigation Scheme shall set out the appropriate measures to be implemented to mitigate the impact of the development on the Radars. No turbines shall become operational until all measures required by the approved Radar Mitigation Scheme have been implemented and the Local Planning Authority has confirmed this in writing. The development shall thereafter be operated fully in accordance with the approved Radar Mitigation Scheme.

Reason: In the interests of aviation safeguarding.

23. No development shall commence on site until a scheme of infra-red aviation obstruction lighting to be installed on all of the wind turbines has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and the lighting shall remain operational until the site is decommissioned in accordance with condition 3.

Reason: In the interests of aviation safety.

24. No development shall commence until a Radar Mitigation Scheme in relation to the Precision Approach Radar has been submitted to and approved in writing by the Local Planning Authority to address the impact of the development upon air safety. In this condition 'Radar Mitigation Scheme' means a scheme designed to mitigate the impact of the development upon the operation of the Precision Approach Radar at RAF Wittering ("the PAR") and the air traffic control operations of the Ministry of Defence which are reliant upon the PAR. The approved Radar Mitigation Scheme shall set out the appropriate measures to mitigate the impact of the development on the PAR and the steps required to implement the Scheme. No turbines shall become operational until the measures and steps required by the approved Radar Mitigation Scheme have been implemented and the Local Planning Authority has confirmed this in writing. The development shall thereafter be operated fully in accordance with the approved Radar Mitigation Scheme.

Reason: In the interests of aviation safety.

25. In the event that the assessment submitted to the Local Planning Authority by the wind farm operator pursuant to condition 26(f) reveals a breach of the operational noise limits set out in Table 1 and Table 2 of condition 26, the wind farm operator shall, within 1 month of the date of submission of the aforementioned assessment, submit a scheme containing a proposal for the remediation of the aforementioned breach for the Local Planning Authority's written approval. The proposal will be implemented by the wind farm operator in accordance with the timescales contained within the approved scheme, which shall also contain a requirement for the wind farm operator to report to the Local Planning Authority on the effectiveness of the remediation undertaken.

Reason: In the interests of residential amenity.

26. The rating level of noise immissions from the combined effects of both the wind turbines hereby permitted and the wind turbines consented by planning

permission ref. 08/01365/FUL (APP/J0540/A/09/2116682) (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to this condition at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

- a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data 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 the attached Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.
- b) No electricity shall be exported until the wind farm operator has submitted 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.
- c) Within 21 days from receipt of a written request from the Local Planning Authority following a complaint made by an owner/occupier of any residential dwelling (defined as a building within Use Class C3 of C4 of the Town and Country Planning (Use Classes) Order (as amended)) which lawfully exists or had planning permission at the date of this permission, the wind farm operator shall, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property and in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out the date, time and location that the complaint relates to and any identified atmospheric conditions (including wind direction) and include a statement as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.
- d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that has been submitted to and approved in writing by the Local Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the attached Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where a dwelling to which a complaint is related is not listed in the tables attached to this condition, 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 shall be those limits selected from Table 1 and 2, having regard to Table 3, and 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 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.

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 attached Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit has been 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 attached Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with the attached 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 the attached Guidance Note 4(c), 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 has been extended in writing by the Local Planning Authority.

Table 1 – Daytime (07:00 – 23:00) Noise limits expressed in dB L_{A90/10 minute} as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods

Table 1: Daytime Noise Limit: dB L_{A90}										
Location	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
French Farm	45.0	45.0	45.0	45.0	45.0	45.0	48.1	51.8	53.7	53.7
Spinney Lodge	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H1	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H2	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H3	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H4	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0

Location	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
H5	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H6	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H7	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H8	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H9	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H10	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H11	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H12	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H13	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H14	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H15	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H16	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H17	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H18	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H19	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H20	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H21	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H22	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H23	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H24	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H25	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H26 (Non-Involved)	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H26 (Involved)	45.0	45.0	45.0	45.0	45.0	45.0	48.8	51.8	53.7	53.7
H27	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H28	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H29	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H30	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H31	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H32	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H33	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H34	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H35	37.5	37.5	37.5	37.5	39.7	43.8	48.1	51.8	53.7	53.7
H36	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H37	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H38	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H39	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H40	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H41	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H42	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0
H43	37.5	37.5	37.5	37.5	37.5	40.3	43.8	46.6	48.0	48.0

Table 2 – Night-time (23:00 – 07:00) Noise limits expressed in dB L_{A90/10 minute} as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods

Location	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
French Farm	45.0	45.0	45.0	45.0	45.0	45.0	46.5	50.7	54.3	56.8
Spinney Lodge	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H1	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H2	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H3	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H4	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H5	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H6	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H7	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H8	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H9	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H10	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H11	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H12	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H13	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H14	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H15	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H16	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H17	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H18	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H19	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H20	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H21	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H22	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H23	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H24	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H25	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H26 (Non-Involved)	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H26 (Involved)	45.0	45.0	45.0	45.0	45.0	45.0	46.5	50.7	54.3	56.8
H27	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H28	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H29	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H30	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H31	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H32	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H33	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H34	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H35	43.0	43.0	43.0	43.0	43.0	43.0	46.5	50.7	54.3	56.8
H36	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H37	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H38	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H39	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H40	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H41	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H42	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1
H43	43.0	43.0	43.0	43.0	43.0	43.0	44.5	49.0	52.8	55.1

Table 3: Coordinate locations of the properties listed in Table 1 and 2

Receptor Location	Easting	Northing	Receptor Location	Easting	Northing
French Farm	528589	308454	H22	529861	308467
Spinney Lodge	528647	309787	H23	529697	308347
H1	528624	309795	H24	529599	308282
H2	528610	309808	H25	529574	308411
H3	528599	309822	H26	528640	308389
H4	528589	309865	H27	528445	308356
H5	528542	309892	H28	528424	308354
H6	528517	309912	H29	528148	308316
H7	528472	309954	H30	527933	308314
H8	528429	309972	H31	527604	308184
H9	528566	309947	H32	527635	307985
H10	528708	310349	H33	528504	307623
H11	528764	310380	H34	527267	308129
H12	528857	310531	H35	527172	307905
H13	528899	310607	H36	527212	309006
H14	528935	310732	H37	527103	308891
H15	529011	310766	H38	526682	309421
H16	528879	310167	H39	527115	309845
H17	529103	310098	H40	526862	310241
H18	529420	310003	H41	527520	310472
H19	529743	309880	H42	527533	310568
H20	530438	308693	H43	527572	310588
H21	529801	308551			

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Guidance Notes for Condition 26

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind 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 Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

(a) If required, values of the $L_{A90,10 \text{ minute}}$ noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall 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 and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

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

(f) A data logging rain gauge shall be installed at the noise measurement location in the course of the assessment of the levels 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).

Guidance Note 2

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

b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1.

c) For those data points considered valid in accordance with Guidance Note 2(b), values of the $L_{A90,10 \text{ minute}}$ noise measurements and corresponding values of the 10- minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (d) 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 is to be calculated and applied using the following rating procedure.

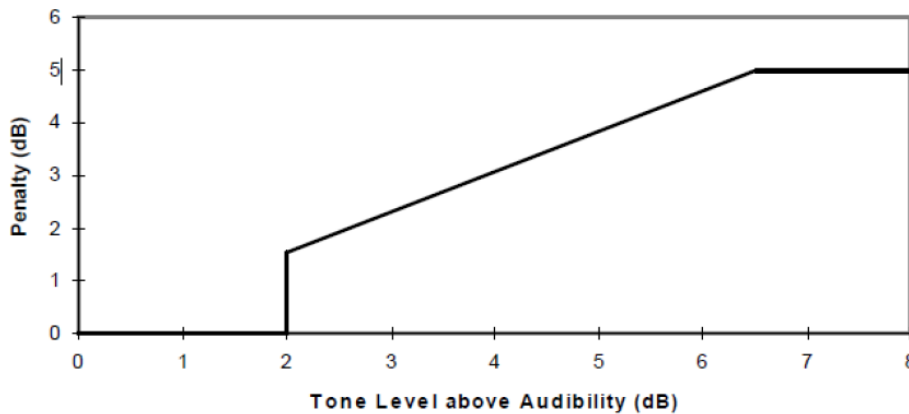
(b) For each 10 minute interval for which $L_{A90,10 \text{ minute}}$ data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals

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, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

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

(d) The average tone level above audibility shall be calculated for each wind speed bin, each bin being 1 metre per second wide and centred on integer wind speeds. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(e) The tonal penalty at each integer wind speed is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

(a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (d) 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 Guidance Note 2.

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

(d) The wind farm operator shall ensure that all the wind turbines hereby permitted and the wind turbines consented by planning permission ref. 08/01365/FUL (APP/J0540/A/09/2116682) 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:

(e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

(f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

(g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 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 (e) 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 (e) of the noise condition then the development fails to comply with the conditions.

CORE DOCUMENTS LIST

- 1.1 Peterborough Core Strategy Development Plan Document (2011)
- 1.2 Peterborough Planning Policies Development Plan Document (2012)
- 2.1 National Planning Policy Framework
- 2.2 Overarching National Policy Statement for Energy EN-1 (July 2011)
- 2.3 National Policy Statement for Renewable Energy Infrastructure EN-3 (July 2011)
- 2.4 Written Ministerial Statements relating to Local Planning and Onshore Wind issued by the Department of Energy and Climate Change and the Department for Communities and Local Government on 6 June 2013
- 2.5 DECC Press Release of 6 June 2013
- 3.1 Placing Renewables in the East of England (2008)
- 3.2 DCLG: Renewable Energy Capacity in Regional Spatial Strategies (July 2009)
- 3.3 Aecom on behalf of DECC: East of England Renewable and Low Carbon Energy Capacity Study (April 2011)
- 3.4 The Regional Strategy for the East of England (Revocation) Order 2012
- 4.1 DTI Energy White Paper "Meeting the Energy Challenge" (2007) (Extracts: Section 5.3 and Chapter 8)
- 4.2 HM Government: The UK Renewable Energy Strategy (2009)
- 4.3 DECC: UK Renewable Energy Roadmap (July 2011)
- 4.4 DECC: UK Renewable Energy Roadmap Update (December 2012)
- 4.5 DECC: UK Renewable Energy Roadmap Update (November 2013)
- 4.6 DECC: Annual Energy Statement (2014)
- 4.7 Government Response to the Fifth Annual Progress Report of the Committee on Climate Change (October 2013)
- 4.8 DECC: Special Feature – Renewable Energy in 2011 (June 2012)
- 4.9 DECC: Special Feature – Sub-national renewable electricity; Renewable electricity in Scotland, Wales, Northern Ireland and the regions of England in 2011 (September 2012)
- 4.10 DECC: Energy Trends (September 2014)
- 4.11 DECC: Digest of UK Energy Statistics (DUKES) (July 2014) (Extracts: Introduction, Chapters 1 & 6 and Annexes)
- 4.12 DECC Public Attitudes Tracker – Wave 10 (12 August 2014)

- 4.13 The Energy Act 2008 [electronic]
- 4.14 The Climate Change Act 2008 [electronic]
- 4.15 The Energy Act 2011 [electronic]
- 4.16 The Energy Act 2013 [electronic]
- 4.17 The impact of wind energy on UK energy dependence and resilience: A report commissioned by Renewable UK (Cambridge Econometrics, 15 January 2015)

- 5.1 R (Hulme) v Secretary of State for Communities and Local Government [2010] EWHC 2386 (Admin)
- 5.2 Michael William Hulme v Secretary of State for Communities and Local Government and RES Developments Limited [2011] EWCA Civ 638
- 5.3 R (Lee) v Secretary of State for Communities and Local Government, Maldon District Council, Npower Renewables [2011] EWHC 807 (Admin)
- 5.4 Bedford Borough Council v Secretary of State for Communities and Local Government, Nuon UK Ltd [2012] EWHC 4344 (Admin)
- 5.5 (1) East Northamptonshire District Council (2) English Heritage (3) National Trust v (1) Secretary of State for Communities and Local Government (2) Barnwell Manor Wind Energy Limited [2013] EWHC 473 (Admin)
- 5.6 Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council, English Heritage, the National Trust and the Secretary of State for Communities and Local Government [2014] EWCA Civ 137
- 5.7 Anita Colman v Secretary of State for Communities and Local Government, North Devon District Council and RWE Npower Renewables Ltd [2013] EWHC 1138 (Admin)
- 5.8 North Norfolk District Council v Secretary of State for Communities and Local Government & David Mack [2014] EWHC 279 (Admin)
- 5.9 R (on the application of The Forge Field Society, Martin Barraud, Robert Rees) v Sevenoaks District Council v West Kent Housing Association, The Right Honourable Philip John Algernon Viscount De L'Isle [2014] EWHC 1895 (Admin)
- 5.10 FCC Environment v Secretary of State for Communities and Local Government (1) and East Riding of Yorkshire Council (2) [2014] EWHC 2035 (Admin)

- 6.1 French Farm (APP/J0540/A/09/2116682)
- 6.2 Nutsgrove and Wryde Croft (APP/J0540/A/08/2083801 and 11/01494/WCPP and 12/01135/WCPP)
- 6.3 Enifer Downs (APP/X2220/A/08/2071880)

- 6.4 Carland Cross (APP/D0840/A/09/2103026)
- 6.5 Burnthouse Farm (APP/D0515/A/10/2123739 and 2131194)
- 6.6 Dunsland Cross (APP/W1145/A/13/2194484)
- 6.7 Turncole Farm (APP/X1545/A/12/2174982, 2179484 and 2179225)
- 6.8 Treading Farm (APP/D0515/A/12/2181777 and APP/A2525/A/12/2184954)
- 6.9 Catwick Grange (APP/E2001/A/13/2193302)
- 6.10 Palmers Hollow (APP/Y2430/A/09/2108595)
- 6.11 Spittal Hill (s36 application)
- 6.12 Newlands Farm (APP/E0915/A/09/2101659)
- 6.13 Harelaw Renewable Energy Park (s36 application)

- 7.1 Planning (Listed Buildings & Conservation Areas) Act 1990 [electronic]

- 8.1 The Landscape Institute and Institute of Environmental Management & Assessment: Guidelines for Landscape and Visual Impact Assessment, Second Edition (2002)
- 8.2 The Landscape Institute and Institute of Environmental Management & Assessment: Guidelines for Landscape and Visual Impact Assessment, Third Edition (2013)
- 8.3 The Countryside Agency: Landscape Character Assessment: Guidance for England and Scotland (2002)
- 8.4 Landscape Institute: Landscape Architecture and the Challenge of Climate Change (October 2008)
- 8.5 Landscape Institute: Photography and Photomontage in Landscape and Visual Impact Assessment, Advice Note 01/11
- 8.6 Scottish Natural Heritage and Countryside Agency: Landscape Character Assessment Series: Topic Paper 9: Climate Change and Natural Forces – the Consequences for Landscape Character (2003)
- 8.7 Scottish Natural Heritage: Visual Representation of Windfarms – Good Practice Guidance (2006)
- 8.8 Scottish Natural Heritage: Visual Representation of Wind Farms – Good Practice Guidance (Version 2, 2014)
- 8.9 Scottish Natural Heritage: Siting and Designing Windfarms in the Landscape, Version 1 (December 2009)
- 8.10 Scottish Natural Heritage: Siting and Designing Windfarms in the Landscape, Version 2 (May 2014)

- 8.11 Scottish Natural Heritage: Guidance Assessing the Cumulative Impact of Onshore Wind Energy Developments, Version 3 (March 2012)
- 8.12 The Countryside Agency: Countryside Character Volume 6: East of England
- 8.13 Natural England's National Character Areas Profiles [electronic]
- 8.14 East of England Landscape Framework (2010) [electronic]
- 8.15 Peterborough Landscape Character Assessment (2007)
- 8.16 Supplementary Planning Document: Resource Use and Renewable Energy (2014) – Fenland District Council
- 8.17 Supplementary Planning Guidance: Wind Energy (2004) – South Holland District Council

- 9.1 ETSU-R-97: The Assessment and Rating of Noise from Wind Farms
- 9.2 Institute of Acoustics: A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise (May 2013)
- 9.3 Institute of Acoustics: A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise (May 2013)

- 10.1 Planning Application and Supporting Documents [separately bound]
- 10.2 Environmental Statement [separately bound]
- 10.3 Further Environmental Information (October 2013) [separately bound]
- 10.4 Further Environmental Information (December 2013, incorporating Appendix B update of January 2014) [separately bound]
- 10.5 Report and Update to Committee (4 February 2014)
- 10.6 Committee Minutes
- 10.7 Applicant's Statement of Case
- 10.8 Council's Statement of Case
- 10.9 Ministry of Defence Statement of Case
- 10.10 TNLPG's Statement of Case
- 10.11 Statement of Common Ground between Applicant and Council
- 10.12 TNLPG's Comments on Statement of Common Ground
- 10.13 Proposed Wind Farm Extension at French Farm, French Drove, Peterborough – Updated Cumulative Landscape and Visual Impact Assessment (LUC, December 2014) [separately bound]
- 10.14 Proposed Wind Farm Extension at French Farm, French Drove, Peterborough – Residential Visual Amenity Assessment (LUC, December 2014) [separately bound]



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.

<https://www.gov.uk/government/organisations/department-for-communities-and-local-government>