



Department for
Communities and
Local Government

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Our Ref: APP/D0840/W/15/3014917

26 July 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY GOOD ENERGY GENERATION LTD:
CREDDACOTT FARM, WEEK ST MARY, HOLSWORTHY, CORNWALL
APPLICATION REF: PA14/02107**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr Paul Griffiths BSc(Hons) BArch IHBC, who held a public inquiry between 26 April and 10 May 2016 into your client's appeal against the decision of Cornwall Council to refuse planning permission for the erection of up to eleven wind turbines and attendant equipment and infrastructure on land at and adjoining Creddacott Farm, Week St Mary, Holsworthy, Cornwall in accordance with application ref PA14/02107, dated 26 February 2014.
2. The appeal was recovered for the Secretary of State's determination on 30 July 2015 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990 because the appeal involves a proposal of major significance for the delivery of the Government's climate change programme and energy policies.

Inspector's recommendation and summary of the decision

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

Environmental Statement

4. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the

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environmental information submitted to the inquiry. Having taken account of the Inspector's comments at IR1.4-1.8, the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Matters arising since the close of the inquiry

5. Since the close of the inquiry, the Secretary of State received a large volume of correspondence, largely in the form of a postcard campaign. The Secretary of State notes that at the inquiry, amongst the core documents (IR page 80 – documents B2&B3), parties were aware of the emerging Cornwall Plan.
6. On 17 January 2017, the Secretary of State wrote to interested parties, inviting further representations following the adoption of the Cornwall Local Plan 2010-2030. Representations received were circulated for comment on 8 February and 27 February. A list of representations received in response to these letters is at Annex A. The Secretary of State has given careful consideration to all the representations received and is satisfied that the issues raised do not affect his decision and no other new issues were raised to warrant further investigation or necessitate additional referrals back to parties. Copies of the correspondence listed at Annex A may be obtained on written request to the address at the foot of the first page of this letter.

Policy and statutory considerations

7. In reaching his decision, 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 adopted development plan for the area comprises the Cornwall Local Plan (LP) 2010-2030 (adopted in November 2016) and the relevant saved policies of the North Cornwall District Local Plan (1999) (NCDLP).
8. The Secretary of State considers that the development plan policies of most relevance to this case are those contained within the LP and saved NCDLP policy ENV1.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework, March 2012 (the Framework), the associated planning practice guidance (the guidance) and the Written Ministerial Statement of 18 June 2015 concerning wind farms (the WMS).
10. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal scheme or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main issues

11. The Secretary of State agrees with the Inspector that the main issues are those set out at IR10.2.

Heritage assets

12. The Secretary of State has considered the Inspector's extensive analysis and reasoning set out at IR10.11–10.64 regarding heritage assets. He agrees that the proposal would cause harm to the setting of the Westbury Barrow Scheduled Ancient Monument (SAM) as well as the setting of the Ashbury Camp SAM (IR10.17, 10.20, & 10.23). He further agrees with the Inspector's reasoning and analysis regarding the listed buildings and other heritage assets (IR10.24-10.42). Like the Inspector he agrees with the conclusion that there would be harm caused to the significance of a number of designated heritage assets as a result of the proposal (IR10.43). With regard to the temporary nature of the scheme (IR10.45), the Secretary of State takes the view that 25 years is a considerable period of time and the reversibility of the proposal is not a matter to which he has given any weight. He considers that a period of 25 years would not be perceived by those who frequent the area as being temporary and that the harmful effect on the heritage assets would prevail for far too long. Overall, and in line with the Inspector, the Secretary of State agrees that, as the designated heritage assets themselves, and the significance locked therein, would be untouched, the harm caused to the named heritage assets would, overall, be less than substantial (IR10.45). He further agrees that, given this conclusion, this harm should be weighed against the public benefits of the proposal (IR10.46).

Public Benefits

13. The Secretary of State has taken account of the Inspector's findings at IR10.48-10.57. He agrees that, based on the evidence, there is no good reason to cast any significant doubt on the output figures claimed by the appellant (IR10.53); that the scheme has the potential to act as a model for other renewable energy projects (10.55); and that the benefits of the scheme are extensive and weighty (IR10.58).

Inspector's interim conclusion

14. The Secretary of State has considered the Inspector's approach at IR10.59-10.66, together with the information received from the parties following the reference back exercise following the adoption of the LP. While he agrees with the Inspector's conclusion that the public benefits of the proposal are insufficient to justify the harm to the significance of the designated heritage assets that would be caused, he has decided to consider the other matters considered at the inquiry and reported by the Inspector, before coming to an overall conclusion.

Landscape

15. The Secretary of State has considered carefully the Inspector's analysis of the impact of the proposal on the landscape (IR10.68-10.85). He agrees with that analysis and with the Inspector's conclusion that the wind turbines proposed would be an incongruous presence of significant scale, in terms of wind turbine height and the spread of the array, in many views inland from the AONB and Heritage Coast. He further agrees that this alien presence would harm the AONB itself and the Heritage Coast (IR10.82).

Living Conditions

16. For the reasons set out at IR10.87-10.102, the Secretary of State agrees with the Inspector that, in terms of living conditions, the proposal would be acceptable.

Other matters

17. The Secretary of State agrees with the Inspector's conclusions that there would be no harmful ecological impact as a result of the proposal; that highway safety is not seriously compromised; that the proposal would not have any detrimental impact on tourism; and there would be no harmful impact on aviation as a result of the proposal (IR10.104-10.108).

Planning conditions

18. The Secretary of State has given consideration to the Inspector's analysis at IR9.1-9.5 and recommended conditions as set out at IR Annex D, and to national policy in paragraph 206 of the Framework and the relevant guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the recommended conditions would overcome his reasons for dismissing the appeal.

Planning Obligation

19. The Secretary of State agrees with the Inspector's analysis at IR9.6-9.8 concerning the submitted planning obligation. However, he does not consider that the obligation overcomes his reasons for dismissing the appeal and refusing planning permission.

The planning balance and overall conclusion

20. The Secretary of State has considered the Inspector's report, evidence presented to the inquiry, together with all representations received following the adoption of the LP. For the reasons given above the Secretary of State considers that the appeal scheme is not in accordance with LP policies 14, 23 and 24. Nor does it accord with saved NCDLP policy ENV1 and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
21. Weighing in favour, the proposal would generate renewable energy and help combat climate change. The Secretary of State places significant weight on these benefits.
22. However the harms to heritage assets of the proposal are not outweighed by the public benefits; and the wind turbines proposed would be an incongruous presence of significant scale, in terms of wind turbine height and the spread of the array, in many views inland from the AONB and Heritage Coast. In terms of the WMS, the Secretary of State, like the Inspector, concludes that the planning impacts identified by affected local communities have not been addressed and, as a result, the proposal does not have the backing of the local community.
23. The Secretary of State considers that there are no material considerations which indicate that the appeal should be determined other than in accordance with the development plan. He concludes that the appeal should be dismissed and planning permission refused.

Formal decision

24. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the erection of up to eleven wind turbines (up to 125m to blade tip) along with attendant equipment and infrastructure on land at and adjoining Creddacott Farm, Week St Mary, Holsworthy, Cornwall in accordance with application ref PA14/02107 dated 26 February 2014.

Right to challenge the decision

25. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

26. A copy of this letter has been sent to Cornwall Council, the campaign against rural exploitation (CARE), and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Richard Watson

Richard Watson

Authorised by Secretary of State to sign in that behalf

Annex A

SCHEDULE OF MAIN REPRESENTATIONS FOLLOWING REFERENCE BACK EXERCISE – DCLG LETTERS OF 17 JANUARY, 8 FEBRUARY & 27 FEBRUARY 2017

Party	Date
Dr F J Comerford	17 January 2017
Philip Uglow (Warbstow PC)	30 January 2017
Robert J Barfoot Consultancy (on behalf of CARE)	6 February 2017
Stephen Humphries, Burges Salmon (on behalf of the appellant)	6 February 2017
Mrs J Smith (Boyton Parish Councillor)	6 February 2017
Jo Shinner	6 February 2017
Bob Gunby	6 February 2017
Hannah Williams (Cornwall Council)	7 February 2017
Hannah Williams (Cornwall Council)	7 February 2017
Stephen Humphries, Burges Salmon (on behalf of the appellant)	15 February 2017
Robert J Barfoot Consultancy (on behalf of CARE)	5 March 2017
Sophie Milligan	6 March 2017
Paul Martin (Community Power Cornwall Ltd)	6 March 2017
Hannah Williams (Cornwall Council)	6 March 2017
William Andrews (SWET)	6 March 2017

Report to the Secretary of State for Communities and Local Government

by Paul Griffiths BSc(Hons) BArch IHBC

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

Date: 27 October 2016

The Town and Country Planning Act 1990

Appeal by

Good Energy Generation Ltd

Against the decision of

Cornwall Council

Inquiry opened on 26 April 2016

Land at and adjoining Creddacott Farm, Week St Mary, Holsworthy, Cornwall EX22 6UU

File Ref: APP/D0840/W/15/3014917

Appeal Ref: APP/D0840/W/15/3014917

Land at and adjoining Creddacott Farm, Week St Mary, Holsworthy, Cornwall EX22 6UU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Good Energy Generation Ltd against the decision of Cornwall Council.
- The application Ref.PA14/02107, dated 26 February 2014, was refused by notice dated 28 October 2014.
- The development proposed was described as a wind farm development of up to 11 turbines (up to 125m to blade tip) along with attendant equipment and infrastructure including 132 kV substation, underground cabling, access tracks, crane pads, temporary construction compound, meteorological mast, and offsite highway works.

Summary of Recommendation: That the appeal be dismissed.

1. Procedural Matters

- 1.1 The Inquiry opened on 26 April 2016 and sat on 27 and 28 April 2016, and 4, 5, 6, 9 and 10 May 2016, when the Inquiry was closed. On 9 May 2016, starting in the afternoon, and continuing into the evening, I held a session dedicated to the public, where many people spoke.
- 1.2 The accompanied site visits were originally programmed for 11 May 2016 but had to be abandoned on account of the inclement weather. They were rearranged for 16 June 2016 when they were completed in accordance with a schedule drawn up by CARE¹.
- 1.3 I carried out an extensive unaccompanied visit to the area on 21 April 2016, before the Inquiry opened when I took in many of the viewpoints highlighted, and the designated heritage assets referred to by the parties. I carried out further unaccompanied site visits on 29 August 2016 when I took in the relevant section of the Cornwall Area of Outstanding Natural Beauty and Heritage Coast², and views from it towards the appeal site, in particular.
- 1.4 As set out in the Statement of Common Ground agreed between the appellant and the Council³, the planning application was submitted in March 2014. Constituting EIA development, the application included an Environmental Statement⁴ which the main parties agree complies with the requirements of Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011.
- 1.5 In the course of the application, in August 2014, Supplementary Environmental Information was submitted to the Council⁵. The Council considered the proposal at its Planning Committee of 23 October 2014 where it resolved to refuse planning permission for two reasons.

¹ ID83

² Referred to hereafter as AONB

³ ID90

⁴ CD A11 Referred to hereafter as ES

⁵ CD A17 Referred to hereafter as SEI 2014

- 1.6 Put simply, the first related to what the Council regarded as unacceptable impacts on the landscape and various designated heritage assets. The second related to impacts on the living conditions of occupiers of Little Exe Cottage.
- 1.7 Having lodged an appeal some time before, the appellant prepared further SEI in March 2016⁶. This was intended to cover amendments to the scheme, and the design of the wind turbines in particular, and an amendment to the boundary of the appeal site. All parties to the Inquiry were content to proceed on the basis of the scheme as depicted in the SEI 2016 and evidence was prepared accordingly. I have proceeded on the same basis and it is important to note that all references to the different viewpoints and photomontages in this report relate to those produced as part of the SEI 2016⁷, and those produced by the Rule 6 Party, CARE⁸, which reflect the changes wrought by the SEI 2016, unless specifically stated otherwise.
- 1.8 There has been no suggestion that the ES, as supplemented, fails to meet the requirements of the relevant regulations. On my analysis, it does, and should be taken fully into account in dealing with the appeal.
- 1.9 The appeal was recovered by the Secretary of State on 30 July 2015. The reason for the direction was that the appeal involves proposals of major significance for the delivery of the Government's climate change programme and energy policies.
- 1.10 Throughout the report, I have referred to the submitted documents through the use of footnotes. References thus [--] cross-refer to other paragraphs in the report that are especially relevant to the point at issue.
- 1.11 For the avoidance of doubt, it should be noted that the proposal is known colloquially as '*The Big Field Wind Farm*' and is referred to as such in some submissions.

2. The Proposal

- 2.1 As set out in the header above, the proposal is for a wind farm of up to eleven wind turbines (up to 125m to blade tip) along with attendant equipment and infrastructure, including transformers, a control room and substation, a meteorological mast, a new site entrance north of Higher Exe Farm, an access track, and off-site enabling works along the access route.
- 2.2 The capacity of the wind turbines will depend on the final specification but is expected to be between 2MW and 3.5MW each. The wind farm would connect, via the new substation, to the existing 132kV power transmission line that runs through the appeal site.

3. Site and Surroundings

- 3.1 The appeal site extends to about 38 hectares with around 28 hectares for the wind farm and the remainder necessary for construction works.

⁶ CD A18 Referred to hereafter as SEI 2016

⁷ CD A18

⁸ S4

- 3.2 The site lies in the Parish of Week St Mary, 11.7km to the south of Bude, and approximately 4km east of the A39 at Wainhouse Corner which acts as the western boundary of the Cornwall AONB and Heritage Coast.
- 3.3 The closest settlements to the development are the villages of Broad Longdon approximately 2km to the south-west of the appeal site entrance, Canworthy Water, around 2km to the south, Jacobstow, 2.7km or so to the west, and Week St Mary, about 1.8km to the north.
- 3.4 At its closest point, the AONB and Heritage Coast is about 3.7km west of the appeal site. The Week St Mary Area of Great Landscape Value is approximately 730m north of the appeal site at its closest point. The Greenamoor Site of Special Scientific Interest starts around 30m north of the appeal site and the nearest Cornwall Wildlife Site is 515m north of the appeal site.
- 3.5 A National Cycle Trail runs to the west of the appeal site and a public footpath runs to the south of the appeal site to the dwelling known as Trefurdon and the appeal site straddles a public footpath that leads to Little Exe Cottage. There are many other public footpaths in the vicinity. There is an extensive solar farm to the south of the site of the proposed wind farm.

4. Planning Policy

- 4.1 The development plan for the area includes the North Cornwall District Local Plan which was adopted in April 1999⁹. The overarching development plan policy that bears on the proposal is LP Policy TRU4 which deals with wind power. It is made up of four criteria. Criterion 3 seeks to avoid harmful cumulative impacts, while criterion 4 deals with decommissioning.
- 4.2 Of more direct relevance, Criterion 1 deals with proposals for wind turbines in the AONB and Heritage Coast or on sites close to their boundaries. Proposals that comply with criterion 2 (that I deal with below) are to be assessed having regard to the provisions of LP Policy ENV1 (that again I deal with below), and the benefits of renewable energy, and will not be permitted where those benefits do not justify harm to the special features or qualities which led to the national designation.
- 4.3 Criterion 2 says that wind turbine proposals outside the AONB and Heritage Coast will be assessed in the light of LP Policy ENV1 and will be permitted where (a) they do not adversely affect residential buildings through noise generation, shadow flicker or interference with telecommunications reception or other disturbance; (b) they do not adversely affect road safety; and (c) the site is suitable in terms of its potential for wind energy generation.
- 4.4 There is an issue as to whether criterion 1 or criterion 2 of the policy applies. Paragraph 7.62 of the accompanying text¹⁰ helps insofar as it says: *It is difficult to be precise in interpreting 'close to their boundaries' in relation to the designated areas because distances will vary according to local character and in particular, topography. It will be necessary therefore, in relation to specific proposals outside the national designation, to identify those qualities that led to the designation of the landscape areas and the precise*

⁹ CD B1 Referred to hereafter as LP

¹⁰ CD B1 Page 98

determination of their boundaries; how those areas within and beyond the boundaries interact visually; and the manner in which these qualities and interaction would be adversely affected by wind turbine proposals.

- 4.5 Moreover, LP Policy ENV1 bears heavily on the application of LP Policy TRU4 whichever criterion is to be used. This policy has two criteria.
- 4.6 Criterion 1 explains that in the AONB and Heritage Coast, the main priority will be the conservation of the natural beauty of the landscape. Development proposals within, or near to, the AONB or Heritage Coast will not be permitted where they adversely affect the character and amenity of these areas unless the development is required in the proven national interest and no alternative sites are available. Criterion 2 deals with development proposals in the countryside elsewhere. These will only be permitted where they accord with other LP policies and do not have a significant adverse effect on the amenity or landscape character of the area.
- 4.7 Paragraph 5.32 of the accompanying text¹¹ is informative about what should be regarded as 'near to'. It states: *Although it is necessary to define precisely areas to which particular planning policies apply, landscapes rarely have clearly marked edges. The boundaries of the AONB are drawn to incorporate only the very best landscapes, although often there will be peripheral areas of considerable quality where badly sited development could have an impact on the AONB. It is necessary, therefore, to give very careful consideration to all development proposals not only within but also just outside the AONB boundary. The precise definition of a 'buffer' zone is not considered necessary because so much will depend on the local topography and the nature of the development proposed. However, as a general guide any development within 1 kilometre of the AONB or Heritage Coast will be examined particularly carefully although major developments may require closer scrutiny over greater distances.*
- 4.8 The manner in which LP Policies TRU4 and ENV1 are applied is of central importance. I deal with this in my conclusions below.
- 4.9 LP Policy ENV12 deals with listed buildings. Criterion 4 of the policy is relevant here. It sets out that development proposals for the erection of a new building or other structure, or the use of land, will not be permitted where this would adversely affect the character or appearance of a listed building, or its setting.
- 4.10 LP Policy ENV13 bears on conservation areas. Criterion 4 says that development proposals within, or outside but affecting, a conservation area will only be permitted where they are contextually appropriate; they do not lead to a loss of open spaces that allow important views into or out of the area; and they do not create additional traffic, noise or other nuisance that would adversely affect the character or appearance of the area.
- 4.11 Sites of archaeological or historic interest are covered by LP Policy ENV14. Criterion 1 states that development proposals affecting nationally important remains, whether scheduled or not, and their settings, will not be permitted unless, of relevance in this case, there will be no significant damage to, or

¹¹ CD B1 Page 55

adverse effect on, a site, or its setting. LP Policy ENV15 makes clear that development proposals will not be permitted where they would adversely affect the character, appearance, or setting of amongst other things, Historic Parks and Gardens.

- 4.12 While the LP is of some vintage, there is much in the policies covered above that chimes with the approach of the National Planning Policy Framework¹². Paragraph 109 says that the planning system should protect and enhance valued landscapes. Paragraph 115 makes it abundantly clear that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads, and AONBs, which have the highest status of protection in relation to landscape and scenic beauty.
- 4.13 Paragraph 132 sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation – the more important the asset, the greater the weight should be.
- 4.14 One of the core principles of the Framework listed in paragraph 17 is to always seek a good standard of amenity for all existing and future occupants of land and buildings. Paragraph 18 of the Framework tells us that the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition, and a low carbon future.
- 4.15 Moreover, reflective of wider national energy policy¹³, and the statutory requirements of the Climate Change Act 2008, it is also a core principle of the Framework that planning should support the transition to a low carbon future in a changing climate, and encourage the use of renewable resources (for example, by the development of renewable energy).
- 4.16 Paragraph 93 tells us that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability, and providing resilience to the impacts of climate change, and supporting the delivery of renewable energy and associated infrastructure. This, we are told, is central to the economic, social and environmental dimensions of sustainable development. As an aid to decision-making, paragraph 98 says that we should not require applicants for energy development to demonstrate the overall need for renewable energy and recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. In simple terms, applications should be approved if impacts are (or can be made) acceptable.
- 4.17 The provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990¹⁴ are of central importance. Section 66(1) says that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority, or as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic

¹² CD D1 Referred to hereafter as the Framework

¹³ For example in EN-1, EN-3 and the various Roadmaps CD D2-D8 inclusive

¹⁴ CD D4 Referred to hereafter as the Act

interest which it possesses. In recent times, the Courts have clarified what this 'special regard' entails in decision-making¹⁵. In simple terms, any harm caused to a listed building or its setting must attract considerable importance and weight on the negative side of any planning balance.

- 4.18 Reference has also been made to the requirements of Section 72(1) of the Act. However, the appeal site does not lie within a conservation area so Section 72(1) does not apply. Section 72(1) does not attempt to protect the setting of conservation areas.
- 4.19 There is also the WMS of June 2015¹⁶ to consider. For proposals like that at issue in this appeal, where the transitional provisions apply, we are told that 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.
- 4.20 As far as the Cornwall Local Plan - Strategic Policies document is concerned this is at far too early a stage in the process towards adoption to attract any significant weight in the determination of the appeal¹⁷. As the relevant policies therein are subject to change, I have not covered them here.
- 4.21 The Council has published two other documents of note. The first, Technical Paper E4 (a): An Assessment of the Landscape Sensitivity to Onshore Wind and Large Scale Solar Photovoltaic Development in Cornwall dates from January 2012¹⁸.
- 4.22 In Landscape Character Area¹⁹ 37: Western Culm Plateau, which encompasses most of the appeal site, the landscape strategy is for a landscape with occasional single or small groups of wind turbines²⁰ that may be up to the smaller end of the 'large' scale on the inland southern plateau²¹. The area that the appeal site lies within is assessed as having moderate sensitivity to wind energy development.
- 4.23 The Cornwall Renewable Energy Planning Advice of March 2016²² gives general guidance on a variety of technologies including onshore wind.

5. The Case for the Council

- 5.1 The Council's case is fully set out in their Opening and Closing Statements to the Inquiry and in evidence²³. It can be summarised under a series of headings:

¹⁵ CD E2, E43 and E47 in particular

¹⁶ CD D11

¹⁷ CD B2, CD B3 and ID16

¹⁸ CD F20

¹⁹ Referred to hereafter as LCA

²⁰ Small scale cluster (or groups) are defined as up to 5 turbines (Page 32 of CD F20)

²¹ Large turbines are defined as 100-150m to tip (Page 32 of CD F20)

²² CD C3

²³ ID3, ID23 and C1 and C2

Introduction

- 5.2 The first main issue is the effect of the proposal on the setting of various heritage assets and whether the public benefit justifies the grant of planning permission, notwithstanding any harm that may occur to those settings. The second concerns the visual and quality effect on the landscape generally, and the AONB. The Council submit that the public benefits of the development do not outweigh the harm that would be caused.

Development Plan/Policy Framework

- 5.3 The proposal does not accord with the development plan. There is conflict with LP Policies ENV1 and TRU4, and arguably with LP Policies ENV12, ENV14 and ENV15. There was much discussion about the correct interpretation of LP Policies ENV1 and TRU4. The Council's approach to those policies should be preferred²⁴. LP Policy TRU4 should be read as a whole. Criterion 1 of that policy acknowledges the benefits of renewable energy and requires regard to LP Policy ENV1, and those policies, together with the supporting text, should be read together to allow proper assessment of the proposal.
- 5.4 The appellant²⁵ suggests that the question might be academic because, by the time a decision is made, there may be a new local plan in place. That appears unlikely and at the present time, there is no indication as to when an assessment of soundness will be forthcoming by the Inspector undertaking the Local Plan examination²⁶. In any event, there is no suggestion that LP Policies ENV1 and TRU4 should not be considered up-to-date.
- 5.5 LP Policies ENV12 and ENV14 appear to be more restrictive than the Framework, at first sight. Paragraph 215 of the Framework does not require all policies to be out-of-date for paragraph 14 to be triggered but is to be applied to 'relevant policies'. In the event that these policies are deemed not up-to-date, the Council is content for the approach of the Framework to be applied.
- 5.6 Should that be accepted then the second bullet point of paragraph 14 of the Framework makes it clear that where the development plan is absent, silent or out of date, permission should be granted unless specific policies in the Framework indicate that development should be restricted. Footnote 9 gives examples of these, including policies relating to heritage assets, and the AONB. One then has to consider whether footnote 9 is engaged which requires the application of paragraphs 133 and/or 134. Submissions were made by the parties as to how the *Forest of Dean DC v SoS for Communities & Local Government and Gladman Developments Ltd* (2016) EWHC 421 (Admin) case should be construed²⁷. If the development plan is considered out of date, then the Council concur with the submissions made regarding the tests to be applied as per the submitted note from the appellants.
- 5.7 The Council submits that when applying the Framework, the relevant tests to be applied are within paragraph 132, 133 and 134 in relation to heritage

²⁴ Mr Holman in-c and x-e

²⁵ Mr Stewart in-c and x-e

²⁶ ID16 sets out the latest position

²⁷ ID11 and ID12

assets, paragraph 109 in respect of the landscape, and paragraphs 115 and 116 in respect of the AONB.

- 5.8 Further the core planning principles of paragraph 17, bullet point 5, state that planning should 'take account of the different roles and character of different areas... recognising the intrinsic character and beauty of the countryside'. Also bullet point 10 states planning should 'conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations'.

Landscape

- 5.9 Natural England tell us that 'landscape is more than just the view; it is about the complex, interacting natural and cultural systems that make up each landscape and it is also about the relationship between people, place and nature.
- 5.10 The appeal site is about 3.7km from the boundary of the Cornwall AONB and Heritage Coast. The proposal will be a prominent feature on this gently undulating inland plateau and in the open countryside of LCA 37.
- 5.11 The Council's evidence considers the impact on LCA37, as well as LCA31, LCA36 and LCA38 and sets out conclusions for each. In dealing with the AONB, the Council explained that its setting should be considered when assessing harm. The example was given of a journey along the A39 where one side of the road is AONB, and the other is not. It is submitted that the boundary is somewhat arbitrary and in effect, the A39 was chosen as a convenient point. However, the landscape either side of the road is of similar quality and a viewer would not readily distinguish between the two sides of the road.
- 5.12 Reference is made to the AONB Management Plan²⁸ which refers to the setting of the AONB and seeks to ensure that necessary development within the AONB, or its setting, is high quality, sustainable development, and is appropriately sited and of an appropriate scale, compatible with the distinctive character of the location. Reference is also made to the PPG²⁹ which requires that in exercising or performing any functions in relation to or so as to affect land in the AONB, relevant authorities shall have regard to their purposes.
- 5.13 The photomontages show that parts of the AONB will be affected by the proposal, particularly when travelling along the A39 and looking towards the appeal site³⁰. The proposed wind turbines will be seen as a dominant, moving feature in the landscape.
- 5.14 Paragraph 115 of the Framework says that great weight should be given to conserving landscape and scenic beauty in AONBs which have the highest status of protection in relation to landscape and scenic beauty.
- 5.15 Reference is also made in evidence to the Countryside and Rights of Way Act 2000. Section 85 states that a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the AONB. That

²⁸ CD F13 and C1 Paragraphs 5.37 and 5.38

²⁹ C1 Paragraph 4.94

³⁰ A18 Viewpoints 5, 9 and 10

statutory duty applies to proposals that are situated outside the AONB but which might have an impact on the setting of, and implementation of the statutory purposes of these protected areas.

- 5.16 The Council says that there would be a moderately harmful impact on the setting of the AONB and as a result, a harmful impact on the AONB itself. There would also be a harmful impact on the character and appearance of the area generally. The appellant accepts that there would be medium scale effects on landscape character up to 2km from the site.

Heritage Assets

- 5.17 The harm to some of the designated heritage assets involved has been assessed by Historic England³¹ and the Council's Historic Environment Service. The Council submits that there would be substantial harm to the significance of the Grade I listed Parish Church of St Anne, Whitstone as a result of the proposal. There would be less than substantial harm caused to the significance of the Church of the Nativity of the Blessed Virgin Mary, Week St Mary, the Church of St Winwalo, Tremaine, and the Parish Church of St Marwenne, Marhamchurch. There would be less than substantial harm caused to the significance of a series of Scheduled Ancient Monuments³², and the Registered Park and Garden³³ at Penheale.
- 5.18 The Framework is clear about the importance of identifying and assessing the particular significance of any heritage asset that may be affected by a proposal, and the impact of that proposal including its setting. The PPG³⁴ advises that the importance of setting can be expressed by the way in which we experience an asset and our understanding of the historic relationship between places.
- 5.19 In the area of the proposed development there are a considerable number of high value heritage assets. The Council submit that their setting is a key element of their value. There was considerable debate as to the setting of the heritage assets and these can be considered in turn.
- 5.20 When visiting the Parish Church of St Anne, Whitstone, one cannot help but be struck when stepping through the lych gate of stepping back in time. The Church is set away from the village in a secluded position on the hillside, creating a feeling of tranquillity. Its setting in the hillside takes advantage of the views out and forms an important setting for this Church which contributes to the significance of the heritage asset.
- 5.21 The appellant's witness³⁵ attributes the harm to the significance as minor. The Council do not agree with these findings, nor does HE³⁶, as set out in their responses to the Council.

³¹ Referred to hereafter as HE

³² Referred to hereafter as SAMs

³³ Referred to hereafter as RPG

³⁴ CD D10 Ref. 18a-013-20140306

³⁵ Dr Carter in-c, x-e and A5 Paragraph 4.129

³⁶ CD G13 refers

- 5.22 There were a number of viewpoints considered but one³⁷ is of particular importance. This shows the view from the lych gate with the turbines along the length of the church nave. The appellant acknowledges that from this point the wind farm would be visible when looking at the church from the lych gate and an adverse impact here is accepted³⁸. However, the appellant does not accept that there would be an adverse impact when looking at the array from other parts of the Church and its surroundings. This is wrong and it is submitted that the appellant's assessment should not be preferred to that of the Council, HE, and the other parties.
- 5.23 Contrary to the appellant's evidence³⁹, the Council submit that setting is a key element of the significance of this Church. The majority of its significance is not, as the appellant suggests, embedded in its medieval fabric.
- 5.24 The Church is approached through the lych gate and the tower is a prominent feature on the hillside which attracts the eye on entering the churchyard. Should the development proceed, the view on entering the churchyard will be of wind turbines sprouting from the whole length of the ridge line of the Church, drawing the eye away from the Church, and its tower, and dominating the view⁴⁰. The Council submits that this harmful impact on the setting of the Church, and thereby its significance, would be so great as to amount to substantial harm⁴¹.
- 5.25 In terms of the Grade I listed Church of the Nativity of the Blessed Virgin Mary in Week St Mary, the appellant says that the harm would be less than substantial. Whilst the Council concur with this assessment the impact would nevertheless be significant. The wind turbines would compete with the Church tower in views from Marhamchurch, and in views from the undulating roads that lead to and from Week St Mary⁴².
- 5.26 One cannot fail to appreciate the commanding presence of the hill fort at Warbstow Bury, a SAM, in the landscape. It was designed to protect and control territory. Warbstow Bury is one of the largest and best preserved hill forts in Cornwall. The wind turbines would dominate the view out from the hill fort and detract from its setting.
- 5.27 The appellant has suggested in evidence that there are already man-made structures visible from the hill fort and that these do not impact significantly on the significance of the SAM. However, the Council submit that this should not act as justification for further wind turbines and particularly not of the scale proposed. HE advice in *The Setting of Heritage Assets*⁴³ refers to cumulative change and says that where the significance of a heritage asset has been compromised in the past, consideration still needs to be given to whether additional change will further detract from significance.

³⁷ A18 Viewpoint H4

³⁸ A5 Paragraph 4.134

³⁹ A5 Paragraphs 4.134 and 4.135

⁴⁰ Mr Holman in-c and x-e and C1 Paragraph 5.171

⁴¹ Mr Holman x-e

⁴² A18 Viewpoints H1 and H2 demonstrate and Holman x-e

⁴³ ID14

- 5.28 The HE report⁴⁴ refers to the inter-visibility between the hill fort at Warbstow Bury and that at Ashbury (also a SAM). The wind turbine array would clearly interfere with that.
- 5.29 The Council accept that the harm to the significance of Warbstow Bury would be less than substantial but consider it to be at the upper end of the scale⁴⁵. Reference is also made to a recent appeal decision⁴⁶ where an Inspector found that a single turbine would be so close and so prominent in views from the hill fort that it would be seriously harmful. The Council suggests that the proposal would have a similar impact.

Other Heritage Assets

- 5.30 Whilst a number of other heritage assets were considered, the Council concurs with the appellant's findings that these would suffer less than substantial harm.

Listed Buildings

- 5.31 The Framework requires decision-makers to take account of sustaining and enhancing heritage assets where possible. Where there is less than substantial harm, as in this case, paragraph 134 says that this harm should be weighed against the public benefits of the proposal including its optimum viable use. Paragraph 133 takes a different approach where the harm to significance would be substantial.
- 5.32 Importantly, Section 66 of the Act⁴⁷ states that special regard should be paid to the desirability of preserving the settings of listed buildings where those settings would be affected by proposed development. The Barnwell Manor judgment⁴⁸ requires that the decision maker gives considerable importance and weight to the desirability of preserving the character and appearance of the setting of a listed building.
- 5.33 The impacts in this case are such that they should weigh heavily against the proposal.

WMS

- 5.34 There was considerable discussion as to the impact of the WMS⁴⁹ in respect of this development and how it should be interpreted. The Council submitted that it is not a matter of the number of objections but whether they are objections which have a valid material planning consideration. There have been a number of appeal decisions⁵⁰ that have dealt with the approach.
- 5.35 As to what constitutes the affected local community the Council submits that this should be people who live in the vicinity of the application site⁵¹. While

⁴⁴ CD G5 Pages 25 and 26

⁴⁵ C1 Paragraphs 5.191 to 5.200

⁴⁶ C1 Paragraph 5.202, C2 Appendix 8 (APP/D0840/A/15/3103858) and CD E18

⁴⁷ CD D4

⁴⁸ CD E2

⁴⁹ CD D11

⁵⁰ C1 Paragraph 4.114

⁵¹ C1 Paragraph 4.120

some spoke in support, there were substantial representations at the Inquiry from the public, including parish council members and councillors, who objected to the proposal.

Public Benefits

- 5.36 The public benefits this proposal would bring forward are effectively limited to production of green energy. There will be some short-term employment created by the construction process⁵² and very limited long-term opportunities. These can only attract limited weight. Some of the landowners attending the public meeting spoke about the way the development would help support their farming business. It is questionable whether this qualifies as a public benefit.

Planning Balance and Conclusion

- 5.37 The language of the relevant legislation, policies, and guidance is all about the preservation, enhancement, or conservation of heritage assets and/or landscapes. The proposed development does not achieve those general aims.
- 5.38 In heritage terms, the test to be applied in determining this case should be under paragraph 133 of the Framework: that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm; and under paragraph 134 of the Framework: that the harm should be weighed against the public benefits of the proposal.
- 5.39 In considering this proposal, all the affected designated heritage assets which will be adversely affected by this development, together with the impact on the various landscape areas, including designated landscapes, need to be factored in.
- 5.40 The harm that would be caused would not be outweighed by the public benefits of the scheme. As such, planning permission should not be granted for the proposal.

6. The Case for CARE

- 6.1 This is set out in full in opening and closing statements to the Inquiry and in evidence⁵³.
- 6.2 The area in which this project is sited is rightly described in the ES⁵⁴ as: *gently undulating farmland broadly aligned to the top of the Culm plateau hills, surrounded by sloping agricultural hillsides, and small woodland blocks with streams running through nearby valleys. The topography of the area surrounding the site is generally gently rolling, with hilltops of approximately 150 AOD affording views over numerous valleys and ridges. Bodmin Moor is located 10 km to the south where the land rises to form localised peaks. These reach approximately 400m AOD and are commonly visible from within the surrounding areas as a distinctive profile, often forming a focus of views in an otherwise simple landscape.*

⁵² C1 Paragraphs 5.219 – 5.222

⁵³ ID2, ID88 and S1 to S8

⁵⁴ CD A11 Paragraph 5.144

- 6.3 This can be aptly summarised by saying that overall, the perceived qualities of the landscape are of traditional rurality⁵⁵.
- 6.4 There are extensive views stretching beyond LCA37 that contains the appeal site⁵⁶. It is a landscape remarkably free of high, intrusive, modern development.
- 6.5 Notwithstanding the single turbines, and the odd small group, peppering or scattered about the area, a change of such large scale would be extremely noticeable. The visual impact of the eleven wind turbines proposed, visible for miles and miles, would be dramatic.

Planning Policy

- 6.6 Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise⁵⁷. There is a statutory duty under Section 66(1) of the Act⁵⁸, that in considering whether to grant planning permission which affects a listed building or its setting the Secretary of State *shall have special regard to the desirability of preserving the building or its setting*.
- 6.7 The Framework⁵⁹ does not change the statutory status of the development plan as the starting point for decision making. Paragraph 14 of the Framework sets out the presumption in favour of sustainable development.
- 6.8 In terms of the LP⁶⁰, LP Policy TRU4 deals with wind power and contains, in its text, the cost/benefit provision, balancing harm against benefit. It requires compliance with LP Policy ENV1. These policies must be read together and benefit and harm balanced against each other.
- 6.9 The first question for decision here is, since it is not absent or silent, whether the local plan is out of date. Simply because it was adopted prior to the publication of the Framework is nothing to the point. Therefore the second bullet point in paragraph 14 does not apply.
- 6.10 On that basis, in relation to impacts other than on heritage assets, bullet point 1 in paragraph 14 applies and proposals that accord with the development plan should be approved unless material considerations indicate otherwise. In other words, contrary to what the appellant set out⁶¹, the normal balancing test should be applied, with no pre-weighting.
- 6.11 In respect of landscape and visual impacts, the provisions of LP Policies TRU4 and ENV1 should be applied and read together. These policies are not out of date. They are consistent with the Framework and attract full weight.

⁵⁵ Mr Leaver in-c

⁵⁶ CD A18 Viewpoint 8 is one example

⁵⁷ CD D9

⁵⁸ CD D4

⁵⁹ CD D1

⁶⁰ CD B1

⁶¹ Mr Stewart x-e

- 6.12 Designated heritage assets are in a different position because of the provisions of Section 66(1) of the Act, and the provisions of the Framework in paragraphs 132, and 134.
- 6.13 Reading the Framework and Section 66 together, the strong presumption applies not only to listed buildings, but to all designated heritage assets, and as such there is no distinction to be drawn between listed buildings and SAMs, like Warbstow Bury.
- 6.14 There is no question of applying a weighted balancing test to heritage assets under paragraph 14 because paragraph 134 is a policy which indicates that development should be restricted and so an un-weighted test should be applied. It must of course give any harm considerable importance and weight. Thus, there is therefore no difference in the tests for heritage assets whether the local plan is out of date or not.

WMS

- 6.15 The transitional provisions apply here so that local planning authorities can find the proposal acceptable if, following consultation, they are satisfied that it [the proposal] has addressed the planning impacts identified by the local community and therefore has their backing.
- 6.16 'Addressed' must mean 'given attention to'. If the proposal has made them acceptable then planning permission can be granted - the developers have eliminated the adverse impacts. If adverse impacts remain, that is attention has been given to them but they have not been overcome, they have to be balanced against the benefits.
- 6.17 If the impacts outweigh the benefits, planning permission is refused. It is not necessary to do anything further. If the matter is not clear cut and there is no firm conclusion that the impacts outweigh the benefits then the views of the local community enter into the balance as a vital material consideration.
- 6.18 In this case 11 Parish Councils have objected to the proposal and this is vital evidence that there is no backing from the local community

Energy

- 6.19 The planning balance involves acquiring an accurate knowledge of the benefits. These are the electricity produced and the carbon dioxide emissions saved. The benefits here have been vastly exaggerated. CARE has demonstrated that using a correct capacity factor of 24%, figures for electricity yield are between 46,200 and 80,900 MWh/yr⁶². The figures in the SEI⁶³ are much exaggerated, giving between 68,100 and 88,500 MWh/yr.
- 6.20 The corrected figure must be further reduced because of the degradation of the wind turbines over the years. The unchallenged evidence of CARE on the effect of turbulence caused by incorrect spacing of the turbines is persuasive⁶⁴.

⁶² S7 and S8 and Mr Bratby in-c and x-e

⁶³ CD A18

⁶⁴ S7 and S8 refer

- 6.21 Taking these factors into account it is the view of CARE that the output from the wind farm would be initially between 46,200 and 80,900 MWh/yr averaging out over the 15 year life of the turbines at between 34,700 and 60,200 MWh/yr.
- 6.22 Using the initial figure of 46,200-80,900 MWh/yr, and using the correct DECC methodology, the displaced emissions to begin with would be between 6,750 and 11,800 MWh/yr⁶⁵.
- 6.23 Other factors must be considered too. The figure for displaced emissions has to be reduced by the CO2 emissions created by the manufacture and operation of the wind turbines (the pay back factor). It has to be further reduced by the requirement for back-up. Once these are taken into account the emissions saved will be no more than 1,550 and 2,700 te/yr as opposed to the figures presented by the appellant of between 24,516 and 31,860 te/yr⁶⁶.
- 6.24 Thus, not only has the electricity production been exaggerated, but the CO2 savings have been vastly exaggerated.

Landscape

- 6.25 Viewpoints 5, 9 and 10⁶⁷ show views inland from the Widemouth Bay to Pentire Point section of the AONB. They illustrate how the development proposals would, in the wording of LP Policy ENV1 adversely affect character and amenity. Whether this development is near to or just outside the AONB is a matter of judgement. The turbines would be about 4km from the AONB boundary, but this is not conclusive.
- 6.26 Two points need bearing in mind in this regard. First, this is a major development and paragraph 5.33 relating to LP Policy ENV1⁶⁸ says that such developments may require 'closer scrutiny over greater distances...than 1km'. Second, there is no clear distinction in character between the coastal AONB and the area just outside it. The perception is of a continuing landscape.
- 6.27 The development is in conflict with the AONB Management Plan. The strategy laid down is for there to be occasional single turbines or small groups of turbines, at the smaller end of Band D⁶⁹. CARE's assessment⁷⁰ is that the impact on the AONB would be major/moderate adverse.
- 6.28 Within 2 km of the site CARE assesses the impact as major /moderate⁷¹. In the intermediate area (2-4km) and parts of the wider area (4-6km) the impact would be moderate. Overall there would be large or medium-large scale change over 25% over the area with which we are concerned, the southern section of the LCA. It is difficult to resist a conclusion that there will be significant adverse effects on the AONB and much of LCA 37.

⁶⁵ S8 Paragraph 4.10

⁶⁶ CD A18 Paragraph 2.7

⁶⁷ A18

⁶⁸ CD B1

⁶⁹ CD F13 and CD F20

⁷⁰ Through the evidence of Mr Leaver S1-S3

⁷¹ Through the evidence of Mr Leaver S1-S3

- 6.29 Viewpoint 6⁷² from Warbstow Bury is instructive and it is perhaps from here that the impacts on the wider landscape, footpath network and local viewpoints can be best appreciated⁷³. This ancient hill fort is central in many ways to the inquiry and the visual and cultural heritage impacts are considered below.

Visual Effects

- 6.30 It is necessary to consider the effects of the proposal on the local community. What do people see when they are in their houses and gardens? What do they see as they move about the locality? There is an extensive network of footpaths in this area⁷⁴. The effect on residents should be looked at with settlements, footpaths and local roads in the equation.
- 6.31 Some residents in Week St Mary will see the wind farm from their properties. Properties in Broad Close will experience significant effects and so will users of footpaths in this area 1-2 km from the site. Some footpaths serve as the only access to properties notably at Ashbury, Trefursdon, Little Exe Cottage and Trefursdon Annexe. These footpaths are not just recreational but will be in constant use by residents, visitors, workers and others.
- 6.32 Residents of Jacobstow would see the wind turbines. Walkers on the footpaths in the area will experience the same impact as in the Week St Mary area. The overwhelming effect of the turbines can be seen in Viewpoint 4⁷⁵, which is representative of views available for walkers on this path, and in the immediate area.
- 6.33 Caudworthy Bridge is a hamlet and Viewpoint 3⁷⁶ is broadly representative of views available from the rear of the most affected properties. The impact on users of nearby footpaths south east of the site would be high.
- 6.34 Residents on the hillside above the Church in Whitstone will experience the views in Viewpoint 8⁷⁷, since it is representative of views available to recreational walkers using the Public Right of Way⁷⁸, residents in properties on the hillside above the church and the PRoW on Oak Lane. The impact on residents and users of the PRoW would be moderate.
- 6.35 Viewpoint 6⁷⁹ shows the view that would be available to visitors to Warbstow Bury. The visual impact would be major. This is an historical monument of prime importance. There is already a proliferation of wind turbines visible from it but to the north and north east, the present unrestricted view is one of mixed pasture and woodland. Villages and farmsteads are in view and a number of small turbines and electricity pylons.

⁷² CD A18

⁷³ Mr Leaver in-c

⁷⁴ A11 Figure 5.1

⁷⁵ CD A18

⁷⁶ CD A18

⁷⁷ CD A18

⁷⁸ Referred to hereafter as PRoW

⁷⁹ CD A18

- 6.36 There are no prominent large scale developments and the existing wind turbines that are visible do not pierce the skyline. Putting eleven large wind turbines in this landscape, with blades piercing the skyline, would dramatically change the landscape and would add a dominating large scale element that would effectively complete the surrounding of the fort⁸⁰. It is relevant to note that the appellant's witness did not even walk around the entirety of the hill fort on his visit⁸¹.

Residential Amenity

- 6.37 Residents have a high sensitivity to changes in their visual amenity. As the GLVIA sets out⁸²: Residents may be particularly susceptible to changes in their visual amenity-residents at home, especially using rooms normally occupied in waking or daylight hours, are likely to experience views for longer than those briefly passing through an area. Therefore, if the magnitude of change is high, the impact will be major.
- 6.38 Effects may be overwhelming and make a property an unattractive place to live. If so, one property is enough to prevent planning permission being granted⁸³. Adverse impacts of a lesser degree, if they are significant, must still be given weight in the planning balance.
- 6.39 CARE⁸⁴ has identified one relevant property that fails the primary test, namely Trefursdon Annexe. Four other properties have been identified where there will be significant adverse impacts which must be taken into account in the planning balance. These are Bahamas Annexe, Creddacott Bungalow, Trefursdon, and Stonyfold.
- 6.40 Trefursdon Annexe is a barn conversion aligned east-west with a facade facing north. There are 3 bedrooms and a bathroom on the ground floor and a kitchen and living room on the first floor where there is a large picture window.
- 6.41 From the parking area to the north of the barn Turbines 10 and 11 will be visible. Turbines 1, 2, 3, 4, 9, 10, and 11 will be visible looking north. From the garden, Turbines 10 and 11 will be visible. From the house itself, there is an arc of view of 90 degrees through the picture window. Turbines 1-10 will be visible. There would be similar views from the ground floor. Turbines 10 and 11 will also be visible through the east facing window. The only approach to the barn is via a long drive which is partially a public footpath which passes within 200m of Turbine 1. The wind turbines will have an overbearing effect and make the barn an unattractive place to live.
- 6.42 Trefursdon has a conservatory that faces north. The property would be surrounded in an arc of 90 degrees by the wind turbines. There would be intermittent views of them and in the winter they would be particularly dominant in views from the conservatory and garden.

⁸⁰ S2 and Mr Leaver in-c and x-e

⁸¹ Accepted by Mr Goodrum in x-e

⁸² CD F3 para 6.36

⁸³ Derived from CD E10 (Enifer Downs)

⁸⁴ S2 and Mr Leaver in-c and x-e

- 6.43 Stonyfold is typical of a number of properties to the north and north east of the site that command long views over the site and surrounding countryside. Eleven wind turbines would dominate the view from it.
- 6.44 The wind turbines proposed would dominate the views from Bahamas Bungalow and Annexe, and would be being particularly prominent from the large picture window that faces the site and from the front garden. They would stand on rising ground and dominate the views.
- 6.45 Creddacott Bungalow is oriented south east to take advantage of the views to Dartmoor. The eleven wind turbines would be prominent in views from the living room and from the garden.

Cultural Heritage

- 6.46 The setting of Warbstow Bury is extensive and includes the hill fort at Ashbury Camp, at a distance of 8km. Assessing the contribution to significance made by setting provides a baseline for assessing effects. The topography of the landscape to the north of the hill fort is an undulating mosaic of farmland and woodland across hillsides and low ridges. It is an open and almost empty countryside with scattered hamlets, isolated farmsteads and church towns, such as Whitstone, visible. There are scattered single turbines, the odd group of two, and some pylons. The car park and explanatory panels result in significant promotion and understanding. There are also three footpaths crossing or circling the fort.
- 6.47 The views to the north and north east are of course crucial but it is also important to take into account other views and the proliferation of wind turbines in other directions. The asset is partially surrounded and, as was said in Churchtown Farm decision⁸⁵, the sense of the camp in its historic landscape is being eroded.
- 6.48 As the appellant accepts⁸⁶, the careful placing of Warbstow Bury in its landscape setting clearly illustrates what is understood to be the dual role of hill forts as both defensive and socially dominant sites: it was located to see and be seen.
- 6.49 The view of the appellant is that there would only be any impact on the fort and its setting at distances below 1 km⁸⁷. However, Viewpoint 6⁸⁸ is devastating evidence to the contrary of that assertion and fully supports the opinion of CARE⁸⁹ that views northwards therefore would be significantly and adversely affected by the introduction of the proposed wind turbines and these would be perceived also from a number of other viewpoints around the ramparts and interior of the hill fort.
- 6.50 There is an ancient tradition for the Week St Mary group of Churches to celebrating the Easter Day Holy Communion at Warbstow Bury. This is a

⁸⁵ CD E18 paragraph 8

⁸⁶ A5 Paragraph 4.25

⁸⁷ Dr Carter x-e

⁸⁸ CD A18

⁸⁹ S6 Paragraph 109

striking example of the melding of pagan and Christian values and the effect of wind turbines turning in the view can easily be imagined.

- 6.51 In terms of Ashbury Camp, a SAM, the appellant suggests that there would be no impact⁹⁰. CARE says that the impact would be significantly harmful⁹¹. Inter-visibility with Warbstow Bury is clearly intentional and of high importance. Ashbury Camp occupies high ground, has relatively expansive views in all directions. The commanding location and defensible position was the chief reason to select the site.
- 6.52 It is plain, that whatever the correct grading of less than substantial harm is, the appellant cannot be right that there would be no adverse impact. As with Warbstow Bury and Viewpoint 6, CARE's photomontage⁹² demonstrates that to be wrong.
- 6.53 The setting of the Creddacott Barrow complex has been underestimated. The opinion of CARE⁹³ is that the broader topography is similar or identical to that during the period of their construction. The siting of barrows was not random but designed to be visible from the surrounding area as wayfinders and territory. The wind turbines proposed would interfere with an understanding of that.
- 6.54 In relation to the Parish Church of St Anne, Whitstone, there is once again fundamental disagreement between the experts. CARE⁹⁴ set out three factors that need to be considered in assessing the setting of the Church. First, the siting on a raised elevation, in order to allow their tower especially to have a significant degree of visibility both outwards and towards it. The church tower in Week St Mary can plainly be seen from St Anne's⁹⁵. The appellant⁹⁶ was again lukewarm on this topic and in plain opposition to any suggestion that the inter-visibility was intentional.
- 6.55 Second, CARE says that the elevated location of the site with its long panoramic views to the south formed part of the original design intention when the church was being planned.
- 6.56 The appellant⁹⁷ disagreed and suggested that the immediate setting of the church was its churchyard and adjoining fields but that beyond that, there were very few opportunities to appreciate the church in its wider setting. Only two places were identified two places where the Church might be seen outside the immediate setting which contributed little to the significance of the Church. Views from the Church were discounted as contributors to setting altogether. That analysis is fundamentally flawed.
- 6.57 As the Church is approached there are views from the footpath. Coming down the path from the lych gate there would be a view of turbines sprouting from

⁹⁰ Through the evidence of Dr Carter A4-A6

⁹¹ Through the evidence of Mr Cooper S5 and S6

⁹² S4 Viewpoint 3

⁹³ Through the evidence of Mr Cooper S5 and S6

⁹⁴ S6 Paragraphs 119-121 and Mr Cooper in-c

⁹⁵ CD A17 Plate 11

⁹⁶ Dr Carter x-e

⁹⁷ Dr Carter in-c and x-e and A5 Paragraph 4.119

the roof of the Church⁹⁸. There would also be views of the wind turbines from the south porch⁹⁹ and from the extension to the churchyard lying to the south of the east-west lane outside the lych gate¹⁰⁰.

- 6.58 Looking at this photomontage, it is obvious that no operational wind turbine materially diminishes the significance of the Church. Indeed it is almost impossible to see any. The appellant¹⁰¹ agreed that the wind turbines would be more numerous, that they would appear taller but would only detract slightly from an appreciation of the architectural and artistic interest of the church. In other words the appellant is only looking at an appreciation, from the immediate setting, of the aesthetic interest of the church. CARE says that this narrow assessment was plainly wrong anyway. Failure to address the impact on the significance of the wider setting which includes views from the Church southwards is fatal to appellant's assessment.
- 6.59 As regards the Parish Church of St Marwenne, Marhamchurch, the view of CARE is that the long views southwards from this Church make a significant contribution to its setting and significance.
- 6.60 The tower of the Church of the Nativity of the Blessed Virgin Mary in Week St Mark is clearly visible and the Churches are separated by a predominantly rural landscape¹⁰². There would be interference with this relationship and as a result a moderately harmful impact on the setting and thereby the significance of the Parish Church of St Marwenne.
- 6.61 There are photomontages of the impact on the Church of St Winwalo in Tremaine¹⁰³ but these give a misleading impression. If one stands closer to or on the northern bank, there would be uninterrupted views of the proposal sitting within the wider Ottery valley. The setting of the Church includes the valley and landscape to the north and north-west. This is a rural landscape with relatively few modern buildings or structures which emphasises the sense of isolation of the church. CARE says that the harmful impact of the proposal on the setting and thereby the significance of the Church would be moderate¹⁰⁴.
- 6.62 In summary, there would be large impacts on Warbstow Bury, Ashbury Camp and the Parish Church of St Anne, Whitstone. There would be moderate impacts on the Creddacott Barrow complex, the Parish Churches of St Marwenne and St Winwalo. There would be slight impacts on other Grade II listed farm buildings, and the Week St Mary Conservation Area. There would therefore be harm to a range of designated heritage assets.
- 6.63 All those impacts must be given considerable weight in the planning balance in the manner outlined in the Barnwell Manor judgment and it is immaterial that

⁹⁸ CD A17 Plates 6 and 7

⁹⁹ CD A17 Plates 8 and 9

¹⁰⁰ S4 Viewpoint 1

¹⁰¹ Dr Carter x-e

¹⁰² S4 Viewpoint 2

¹⁰³ CD A17 Plates 4 and 5

¹⁰⁴ S6 Paragraph 133

the local plan on cultural heritage may be out of date because the weighted balancing act in paragraph 14 of the Framework does not apply.

- 6.64 The strong presumption applicable in the case of listed buildings applies also to SAMs in the light of the wording in paragraph 132 of the Framework. This applies to all designated heritage assets without distinction and must be applied to all the assets above.

Community

- 6.65 The transitional provision in the June 2015 WMS apply in this case. In such instances, the WMS says that 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.
- 6.66 There has been much confusion during the Inquiry with objectors on the one hand, and supporters on the other. It is accepted that it is not the numbers on either side that matter, but the soundness of the planning reasons.
- 6.67 In that context, going over the debate is unnecessary but it is worth pointing out that Parish Councils can be relied upon as a proper barometer of public feeling. In this case they are uniformly opposed.

Conclusions

- 6.68 It is plain that in this case the adverse impacts far outweigh the benefits of the proposal, and that the planning balance is clearly in favour of refusal of planning permission. Added to this there is the lack of support from the local community given voice by the various Parish Councils.
- 6.69 All that being the case then CARE respectfully requests that the appeal is dismissed

7. The Case for the Appellant

- 7.1 The case for the appellant is fully set out in their comprehensive Opening and Closing Statements to the Inquiry and in evidence¹⁰⁵. It can be summarised under a series of headings:

Landscape and Visual Impacts

- 7.2 The site extends across 332 ha of locally elevated land within the Western Culm Plateau which is currently used for mixed arable and livestock farming in an area characterised by undulating farmland and narrow lanes which are frequently lined by tall mature hedgerows. A number of dispersed dwellings and farmsteads surround the site, and a large number of small settlements occupy neighbouring valleys and ridges¹⁰⁶.
- 7.3 In terms of access routes, details of vegetation removals along the potential access route to the site have been assessed in the 2016 SEI¹⁰⁷ comprising a

¹⁰⁵ ID1, ID89 and A1–A10

¹⁰⁶ A2 Paragraph 3.1.1

¹⁰⁷ CD A18

total maximum removal of 276m of hedge bank and hedgerow. That would be of negligible effect and not significant¹⁰⁸.

- 7.4 The appeal site is likely to be one of the last few viable wind farms of this scale in Cornwall, outside of the AONB, and Area of Great Landscape Value. Four design iterations of the scheme with varying wind turbine heights and numbers preceded selection of the final layout¹⁰⁹.
- 7.5 A smaller number of larger turbines, in most cases, led to reduced landscape and visual effects for the same energy yield as is the case here and the subsequent increase in wind turbine size from 100m to 125m was found not to create much at all in the way of increased landscape and visual impacts for much greater energy yield¹¹⁰.
- 7.6 The final layout of eleven wind turbines minimised stacking effects, residential amenity impacts to the east, and lessened effects on the Upper Tamar and Ottery Valleys LCA¹¹¹.
- 7.7 The effects of climate change on landscape and the part renewables have to play in holding back those changes are material considerations here and are documented in Natural England's Making Space for Renewable Energy¹¹², and the Cornwall and Isles of Scilly Landscape Character Study¹¹³.
- 7.8 The proposed 25 year development period is short compared to the long term effects of climate change, a consideration supported by paragraphs 2.7.13 and 2.7.17 of NPS EN-3¹¹⁴ which recognise the relevance of the temporary nature of wind farms¹¹⁵.
- 7.9 The majority of the wind turbines would be situated within the Western Culm Plateau (LCA 37) with one on the border of the Upper Tamar and Ottery Valleys (LCA 31). The medium-large scale of the plateau, simple skylines, simple landcover patterns mean that overall this LCA has a moderate sensitivity to wind energy development outside the AONB and medium-low sensitivity in the local vicinity of the site¹¹⁶. CARE accepts that open plateau and simple land cover make landscapes less sensitive to wind farm development¹¹⁷. The note in the character assessment for LCA37 that wind farms are recognised as a pressure on the area¹¹⁸ does not of itself establish any reason why wind farms should not be built here, nor indeed were the references by the Council to the openness of this land, and its contrast with dramatic features elsewhere in the LCA, being special.

¹⁰⁸ A2 Paragraph 3.3.5

¹⁰⁹ A2 Paragraphs 3.4.2-3.2.4, A3 Appendix 2 and CD A17 Section 8

¹¹⁰ Mr Goodrum in-c

¹¹¹ A2 Paragraph 3.4.10

¹¹² CD F15

¹¹³ CD F14 and A2 Paragraph 3.11.6

¹¹⁴ CD D3

¹¹⁵ A2 Paragraph 3.11.9

¹¹⁶ A2 Paragraph 3.9.12

¹¹⁷ Mr Leaver x-e

¹¹⁸ Mr Holman x-e

- 7.10 Here we can note that the evidence advanced by the Council, despite being in support of reasons for refusals directed in large part to landscape and visual impacts, was not given by a witness with any qualification or expertise in such matters and was conceded to be only drawing on previous advice to the Council for the purpose of informing how policy should be interpreted¹¹⁹.
- 7.11 CARE advance a particular argument here that the dramatic vistas that are characteristic to this LCA include views inland to Dartmoor¹²⁰. This point was repeated a number of times in evidence, but without making it persuasive. The dramatic vistas refer to the rugged coast. Dartmoor is a far distant horizon at over 30km. Other than that, CARE accepts that views inland over LCA37 are not listed as a key characteristic of the area. It was also accepted that the contrast between complex local details in some areas is less relevant here because the wind turbines would all be in a plateau area, and visually separate from any LCA31 valley areas¹²¹.
- 7.12 The Upper Tamar and Ottery Valleys (LCA 31) with relatively large scale rolling landform, relatively simple land cover patterns and relatively few important skyline features overall has a moderate sensitivity to wind energy development outside of the AONB¹²².
- 7.13 As the wind farm would be located within the transition from the large-scale plateau landscape (but within the plateau) of the Western Culm Plateau to the more intimate and enclosed valley landscape of the Upper Tamar and Ottery Valleys (but away from those valleys themselves) the landscape shares characteristics of both LCAs, so it is correct to assess effects on both landscape character areas where they are not subject to landscape designations, where they have larger open fields and where they support existing renewable development¹²³. This transition point was agreed by CARE, a concession not weakened by the caveat attached that the development is still contrary to the SPD strategy¹²⁴.
- 7.14 The Bude Basin (LCA 38) with relatively simple land cover pattern and strong human influence in parts overall has moderate sensitivity to wind energy development outside the AONB. The Delabole Plateau (LCA 36) despite some important historic skyline features (such as Warbstow Bury hill fort) also with its large scale plateau landform, simple skylines, large scale simple land cover pattern and presence of human influence has low-moderate sensitivity to wind development¹²⁵.
- 7.15 The Council accepts there will be no significant landscape effects on either of these landscapes and that the tranquillity noted for the LCA38 valleys will not be affected due to screening within those valleys¹²⁶.

¹¹⁹ Mr Holman x-e

¹²⁰ Mr Leaver x-e

¹²¹ Mr Leaver x-e

¹²² A2 Paragraph 3.9.13

¹²³ A2 Paragraph 4.3.3, A3 Appendix 4 Figure CG1 and Mr Leaver x-e

¹²⁴ Mr Leaver x-e and CD F20

¹²⁵ A2 Paragraph 3.9.17

¹²⁶ Mr Holman x-e

- 7.16 It is entirely right that we take into account existing development as part of the baseline when assessing susceptibility and level of impacts. The local area is described as being peppered with individual and pairs of smaller wind turbines, maybe 50 developments in the study area since the ES was initially drawn up¹²⁷. LCAs 37, 38 and 41 all show an association with renewable energy, roughly 10 to 15 new developments in each area.
- 7.17 What CARE has lost sight of in making this point from the SPD¹²⁸, is to draw on statements that say the vision for the future is not dictated by the existing pattern of development. They have interpreted that to mean existing sensitivity should ignore the present pattern of development, which must be wrong, even allowing for the words *"The sensitivity assessment [has] not influenced existing development which predates the study"* which are contained in Annex 1 paragraph 5.12, into which CARE ask you to read the missing word in brackets¹²⁹.
- 7.18 Concerns over a slow degradation of landscape aired by the Council and CARE are answered by the operation of controls on cumulative impacts, which is assessed on every new individual scheme. If you want to prevent a wind farm landscape from emerging, you do it through cumulative impact control¹³⁰.
- 7.19 In respect of landscape character, there will be effects of major-moderate significance within a limited area of the Western Culm Plateau (LCA 37) which includes the appeal site and land within approximately 1.5 km of it. CARE put this at 25% of the southern part of LCA37¹³¹ with moderate scale impacts stopping short of the AONB¹³². Within this area, the wind farm would be the defining characteristic but widespread effects on the distinctive qualities of the character area as a whole would not occur. Landscape character effects reduce incrementally with distance, screening vegetation and landform, and existing wind turbines moderate the perception of change meaning although medium scale changes may extend out to 4km, equating with roughly half the LCA, no significant effects on landscape character are expected beyond approximately 2 km¹³³.
- 7.20 CARE argued that this local area would be altered from rolling farmland to a landscape with wind turbines¹³⁴ but looking at the SPD categorisations, the resulting impacts would fit within the *"landscape with occasional wind energy"* suggested for LCA37, and whilst CARE argue for the next category up, they concede there are no significant cumulative impacts with other schemes, and that large areas of the LCA remain where the development would not be visible¹³⁵. This suggests the characteristic of separation between schemes looked for in this *"occasional wind energy"* landscape will be present.

¹²⁷ A3 Appendix 4 Figure CG1

¹²⁸ CD F20

¹²⁹ Mr Leaver x-e

¹³⁰ Mr Goodrum in-c

¹³¹ Mr Leaver in-c

¹³² Mr Leaver x-e and A3 Appendix 4 Figure CG1

¹³³ A2 Paragraph 2.1.5

¹³⁴ Mr Leaver x-e

¹³⁵ Mr Leaver x-e

- 7.21 In the three other LCAs (LCA 31 - Upper Tamar and Ottery Valleys, LCA 38 - Bude Basin and LCA 36 - Delabole Plateau) impacts within 2km are only of moderate significance reducing at greater distance¹³⁶. All are agreed to be well separated from any LCA31 incised valleys and for CARE's claim of localised impacts in this LCA, it accepts it cannot show the ES standard of 25% of the receptor area, but only that impacts can extend in places as far as 2km in this area¹³⁷.
- 7.22 The Cornwall Renewable Energy Planning Advice¹³⁸ SPD Guidance on LCA37 for wind turbines of 125m falls in the middle of Band D (100-150m). Located within the southern portion of the LCA the scheme meets the criteria in that guidance and 125m should not be classified as "too high", as suggested by CARE, particularly as CARE accepts that the wind turbines are not *at the upper end of Band D*, which is what is recorded by the SPD as being the particular sensitivity of the area¹³⁹.
- 7.23 At eleven wind turbines the scheme falls at the lowest end of the large cluster size (11-25 turbines) and as the site is within in a transitional landscape, characterised by an open plateau, which is different in scale, complexity and pattern to the more intimate inward looking valleys, and is not subject to landscape designations found elsewhere within LCAs 31 and 37, the local landscape in the vicinity of the site has a reduced sensitivity to wind energy development and a moderately increased capacity to accommodate development¹⁴⁰.
- 7.24 The SPD confirms in more than one place that thresholds like this cannot be determined with absolute accuracy and that the study should be used as a starting point¹⁴¹. The process of reaching that height and cluster size has been described as opaque. For example LCA37 is apparently dependent only upon size of undulations and field size, where it is relevant that this scheme is on a plateau, in an area of larger fields, that could easily have led to a finding of suitability for medium size clusters¹⁴².
- 7.25 CARE's approach is much more rigid, that in looking for a landscape with occasional wind farms you should accept only groups of up to 5 turbines at the lower end of Band D, and apparently nothing else. This largely numerical approach asserts that any number of turbines above this is simply outside the guidance¹⁴³.
- 7.26 If it is to be suggested that the optimum size for the site having regard to the SPD is just 5 turbines at 100m, that would not be looking at the siting criteria as a means of maximising energy production on the site. To do that you look to develop a design where impacts remain acceptable and that has been done here by reference to all sensitive receptors such as numbers of dwellings and

¹³⁶ A2 Paragraph 4.3.5 and Table 3

¹³⁷ Mr Leaver x-e

¹³⁸ CD C3

¹³⁹ Mr Leaver x-e

¹⁴⁰ A2 Paragraph 3.4.12

¹⁴¹ CD C3 Page 47 Paragraph 8.1 and Annex 1 Paragraph 2.14

¹⁴² Mr Goodrum in-c

¹⁴³ Mr Leaver x-e and re-e

settlements nearby¹⁴⁴. In fact CARE do no more than say that if wind turbines had been smaller or less numerous impacts might have been lower but even then could well still have large scale impacts, and that in any event they do not feel able to comment on whether such a design would in any event be able to be considered acceptable¹⁴⁵.

- 7.27 Five 125m wind turbines also represents a wholly different approach from the existing pattern of single and pairs of wind turbines which has to tell us more than the CARE claim that occasional wind turbines in the landscape at present corresponds with the SPD strategy for LCA37. At no place does the SPD say the strategy for LCA37 is single and pairs of wind turbines only¹⁴⁶.
- 7.28 The Council's argument that the SPD requirement to maintain diversity of landscape and clear separation of developments is answered by the appellant's Figure CG1¹⁴⁷. This shows just how much of the surrounding LCAs is unaffected by the development, as is the requirement for travellers to have breaks of undeveloped landscape. It is not enough for the Council to just say that the development will reduce these factors¹⁴⁸.
- 7.29 The acceptance of this scale of development undermines any importance in the stress placed by CARE on these existing wind turbines not representing "intrusive, high development", a specific phrase that was agreed not to be present now, but subject to the very reasonable caveat that looking at 50m to tip wind turbines, even at a distance, the viewer is quite aware that they are looking at what are in themselves tall structures¹⁴⁹.
- 7.30 The oft repeated criticism that the development would introduce alien features falls away when the Council explained that any man-made feature should be treated as alien in this context¹⁵⁰ given how many existing man-made features there are, and that they would have classed five 100m wind turbines as similarly alien.
- 7.31 It will be a matter of judgment whether any force is seen in the CARE suggestion that viewed from Warbstow Bury the wind turbines would join all the disparate elements of existing development into a whole that would represent a landscape dominated by wind energy¹⁵¹ or from the Council that wind turbines would become the defining feature¹⁵². The evidence of the appellant is that nothing even close to a wind farm landscape would be the result of the proposal at issue.
- 7.32 As for CARE's argument that the wind turbines would dominate the low hills of LCA31¹⁵³, it has proved difficult to identify any specific hill that is being

¹⁴⁴ Mr Goodrum in-c

¹⁴⁵ Mr Leaver x-e

¹⁴⁶ Mr Goodrum and Mr Leaver x-e

¹⁴⁷ A3 Appendix 4

¹⁴⁸ Mr Holman x-e

¹⁴⁹ Mr Goodrum x-e

¹⁵⁰ Mr Holman x-e

¹⁵¹ Mr Leaver x-e

¹⁵² Mr Holman x-e

¹⁵³ Mr Leaver in-c and x-e

referred to here. We were pointed to Viewpoints 1, 3 and 7¹⁵⁴ with the message that to the extent you can see hills in these views, the wind turbines would dominate them.

- 7.33 There is, of course, specific reference in the SPD to maximising the use of any available renewable energy resource and the Council accepts that means developing the largest installed capacity possible and that the increased energy benefits that result are an important consideration. Inevitably the Council's case leads it to say these limits have been exceeded here¹⁵⁵ but it is an important principle to have been accepted that the developer and decision maker should be looking to ask what is the greatest output that can be derived from the site, and in development terms, that means what is the largest acceptable wind turbine size and number?
- 7.34 In terms of visual impact, based on topography alone, the wind turbines would be widely visible within 5km of the site, with visibility becoming more fragmented beyond this distance as a result of the undulating terrain. The 'transition' of the landscape within the vicinity of the site also results in more limited visibility from the Upper Tamar and Ottery Valleys¹⁵⁶.
- 7.35 Assessment of impact from the various viewpoints show large scale impacts in Viewpoints 1–4 (up to 2km), medium scale impacts in Viewpoints 5 to 8 (at around 4km) dropping thereafter to medium small, small or negligible at greater distance¹⁵⁷.
- 7.36 These levels of effects are indicative of a visual effect likely to be experienced from a particular viewpoint location and they should not be assumed to translate into a visual effect on the overall receptor (that is the whole settlement or footpath route) and many views are balanced by substantial localised screening from tall vegetation and the undulating topography. The effects of this can be seen well with Viewpoints 1 and 2 where impacts clearly are not the same along all of the roads in which these viewpoints are located¹⁵⁸.
- 7.37 All settlements within 5km of the site have the potential for significant effects where there are views, but as a whole those settlements would experience effects of only negligible magnitude and minimal significance. Specific groups of properties that could experience large scale views include Week St. Mary/ Week Green at 1.8km (properties at Broad Close), Canworthy at 2km (exceptionally from the rear of some properties on the eastern edge), and Jacobstow at 3.5 km (properties at Southcott Meadows).
- 7.38 CARE argue that from the closest Viewpoints effects are up to 50% of available views but that does not allow for changes in and reductions to visibility as you enter villages themselves and from routes around villages from screening and topography¹⁵⁹.

¹⁵⁴ CD A18

¹⁵⁵ Mr Holman x-e

¹⁵⁶ A2 Paragraphs 4.4.2 and 4.3.11 and CD A18 Figure 3.2

¹⁵⁷ A2 Paragraph 4.4.6 and Table 4

¹⁵⁸ A2 Paragraph 4.4.8, Mr Goodrum in-c and CD A18

¹⁵⁹ Mr Leaver x-e

- 7.39 For residential communities outside these main settlements, beyond 1km of the site, such as east of the appeal site between Canworthy Water, Maxworthy and Tremaine and between the Week St Mary to Langdon Road and Jacobstow, effects depend upon specific visibility and range from large through to medium scale but the intermittency of any such views reduces overall effects¹⁶⁰.
- 7.40 In terms of highways and rights of way, significant effects are anticipated on recreational routes within 2 km of the site and in some cases out to 4km, where the scheme would be typically conspicuous and have a commanding presence, reducing with distance and localised screening afforded by topography and vegetation with no overall significant effects on regional walking or cycling routes. Significant effects are predicted for the route past Warbstow Bury (it not being of itself unusual or unacceptable for significant impacts to be predicted at such distances for higher sensitivity receptors) but not for any other accessible or recreational landscapes or specific viewpoints such as Marhamchurch or Bodmin Moor (Rough Tor)¹⁶¹.
- 7.41 The apparent criticism levelled at the appellant¹⁶² for not making a visual impact assessment looking south from Warbstow Bury is unwarranted. Clearly the landscape has been assessed and in the context of a visual impact assessment it is right to look more just to the available view towards the wind turbines. That is to be compared to a heritage significance assessment that looks much more at all views from and to an asset.
- 7.42 Differences with CARE on views from here turn almost entirely on the extent of views affected, from which we say 50% of the available view is simply too high and it doesn't make CARE's claim of the extent of change better to say that it results from the vertical scale of the wind turbines and them apparently being unlike anything in the existing view, or from the effect of viewing without moving your head. Similarly the Council's contention that the wind turbines would be a barrier that cannot be seen beyond does not give a fair assessment of the actual level of impact from this route shown in Viewpoint 6¹⁶³.
- 7.43 From roads closest to the appeal site screening by tall hedgerows and/or hedge banks mean effects would not be significant¹⁶⁴.
- 7.44 For the A39 at 4km and the B3254 at 3.4km effects would be of slight to minimal significance overall, and not significant¹⁶⁵. That the Council took visibility from only 10% of this route as meaning you will still know the wind turbines are there all the time you are driving along¹⁶⁶ seeks to deny the effects of screening. Against this argument, the effects of screening were accepted by the Council to be important in terms of mitigation¹⁶⁷.

¹⁶⁰ A2 Paragraphs 4.4.10 to 4.4.17

¹⁶¹ Mr Goodrum in-c, A2 Paragraphs 2.1.6 and 4.4.22, and CD A11 Figure 5.1

¹⁶² Mr Goodrum x-e

¹⁶³ CD A18 and Holman in-c

¹⁶⁴ A2 Paragraph 4.4.20

¹⁶⁵ A2 Paragraph 4.4.18 and CD A11 Figure 5.1

¹⁶⁶ Mr Holman in-c

¹⁶⁷ Mr Holman x-e

- 7.45 The SPD¹⁶⁸ siting guidance can be raised here for the sake of convenience. The scheme complies with the vast majority of the siting guidance for developments within the Western Culm Plateau in that: it avoids the undeveloped coastal edge by some 7km, alterations to the small-scale rural lane network from transporting turbines to site although not avoided entirely have been minimised, with an acceptance by the Council that replacement of hedges after works will over time result in re-establishment¹⁶⁹ and for the 90m of traditional Cornish hedge lost there will be compensation planting. Wind turbines will not dominate, or prevent the understanding and appreciation of, historic landmarks on the skyline, they avoid the HLC Types such as 'Upland Rough Ground' that the Council consider highly vulnerable to wind energy development, popular routes such as the South West Coast Path have been considered and effects avoided (with limited effects on the National Cycle Route), development has avoided intimate steep wooded valleys, modest stone bridges and local vernacular architecture and the location protects the AONB, and the Week St. Mary part of the AGLV¹⁷⁰.
- 7.46 CARE interpreted a number of these specifics differently but accepted that nothing turns on them in landscape impacts as both they and the appellant conclude the area has medium sensitivity to development and that the real issue in its mind was exceeding the SPD strategy, not these siting criteria¹⁷¹.
- 7.47 CARE's suggestion that views of wind turbines in conjunction with pylons represented clutter was not accepted. If anything the pylons would become less visible in the context of wind turbines¹⁷².
- 7.48 The Council's argument that the siting does not protect important skylines was limited to the one direction where very limited views affect a distant view of the Church at Week St Mary and also its claim that views of just blade tips not being minimised seemed to be evidenced by nothing much more than Viewpoint 3¹⁷³.
- 7.49 The Council's comment that the layout does not read as a single wind farm from many of the 15 representative viewpoints is countered in that whilst there is apparent separation in the views from Viewpoints 2, 6, 8, 11 and 17¹⁷⁴ (and two instances where T1 appears beyond the main cluster), the effects of these are variously mitigated by screening of one or other group, by distance, or by the layout still reading as two separate groups but of a common typology in the landscape.
- 7.50 These effects are limited to views from the north east and the south west (in less than 30% of available views around the compass) and this is not an unusual feature of wind farms, given constraints to design, and views from different directions¹⁷⁵. Instances of overlapping blades are also raised by

¹⁶⁸ CD F20

¹⁶⁹ Mr Holman in-c

¹⁷⁰ A2 Paragraph 3.4.13 and Table 1

¹⁷¹ Mr Leaver x-e

¹⁷² Mr Goodrum x-e

¹⁷³ Holman in-c and CD A18

¹⁷⁴ CD A18

¹⁷⁵ Mr Goodrum x-e, A2 Paragraphs 3.4.14-15 and Table 2

CARE and the Council such as in Viewpoint 2 but instances such as these are accepted as inevitable in some views with multiple turbines¹⁷⁶.

- 7.51 As far as residential amenity is concerned, for properties within 1km, open and direct views of the wind turbines have been assessed and will be visually significant but will not necessarily affect fundamental living conditions or be 'oppressive' or 'overbearing' in terms of the amenity of the property as a whole¹⁷⁷. Many of these properties and those beyond 1km with open views will experience significant visual impacts, but there is no sub-class of profoundly significant impacts as seem to be suggested by CARE arising from them having commented specifically on just four properties that they contend fall just below the relevant threshold.
- 7.52 It is not the case that the appellant has failed to consider significant impacts from residential properties that do not fail the relevant test or that it argues they are not to be weighed in the balance. This has been done from the perspective of named groups of properties with the recognition there will be individual properties that will have significant impacts if they have open views¹⁷⁸. These impacts should all be put in the balance, but not on the basis that in some way they add up to more than the sum total of their component parts, as was suggested at one point by CARE¹⁷⁹.
- 7.53 Little Exe Cottage has not been considered in detail, because it is owned by the appellant and will not be occupied for residential purposes during the operational life of the wind farm as secured by the completed Unilateral Undertaking¹⁸⁰.
- 7.54 Trefursdon Annexe (or Barn) referred to by CARE, at c745m to the closest wind turbine has a tree belt limiting visibility of the proposed turbines from the house once it is completed with potential visibility of 1-2 turbines from the rear garden from which the development would not be overbearing or oppressive and is unlikely to give rise to unacceptable harm to the residential amenity of this property¹⁸¹.
- 7.55 Wind turbines as close as 550m to dwellings, and even less than this have passed the relevant test elsewhere where in addition to distance, matters like the interruption of views from trees and hedgerows assist in mitigating impacts, and even more so in an undulating topography like this¹⁸². CARE dispute the effect of topography but accept some screening effect will be a relevant consideration here. These conclusions have been confirmed by site visits from as close as can be achieved from publicly accessible areas¹⁸³. CARE's concern about this property is not shared by the Council.
- 7.56 In terms of the AONB, the section from Pentire Point to Widemouth Bay is a narrow, linear strip along the coast forming just over 12% of the total AONB

¹⁷⁶ Mr Holman x-e

¹⁷⁷ A2 Paragraph 4.4.25 and A3 Appendix 5

¹⁷⁸ Mr Goodrum and Mr Stewart x-e

¹⁷⁹ Mr Stewart x-e

¹⁸⁰ A2 Paragraph 4.4.26 and ID91

¹⁸¹ A2 Paragraphs 4.4.28-29 and CD A11 Figure 3.20

¹⁸² Mr Goodrum x-e

¹⁸³ Mr Goodrum x-e

area. The AONB Management Plan¹⁸⁴ statement of significance and reasons for designation refers to *rich geological interest forming intriguing coastal features...wild exposure of the open coastal plateau contrasting strongly with the intimacy of the sheltered valleys...in a landscape dominated by the open expanse of green pastoral fields...with small to medium sized fields overlaying the rolling landform giving way at the higher ground along the ridge to larger straight sided fields recently enclosed from former upland rough ground...*

- 7.57 EN-1 and the Framework¹⁸⁵ provide that the duty to have regard to the purposes of nationally designated areas applies to projects outside the boundaries of these areas which have impacts within them, with the aim of avoiding compromise of the purposes of designation.
- 7.58 In terms of the Statement of Significance, the wind turbines would be located outside the AONB, so would have no direct effect on the coastline or its rich geological interest. There will be no visibility from the secluded valleys or broad-leaved woodlands within the AONB and the proposals would not affect the field pattern, Cornish hedges or narrow lanes or the settlement pattern within the AONB¹⁸⁶.
- 7.59 The Statement of Significance of the AONB is accepted to make no reference to inland views beyond the Delabole Ridge or to mention Dartmoor (at over 34km) specifically¹⁸⁷. In fact CARE accepts that it has not made an assessment against this Statement but instead looked only to visual impacts. This undermines its claim of a conflict with AONB Guiding Principle GP02.2¹⁸⁸. Also in this regard when CARE claims that there would be wide views of wind turbines from the AONB at representative Viewpoints 9 and 10¹⁸⁹, these do not amount to the 50% of receptors affected as would be needed by the ES standard for this term¹⁹⁰.
- 7.60 When CARE argue that the effects from these points would lead to a noticeable change in the baseline rather than just being discernible (to achieve CARE's case for a medium magnitude of change)¹⁹¹, this results from a concentration on just what can be seen in the views of where wind turbines are visible, rather than considering effects in the round. There simply is no justification for the Council to contend that wind turbines being on high ground would appear dominant from the AONB at this distance¹⁹².
- 7.61 Overall, effects on the AONB at up to 10km (encompassing only 12% of the whole AONB, and accepted by CARE not to have visibility throughout this area) would be visual in nature, of a small scale, localised in extent, limited to areas of higher ground, many of which are not publicly accessible, resulting in a low

¹⁸⁴ CD F13

¹⁸⁵ CD D2 and CD D1

¹⁸⁶ A2 Paragraph 4.5.9

¹⁸⁷ Mr Leaver x-e

¹⁸⁸ Mr Leaver x-e

¹⁸⁹ CD A18

¹⁹⁰ Mr Leaver x-e, CD A11 Paragraph 5.39 and A2 Paragraph 4.5.8

¹⁹¹ Mr Leaver x-e

¹⁹² Mr Holman in-c

magnitude of effect which, combined with a high sensitivity to the scheme, would be of moderate significance and not significant in overall terms¹⁹³.

- 7.62 The Council and the AONB Unit (prior to the Inquiry, at least) concluded only that there is likely to be a moderate impact on the setting of the AONB, rather than on the AONB itself¹⁹⁴. Put simply, if there is no effect on the special qualities of the AONB, there is no effect on the AONB that need concern the decision maker¹⁹⁵.
- 7.63 We heard the argument which it is fair to say was advanced for the first time only as the Council gave evidence that the impact was not just to the setting of the AONB setting, but to the AONB itself, even though the evidence is of harm arising only outside the AONB¹⁹⁶. The statement made, more than once, was to the effect that because the setting protects the AONB, to protect the AONB you have to protect the setting¹⁹⁷. It is a simple proposition but it is a fundamentally flawed argument because it treats an area outside the AONB as being inside it.
- 7.64 The Cornwall AONB Unit's finding of moderate impact on the setting of the AONB is largely based upon visibility to people travelling along the A39 and northwards towards Wainhouse Corner. It is notable that the AONB Unit comments are almost entirely focussed on visual impacts and make no direct reference to the special qualities. Even then, there will be extremely few locations within the AONB where the wind farm will be seen against the backdrop of Dartmoor. Viewpoint 10¹⁹⁸ is an example of wind turbines and the National Park visible together but even here turbines do not interrupt the distinctive silhouetted profile of Dartmoor¹⁹⁹.
- 7.65 The Council's evidence did variously quote from the AONB Management Plan, and policy CCE1 on accommodation of renewables, and the development plan policy about development near to the AONB, but none of these have the effect of drawing significant impacts closer to the AONB than have been assessed, which falls short of the AONB itself²⁰⁰.
- 7.66 The Council does not contest the EN-1²⁰¹ provision that mere visibility from within a designated area should not in itself be a reason for refusing consent²⁰². If it is determined that is all that will happen, then the Council's objection here should fall away.
- 7.67 Dartmoor is not a dramatic view of importance to the AONB and there is a visual divide in landscape east and west of the A39 (accepted by CARE to be visible in Viewpoints 9 and 10²⁰³) and north-south views from the AONB are

¹⁹³ Mr Leaver x-e and A2 Paragraphs 4.5.6 and 4.5.14

¹⁹⁴ A2 Paragraphs 2.3.16 and 2.5.5

¹⁹⁵ Mr Goodrum in-c

¹⁹⁶ Mr Holman in-c

¹⁹⁷ Mr Holman x-e and in response to questions from the Inspector

¹⁹⁸ CD A18

¹⁹⁹ A2 Paragraphs 4.5.8 and 4.5.11

²⁰⁰ Mr Holman in-c

²⁰¹ CD D2

²⁰² Mr Holman x-e

²⁰³ CD A18

not affected²⁰⁴. The development will not result in any change to the intended "*landscape without wind energy development*" that the SPD looks for in the AONB.

- 7.68 The Council drew our attention to paragraph 5.144 of the ES²⁰⁵ having mentioned Dartmoor in relation to LCA37 and argued that was irreconcilable with the finding that Dartmoor would be being unaffected in paragraph 5.556²⁰⁶. The separation distance to Dartmoor easily justifies the ES conclusion.
- 7.69 The landscape around the site cannot be described as 'unspoilt' here given that the appeal site is located in a landscape which contains a 'scattering' of single wind turbines, power lines (which run through the site), a large solar farm and large and highly visible agricultural buildings, which also undermine the AONB Unit's claim that lack of any vertical emphasis around the site area means the visual and landscape impact in this area will be more exaggerated²⁰⁷.
- 7.70 LP Policy ENV1 suggests a 1km area for potential impact from development outside the AONB, which does not extend to 4km, even allowing for the height of the wind turbines proposed. LP Policy TRU4 accepts that the area to the east of the A39 is likely to be considered for wind power²⁰⁸.
- 7.71 There are numerous examples of where wind farms have been found acceptable at 4km or closer to the boundary of AONBs (and National Parks) including the existing wind turbines at Otterham Down on the boundary of the Cornwall AONB, and in the Crimp wind farm where three 81m tip height turbines 1.3km west of the AONB (so admittedly smaller, but also much nearer) were found on appeal not to compromise the objectives of the designation of the nearby AONBs²⁰⁹.
- 7.72 In terms of the Week St Mary section of the AGLV, the scheme would potentially be visible from most areas of it, within 2.5-3 km, but would be substantially screened by hedgerows and localised vegetation and topography. Only in small areas around Whitstone where there would be clear views of the array would the magnitude of effect achieve medium and a significance of effect of moderate, but this is not significant overall²¹⁰.
- 7.73 There has been debate over whether the AGLV is a valued landscape for the purposes of paragraph 109 of the Framework but that is rendered largely academic for this appeal given that the AGLV did not form part of the reasons for refusal and the Council agree that significant effects on the AGLV within 2km of the site would not detract from its special qualities²¹¹. CARE also agrees that any concern it has solely relates to visual impact²¹².

²⁰⁴ Mr Goodrum in-c and Mr Leaver x-e

²⁰⁵ CD A11

²⁰⁶ Mr Holman in-c

²⁰⁷ A2 Paragraphs 2.5.5, 4.5.12 and 4.5.13

²⁰⁸ Mr Goodrum in-c

²⁰⁹ A2 Paragraph 4.5.16, Leaver x-e, and CD E30

²¹⁰ A2 Paragraphs 2.3.17 and 2.3.25-26

²¹¹ Mr Holman x-e

²¹² Mr Leaver x-e

- 7.74 Moving on to cumulative impact, there are 32 existing wind turbines in singles or pairs, currently operational and consented within 5km of the proposal, with the nearest larger group of wind turbines at a distance of 6.8km²¹³. The closest operational wind turbines are at Creddacott Farm, 0.5km to the north. These will be removed through the Unilateral Undertaking for noise reasons²¹⁴.
- 7.75 The Council agreed (prior to the Inquiry at least) that cumulative effects on landscape character and visual impact would be the same as the baseline scenario used in the main assessment, in part due to there being a preponderance of smaller rather than larger developments that have taken place since the initial ES²¹⁵.
- 7.76 Despite that, and despite making no expert or indeed any analysis of cumulative impacts, or having any reason for refusal directed at cumulative impacts, the Council advanced an argument that successive and sequential impacts should count against permission being granted²¹⁶. The argument here is weakened further by the Council's acceptance that they had not previously seen all of the application material on the extent of these impacts such as at paragraph 5.468 of the ES²¹⁷.
- 7.77 Whilst the total number of wind turbine developments visible in any given location is generally relatively low due to their small scale, there is a particular concentration of inter-visibility within a 5 km radius of the scheme associated with higher ground and open slopes orientated towards the site²¹⁸. CARE do not advance a cumulative case as such, with no specific cumulative assessment, but do ask, whether in views of proposed and existing wind turbines, there is the effect of a disharmonious whole. That is in fact just a single visual impact point, which we say is not established in any event²¹⁹.
- 7.78 In conclusion on this issue, given the nature, scale and sensitivity of the landscape, the wind farm proposed can be accommodated satisfactorily in this location. Whilst significant effects are identified on a number of receptors none of the identified effects are, in landscape and visual terms, unacceptable. Such effects are unavoidable in the context of wind farm development, and need to be considered, along with other factors, in the overall planning balance²²⁰.

Cultural Heritage

- 7.79 The HE advice on setting²²¹ makes clear that setting is not a heritage asset, nor a heritage designation. Its importance lies in what it contributes to the significance of the heritage asset²²².

²¹³ A2 Paragraph 5.1.1, A3 Appendix 3 Figure 3.4 and CD A18 Table 3.3

²¹⁴ A2 Paragraph 3.1.2

²¹⁵ A2 Paragraph 2.3.19

²¹⁶ Mr Holman in-c and x-e

²¹⁷ Mr Holman x-e and CD A11

²¹⁸ A2 Paragraph 5.1.4

²¹⁹ Mr Leaver x-e

²²⁰ A2 Paragraph 6.5.1

²²¹ ID14

²²² A5 Paragraphs 3.23 – 3.27

- 7.80 In this case, two steps set out in the advice are of particular importance. Step 2 requires an assessment of whether, how and to what degree setting makes a contribution to the significance of a heritage asset and Step 3 requires an assessment of the effect of any proposal, whether beneficial or harmful, on the contribution setting makes to significance²²³.
- 7.81 A key distinction between the appellant and the Council and CARE, is the extent to which these steps have been applied. The appellant's evidence is the only evidence before the Inquiry to have undertaken a rigorous assessment of impacts on each relevant asset on this basis. CARE's suggestion that the appellant has been misled by a lack of reference in list descriptions to the settings of assets is simply wrong. The list description is agreed to be a relevant data resource²²⁴ and there is ample treatment thereafter of setting by the appellant for every asset.
- 7.82 CARE also levelled criticism at the lack of the word 'setting' in table 9.2 of the ES²²⁵ and of the appellant for having reached conclusions different to the ES in evidence to the Inquiry²²⁶. However the question posed of where does this leave the ES is not being advanced as a claim that the ES is deficient. In any event, the question is answered first by the acceptance that the ES clearly did consider setting impacts (otherwise it would have recorded no impacts at all), and by respecting the ability of an independent expert to come to different conclusions to an earlier assessment.
- 7.83 The Council accepted from the outset that their sole witness did not profess to any expertise in heritage impact assessment and was not making any assessment of impact, but offered only comment on the ES and drew on consultation responses to inform an interpretation of policy, notwithstanding there was a heritage reason for refusal. The situation is not altered by references to EH guidance on setting in oral evidence²²⁷.
- 7.84 The case against the development advanced by the Council, CARE, and others, has concentrated on visual impact and those views where the wind turbines would have an effect. This can only ever tell part of the story about the overall effect on the heritage significance of any particular asset²²⁸.
- 7.85 In terms of the Framework, where harm is less than substantial, as it would be in two instances here, paragraph 134 requires that any harm is weighed against the public benefits of the proposal²²⁹ whilst still recognising that great weight should be attached to avoiding that harm, similar to the Section 66(1) of the Act test of applying considerable importance and weight to the desirability of avoiding that harm²³⁰. This is not, however, overriding importance and weight²³¹.

²²³ A5 Paragraph 3.24

²²⁴ Mr Cooper x-e

²²⁵ CD A11

²²⁶ Mr Cooper x-e

²²⁷ ID14 Mr Holman in-c and x-e

²²⁸ Dr Carter in-c

²²⁹ A5 Paragraph 3.15

²³⁰ Dr Carter in response to a question from the Inspector

²³¹ A5 Paragraphs 3.2 – 3.3 and CD E3 Paragraph 21

- 7.86 It is accepted that no statutory duty exists in respect of protecting the setting of SAMs²³² but great weight should be attached to avoiding harm to them, through harmful impacts on their settings by dint of paragraph 132 of the Framework.
- 7.87 The PPG²³³ recognises that substantial harm is a high test, so it may not arise in many cases, needing to seriously affect a key element of its special architectural or historic interest or equate with total loss of significance²³⁴. Whilst the PPG notes that impacts from wind turbines within the setting of a heritage asset may cause substantial harm to the significance of the asset²³⁵, it does not illustrate this further and examples of what this might represent in practice, that would go to the heart of the significance of a heritage asset and destroy or all but destroy its significance, are difficult to envisage²³⁶.
- 7.88 CARE accepts that this threshold is not reached anywhere in this case²³⁷. To the extent the Council maintained any argument on how substantial harm can arise here, it seemed to be more based upon applying ES methodology and increasing the assessments of impact to the point where a level of magnitude was reached that could be argued as substantial harm. The best response to that is as put to the Council that in making such assessments there can be the need to put the tables aside and consider the actual impact to the asset²³⁸.
- 7.89 As the majority of significance ascribed to the assets in this case lies in their physical fabric which will be unaffected by changes in setting, it is very unlikely that substantial harm to significance would or could result from impact on setting alone, given the high threshold that has been set²³⁹.
- 7.90 The time-limited nature of wind turbines, and the consequent reversal of any harmful effects, should be treated as having a clear mitigating effect on the significance of any impacts due to change in the setting of heritage assets. This is reflected in EN3²⁴⁰. CARE would only go as far as acknowledging the point²⁴¹ but argued it should attract very little weight due to the high levels of impact. That does not seem a very robust basis on which to discount that policy advice.
- 7.91 In terms of the assets affected, the heritage significance of Ashbury Camp, a SAM, lies primarily in its historic interest and potential archaeological interest as a well-preserved hill fort, providing evidence of Iron Age settlement and society. Its characteristic hilltop setting adds to the historic interest of the asset²⁴².

²³² Mr Holman x-e

²³³ CD D10 Paragraph 017

²³⁴ Dr Carter in-c and A5 Paragraph 3.20

²³⁵ A5 Paragraph 3.21

²³⁶ Mr Holman and Dr Carter in response to questions from the Inspector

²³⁷ Mr Cooper x-e

²³⁸ Mr Holman in response to a question from the Inspector

²³⁹ A5 Paragraph 3.29

²⁴⁰ CD D3 Paragraph 2.7.43 and A5 Paragraphs 3.18 and 3.19

²⁴¹ Mr Cooper x-e

²⁴² A5 Paragraphs 4.9 and 4.10

- 7.92 The hill fort itself is not publicly accessible and its surviving earthworks are not prominent although a footpath 400m distant offers a slightly elevated viewpoint of the hill fort²⁴³. CARE criticise reference here to lack of public access, as being irrelevant to heritage significance²⁴⁴ but at the same time argue that the steps to encourage access at Warbstow Bury should be paid particular attention in the assessment of impact. With respect, they can't have it both ways, and the better approach is to understand that public access affects how people experience a site and is therefore relevant to how change in the setting affects that experience. CARE conceded that increased public access added significance if it meant the asset had values that could be readily understood²⁴⁵.
- 7.93 The presence of the wind farm would not alter the landform on which the hill fort is sited, and it would continue to be experienced in its dominant hill-top location. The wind turbines would not detract in any substantive way from the significance of the asset²⁴⁶.
- 7.94 The heritage significance of Warbstow Bury, a SAM, lies primarily in its historic interest and potential archaeological interest as a well-preserved hill fort, providing evidence of Iron Age settlement and society. Good public accessibility increases the illustrative historic interest of the site²⁴⁷.
- 7.95 The careful placing of Warbstow Bury in its landscape setting clearly illustrates what is understood to be the dual role of hill forts as both defensive and socially dominant sites. Views out from and towards the hill fort contribute to our understanding and appreciation of the asset, and therefore its significance²⁴⁸.
- 7.96 It is often the case that visual impact assessment may give a different finding on significance to a heritage assessment, as is the case in relation to Viewpoint 6²⁴⁹. A visitor would continue to be able to understand why it was placed on the valley crest, overlooking the river valley and appreciate both the site's defensive properties and how it both physically and socially dominated the surrounding landscape in the Iron Age. The wind farm would be located too far away from the hill fort to challenge it for visual dominance in any informative views of the hill fort, which would remain the dominant feature in these views²⁵⁰. CARE conceded that the effect of wind turbines would only be to make the location less dominant and commanding, accepting that you would still be in a high elevation and that the wind turbines would not be above you²⁵¹.
- 7.97 The wind turbines would in no sense be perceived as being in close proximity to the asset and would be seen as a development 'over there' to any viewer,

²⁴³ A5 Paragraph 4.11

²⁴⁴ Mr Cooper in-c

²⁴⁵ Mr Cooper x-e

²⁴⁶ A5 Paragraphs 4.15 and 4.16

²⁴⁷ A5 Paragraph 4.23

²⁴⁸ A18 and A5 Paragraphs 4.25 and 4.26

²⁴⁹ Dr Carter in-c

²⁵⁰ A5 Paragraph 4.33

²⁵¹ Mr Cooper x-e

which is quite consistent with wind turbines being accepted as both prominent and conspicuous in Viewpoint 6²⁵².

- 7.98 The fact that turbine blades (and one hub) would break the skyline is accepted though it is not clear whether any existing wind turbines do so at present. It is also unclear why this matters²⁵³.
- 7.99 The wind farm, which would be located on the plateau, beyond the Ottery valley, is not in an unchanged landscape offering a strong sense of the prehistoric past. It is a 21st Century agricultural landscape²⁵⁴ of enclosed agricultural land with a variety of modern structures in all views - houses, farm buildings, masts, pylons and wind turbines. In the case of the wind turbines in particular, any viewer would be aware that they were looking at a high structure²⁵⁵.
- 7.100 These existing man-made structures do not adversely affect the significance of the hill fort and in the same way the wind turbines would not do so either²⁵⁶. The ability to perceive the motives of our forebears in placing the hill fort here would not in any sense be lost²⁵⁷. The Council's suggestion that additional wind turbines in the landscape would hinder an understanding of why Iron Age people located a fort at Warbstow Bury because it foreshortens the view²⁵⁸ again illustrates the lack of a reasoned connection between visual impact and justification for a heritage significance impact.
- 7.101 CARE's argument that a rural context is important to an understanding of the importance of the asset makes essentially the same point. In answer to the fact the rural context will remain, we get essentially the same answer – the context would be appreciated less with wind turbines²⁵⁹. CARE's comment that it concentrated on this particular view because it would have been a waste of resource to consider views where there would be no change²⁶⁰ casts doubt on the extent to which a fully balanced assessment of the effect on the SAM has been undertaken and relies on the worst case that can be seen just in one selected viewpoint. Beyond that, the concentration on this view is linked to the placing of information boards (although they can be found at other access points as well), and the question of inter-visibility.
- 7.102 Inter-visibility between Warbstow Bury and Ashbury Camp was raised frequently but it is not an important factor in terms of the perceived setting of either monument, in part due to the inability in practice to see one from the other unless conditions are clear, you have binoculars, and you know what it is you are looking for. Indeed, any suggestion that it was a matter of importance is speculative²⁶¹.

²⁵² A18 and Dr Carter x-e

²⁵³ Dr Carter x-e

²⁵⁴ Dr Carter in-c and x-e

²⁵⁵ Dr Carter x-e

²⁵⁶ A5 Paragraph 4.34

²⁵⁷ Dr Carter in-c

²⁵⁸ Mr Holman in response to a question from the Inspector

²⁵⁹ Mr Cooper x-e

²⁶⁰ Mr Cooper x-e

²⁶¹ Dr Carter x-e

- 7.103 One might allow some licence to a witness to bring a point to life, but CARE's repeated references to the facing of Warbstow with highly visible quartz in the far distant past and the possibility of beacons having been lit on both forts in the past and again in the future began to diminish what point there may be in an academic approach to inter-visibility being able to be pursued here²⁶². Quartz and beacons are not what modern visitors experience and it would be wrong to undertake an assessment of impact as if they did.
- 7.104 As a matter of fact, CARE accepts that it is difficult to detect Ashbury Camp from Warbstow Bury²⁶³.
- 7.105 To the extent anyone wanted to explore inter-visibility in the future, as a matter of fact, the sightline between the two SAMs would remain intact and as Ashbury Camp is not itself readily visible from Warbstow Bury, there can be no credible case that the wind turbines would act as a visual distraction that would detract from these views²⁶⁴.
- 7.106 The Churchtown Farm appeal decision²⁶⁵ dealt with a proposal for a single wind turbine much closer to the south of the asset and the reference therein to wind turbines partially overwhelming the asset at present is not accepted as a fair starting point for the assessment of the impacts of this development²⁶⁶.
- 7.107 The communal value of the site was raised in particular by others²⁶⁷ but these too will remain. Local people will still be able to make use of the asset and find reward in doing so, irrespective of the presence of the wind turbines proposed²⁶⁸.
- 7.108 HE's finding that the proposal would cause substantial harm to the significance of Warbstow Bury is based upon impacts on views out from the monument undermining a perceived 'supremacy' and 'primacy' in the landscape²⁶⁹. The Council however accepted that any viewer would still be aware that they were in an elevated position, looking out over the landscape, notwithstanding the presence of the wind turbines proposed²⁷⁰.
- 7.109 Moreover, the wind farm would not create an artificial barrier. It would be quite possible to see around and through the wind turbines and so be able to understand the landscape beyond them²⁷¹. The Council accepted that it was not impenetrable to views but that your appreciation of the horizon would be reduced in the direction of Week St Mary²⁷². CARE went as far as to accept there wasn't anything on the skyline behind that was important, it was just

²⁶² Mr Cooper in-c and x-e

²⁶³ Mr Cooper x-e

²⁶⁴ Dr Carter x-e, A17 Plate 3 and Cooper x-e

²⁶⁵ C2 Appendix 8

²⁶⁶ Dr Carter x-e

²⁶⁷ Mr Isherwood in particular ID26

²⁶⁸ Dr Carter in-c, x-e and re-e

²⁶⁹ G13 and A5 Paragraphs 4.39-4.41

²⁷⁰ Mr Holman x-e

²⁷¹ Dr Carter x-e

²⁷² Mr Holman x-e

that you would be distracted from it in general, and that otherwise there would continue to be a broad expanse of horizon visible²⁷³.

- 7.110 The wind turbines would not affect an appreciation of the landscape primacy of the hill fort as at a lower elevation at least 4km to the north-east, they would not compete for visual dominance with the hill fort. For all these reasons, HE's case for substantial harm is not made out. Even with the view in one direction changed, the immediate topographic setting of the SAM, and the surrounding landscape out to 4km in all directions, would be unaltered, as would be the majority of the heritage interest for this asset which is embedded in its physical fabric, the earthworks themselves, and sub-surface archaeological deposits²⁷⁴.
- 7.111 Creddacott Barrow Cemetery is visible but in a reduced condition, no more than 1.2m high, with heritage significance primarily in their archaeological interest, with the potential to provide information on funerary practices, beliefs and social organisation in the Bronze Age²⁷⁵.
- 7.112 Notwithstanding contentions by some²⁷⁶, no specific sight lines can be experienced between this and other barrow groups, nor are there any informative views of the barrows from the surrounding landscape²⁷⁷. The wind farm would have no impact on a visitor's ability to appreciate the topographic position of the barrow cemetery, and would not materially diminish the contribution that setting makes to the significance of this asset²⁷⁸.
- 7.113 HE's comments on this SAM relate to visual impact with no attempt made to explain how the setting of the barrows contributes to significance, and then how that contribution would be affected²⁷⁹. The Council confirmed that it took no point on the Creddacott Barrow Cemetery²⁸⁰.
- 7.114 The Church of St Mary in Week St Mary has heritage significance primarily in the fabric of the church which has considerable architectural, archaeological, artistic and historic interest²⁸¹.
- 7.115 It has an immediate setting, provided by the churchyard, castle and adjacent village to which the Church is historically linked, which illustrates the importance of the village as a manorial centre from the 11th Century. The Church is also a dominant feature in short-range views from outside the village, generally within 1km, illustrating its historic role as the focal point for the Parish of Week St Mary, adding further to historic interest²⁸².

²⁷³ Mr Cooper x-e

²⁷⁴ A5 Paragraphs 4.44-4.45

²⁷⁵ A5 Paragraph 4.49

²⁷⁶ Mr Isherwood in particular ID26

²⁷⁷ A5 Paragraph 4.52

²⁷⁸ A5 Paragraph 4.56

²⁷⁹ G13 and A5 Paragraph 4.63

²⁸⁰ Mr Holman in-c

²⁸¹ A5 Paragraph 4.64

²⁸² A5 Paragraph 4.66-4.67

- 7.116 Only one turbine blade is likely to be seen from any location within the churchyard²⁸³. It is only in longer-range views where there will be any material impact, where the Church tower appears as a distinctive landmark, albeit neither dominant or prominent in the view, on the skyline when visibility is clear, including from the churchyard of St Anne's, Whitstone (2.7km to the east)²⁸⁴. In the cone of visual overlap where the wind farm would be seen behind the Church from viewpoints, if both were visible, none are within 2.5km, while from Budd's Titson there is some effect at 4km with wind turbine visibility to hub height behind the Church tower²⁸⁵.
- 7.117 The few wider locations where the wind farm would be seen relatively close to the Church, such as from the road at Steele Hill, are illustrated on Viewpoint H2²⁸⁶, but limited wind turbine numbers visible increases visual separation from the Church and where the wind farm could also be seen in close proximity to the Church tower from Marhamchurch village, at 6km, the Church is relatively inconspicuous at this range²⁸⁷.
- 7.118 Only in these limited instances of wind turbines competing for attention with the Church tower is there any detracting from the landmark status of the Church tower but such distant views contribute little to the significance of the Church, resulting in an impact of slight magnitude only at the lower end of less than substantial harm, reversible on decommissioning of the wind farm²⁸⁸.
- 7.119 Against this, the Council tells us that the effect on the Church would be large²⁸⁹. However, the contribution that setting makes to the significance of the Church would be largely unaffected by the presence of the wind farm. The Church would continue to be a focal point within the village, and its immediate surroundings, with almost no visual change within the village, and the most valued short-range views²⁹⁰.
- 7.120 The Council's reference to unacceptable competition with the primacy of this Church tower in the landscape overstates the contribution those distant views of the Church tower make to the overall significance of the Church and the degree to which such views would be affected by the presence of wind turbines²⁹¹. The Council persisted with this line of argument but when asked to identify why this distant view was more important than any other could only suggest that while the view is accidental, it is still there²⁹². This is not a convincing basis for a finding at the high end of less than substantial harm. Interestingly, CARE makes no finding of harm to this particular asset²⁹³.

²⁸³ A5 Paragraph 4.70-4.71

²⁸⁴ Dr Carter in-c

²⁸⁵ A5 Paragraph 4.71 and A18 Viewpoint H1

²⁸⁶ A18

²⁸⁷ A5 Paragraphs 4.75-4.76

²⁸⁸ A5 Paragraph 4.80

²⁸⁹ Mr Holman in-c

²⁹⁰ A5 Paragraph 4.78

²⁹¹ A5 Paragraph 4.84

²⁹² Mr Holman x-e

²⁹³ Mr Cooper x-e

- 7.121 The significance of the Church of St Winwalo at Tremaine lies primarily in its fabric which has considerable architectural, archaeological, artistic and historic interest, dating from the 12th century to the 15th and 16th Centuries²⁹⁴.
- 7.122 Its immediate setting is provided by the churchyard, and there are no short or longer-range views of this Church, and it has no landmark quality²⁹⁵. CARE accepts that the wind turbines proposed would not be present in any especially significant view out²⁹⁶. The north-west corner of the churchyard is the only area in the immediate vicinity of the Church from where the wind farm would be visible²⁹⁷.
- 7.123 The presence of the wind farm would have no material impact on a visitor's ability to experience and appreciate the Church of St Winwalo in its historic churchyard setting and wind turbines visible at a range of over 4km from the north-west corner of the churchyard would not affect the legibility of the setting. On that basis, there would be no impact on the significance of the asset as a whole²⁹⁸.
- 7.124 The Council's reference to the Tresmeer appeal decision²⁹⁹ adds nothing substantial to the argument, dealing with a smaller wind turbine on higher ground, in much greater proximity to this Church.
- 7.125 The significance of the Church of St Marwenne in Marhamchurch lies primarily in its fabric, dating from the 14th century through to 19th century modifications and repairs³⁰⁰. Its immediate setting, within 200m of the Church, is provided by the churchyard and village to which the Church is historically linked, together with close-up views within the village, and out to 1km, reinforcing the historic interest of the Church and its relationship to the village³⁰¹.
- 7.126 Wind turbines visible from the churchyard at a range of over 8km to the south, would not constitute an adverse impact because it would not affect the legibility of the setting, nor would wind turbines in the view from Pinch Hill have significance as at a separation distance of 10km, they would not visually dominate the Church in this view, leading to no impact on the significance of the asset as a whole³⁰².
- 7.127 CARE concedes that this is only one view from the Church but concentrate upon it given that it is where they argue the impact will be felt most³⁰³. As with their analysis of other assets, that approach fails to have proper regard for the asset, and its setting, as a whole.
- 7.128 The Church of St Anne in Whitstone has significance primarily in the fabric of the Church which has considerable architectural, archaeological, artistic and

²⁹⁴ A5 Paragraph 4.87

²⁹⁵ A5 Paragraph 4.90

²⁹⁶ Mr Cooper x-e

²⁹⁷ A5 Paragraph 4.92

²⁹⁸ A5 Paragraph 4.95

²⁹⁹ Mr Holman in-c and C2 Appendix 15

³⁰⁰ A5 Paragraph 4.100

³⁰¹ A5 Paragraphs 4.101-103

³⁰² A5 Paragraph 4.108

³⁰³ Mr Cooper x-e

historic interest, dating from the 13th century with a major 19th century rebuild³⁰⁴. Its immediate setting, within 150m of the Church, is provided by the churchyard and adjoining fields which provide an historically appropriate space around the Church from which the architecture of the building can be appreciated at close range³⁰⁵.

- 7.129 Beyond this immediate setting, there are no longer-range views of the Church from the west, north or east, and the presence of the wind farm would not change any of the views of the Church from outside the churchyard³⁰⁶.
- 7.130 From the path across the upper (northern) side of the churchyard, wind turbines would be seen directly over the roof of the nave of the Church, but in places they would be obscured by the Church tower or vegetation, depending on the precise viewing point, and from the south-western corner of the churchyard, the view of the wind farm would be partially filtered through trees³⁰⁷. This is in marked contrast to the Council's claim that there will be no escape from the presence of the wind turbines and their claim that the Church will be dominated by the wind turbines³⁰⁸.
- 7.131 CARE similarly referred to the design and form of the Church that could be appreciated from the lych gate at close quarters but it is difficult to see how a level of distraction from distant wind turbines could be so great as to compromise that form and design in a way that approaches the threshold of substantial harm, as was suggested. It is accepted that in all respects the architecture of the Church would not change nor would the evidential aspect of it diminish³⁰⁹.
- 7.132 As to communal value, it was accepted that people would undoubtedly continue to use their Church, as generations have done before, but the assertion that they would place less value on it than they had done before³¹⁰ seems to stray more towards a preference for a view without wind turbines. The view of the Diocese of Truro is that the impacts would be acceptable and appropriate for this Church³¹¹.
- 7.133 Whilst wind turbines would compete for attention in the view of the Church when entering through the lych gate, being prominent and conspicuous in the view³¹², the adverse impact would be limited by the 4km separation distance, with the wind turbines being dwarfed by the scale of the Church in the immediate foreground, greatly reducing the degree of visual competition. The outlook from the Church would remain open and rural³¹³.
- 7.134 These long views out from the Church do not contribute greatly to the significance of the asset, certainly not in the way that close up views towards

³⁰⁴ A5 Paragraph 4.114

³⁰⁵ Dr Carter in-c and A5 Paragraph 4.117

³⁰⁶ A5 Paragraphs 4.118-4.123

³⁰⁷ A5 Paragraphs 4.121-122

³⁰⁸ Mr Holman in-c

³⁰⁹ Mr Cooper in-c and x-e

³¹⁰ Mr Cooper x-e

³¹¹ The Venerable Bill Stuart-White spoke to that at the public session ID38

³¹² Dr Carter x-e

³¹³ Dr Carter x-e and A5 Paragraphs 4.125-4.127

the Church do. The acknowledged lack of intrusive development in the existing view does not alter this point³¹⁴. CARE accepts that the wind turbines would not stand on land that has any intimate historic association with the Church³¹⁵.

- 7.135 The Council's description of impacts on views from here to the Church in Week St Mary as a double whammy³¹⁶ pays no regard to the fact that the wind turbines would be set substantially to the left of that sight line, as agreed by CARE³¹⁷, and evident from its photomontages³¹⁸.
- 7.136 CARE refers to these views too, suggesting that it is no coincidence that the Church was located with long views south with intentionally arranged entrance and exit points³¹⁹. This included endorsement of HE's opinion that views across to the Church in Week St Mary were deliberate and also that the medieval folk of Whitstone would have been interested in views out to Bodmin Moor from the south door as they left the Church³²⁰. Pressed on the evidence for these assertions it was accepted that it could also have been happenstance, but CARE did not believe so³²¹.
- 7.137 Outside the churchyard, the immediate setting of the Church would be unchanged and it would continue to be a focal point in the available short-range views.
- 7.138 The result of all that would be an impact of slight magnitude, on the significance of the asset as a whole, at the lower end of less-than-substantial harm, fully reversible on decommissioning of the wind farm³²².
- 7.139 The Council's finding of substantial harm is not made out because it focuses entirely on wind turbine visibility and does not explain how this would affect the contribution that setting makes to the significance of the Church. The findings of HE are similarly flawed³²³.
- 7.140 Changes in views from the Church in one direction would not so diminish appreciation of the building's cultural significance, when the majority of the heritage interest for this asset is embedded in its medieval fabric that would be unaffected, as would the surrounding landscape out to 4km, meaning most of the experience of the asset would be unchanged³²⁴.
- 7.141 Penheale Manor's heritage significance comprises architectural and artistic interest of both the original 17th century manor and its early 20th century remodelling. The setting for the manor house is essentially provided by the 20th century gardens which are largely enclosed and where there would be views of wind turbines from a very small area at the northern edge of the

³¹⁴ Dr Carter x-e

³¹⁵ Mr Cooper x-e

³¹⁶ Mr Holman in-c

³¹⁷ Mr Cooper x-e

³¹⁸ A18

³¹⁹ Mr Cooper in-c

³²⁰ Mr Cooper x-e

³²¹ Mr Cooper x-e

³²² A5 Paragraph 4.129

³²³ A5 Paragraphs 4.134-4.137

³²⁴ A5 Paragraphs 4.135 and 4.139-4.140

grounds, this land to the north east beyond the boundary of the RPG makes very little contribution to the significance of this asset. Accordingly the contribution that setting makes to the significance of Penheale Manor would be unaffected³²⁵.

- 7.142 HE's concern that there is the potential for significant harm to Penheale Manor, and concerns over reliance on screening by vegetation do not offer a conclusion about likely harm³²⁶. The Council maintain an objection here but point only to views out from the drive, and establish no link to an impact on heritage significance³²⁷.
- 7.143 The significance of the Week St Mary Conservation Area lies predominantly in views of the Church as a distinctive element in the village's setting, which inform the setting that contributes to the significance of, and adds historic interest to, the Conservation Area³²⁸.
- 7.144 Apart from very limited visibility of blades from the boundary of the conservation area the wind turbines would not be experienced from other locations within the village, or the important views and vistas identified in the Character Statement³²⁹.
- 7.145 The contribution that setting makes to the significance of the Conservation Area would be largely unaffected, with the limited adverse impact from wind turbines competing for attention in some views of the Church tower from the north. This would be sufficient to constitute harm in Framework terms.
- 7.146 Section 72(1) of the Act does not apply to the proposal which lies entirely outside any conservation area. Any impact on the setting of Week St. Mary Conservation Area is a matter for planning policy alone. This is accepted by CARE³³⁰.
- 7.147 A further 18 listed buildings have been mentioned at some point in different assessments and given the statutory duty under Section 66(1) of the Act, it is necessary for the decision-maker to consider all listed buildings that might be affected by the proposed development. These are accepted to comprise the Lych Gate and St Anne's Well in the churchyard at Whitstone (ability to see the wind farm at a range of over 4km not affecting their heritage significance), 15 vernacular buildings (visibility of wind turbines in the wider landscape not affecting the heritage significance of any of these assets) and Langford Hill House (visual change of negligible magnitude and significance)³³¹. None of these impacts amounts to harm for Framework purposes.
- 7.148 The findings of less than substantial harm to two assets must be tested against relevant policies in the Development Plan, the Framework and the statutory duty under Section 66(1) of the Act³³².

³²⁵ A5 Paragraphs 4.145-4.149 and 4.154

³²⁶ G13 and A5 Paragraphs 2.32 and 4.159

³²⁷ Mr Holman in-c

³²⁸ A5 Paragraphs 4.164-4.167

³²⁹ G6 and A5 Paragraphs 4.170-4.171

³³⁰ A5 Paragraph 3.4 and Mr Cooper in response to a question from the Inspector

³³¹ A5 Paragraphs 4.182-4.207

³³² A5 Paragraph 5.8

- 7.149 LP Policy ENV12 is not fully complied with because in two cases, the setting of a listed building would be adversely affected. However, this must be seen in the light of the Framework tests on heritage impacts³³³.
- 7.150 Under Section 66(1) of the Act, there is a duty to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. This is relevant to the same two listed buildings where there is an acceptance of harm to setting and thereby significance³³⁴.
- 7.151 Harm to designated heritage assets that is less than substantial engages paragraph 134 of the Framework requiring the wider public benefits of the proposed development to be balanced against the harm identified. Acceptability of these impacts cannot be made upon the consideration of harm alone³³⁵. That principle has been conceded by CARE despite what appears to have been an initial attempt to dictate that the decision-maker has no option but to refuse planning permission because of heritage impacts alone³³⁶.
- 7.152 The balance is a simple, un-weighted one, which on the evidence should resolve itself in favour of the development proposed. It will then be a question of proceeding to consider the wider planning merits.

Need and Policy Compliance

- 7.153 The national policy imperatives set by Government are found in the White Paper of 2007, The Renewable Energy Strategy of July 2009, the Renewable Energy Roadmap Update in November 2013 and NPS EN-1³³⁷.
- 7.154 National targets set by the EU and adopted in UK law are represented by 15% of all the energy consumed in the UK needing to be from renewable sources by 2020, which to allow for heating and transport means that there will have to be at least 30% of all the electricity consumed in the UK from renewable sources by then³³⁸.
- 7.155 With the removal of regional targets, all new permissions will count instead towards national targets³³⁹. There is no development plan target in the area nor is one contained in the emerging local plan. Whether or not policies in that emerging local plan may be challenged for soundness, and the appellant has made submissions in the Local Plan on this³⁴⁰, because of the lack of any allocated sites for wind farm development, the failure of the Council to have done so suggests much greater hurdles to obtaining any wind power permission in the future in Cornwall, in terms of being able to satisfy the WMS. The trend of future provision is accordingly not being assisted here.

³³³ A5 Paragraph 5.12 and Mr Stewart in-c

³³⁴ A5 Paragraph 5.19

³³⁵ A5 Paragraphs 3.31 and 5.17

³³⁶ Mr Cooper x-e

³³⁷ CD D2 and D3 and A8 Paragraphs 4.1 and 5.3.2 – 5.3.3

³³⁸ A8 Paragraph 4.3

³³⁹ A8 Paragraph 3.1

³⁴⁰ Mr Stewart in-c

- 7.156 Against the June 2015 withdrawal of subsidy support for onshore wind, on the basis that 11-13GW was likely to be delivered by 2020, we have the EU announcement there is a very real danger that the overall 2020 UK targets will be missed because of failures to achieve the necessary contribution from the heating and transport sectors. The leaked letter from Ms Rudd in October 2015³⁴¹ confirms these concerns are valid with a potential shortfall of about 50TWh which is the equivalent of nearly 80% of everything that has been achieved to date over more than 20 years³⁴². The Council does not contest this as reality but seems to cling to the official position³⁴³.
- 7.157 The Contracts for Difference regime should allow all sources of power generation to compete effectively on price with each other, which is consistent with the intention of the appellant in this scheme to operate the wind farm on the basis of no price support from Government at all. This led to the amended wind turbine design to increase output between 40% and 75%³⁴⁴.
- 7.158 Even in recent refusals of renewable projects, in none has the decision maker asserted that the need for renewable electricity to be generated had lessened³⁴⁵. The recent Swift decision³⁴⁶ has a useful list of the continuing benefits of and need for onshore wind, and its support in national policy.
- 7.159 The Council accepts that need and makes no case that this development should not be approved because of any lack of need³⁴⁷. It distanced itself from the Green Cornwall biannual review document initially referred to by CARE³⁴⁸, particularly the 390MW figure for renewable provision to 2020 that does not appear to be based on a correct transposition of the national 15% renewable target for 2020 for all energy usage³⁴⁹. In that way, whilst noting the County has 633MW of installed renewable capacity at present, 18% of which is onshore wind, that is accepted to be no reason why this development should not proceed³⁵⁰.
- 7.160 CARE accepts that national policy statements on need, EN-1 and paragraph 98 of the Framework remain in full force and have not been amended as part of any recent changes over subsidy, or the WMS³⁵¹. Similarly it accepts that trend lines that can be derived from documents like the 2013 Roadmap suggest 2020 targets will not be met because of a failure to make progress on carbon reduction in heat and transport. In answer to the question whether this places a greater burden on renewables we are told that is for the Government to decide which by maintaining its present policy, it has already done³⁵².

³⁴¹ CD I5

³⁴² A8 Paragraphs 4.4-4.5

³⁴³ Mr Holman x-e

³⁴⁴ A8 Paragraph 4.6

³⁴⁵ A8 Paragraph 4.11

³⁴⁶ CD E9 Paragraphs 275 to 277

³⁴⁷ Mr Holman x-e

³⁴⁸ ID17

³⁴⁹ Mr Holman x-e and Mr Stewart in-c

³⁵⁰ Mr Holman x-e

³⁵¹ Dr Bratby x-e

³⁵² Dr Bratby x-e

- 7.161 CARE's reliance on Government statements about the adequate pipeline of projects has to be seen in the light of attrition rates being potentially higher because of increased planning and subsidy hurdles. They also accept that comments about withdrawal of subsidy do not represent any bar to development, like this, that is intended to be subsidy free³⁵³.
- 7.162 On the subject of emissions savings, this will depend on the level of installed capacity. A range has been assessed for benefit and impact, the important issue being that the appellant has not suggested the possibility of building something the impacts of which have not been assessed. The planning system is able to take account of ranges of possible harm and benefit, so there is no need to take account only of the bottom of that range, but to allow for the evidence that if not at the top of the range, it is likely to be towards that, with the obvious and very worthwhile objective of the developer to maximise that installed capacity and thereby increase these benefits³⁵⁴.
- 7.163 CARE raises issues with benefits and emissions savings. They accept that this development, if permitted, will contribute to emission savings targets and that one shouldn't leave meeting targets to the last moment; the earlier those emissions savings are achieved, the better³⁵⁵.
- 7.164 CARE makes no case that wind power is of itself inherently unsustainable, accepting that it is capable of reducing emissions³⁵⁶, though their calculations seem to suggest the opposite. It advances them on the basis that each case has to be looked at on its own merits in terms of actual emissions savings likely to be achieved, but then makes a series of points that apply equally to all wind power, and some wider forms of renewables.
- 7.165 These include a claim that wind turbines across the UK degrade in capacity factor rapidly during their lives, which clearly is not accepted by any mainstream of professional opinion and certainly appears to be contradicted by the raw data on the subject as can be found in David McKay's response to Gordon Hughes' paper³⁵⁷ and in actual statistics on sites like Carland Cross operating at 20 years old and achieving 23% capacity factor³⁵⁸.
- 7.166 CARE also advance a claim that maintenance of spinning reserve in conventional thermal plants to balance wind power intermittency cancels out a large proportion of predicted emissions savings. However, the evidence from the UK via National Grid suggests these effects are very small. CARE's criticisms of that National Grid data fails to convince in its argument that in responding to the Scottish Parliament, the National Grid were in fact saying the figures it was supplying and the conclusions it was drawing were worthless³⁵⁹.

³⁵³ Dr Bratby x-e

³⁵⁴ Mr Stewart x-e re-e and in response to questions from the Inspector

³⁵⁵ Dr Bratby x-e

³⁵⁶ Bratby x-e

³⁵⁷ ID20

³⁵⁸ ID22 and Mr Stewart x-e

³⁵⁹ ID18 and Dr Bratby x-e

- 7.167 Beyond that, CARE's arguments on capacity factor being lower than predicted because of reliance on on-site anemometry and because of possible spacing of the wind turbines do not advance any point that has yet to persuade a decision-maker to place significant weight against a proposal such as this. Similar arguments were advanced at the Batsworthy Cross Inquiry³⁶⁰ which failed to persuade the Inspector there that the benefits to be achieved were not material or important or, most importantly, should be any reason to depart from national policy in support of onshore wind. That position still applies.
- 7.168 Paragraph 14 of the Framework sets out a clear threshold for striking the balance between harm and benefits from sustainable development. Renewable energy fulfils all three of the limbs of economic, social and environmental elements of sustainable development which has been recognised in previous appeals³⁶¹. That is not to claim that all renewable development is necessarily sustainable and indeed the application of paragraph 14 assists in determining what is sustainable development³⁶². It is however not dis-applied just because there are significant adverse impacts from the development, as is the case here, and as will happen with any wind farm development³⁶³.
- 7.169 Paragraphs 115 and 116 of the Framework refer to conserving the landscape and natural beauty in AONBs and to restricting development specifically within the AONB³⁶⁴. The Council suggested that the development was affecting the scenic beauty of the AONB as a result of being development outside of the area³⁶⁵ but its own case only shows that there would be harm to the setting of the AONB.
- 7.170 The Council's case on harm to the AONB drives it to argue that paragraphs 115 and 116 apply to the development and that proven national need has to be shown for the development³⁶⁶. Obviously if that were to be so the balancing exercise would have to be that test alone, as derived from the Framework. That does not occur however, because that harm to the AONB simply does not exist and none of the policies restricting development derived from it should apply here.
- 7.171 In respect of cultural heritage alone it is accepted by the appellant there will be less than substantial harm so the restrictive policy of paragraph 134 of the Framework applies and the test in that part of the Framework is to be applied without reference to the paragraph 14 presumption. Only if it is concluded that the balance, applying great weight to avoidance of that harm, is met can the decision maker then proceed to balance the remaining issues.
- 7.172 Outside of these cultural heritage factors, the correct approach to paragraph 14, whether the plan policies are decided to be sufficient and up to date, or whether they are decided not to be, is to apply the paragraph 14 presumption

³⁶⁰ ID5

³⁶¹ A8 Paragraph 5.1.3

³⁶² Mr Stewart in response to a question from the Inspector

³⁶³ Mr Stewart x-e

³⁶⁴ Mr Stewart in-c

³⁶⁵ Mr Holman in response to a question from the Inspector

³⁶⁶ Mr Holman in-c

in favour of sustainable development to the remaining balancing exercise, in the first case because the development plan is being read to incorporate that presumption to make it compliant with the Framework, or in the alternative case, because the paragraph 14 test is being applied directly, because policies in the LP are out of date³⁶⁷.

- 7.173 The WMS of 18 June 2015³⁶⁸ says that local planning authorities should only grant planning permission for wind turbines where following consultation it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing. The initial question should be what are the planning impacts that have been identified by local communities during consultation? Then, to what extent has it been demonstrated that these have been fully addressed? From that, the judgment on local backing should be drawn³⁶⁹.
- 7.174 In none of the recent appeal decisions quoted by the appellant has the simple presence of local opposition been sufficient of itself to justify withholding permission³⁷⁰.
- 7.175 The appellant has carried out a comprehensive assessment of the responses to the original application and to the appeal to examine which of the objections may be considered a material planning consideration, and which are not. Even at the level of the properties in the closest zone around the wind farm, up to 5km, the objectors do not represent a majority of the residents in that zone and indeed account for only about 1 in 8 of those residents, within a total adult population of about 2,500³⁷¹.
- 7.176 For those who have made submissions, the level of active opposition is less than 20% of that population which should be seen in the light of support nationally from around two thirds to three quarters of the public for onshore wind development³⁷². The numbers issue in the WMS can be addressed by saying that if you had, for example, 3 letters of objection and none in support, could it really be said that the majority of the community was against the development and that it lacked local backing?
- 7.177 The Council has pointed to larger numbers of objectors than supporters³⁷³ while CARE claims a decreasing trend in support over time, although on the simple ratios of support and opposition the percentage supporting has decreased at a slower rate than for those opposing. In reality, comparing changes in opposition and support responses during consultation stages is only really telling you that levels of interest in the matter fluctuate over time³⁷⁴. The Council acknowledge that no additional planning issues have been raised in SEI consultation and objections that resulted from that³⁷⁵.

³⁶⁷ Mr Stewart x-e

³⁶⁸ CD D11

³⁶⁹ A8 Paragraphs 5.2.9 to 5.2.13

³⁷⁰ A8 Paragraphs 5.2.17 to 5.2.22

³⁷¹ Mr Stewart in-c

³⁷² See for example CD F19 and A8 Paragraphs 5.2.11 and 5.2.24

³⁷³ Mr Holman in-c

³⁷⁴ Mr Stewart x-e

³⁷⁵ Mr Holman x-e

- 7.178 CARE and others' questions over consultation did not raise any substantial case over whether the community were consulted adequately about impacts. They have had the opportunity to form and voice their own views, which they clearly have done, including at the Inquiry.
- 7.179 The Council is right to agree that there is no level of support or opposition at which point it could be said that local backing is or is not achieved and that the key determinant is whether material planning issues raised in objections have been answered³⁷⁶.
- 7.180 Community investment, where the community has a financial stake which may include co-operative schemes as evidence of community ownership, can be a material factor to be weighed in the balance in coming to a decision. This has added importance in the light of the WMS reference to community support and the Government's Community Energy Strategy of January 2014³⁷⁷.
- 7.181 The Council's SPD recognises a shift to ownership by local people as a model of renewable energy development which should receive particular support when considering the merits of renewable energy development at the planning application stage, even below the level of a full community owned scheme³⁷⁸. The Council agrees that community led schemes are something it is keen to support³⁷⁹.
- 7.182 The signed heads of terms between the appellant and Community Power Cornwall (which emerged after the Council had given its planning evidence and so have not been subject to comment by them)³⁸⁰ is an important step closer to delivering just the type of community investment national and local policy is looking for and is a matter that can be given some weight in the planning balance.
- 7.183 In terms of noise and shadow flicker, there will be no dwellings where the levels of noise predicted would be such that they breach the guidelines set out in ETSU-R-97³⁸¹, the recommended means of assessment for control of noise from wind farms. For some of the candidate wind turbines, at some wind speeds, a degree of curtailment is required for the ETSU-R-97 conditions to be met, which can be achieved through appropriate wording of conditions.
- 7.184 Given the limited number of wind speeds and the directions involved, the overall power loss (for noise and shadow flicker mitigation) is very marginal and massively outweighed by the overall increase in the power output from the site³⁸².
- 7.185 Harm to tourism is not part of the Council's case but has been raised by CARE and others. Significant wind energy developments across Cornwall (Four Burrows, Goonhilly Downs, Carland Cross, Bears Down, Cold Northcott, Delabole and Crimp) have all been in areas visible to tourists. In projects

³⁷⁶ Mr Holman in-c, x-e and in response to a question from the Inspector

³⁷⁷ A8 Paragraph 9.8.3

³⁷⁸ A8 Paragraph 9.8.4

³⁷⁹ Mr Holman x-e

³⁸⁰ ID84

³⁸¹ CD H1

³⁸² ID21 Mr Stewart in-c and A8 Paragraphs 7.4.5–7.4.6

across the UK where it has been argued the tourism economy was fragile and could be harmed by wind farm development in none of these cases has the decision-maker been persuaded that concerns about tourism were sufficient to warrant a refusal on their own or when allied to other concerns³⁸³.

- 7.186 One issue which was dealt with in considerable detail in the two CARE submissions in 2014 was that of ecology. A written rebuttal was prepared to address these concerns³⁸⁴ and it appears to have fallen away.

The Planning Balance

- 7.187 The starting point for consideration of this appeal is that, under section 38(6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the policies in the adopted Development Plan unless there are material considerations that indicate a different decision should be made³⁸⁵.
- 7.188 LP Policy TRU4 requires assessment against LP Policy ENV1 with the Council accepting that LP Policy ENV1 has to be read in the light of the balancing test in LP Policy TRU4 and paragraph 7.55 of the supporting text. In that way, both policies comply with the approach of the Framework³⁸⁶. The reference to material harm in LP Policy TRU4 should be read in the context of the term 'acceptable' used in paragraph 98 of the Framework.
- 7.189 The Council's case on harm to the AONB leads it to plead conflict with LP Policy ENV 1 and the first criterion of LP Policy TRU4. However references in policy to the need to consider impacts from development outside the AONB, whether described as major development or not³⁸⁷ cannot create impacts where there are none in fact.
- 7.190 Criterion 2 of LP Policy TRU4 is the appropriate one to apply as the proposed development is outside of the AONB and this should be read together with the second criterion of LP Policy ENV1³⁸⁸.
- 7.191 However, even if criterion 1 is applied, as the Council suggests, it can be concluded that there is no conflict with that policy. No evidence has been advanced to support such a conclusion.
- 7.192 As drafted LP Policy ENV12 which prevents development that would adversely affect the character or appearance of a listed building or its setting does not accord with Section 66(1) of the Act or the Framework. Neither does LP Policy ENV14's requirement that nationally important archaeological remains should suffer no significant adverse effect on their site, or setting³⁸⁹.
- 7.193 The Council also draws attention to LP Policy ENV15, to follow the reference in the reason for refusal to the Registered Park and Garden at Penheale Manor³⁹⁰.

³⁸³ A8 Paragraph 7.4.6.1

³⁸⁴ A10

³⁸⁵ CD D9 and A8 Paragraph 1.2.1–1.2.2

³⁸⁶ Mr Holman in-c

³⁸⁷ Mr Holman in-c

³⁸⁸ Mr Stewart in-c

³⁸⁹ A8 Paragraph 3.3.4

³⁹⁰ Mr Holman in-c

If there were a material impact, then it is accepted that the policy would be relevant, with the same caveat about the Framework as apply to LP Policies ENV12 and 14.

- 7.194 The Council accepts that the application of policy requires a balancing test of benefits that may be derived from the approach of the Framework³⁹¹. There is unease on the part of the appellant as to whether that is sufficient to bring Policies ENV12, ENV14 and ENV15 up-to-date. If it is not, then you arrive at a very similar approach by applying the tests set out in the Framework. The distinction is more than semantic given the primacy of the plan-led system and Section 38(6)³⁹².
- 7.195 If having applied the un-weighted balancing test to heritage impacts required by paragraph 134 of the Framework, discharging the duty under Section 66(1) of the Act, the decision-maker is able to proceed to the wider balancing exercise, then the decision-maker ought to be looking to apply the presumption in favour of sustainable development set out in the Framework.
- 7.196 The harm the proposal would cause is limited and no greater than one might expect of any development of the scale proposed in a landscape that we are told is able to accommodate development of such a scale. Weighed against that, the benefits are very substantial, allowing a confident conclusion to be reached that the harm does not outweigh those benefits, and certainly not significantly and demonstrably, to use the exact words of paragraph 14 of the Framework.
- 7.197 Beyond that, the planning merits and levels and content of the community response, for and against, on present interpretation of the WMS allows the decision-maker to conclude that the proposal does have the backing of the local community.
- 7.198 In the light of all that, the appeal should be allowed and planning granted for the scheme, subject to appropriate conditions.

8. Interested Persons

- 8.1 The views of many local residents were put forward at the Inquiry, in particular at the public session on 9 May 2016. Helpfully, almost all contributors spoke to pre-prepared written submissions. These are all appended as Inquiry Documents. In that context, I have but briefly summarised the submission of each contributor, but for the full story, each individual submission should be carefully considered.
- 8.2 **The Reverend Rob Yeomans**, a member of the local group CEREAL (Communities Embracing Renewable Energy and Life) expressed strong support for the proposal³⁹³. In simple terms the point made is that the threat of climate change means that projects such as that proposed must be supported, and the needs of wider society must outweigh more parochial local concerns.

³⁹¹ Mr Holman x-e

³⁹² CD D9

³⁹³ ID23

- 8.3 **Adam Harris** on behalf of **Scott Mann MP** objects to the proposal³⁹⁴, supporting the reasons for refusal cited by the Council, and highlighting the level of local objection.
- 8.4 **Stephen Smith** a resident of Week St Mary objects to the proposal³⁹⁵ drawing attention in particular to the degree to which the turbine array would be visible, at relatively close quarters from the village, and the lack of local support for it.
- 8.5 **Rob Isherwood** a resident of Week St Mary and an archaeologist raises objection to the proposal highlighting the impact on Warbstow Bury, and a number of prehistoric burial sites³⁹⁶.
- 8.6 **Adrian Shute** a resident of Canworthy Water and owner of part of the appeal site supports the proposal stressing its importance to the economic well-being of his business and, in the wider sense, the energy security of the UK³⁹⁷.
- 8.7 **Jeremy Ward** a resident of Week St Mary, objects to the proposal, explains that should be attached to the misgivings expressed by the local Parish Councils and casts doubt on the efficacy of the public consultation carried out by the appellant³⁹⁸.
- 8.8 **Bill Andrews** a resident of South Wheatley (approximately 1km from the nearest proposed wind turbine) spoke on behalf of CEREAL offering strong support for the scheme on the basis that it will make an important contribution to Cornwall's ambitions to build a local, affordable, low-carbon energy system. Points were also raised about the balance between support and objection in the local community³⁹⁹.
- 8.9 **David Smith** supports the proposal making the point that a large, well-planned wind farm is far preferable to a plethora of smaller turbines dotted around the countryside⁴⁰⁰.
- 8.10 **Mary Carter**, a resident of Jacobstow objected on the basis of visual impact on recreational routes and the likely effect on dark skies⁴⁰¹.
- 8.11 **Esther Greig**, Parish Clerk to Week St Mary reports that the vast majority of residents of the parish object to the proposal, as does she, on the basis of its visual impact on the landscape⁴⁰².
- 8.12 **Linda Cobbledick** lives in Week St Mary and objects to the proposed industrialisation of the countryside⁴⁰³.

³⁹⁴ ID24

³⁹⁵ ID25 and ID41

³⁹⁶ ID26

³⁹⁷ ID27

³⁹⁸ ID28

³⁹⁹ ID29

⁴⁰⁰ ID30 – the letter was read out by Bill Andrews

⁴⁰¹ ID31

⁴⁰² ID32

⁴⁰³ ID33

- 8.13 **Peter Willetts** of North Tamerton raises objection on the basis of landscape and heritage impacts, especially when the proliferation of existing wind turbines already present is considered⁴⁰⁴.
- 8.14 **Stuart Mealing** of Week St Mary raises issue with the appellant's approach to consultation and objects on the basis of cumulative effects with existing wind turbines and the solar farm⁴⁰⁵.
- 8.15 **Rob Dickenson** the recently retired Rector of the Week St Mary United Benefice which includes the parishes of Whitstone, Warbstow, Jacobstow and Week St Mary, objects to the proposal on several grounds notably the effect on wildlife, shadow flicker, and noise and points to the June 2015 WMS⁴⁰⁶.
- 8.16 **Elizabeth Pallett** is a student living at Canworthy Water and supports the proposal highlighting that the issue global warming needs to be addressed for the sake of the young⁴⁰⁷.
- 8.17 **The Venerable Bill Stuart-White** welcomes the proposal and suggests that concerns about the effects on the setting of St Anne's Church in Whitstone have been exaggerated. The ravages of global warming on the Earth would be far worse⁴⁰⁸.
- 8.18 **Andrew Smeeth** of Lower Exe Farmhouse, Week St Mary would be one of the closest residents to the proposal if it goes ahead and raises concerns about noise, road safety, the historic environment, and the landscape. Local people, he says, do not want the proposal⁴⁰⁹.
- 8.19 **Gillian Faiers** runs an organic farm with visitor facilities near Poundstock and welcomes the innovative proposal as an efficient source of free, clean power⁴¹⁰.
- 8.20 **Stephen Pawley** a local resident and Parish Councillor in Poundstock is concerned about the impact the proposal would have on the landscape and the AONB in particular and therefore objects to it⁴¹¹.
- 8.21 **Jon Balsdon** lives in Warbstow and supports the proposal pointing to Cornwall's mining heritage and the effect that had on the landscape, and viewing positively the potential benefits of a new power source⁴¹².
- 8.22 **Christine Heard** lives at Creddacott Bungalow one of the dwellings closest to the proposed array, casts doubt on the value of the consultation conducted by the appellant and raising concerns about visual impact and shadow flicker. The temporary nature of the proposal will be of no assistance⁴¹³.

⁴⁰⁴ ID34

⁴⁰⁵ ID35

⁴⁰⁶ ID36

⁴⁰⁷ ID37

⁴⁰⁸ ID38

⁴⁰⁹ ID39

⁴¹⁰ ID40

⁴¹¹ ID41

⁴¹² ID42

⁴¹³ ID43

- 8.23 **Caroline Pallett** of Canworthy Water supports the scheme, stressing the potentially catastrophic impacts of climate change and the need to address them. The point is made that schemes like that at issue are far better for everyone than nuclear power⁴¹⁴.
- 8.24 **Richard Horn** of Whitstone Parish Council objects on the basis of visual and landscape impact, and the potential effect on St Anne's Whitstone⁴¹⁵.
- 8.25 **Charmian Larke** of Atlantic Energy supports the proposal on the basis of the assistance it would provide in addressing climate change and the need to provide resilience and energy security to Cornwall and the UK. The community links cannot be forgotten either⁴¹⁶.
- 8.26 **John Allen** lives at Trefursdon which would be very close to the proposed wind turbines. Visual impact is a major worry⁴¹⁷.
- 8.27 **William Leslie Pearce** a resident of Week St Mary and Parish Councillor objects largely on the basis of noise and shadow flicker but also claims the scheme is an unfair imposition with no sensible way of securing community benefits⁴¹⁸.
- 8.28 **Peter Edwards** of Delabole points to the success of the first wind farm in the UK on his land and notes that it has become established despite initial community misgivings. The same will be the case with the scheme at issue⁴¹⁹.
- 8.29 **Alan May** of Delabole Farm, Week St Mary objects and in particular raises issues about the likely impacts on the biodiversity associated with the culm meadow at Greenamoor Reserve⁴²⁰.
- 8.30 **Paul Sousek** an award-winning organic farmer who operates near Jacobstow supports the proposal pointing to the multifarious benefits of renewable energy⁴²¹.
- 8.31 **Stuart May** lives with his family at Stonyfold Farm, Greenamoor and is concerned about noise, visual impact, traffic generation, amongst other things. He says that Cornwall has reached saturation point in relation to renewable energy schemes⁴²².
- 8.32 **Ron Dingle** of Callywith, near Bodmin, says that the wind turbines he installed on his farm well display the benefits of renewable energy to diversification and the survival of rural businesses⁴²³.

⁴¹⁴ ID44

⁴¹⁵ ID45

⁴¹⁶ ID46

⁴¹⁷ ID47

⁴¹⁸ ID48

⁴¹⁹ ID49

⁴²⁰ ID50

⁴²¹ ID51

⁴²² ID52

⁴²³ ID53

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- 8.33 **Tristan Gadd, Christopher Gunn, Joshua Sorono and Eloise Nickerson** are students on the renewable energy course at the University of Exeter, Cornwall Campus. They point to the wide benefits of renewable energy⁴²⁴.
- 8.34 **Richard Cochrane** the Director of Education for Renewable Energy at the University of Exeter, Cornwall Campus extols the virtues of renewable energy and of wind power in particular⁴²⁵.
- 8.35 **Graham Gimblett** of Goscott Farm, Week St Mary objects to the proposal on heritage and wider environmental grounds⁴²⁶.
- 8.36 **Valerie Griffin** of Wheatley Farm, Maxworthy runs a successful farm tourist business and is concerned about the impact the wind farm would have on visitor numbers⁴²⁷.
- 8.37 **Louise Cann** lives on the outskirts of Boyton and is very concerned about the potential for noise and shadow flicker and points to the stresses the project has placed on local people⁴²⁸.
- 8.38 **Mike Morey** of St Cether, near Launceston, supports the proposal and says that wind turbines ought to be of no concern when compared to nuclear power stations, for example⁴²⁹.
- 8.39 **Raymond Griffin** of Wheatley Farm, Maxworthy is one of the landowners involved in the proposal directs attention to the benefits of renewable energy generally but also to the role it plays in securing rural businesses into the future⁴³⁰.
- 8.40 **Sue Morey** is in favour of the scheme given the obvious need for, and benefits of, renewable energy⁴³¹.
- 8.41 **Micheline Smith** Chair of Week St Mary Parish Council points to the destructive nature of the construction process and health and safety generally. Living conditions of local residents will be severely affected in an adverse fashion through noise, visual impact, and the like. The appellant's community consultation was wanting⁴³².
- 8.42 **Nicky Chopak** Cornwall Councillor for the Poundstock District opposes the proposal and raises issues about the way the appellant has approached consultation with the affected community⁴³³.
- 8.43 **Gerald Turner** of Canworthy Water objects to the proposal largely on the basis of visual impact and points to the vagaries of photomontages⁴³⁴.
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⁴²⁴ ID54-ID57

⁴²⁵ ID59

⁴²⁶ ID60

⁴²⁷ ID61

⁴²⁸ ID62

⁴²⁹ ID63

⁴³⁰ ID64

⁴³¹ ID65

⁴³² ID66

⁴³³ ID67

⁴³⁴ ID69

- 8.44 **Annabel Yates** of Crackington Haven is concerned about the impact on the AONB and Heritage Coast and the difficulties construction traffic would face⁴³⁵.
- 8.45 **Susan Reppold** of Higher Troswell expresses concern about heritage and landscape impacts⁴³⁶.
- 8.46 **Jonathan Allin** of Boyton raises issues around the proliferation of renewable energy projects in the area suggesting that saturation point has been reached⁴³⁷.
- 8.47 **Paul Martin** of Community Power Cornwall Ltd introduced the company and spoke of the way a joint venture with the appellant would function⁴³⁸.
- 8.48 **Bob Gunby** is a Parish Councillor for North Petherwin Parish Council and objects on heritage grounds but also bemoans the way the appellant has approached dealings with the local community⁴³⁹.
- 8.49 **Alana Sharp** of Canworthy Water objects on the basis of visual impact⁴⁴⁰.
- 8.50 **Tim Ward** of Timberlake, Week St Mary lives in a house that would directly face the array and raises issues around visual impact, noise and shadow flicker⁴⁴¹.
- 8.51 **Jenny Smith** a Boyton Parish Council Councillor highlights potential cumulative impact with other wind turbines and the existing solar array and refers to the June 2015 WMS⁴⁴².
- 8.52 **Ray Hockin** of Marhamchurch Parish Council highlights the potential impact on the setting of the Church and associated cemetery in Marhamchurch⁴⁴³.
- 8.53 **John Uglow** of Whiteleigh Farm is one of the landowners involved in the scheme and stresses its importance to established farming families in the area⁴⁴⁴.
- 8.54 **Peter Chapman** of Jacobstow Parish Council explains that the Parish is united in its objection to the scheme and indicates that existing renewable energy schemes have already caused major issues for the local community⁴⁴⁵.
- 8.55 **Ross Paynter** who lives in Week St Mary acknowledges the issues raised by local people but suggests that climate change is a greater threat. For that reason, the scheme should be supported⁴⁴⁶.

⁴³⁵ ID70

⁴³⁶ ID71

⁴³⁷ ID72

⁴³⁸ ID73

⁴³⁹ ID74

⁴⁴⁰ ID75

⁴⁴¹ ID76

⁴⁴² ID77

⁴⁴³ ID78

⁴⁴⁴ ID79

⁴⁴⁵ ID80

⁴⁴⁶ ID81

- 8.56 **Peter Finneran** of Langdon Cross raises objection to the proposal, largely on the basis of cumulative impact with other wind turbines and the solar array⁴⁴⁷.
- 8.57 **Margaret Withers** expresses concern about aviation impacts on the airfields at Bodmin and Davidstow; concerns amplified by the recent increase in blade sweep.

9. Conditions and Obligations

- 9.1 Helpfully, the main parties used time at the Inquiry to discuss and largely agree a list of conditions that should be attached in the event that planning permission is granted for the proposals. Two lists were submitted, a clean version agreed between the appellant and the Council and a track-changed version including comments from CARE⁴⁴⁸.
- 9.2 The conditions cover commencement, the approved plans, dates of generation, decommissioning and restoration, and the conduct of the delivery and construction process, turbine design, location and rotation, shadow flicker, ecology, redundancy, lighting, electro-magnetic interference, details of the sub-station and underground cabling, and noise.
- 9.3 In the list of conditions at Annex D, I have largely adopted the suggested wording, save for some minor amendments made in the interests of precision. All the suggested conditions would be reasonable and necessary impositions if the scheme went ahead.
- 9.4 In terms of the comments made by CARE, five years is a reasonable time for development to begin, especially when one considers the number of pre-commencement conditions that would have to be satisfied, and other aspects such as the joint venture and the grid connection. In terms of the main noise condition, the six month period referred to would be necessary for proper monitoring to take place and limits for Exworthy Farm can be extrapolated from the nearest property to it in Table 1. There is nothing unusual, in my experience, about that and indeed 23 h) makes provision for such an eventuality.
- 9.5 Given the current state of knowledge about so-called Excess Amplitude Modulation, it is my view that the manner in which the draft condition approaches it offers sufficient protection for local residents. The wording is flexible so that if the general approach changes before the scheme is implemented, that can be accounted for.
- 9.6 Having seen a draft at the Inquiry⁴⁴⁹, I allowed some time after the Inquiry closed for the Unilateral Undertaking⁴⁵⁰ made pursuant to Section 106 of the Town and Country Planning Act 1990 to be completed and it was duly received⁴⁵¹.

⁴⁴⁷ ID82

⁴⁴⁸ ID85

⁴⁴⁹ ID86

⁴⁵⁰ Referred to hereafter as UU

⁴⁵¹ ID91

- 9.7 The Obligation deals with a number of matters. I am sure, that if the appeal was allowed and the scheme proceeded, the Community Benefit Fund, the Local Tariff, and the Community Investment Scheme, would provide welcome funding and income. However, bearing in mind the strictures of the Community Infrastructure Levy Regulations 2010⁴⁵², these are not matters to which weight can be attached in determining the appeal.
- 9.8 Another Obligation contained in the UU ensures that Little Exe is not used as a dwelling for the duration of the development. That is necessary to address one of the original reasons for refusal. Similarly, the UU says that in the event planning permission is granted for the proposal, the existing wind turbines at Creddacott Farm will be removed prior to the date of first generation from the proposal. That is necessary to ensure that the scheme functions in an acceptable way in terms of noise.

10. Inspector's Conclusions

Introduction and Main Issue

- 10.1 As set out above, the appeal was recovered by the Secretary of State on 30 July 2015. The reason for the direction was that the appeal involves proposals of major significance for the delivery of the Government's climate change programme and energy policies. **[1.9]**
- 10.2 With that in mind, the main issue to be considered in this case can be succinctly expressed as whether any benefits of the proposal are sufficient to outweigh any harmful impacts on the setting and thereby the significance of heritage assets, the surrounding landscape, the living conditions of local residents through visual impact in particular, but also noise and shadow flicker, and various other matters. **[5.2]**

The Approach to Decision-Making

- 10.3 The age of the LP, which pre-dates by many years the Framework, and the recent decision of the High Court in *Forest of Dean DC v SoS for Communities & Local Government and Gladman Developments Ltd* (2016) EWHC 421 (Admin) upon which I asked for specific submissions from the parties⁴⁵³, sets a relatively complex context for the approach to decision-making.
- 10.4 LP Policy ENV12 that deals with listed buildings and their settings, and LP Policies ENV13 (conservation areas), ENV14 (SAMs) and ENV15 (RPGs) do not contain any inbuilt balancing mechanism, and do not, therefore, accord with the approach of the Framework, or indeed, in the case of LP Policy ENV12, the provisions of the Act. While they are still part of the development plan, these policies are very clearly out of date.
- 10.5 It might be argued in that context that the route to a decision flows through paragraph 14 of the Framework. However, footnote 9 to paragraph 14 makes specific reference to policies relating to designated heritage assets (and AONBs and Heritage Coast for that matter) and, in effect, deactivates the presumption in favour of sustainable development that underpins paragraph 14.

⁴⁵² D16

⁴⁵³ ID11 and ID12

- 10.6 Bearing in mind the judgment of the High Court in *Forest of Dean DC v SoS for Communities & Local Government and Gladman Developments Ltd* (2016) EWHC 421 (Admin), it is clear that the first step towards a decision must be to consider whether the harmful impacts on designated heritage assets that the proposal would cause⁴⁵⁴ lead to substantial or less than substantial harm and then balance those harmful impacts against any public benefits it would bring forward, in the manner set out in paragraphs 133 and 134 of the Framework, against the background of paragraph 132, and the Act. Both paragraph 133 and 134 contain a simple balancing exercise with no pre-weighting.
- 10.7 If the conclusion is drawn that the public benefits do not outweigh the harm, whether paragraph 133 or 134 is, or indeed both are, activated then that is the end of the matter. Planning permission should not be granted and the appeal should be dismissed.
- 10.8 Broadly, all the main parties accept that. **[4.9-4.11, 5.3-5.8, 6.6-6.14 and 7.149-7.152 and 7.187-7.195]**
- 10.9 It is only if a conclusion is reached that the public benefits outweigh the harmful impacts on designated heritage assets that paragraph 14 can be re-activated (because there are relevant LP policies that are out of date) and other issues need to be considered against the development plan, and the Framework. That of course includes any impact on the AONB and Heritage Coast that, if the Council's position is accepted, might lead to paragraph 14 being de-activated again, given their inclusion in footnote 9. I return to this point in dealing with the landscape issue below.
- 10.10 With all that in mind, I turn first to the effect of the proposal on the setting and thereby the significance of a range of designated heritage assets.

Designated Heritage Assets

- 10.11 All the main parties accept that there would be some harm to the setting and thereby the significance of designated heritage assets. Others allege harm to further designated heritage assets that do not concern the main parties.
- 10.12 There is disagreement about the designated heritage assets that would suffer harmful impacts, and whether the harm would be substantial or less than substantial, in the parlance of the Framework.
- 10.13 Against that background, I turn to the specific asset groups. The first group I address is the SAMs affected. It is important to note that the setting of a SAM enjoys no statutory protection but of course, paragraph 132 of the Framework dictates that great weight should be given to the conservation of all designated heritage assets. While the approach does not accord with that of the Framework, LP Policy ENV14 inhibits any development that would have a harmful effect on the setting of a SAM.
- 10.14 Warbstow Bury is a multivallate hill fort and a SAM⁴⁵⁵. As one might expect of a fortified site, it occupies a strategic location that commands long views over

⁴⁵⁴ All parties to the Inquiry accept that there would be some

⁴⁵⁵ CD G20 contains a detailed description and CD G5 and G9 interesting background information

the valley of the Ottery, in particular, and is prominent in the landscape. While I agree with the appellant that much of the significance of the SAM lies in its archaeological value, and the earthworks, both factors are elements of the setting of the hill fort that contribute strongly to the significance of the asset.

- 10.15 The prominence of the hill fort in the landscape would not be dimmed by the proposal. Views out from the hill fort are, in my judgement, a different matter. The views in the arc of north-west to north-east, approximately, are over what I would accept is a landscape much changed since the Iron Age. Modern agricultural practices influence it and there are elements like electricity pylons, farm buildings, and indeed wind turbines within it. Nevertheless, when one takes in the view depicted in the photomontages⁴⁵⁶, the landscape dominates and it is therefore relatively easy to imagine what our forebears looked out over, and why they chose the site as a hill fort. That goes a long way to informing an understanding of the significance of the site.
- 10.16 The wind turbines proposed would introduce more modern elements into the view. However, they would be much bigger, and much more prominent individually, and as a group, than anything else in the view. They would also be moving much of the time. In my view, the array, because of the height of the wind turbines, their spread, their breaching of the skyline, and their kinetic nature, would not appear 'over there' as the appellant would have it, but would dominate these important views, and act as a massive distraction. Their presence would make it much more difficult for the viewer to appreciate and understand the strategic position of the hill fort.
- 10.17 As such, they would cause harm to the setting of Warbstow Bury and its significance as a designated heritage asset.
- 10.18 Ashbury Camp is also a multivallate hill fort and a SAM⁴⁵⁷. While its position in the landscape is not so commanding as that of Warbstow Bury, views out from it are still very important contributors to an understanding of its strategic importance. The dominance of the landscape and the subservience of modern elements within it, in views out from the hill fort, aids the observer in an appreciation of all that⁴⁵⁸.
- 10.19 As the relevant photomontage⁴⁵⁹ shows, the wind turbines proposed would be a huge and dominant presence in important views out from the hill fort. Again, their inescapable and distracting presence would make it much more difficult for the viewer to grasp why the site was chosen for fortification.
- 10.20 As such, the proposal would harm the setting of Ashbury Camp, and its significance as a SAM.
- 10.21 Points were made about inter-visibility between the two hill forts. My visits demonstrated that it is difficult to discern one from the other but that is not definitive. Most importantly, the wind turbines proposed would not stand in the line of sight between the two and would not therefore interfere with the sight-

⁴⁵⁶ A18 Viewpoint H3 and S4 Viewpoint 4

⁴⁵⁷ CD G20 contains a detailed description

⁴⁵⁸ Following HE advice in The Setting of Heritage Assets (ID14) I place little weight on the fact that unlike Warbstow Bury it is not publicly accessible

⁴⁵⁹ S4 Viewpoint 3

lines. There would be no harm caused by the proposal to the significance of either SAM, in this respect at least.

- 10.22 Reference was made to Creddacott Barrow Cemetery and other barrow groups⁴⁶⁰. The point was made that these complexes were deliberately sited in the landscape to have a relationship with, sometimes distant, landscape features. There is no definitive evidence to show that is the case but in any event, on my analysis, the wind turbine array proposed would not interfere with those relationships, and nor would it prevent them from being discerned or appreciated by any observer. As such, the proposal would cause no harm to the setting or the Significance of the Creddacott Barrow Cemetery, or the other barrow groups highlighted.
- 10.23 Bringing those points together, the proposal would cause harm to the setting and thereby the significance of Warbstow Bury, and Ashbury Camp. That brings the proposal into conflict with LP Policy ENV14. The more up to date approach of the Framework requires an assessment of whether the harm would be substantial or less than substantial. I return to this matter below.
- 10.24 In terms of the listed buildings, LP Policy ENV12 inveighs against any harmful impact on the setting of a listed building. As I have set out, that does not accord with the provisions of Section 66(1) of the Act, which sets out a strong presumption against development that would harm the setting of a listed building, or the provisions of the Framework.
- 10.25 The Parish Church of St Anne⁴⁶¹ in Whitstone is a Grade I listed building. Much of the significance of the Church does indeed lie in its fabric, as the appellant contends, but there are elements of setting that make important contributions too. Unusually, in my experience, the Church is sited on a south-facing hillside, and it has a pleasing relationship with the lych gate, itself a listed building, which is raised above the Church, to the north-west.
- 10.26 This relationship makes for an interesting experience when one approaches the Church through the lych gate in that after viewing the Church at close quarters, panoramic views to the south open out as you approach the south front. This seems to me to have been a deliberate composition, as was the siting of the Church to take advantage of the panoramic views across the landscape, to the south, from the grounds.
- 10.27 These characteristics contribute strongly to the setting of the Church and the contribution that setting makes to its significance as a designated heritage asset.
- 10.28 The wind turbines proposed are sited in such a way that they would appear to spring from the Church roof on the approach from the lych gate⁴⁶². This anachronistic juxtaposition of modern machinery with an ancient building would be most jarring and it would seriously devalue the initial approach from the lych gate towards the Church. Then when one gets to the point where the

⁴⁶⁰ CD G20 contains descriptions as does ID13

⁴⁶¹ CD G20 includes the list description and CD G19 and CDG22 further information

⁴⁶² A18 Viewpoint H4 is the best illustration of how this impact would manifest itself

panoramic views to the south open out before you, the view would be dominated by the wind turbine array, massive in scale, breaking the skyline⁴⁶³.

- 10.29 While there are other views of the Church where the wind turbines would not be present, it is inescapable that the result of their presence in other, important views, would be a harmful impact on the setting of the Church, and its significance.
- 10.30 The Parish Church of St Marwenne, in Marhamchurch, is a Grade I listed building⁴⁶⁴. Again, it is correct to conclude that most of the significance of the Church lies in its fabric. However, once again, there are elements of the setting of the Church that contribute to its significance. In particular, the Church has been positioned in a way that allows for long-range views over the agricultural landscape to the south, from the churchyard.
- 10.31 As the photomontage prepared by CARE⁴⁶⁵ shows, the wind farm proposed would be visible in that view, on the horizon. However, in my view, it would be so distant, at about 9km away, that the landscape would easily retain its agricultural dominance in the view. As such, the setting of the Church would not be harmed by the proposal, and neither would its significance. For similar reasons, the visual relationship with the Church in Week St Mary would not be significantly affected.
- 10.32 The Church of the Nativity of the Blessed Virgin Mary in Week St Mary is a Grade I listed building⁴⁶⁶. Most of the significance of the Church lies in its fabric but it does derive some significance from its setting. In particular, the Church has a landmark quality in some view towards it, notably from Steele Hill and Budd's Titson⁴⁶⁷, but also from the Parish Church of St Marwenne, in Marhamchurch, and the Parish Church of St Anne in Whitstone.
- 10.33 From these viewpoints, and no doubt others, the wind farm would compete with the tower of the Church for primacy. This would reduce its landmark quality but the degree of separation between the Church tower and the wind turbines in most views would limit the harmful impact in those views. From Budd's Titson, there would be unhappy overlap between the wind turbines and the Church tower. However, the distance between this viewpoint and the Church tower means that it is not particularly prominent and has little in the way of landmark quality.
- 10.34 Nevertheless, the reduction in its landmark quality would have a harmful impact on its setting, and the contribution setting makes to its significance.
- 10.35 The Church of St Winwalo near Tremaine is a Grade I listed building⁴⁶⁸. Like the other Churches, much of its significance lies in its fabric. Unlike them, it has not been sited to take advantage of any long views across the landscape, and neither does it have a landmark quality. Its immediate setting is intimate and it is that part of its overall setting that contributes to its significance.

⁴⁶³ S4 Viewpoint 1

⁴⁶⁴ CD G20 includes the list description and CD G19 and CD G22 further information

⁴⁶⁵ S4 Viewpoint 2

⁴⁶⁶ CD G20 includes the list description and CD G19 and CDG22 further information

⁴⁶⁷ A18 Viewpoints H1 and H2 illustrate

⁴⁶⁸ CD G20 includes the list description and CD G19 and CDG22 further information

- 10.36 It seems that the wind farm would be visible from the north-west corner of the churchyard. Given that the Church derives little in the way of significance from its wider setting, this visible manifestation would have no harmful impact on setting, or significance.
- 10.37 Other listed buildings, mainly farmhouses and farm buildings⁴⁶⁹, have been referred to by the parties but none of these derive any of their significance from their setting in the wider landscape. The presence of the wind turbines in views from or towards these listed buildings would have no harmful impact on their setting, or their significance.
- 10.38 Bringing those points together, there would be harm to the setting, and thereby the significance, of the Parish Church of St Anne in Whitstone, and the Church of the Nativity of the Blessed Virgin Mary in Week St Mary, as a result of the proposal.
- 10.39 This brings the proposal into conflict with LP Policy ENV12 but no less importantly, it is a matter which by dint of Section 66(1) of the Act, considerable importance and weight must be attached. There are the workings of the Framework to consider too.
- 10.40 The significance of the Week St Mary Conservation Area lies mainly in the buildings and spaces within it, and notably views of the Church of the Nativity of the Blessed Virgin Mary. The wind turbines would not be readily visible from within those spaces and views of the Church would not be interfered with. Views out of the conservation area would be largely unaffected.
- 10.41 In terms of views into the conservation area, there are some where the wind turbines would be seen in juxtaposition with the settlement but because the village derives little in the way of its significance from its setting in the wider landscape, these would not detract from the significance of the asset. There would be no divergence from LP Policy ENV13 as a result.
- 10.42 In terms of the Registered Park and Garden at Penheale, it appears that it might be possible to catch a glimpse of a distant wind turbine from its grounds. I do not see how this would have a harmful impact on the setting of the asset, or its significance. There would be no conflict with LP Policy ENV15, therefore.
- 10.43 I have concluded that there would be harm caused to the significance of a number of designated heritage assets as a result of the proposal. The Framework sets us the task of deciding whether that harm would be substantial or less than substantial. The appellant accepts that there would be less than substantial harm caused to two assets. CARE accepts too that the harm it alleges to a range of designated heritage assets would be less than substantial. The Council, acting to an extent on the advice of HE⁴⁷⁰, says that there would be less than substantial harm caused to some assets, and substantial harm caused to the Parish Church of St Anne in Whitstone. It is fair to record that HE suggests that the harm caused to Warbstow Bury would be substantial too.

⁴⁶⁹ CD G20 includes the relevant list descriptions

⁴⁷⁰ CD G13

- 10.44 The PPG tells us that whether a proposal causes substantial harm will be a matter for the decision-maker and in general terms, substantial harm is a high test. The High Court has held that for substantial harm to be demonstrated there would have to be such a serious impact on the significance of the asset that its significance was either vitiated altogether, or very much reduced⁴⁷¹.
- 10.45 In all cases, the designated heritage assets themselves, and the significance locked therein, would be untouched. Moreover, the harm would be temporary, and reversible. In that context, bearing in mind what the PPG and the Courts have said, it is inescapable that the harm caused to Warbstow Bury, Ashbury Camp, the Parish Church of St Anne in Whitstone, and the Church of the Nativity of the Blessed Virgin Mary in Week St Mary, would be less than substantial.
- 10.46 Paragraph 134 of the Framework says that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 10.47 That leads me on to consideration of those benefits. **[4.9-4.11, 4.17-4.18, 5.17-5.33, 6.46-6.67, 7.79-7.152, 8.5, 8.13, 8.17, 8.24, 8.35, 8.45, and 8.52]**

Public Benefits

- 10.48 As set out above, in order to reduce carbon emissions in the face of the significant threat of climate change, and improve the country's energy security, amongst other things, there is strong support in the Framework, and wider Government policy for renewable energy.
- 10.49 On top of that, the Government accepts that existing shorter-term targets are unlikely to be met⁴⁷². Recent developments, such as the Paris accord, make it plain that longer-term targets will be even more ambitious. That must amplify the weight to be attached to the benefits the proposal would produce in terms of renewable energy, and the consequent reduction in carbon emissions.
- 10.50 The output from the wind farm would depend on the model of wind turbine chosen. Those under consideration range in their ratings between 2MW and 3.5MW. This would give a total installed capacity of between 22 and 38.5MW. The appellant has set great store on the wind farm being able to operate free of financial subsidy, which is laudable. In that scenario, I find it difficult to believe that the developer would do anything other than seek to maximise output. On that basis, bearing in mind the curtailment necessary to prevent undue noise, and shadow flicker, which does not limit production very much, the wind farm could provide almost 90,000MWh per year of operation⁴⁷³.
- 10.51 CARE criticise this figure from a number of directions and say that it is exaggerated. However, the points raised about wind turbine degradation are not borne out by figures on load factors put in by the appellant, but sourced from a body not well known for supporting wind energy⁴⁷⁴.

⁴⁷¹ CD E47

⁴⁷² CD I5

⁴⁷³ Figures taken from ID21

⁴⁷⁴ ID22

- 10.52 The layout of the array was criticised for being inefficient but I fail to see why a developer, seeking to maximise electricity production, as must surely be the case if the installation is intended to function in a way that maximises profitably, would design a layout that operated in that way. The point is often made about accounting for the embedded carbon in the manufacture, installation and operation of wind turbines but it is never backed up with hard evidence. The same is true here. Of course, wind energy requires back-up from conventional sources because of its intermittency but this is small in scale and I fail to see why that should undermine the contribution wind energy makes to the Country's overall energy mix when it is operational.
- 10.53 Bringing those points together, I see no good reason to cast any significant doubt on the figures claimed by the appellant.
- 10.54 As I have referred to above, the proposal has been designed to function free of subsidy. Moreover, moves have been made to enter into a joint venture with Community Power Cornwall Ltd⁴⁷⁵. There seems to me to be a genuine attempt here to put together a renewable energy scheme that is different to much of what has gone before.
- 10.55 The scheme has the potential to act as a model for other renewable energy projects and pave the way for wider public acceptance of proposals that must continue to come forward if the threat of climate change, and concerns about energy security, are to be addressed. In my view, this aspect of the scheme must attract weight too.
- 10.56 In the light of paragraph 18 of the Framework, and the commitment therein to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition, and a low carbon future, the investment embodied in the scheme, and the jobs and economic activity it would generate, must attract significant weight in favour.
- 10.57 The various landowners spoke of the financial benefits the scheme would bring to their farming enterprises too. Some doubt was cast on whether this can be a public benefit but there is strong support in paragraph 28 of the Framework for a prosperous rural economy. It is fair to say that the landscape local people value so highly is dependent on the farming enterprises that manage the land. A scheme that assists with the viability of those enterprises must therefore be a public benefit, and one which should attract great weight.
- 10.58 Bringing all those points together, it is clear that the benefits of the scheme are extensive, and very weighty. **[4.14-4.16, 5.36, 6.19-6.24, 7.153-7.167, 8.2, 8.6, 8.8, 8.16, 8.17, 8.19, 8.21, 8.23, 8.25, 8.30, 8.32, 8.33, 8.34, 8.38, 8.39, 8.40, 8.47, 8.53, and 8.55]**

Interim Conclusion

- 10.59 As set out, the proposal falls contrary to LP Policies ENV12 and ENV14. However, those policies are out of date, and the approach of the Framework, considered in the light of the Act, ought to be preferred.

⁴⁷⁵ ID73 and ID84

- 10.60 In that context, the harm that would be caused to the setting and thereby the significance of the designated heritage assets set out above, while less than substantial, in Framework terms, would nevertheless be serious. The harm that would be caused to the SAMs needs to be given great weight on the negative side of the balance by dint of the workings of paragraph 132 of the Framework. The harm that would be caused to the setting of the listed buildings attracts great weight by the same process but is underlined by the provisions of Section 66(1) of the Act.
- 10.61 While I am cognisant of the fact that the harm would be temporary, and reversible, and that as I conclude above, the benefits of the scheme would be extensive, in my judgement, the public benefits of the proposal are insufficient to justify the serious harm to the significance of the designated heritage assets that would be caused.
- 10.62 On that basis, following the line of the High Court in *Forest of Dean DC v SoS for Communities & Local Government and Gladman Developments Ltd* (2016) EWHC 421 (Admin), the appeal should be dismissed on that basis.
- 10.63 Of course, it is open to the Secretary of State to disagree with that conclusion and decide that the public benefits do outweigh the less than substantial harm that would be caused to the significance of the designated heritage assets identified. If that proves to be the case, then the other aspects of the proposal need to be considered.
- 10.64 As set out above, there are complications with that path. Of course, the development plan, and LP Policies TRU4 and ENV1, take primacy in the planned system but having concluded that there are relevant policies that are out of date⁴⁷⁶, paragraph 14 of the Framework is brought back into play and is, obviously, a significant material consideration.
- 10.65 As I alluded to above, there is a question as to whether the reference to AONBs and Heritage Coast in footnote 9 to paragraph 14 deactivates it once again. If the Council is correct in its contention that paragraph 116 of the Framework has application, alongside Section 85 of the Countryside and Rights of Way Act 2000, then that would be the case.
- 10.66 However, I do not fully share the Council's view. Paragraph 116 of the Framework clearly relates to major developments *in* National Parks, the Broads, and AONBs (my italics). Having said that, the Courts have taken the view that development of land within the setting of, but outside, an AONB can affect an AONB itself⁴⁷⁷. It seems to me therefore that Section 85 applies here. On top of that, the High Court, in *Forest of Dean DC v SoS for Communities & Local Government and Gladman Developments Ltd* (2016) EWHC 421 (Admin) took a wide view of what constitutes a restrictive policy for the purposes of footnote 9. Paragraph 115 of the Framework might well be seen as a restrictive policy for the purposes of footnote 9, therefore.
- 10.67 It is with all that in mind that I turn to the landscape issue.

⁴⁷⁶ LP Policies ENV12, ENV13, ENV14 and ENV15

⁴⁷⁷ *Stroud DC v SoS for Communities and Local Government* [2015] EWHC 488 (Admin)

Landscape

- 10.68 In dealing with this issue, the manner in which the different criteria of LP Policy TRU4, and feeding into it, LP Policy ENV1 should be applied, needs to be addressed in the first instance. In considering the potential for wind turbines, or indeed any development proposals, to affect the AONB and Heritage Coast, both policies seek to protect land within the AONB and Heritage Coast, as one might expect, but also sites 'close to their boundaries' , or 'near to' them.
- 10.69 This is not as the appellant suggests, a point about setting – the policies clearly contemplate a situation where development proposals outside the boundary of the AONB affect certain aspects of the AONB itself.
- 10.70 That must be right. From what I saw during my site visits, the proposal would be prominent when viewed from certain parts of the AONB and Heritage Coast⁴⁷⁸. While that prominence would not affect the landscape of the AONB, the proposal being outside its boundaries, scenic beauty, which is more of a visual consideration, is another matter.
- 10.71 It strikes me that scenic beauty is largely about the views that people have across the AONB. Logically, where those views extend beyond the AONB into the wider landscape, or for that matter the sea, those areas must contribute something to the scenic beauty of the AONB. As a result, it is inescapable, in my view, that visibility of the proposal at issue would affect the scenic beauty of the AONB.
- 10.72 Paragraph 115 of the Framework which directs that great weight should be given to conserving landscape and scenic beauty in these designated areas clearly does apply. In development plan terms, it also means that the proposal needs to be considered against Criterion 1 of LP Policy TRU4, and Criterion 1 of LP Policy ENV1. Both criteria require a balance between benefits and harm.
- 10.73 It is also relevant to note that in requiring such a balance, the policies chime with the approach of the Framework and paragraph 98 in particular. This says that renewable energy schemes should be approved if the impacts are (or can be made) acceptable which clearly contemplates a similar balance between benefit and harm. As such, despite their vintage, I do not regard LP Policies TRU4 and ENV1 as being out-of-date.
- 10.74 The proposal would largely lie within LCA37: Western Culm Plateau with one wind turbine on the transitional border with the adjacent LCA31: Upper Tamar and Ottery Valleys. In relation to LCA37, Technical Paper E4 (a): An Assessment of the Landscape Sensitivity to Onshore Wind and Large Scale Solar Photovoltaic Development in Cornwall⁴⁷⁹ says that the LCA has a moderate sensitivity to wind energy development outside the AONB and moderate-high within the AONB. There are similar conclusions for LCA31.
- 10.75 The same document suggests the landscape strategy for LCA37 is for a landscape with occasional single or small groups of wind turbines that may be up to the smaller end of the 'large' scale on the inland southern plateau. A

⁴⁷⁸ A18 Viewpoints 5, 9 and 10 demonstrate the point

⁴⁷⁹ CD F20

small group is defined as up to five wind turbines. Evidently, with eleven wind turbines, the proposal exceeds significantly what the guidance envisages.

- 10.76 Leaving that aside for a moment, I agree with CARE that the photomontage from Viewpoint 6⁴⁸⁰ shows the landscape impact to best effect. The medium-large scale of the plateau, with its simple skylines, and land-cover patterns evident in the depiction demonstrates why LCA37 has moderate sensitivity to wind turbines. The existing single wind turbines and small groups of wind turbines dotted (somewhat haphazardly) around LCA37 that I saw during my site visits underline that.
- 10.77 However, the array proposed here is of much greater scale in terms of the height of the wind turbines, their number, and their spread across the landscape. Informed by my site visits, and the visual material produced by the appellant, I conclude that the proposal would introduce man-made features incongruous in scale, spread and number, which lead to significant effects on landscape character. Those significant impacts would be harmful to the receiving landscape.
- 10.78 In terms of the visual effects of the installation, I tend towards the view expressed by CARE that these would be of major/moderate scale within 2km, reducing beyond that to moderate between 2 and around 5-6km, and smaller scale beyond that save for from particular viewpoints.
- 10.79 Having said that, I agree with the appellant that these sorts of effects are what one would typically expect of a scheme such as that proposed. Viewed in isolation, and accounting for its temporary and reversible nature, it might well be that if the extensive benefits of the proposal were balanced against this particular landscape harm, then the benefits would win out. However, the difficulty is that the landscape impact does not end there.
- 10.80 In terms of the AONB and Heritage Coast, as outlined above, I have concerns about the impact of the proposal on scenic beauty. To underline that, reflective of the approach of the development plan, the Cornwall AONB Management Plan 2011-2016⁴⁸¹ says that particular care will be taken to ensure that no development is permitted in or outside the AONB which would damage its natural beauty, character and special qualities or otherwise prejudice the achievement of AONB purposes.
- 10.81 As the Council's evidence makes plain⁴⁸² the Statement of Significance for the Pentire Point to Widemouth Section of the AONB says that contrary to the appellant's assertions, it is not just coastal and sea views that define the AONB and Heritage Coast. Views inland cannot be discounted. In this context, it is important to note that the landscape is continuous in terms of its character either side of the A39 which acts as the AONB and Heritage Coast boundary. Any observer within the AONB looking out inland, or from outside the AONB looking towards the coast, would have little to suggest that there is anything different in the status of the landscape either side of the A39.

⁴⁸⁰ A18

⁴⁸¹ CD F13

⁴⁸² C1 Paragraph 5.41 refers

- 10.82 From what I saw, the wind turbines proposed would be an incongruous presence of significant scale, in terms of wind turbine height, and the spread of the array, in many views inland from the AONB and Heritage Coast. Those views are an integral part of the scenic beauty of the designated landscape. Bearing in mind the way the Courts have approached the matter, this alien presence would harm the AONB itself, and the Heritage Coast.
- 10.83 Paragraph 115 of the Framework directs that great weight should be given to conserving landscape and scenic beauty in these designated areas. Scenic beauty would not be conserved by the proposal.
- 10.84 I am aware of proposals permitted in the past that have a similar relationship with the AONB and Heritage Coast boundary, such as the installation at Otterham Down. I am not aware of the balance of considerations that informed the approval of that scheme, but, it has much the same effect as what I have described above. Harmful developments permitted in the past would not in any event act as a cue for more of the same.
- 10.85 Turning to LP Policy ENV1, proposals near to the AONB or Heritage Coast that adversely affect character or amenity (the latter is inseparable in my view from scenic beauty) will not be permitted unless the development is required in the proven national interest and no alternative sites are available. Feeding that into LP Policy TRU4, criterion 1 says that schemes which comply with criterion 2⁴⁸³ are to be assessed having regard to the provisions of LP Policy ENV1, and the benefits of renewable energy, and will not be permitted where those benefits do not justify harm to the special features or qualities which led to the national designation.
- 10.86 I return to this in my final conclusion below. **[4.1-4.8, 4.12, 4.21-4.23, 5.9-5.16, 6.2-6.5, 6.25-6.36, 7.2-7.50, 7.56-7.78 and 8.11, 8.12, 8.13, 8.14, 8.20 8.21, 8.24, 8.31, 8.35, 8.44, 8.45, 8.46, 8.51, and 8.56]**

Living Conditions

- 10.87 It is important to note first of all that on the basis of the way the appellant has dealt with Little Exe, through the UU⁴⁸⁴, the Council raises no issue at all in this regard.
- 10.88 CARE however, express concern about visual impact on a range of properties from which some or all of the wind turbines proposed would be visible, as well as surrounding settlements, and routes. I visited those properties in the course of my accompanied site visit, and spent some time in the houses, and their gardens, and also took in the various settlements and the routes.
- 10.89 In visual impact terms, the accepted 'test' is whether the visual impact of a wind turbine or turbines would be so great that an affected property would be rendered an unattractive, but not necessarily uninhabitable, place to live⁴⁸⁵.

⁴⁸³ Which is the case here given my conclusions on living conditions and other matters

⁴⁸⁴ ID91

⁴⁸⁵ Derived from CD E10 (Enifer Downs)

- 10.90 CARE suggests that one property it has assessed would fail that test but that there are others where there would be a harmful impact too, that needs to be weighed in the planning balance.
- 10.91 The property that CARE says would fail the test is Trefursdon Annexe, which would be around 675m from the nearest wind turbine, but the situation around it is unusual. The property is not currently occupied because it is in the course of being turned into a dwelling from what was a barn⁴⁸⁶. There is no-one living in it at present whose living conditions might be adversely affected.
- 10.92 However, the point goes nowhere because despite the orientation of the building, with a large picture window facing the proposed array, and the degree of separation, screening from mature (deciduous) trees along the adjacent driveway would prevent any significant visual impact. Even in Winter, filtered through the trees, the wind turbines would not appear dominant or overwhelming in views towards them. The property would not be an unattractive place to live if the wind farm was implemented.
- 10.93 While I note the position of the conservatory attached to it, and the arrangement of the garden, the same bank of trees, and others around the property, would prevent any significant visual impact on the residents of Trefursdon which is about 750m from the site of the nearest wind turbine proposed.
- 10.94 The wind turbine array would be prominent on the approach to these properties with the nearest wind turbine 200m away from it, but I do not consider that its visual presence would be so great, when arriving or leaving, that there would be an unacceptably harmful impact on the living conditions of the affected residents, or visitors.
- 10.95 Bahamas and Bahamas Annexe lie about 700m to the east of the proposed array. There would be direct views of the wind turbines from within the Annexe in particular, and from the gardens. However, given the degree of separation, and some screening from a hedgerow on the other side of the road that bounds the eastern side of the property, and farm buildings, the wind turbines would not appear oppressive or dominant. The living conditions of the occupiers would not be undermined to any significant degree.
- 10.96 Creddacott Bungalow lies about 900m to the south-east of the proposed array. The wind farm would be in sight from many of the rooms inside the dwelling and from the garden. Having said that, the views out from the property are wide in their compass, and not particularly constrained.
- 10.97 In that context, coupled with the degree of separation, the wind turbines would not overwhelm the view or appear dominant. Again, the visual impact of the array would not unduly affect the living conditions of the occupiers.
- 10.98 There would be views of the array from the rear-facing rooms and rear garden of Stonyfold which is over a kilometre to the north-east. However, these views are sweeping in nature and at the separation distance involved the wind turbines proposed would not appear dominant within it. The wind farm would have no harmful visual impact on the living conditions of the occupiers.

⁴⁸⁶ CD F10 to CD F12 give details

- 10.99 I visited a number of other properties in the course of my accompanied site visit. What struck me forcibly is that like the occupiers of the properties cited by CARE and dealt with in detail above, the residents involved would prefer not to see wind turbines from some of their windows, or from parts of their gardens. While I can understand the reasons behind that, there is no right to a view in planning. That some residents might prefer not to see wind turbines from their property is no good reason to resist the proposal. The correct test relates to visual impact and all of these properties are too far away from the site of the proposed array for the visual impact to be material.
- 10.100 Much the same is true of the views of the wind farm that would be available from settlements around the site, and from the various routes that pass by it, and through the area generally. For some, the wind farm would be an egregious presence, for others, it would not. The wind turbines proposed would not be sited so close or in an arrangement that would make the settlements unattractive places to live and neither would the various routes lose their utility for pleasure, or for getting about, or their rural nature.
- 10.101 None of the main parties raise any issues in relation to noise, save for some comments on the conditions from CARE. A number of interested persons raised concerns however. On my analysis, subject to the conditions put forward, and the shut-down protocol, and the provisions of the UU, the wind farm would operate within the parameters of ETSU-R-97. On that basis, there is no basis for a conclusion that noise from the wind farms would have an unacceptably harmful impact on the living conditions of residents living around it.
- 10.102 Similarly, several local residents expressed disquiet about the potential for shadow flicker. In my view the condition put forward, and the protocol it contains, means that if the wind farm went ahead, no-one should experience any unacceptable impacts on their living conditions as a result of shadow flicker.
- 10.103 Bringing those points together, in living conditions terms, the proposal would be acceptable and would not fall foul of criterion 2 of LP Policy TRU4, or the core principle of the Framework that deals with amenity. **[6.37-6.45, 7.51-7.55, and 8.4, 8.10, 8.15, 8.18, 8.22, 8.24, 8.26, 8.31, 8.41, 8.43, 8.49, and 8.50]**

Other Matters

- 10.104 While others made mention, neither the Council nor CARE made a case at the Inquiry centred on potential ecological impacts. Notwithstanding the proximity of the appeal site to the Greenamoor Site of Special Scientific Interest, and a nearby Cornwall Wildlife Site, all the concerns expressed by CARE, and at the Inquiry by local people, have in my view been adequately addressed by the appellant⁴⁸⁷. Subject to a condition designed to address the matter, there would be no harmful ecological impact as a result of the proposal. **[7.186, 8.15 and 8.29]**
- 10.105 The construction of the wind farm would be a major undertaking and I can fully understand why local people might be concerned about disturbance in the

⁴⁸⁷ A10

course of works, road safety as a result of the major components that would need to be delivered to the site, and the comings and goings of operatives. On my analysis, the appellant has addressed both matters sensibly and the conditions put forward to address the way in which construction proceeds, and to deal with deliveries, should ensure that no unacceptable impacts are felt by the local populace in the course of works and that highway safety is not seriously compromised. **[8.41]**

10.106 Points were raised too about external lighting, largely based on complaints about the sub-station that feeds the existing solar farm near to the appeal site. This is a matter that can be ably dealt with by condition. **[8.10]**

10.107 Concerns about the impact on tourism are inevitably raised when wind farms or individual wind turbines are proposed and considered. As the parties' evidence makes plain, and my site visits demonstrated, Cornwall is home to many individual wind turbines and wind farms have been present in the area for many years. Despite that, there is no hard evidence that visitor numbers to what is acknowledged to be one of the most attractive parts of the UK have fallen. In that context, I fail to see why the proposal at issue would have any detrimental impact on tourism. **[7.185 and 8.36]**

10.108 As the appellant's material demonstrates⁴⁸⁸, there would be no harmful impact on aviation as a result of the proposal. **[8.57]**

Final Conclusion

10.109 First, it is my conclusion that the (less than substantial, temporary and reversible) harm the proposal would cause to the setting and thereby the significance of a range of designated heritage assets is not outweighed by the public benefits that would flow from the proposal.

10.110 On the basis of the judgment of the High Court in *Forest of Dean DC v SoS for Communities & Local Government and Gladman Developments Ltd* (2016) EWHC 421 (Admin), that provides a compelling case for the appeal being dismissed. As well as the failure to accord with the Framework, the proposal would not comply with LP Policies ENV12 and ENV14, and, in that context, given that the overarching LP Policy TRU4 contains no reference to designated heritage assets, the development plan.

10.111 If the Secretary of State does not accept that conclusion then the situation becomes more complex. While I have found no harmful impacts in relation to living conditions, or a range of other matters, subject to the application of suitable conditions, it is my view that the temporary and reversible harm the proposal would cause to the landscape generally, and the scenic beauty of AONB, albeit as a development outside the AONB, especially, would not be outweighed by the benefits of the proposal. As such, the scheme falls foul of the approach set out in criterion 1 of LP Policy ENV1, and criterion 1 of the overarching LP Policy TRU4, and as a result, the development plan, paragraph 115 of the Framework, and the purposes of Section 85 of the Countryside and Rights of Way Act 2000.

⁴⁸⁸ CD A11, A17 and A18

10.112 It is open to the Secretary of State to go further beyond that and conclude that the Framework overall is a more important material consideration and, given that LP Policies ENV12, ENV14, ENV1 are all out of date, and LP Policy TRU4, the overarching policy that deals with wind energy, makes no reference to impacts on heritage assets, designated or otherwise, that would not be an unreasonable path to take.

10.113 In that scenario, the correct route to a decision would be through the application of paragraph 14 of the Framework. In doing so, it is my view that the adverse impacts of granting planning permission for the proposal, in terms of the harm (albeit temporary and reversible) that would be caused to the significance of designated heritage assets, the landscape in general, and the scenic beauty of the AONB, would significantly and demonstrably outweigh the (albeit extensive) benefits, when assessed against the policies of the Framework, taken as a whole. **[5.37-5.40, 6.68-6.69, 7.168-7.172, and 7.187-7.198]**

WMS

10.114 In terms of the WMS of June 2015⁴⁸⁹, the PPG tells us that a decision on whether a proposal has the backing of the affected local community is a planning one. It is not a plebiscite. In any event, while I heard, and have read, a lot of objections from Parish Councils, who might well be said to be representative of local opinion, and local residents, there is strong, well-articulated, support for the proposal too. **[8.1 to 8.57]**

10.115 To my mind, the conclusion on acceptability rests on whether planning impacts have been addressed or in the words of paragraph 98 of the Framework, whether the impacts are (or can be made) acceptable. On the basis of my conclusions above, it is my judgement that the impacts are not, and cannot be made, acceptable. That must mean, following the path set out in the WMS, the planning impacts identified by affected local communities have not been addressed and, as a result, the proposal does not have the backing of the local community. That conclusion adds weight to my primary conclusions made against the development plan and the Framework. **[5.34-5.35, 6.15-6.18, 6.65-6.67 and 7.173-7.179]**

11. Recommendation

11.1 I recommend that the appeal be dismissed.

11.2 In the event that the Secretary of State disagrees with that recommendation, and decides to allow the appeal, the grant of planning permission for the proposal should be made subject to the conditions set out in Annex D.

Paul Griffiths

INSPECTOR

⁴⁸⁹ CD D11

Annex A: APPEARANCES⁴⁹⁰

FOR THE LOCAL PLANNING AUTHORITY:

Virginia Meldrum	Solicitor, Cornwall Council
She called	
James Holman MRICS	Principal Planning Officer, Cornwall Council
MRTPI FAAV	

FOR THE CAMPAIGN AGAINST RURAL EXPLOITATION (CARE):

David Cocks QC	Instructed by Bob Barfoot of CARE
He called	
Peter Leaver CMLI	Director, David Wilson Partnership
Malcolm A Cooper	Director, Malcolm A Cooper Consulting
BA(Hons) MPhil DMS	
MCIfA IHBC MCIM FSA	
Scot Hon.FRIAS	
Dr Phillip Bratby	Energy Consultant

FOR THE APPELLANT:

Patrick Robinson	Partner, Burges Salmon
He called	
Colin Goodrum	Managing Director, LDA Design
BSc(Hons) DipLA FLI	
Stephen Carter BSc PhD	Senior Consultant, Headland Archaeology (UK)
MCIfA FSAScot	Ltd
David Stewart MA	David Stewart Associates
(Cantab) DipTP MRTPI	

INTERESTED PERSONS:

The Reverend Rob Yeomans	Local Resident
Adam Harris	On behalf of Scott Mann MP
Stephen Smith	Local Resident
Rob Isherwood	Local Resident and Archaeologist
Adrian Shute	Local Resident
Jeremy Ward	Local Resident
Bill Andrews	CEREAL and Local Resident
David Smith (submission read out by Bill Andrews)	
Mary Carter	Local Resident
Esther Greig	Parish Clerk to Week St Mary Parish Council

⁴⁹⁰ The list records those who addressed the Inquiry formally as witnesses or as interested persons. Others, namely Madeleine Cowley, Stephen Humphreys, Bob Barfoot, Raymond Gill and Andy McKenzie (of Hayes McKenzie) took part in the discussion on conditions and the UU.

Linda Cobbledick	Local Resident
Peter Willetts	Local Resident
Stuart Mealing	Local Resident
Rob Dickenson	Local Resident
Elizabeth Pallett	Local Resident
The Venerable Bill Stuart-White	On behalf of the Diocese of Truro Environment Group
Andrew Smeeth	Local Resident
Gillian Faiers	Local Resident
Stephen Pawley	Local Resident and Parish Councillor for Poundstock
Jon Balsdon	Local Resident
Christine Heard	Local Resident
Caroline Pallett	Local Resident
Richard Horn	Planning Portfolio Holder for Whitstone Parish Council
Charmain Larke FRSA	Atlantic Energy
John Allen	Local Resident
William Leslie Pearce	Local Resident and Parish Councillor for Week St Mary
Peter Edwards	Resident of Delabole
Alan May	Local Resident
Paul Sousek	Resident and Farmer in Jacobstow
Stuart May	Local Resident
Ron Dingle	Local Resident
Tristan Gadd	Student of Renewable Energy, University of Exeter, Penryn Campus
Christopher Gunn	Student of Renewable Energy, University of Exeter, Penryn Campus
Joshua Sorono	Student of Renewable Energy, University of Exeter, Penryn Campus
Eloise Nickerson	Student of Renewable Energy, University of Exeter, Penryn Campus
Richard Cochrane	Director of Education for Renewable Energy, University of Exeter, Cornwall Campus
Graham Gimblett	Local Resident
Valerie Griffin	Local Resident
Louise Cann	Local Resident
Mike Morey	Resident of St Cether
Raymond Griffin	Local Resident and Farmer
Margaret Withers	Local Resident
Sue Morey	Local Resident
Micheline Smith	Chair, Week St Mary Parish Council
Nicky Chopak	Councillor for Poundstock
Gerald Turner	Local Resident
Annabel Yates	St Gennys Parish Council
Susan Reppold	Local Resident
Jonathan Allin	Local Resident
Paul Martin	Community Power Cornwall Ltd
Bob Gunby	Local Resident and Councillor for North Petherwin Parish Council
Alana Sharp	Local Resident

Tim Ward
Jenny Smith
Ray Hockin
John Uglow
Peter Chapman
Ross Paynter
Peter Finneran

Local Resident
Councillor, Boyton Parish Council
Marhamchurch Parish Council
Local Resident and Farmer
Jacobstow Parish Council
Local Resident
Local Resident

Annex B: DOCUMENTS

Cornwall Council

- C1 Proof of Evidence of James Holman
- C2 Appendices to Proof of Evidence of James Holman

CARE

- S1 Summary Proof of Evidence of Peter Leaver
- S2 Proof of Evidence of Peter Leaver
- S3 Appendices to Proof of Evidence of Peter Leaver
- S4 Photomontages prepared on behalf of CARE by Cornwall Environmental Consultants Ltd (A1 and A3 size)
- S5 Summary Proof of Evidence of Malcolm Cooper
- S6 Proof of Evidence of Malcolm Cooper
- S7 Summary Proof of Evidence of Dr Phillip Bratby
- S8 Proof of Evidence of Dr Phillip Bratby

Good Energy Ltd

- A1 Summary Proof of Evidence of Colin Goodrum
- A2 Proof of Evidence of Colin Goodrum
- A3 Appendices to Proof of Evidence of Colin Goodrum
- A4 Summary Proof of Evidence of Stephen Carter
- A5 Proof of Evidence of Stephen Carter
- A6 Appendices to Proof of Evidence of Stephen Carter
- A7 Summary Proof of Evidence of David Stewart
- A8 Proof of Evidence of David Stewart
- A9 Appendix to Proof of Evidence of David Stewart
- A10 Rebuttal of Dr Reed's Rebuttal prepared by Alastair Campbell

Core Documents

A1	Planning Application Form and Associated Certificates
A2	Committee Report of 23 October 2014
A3	Council's Decision Notice
A4	Site Plan Documents
A5	Planning Statement
A6	Statement of Community Involvement
A7	Article 11 and 32 Notice to the Council
A8	Additional Plans Submitted with Application
A9	Design and Access Statement
A10	Non-Technical Summary
A11	Environmental Statement
A12	Not Used
A13	Not Used
A14	Statement of Case of Good Energy Ltd
A15	Statement of Case of Cornwall Council
A16	Statement of Case of CARE
A17	Supplementary Environmental Information August 2014
A18	Supplementary Environmental Information March 2016
B1	Saved policies of the North Cornwall District Local Plan 1999
B2	Cornwall Local Plan Strategic Policies Proposed Submission Document (March 2014) and Schedule of Focused Changes (September 2014)
B3	Inspector's Advisory Comments prior to Consultation on Proposed Changes
C1	Not used
C2	Not Used
C3	Cornwall Renewable Energy Planning Advice (March 2016)
D1	National Planning Policy Framework
D2	EN-1: Overarching National Policy Statement for Energy (July 2011)
D3	EN-3: National Policy Statement for Renewable Energy Infrastructure (July 2011)
D4	Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
D5	Renewable Energy Strategy 2009 Executive Summary
D6	UK Renewable Energy Roadmap 2011
D7	UK Renewable Energy Roadmap 2012 Update
D8	UK Renewable Energy Roadmap 2013 Update
D9	Sections 38 and 39 of the Planning and Compulsory Purchase Act 2004
D10	Extracts from National Planning Practice Guidance
D11	Written Statement made by Secretary of State for Communities and Local Government on 18 June 2015
D12	Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System
D13	Conservation of Habitats and Species Regulations 2010 (the habitats Regulations) (no hard copy provided)
D14	Natural Environment and Rural Communities (NERC) Act 2006
D15	Circular 11/95 Appendix A – Planning Conditions
D16	Excerpt from Community Infrastructure Levy Regulations 2010 (as

amended)

- E1 APP/J0540/V/14/2220136 (French Farm)
- E2 Court of Appeal Judgement in *Barnwell Manor*
- E3 APP/H1705/A/13/2205929 (Razor's Farm)
- E4 APP/Q3305/A/14/2227407 (Torr Works)
- E5 APP/W1145/W/15/3129619 (Battledown Farm)
- E6 APP/E2530/A/14/2215578 (Colsterworth)
- E7 APP/D0515/A/14/2228134 (Chatteris)
- E8 APP/D0840/W/15/3003115 (Trela farm)
- E9 APP/E3715/A/14/2227479 (Swift in Rugby)
- E10 APP/X2220/A/08/2071880 (Enifer Downs)
- E11 APP/J0405/A/13/2205701 (Dorcas Lane)
- E12 PPA-170-2062 (Mayfield, Castle Douglas)
- E13 APP/J3720/A/13/2193579 (Starbold)
- E14 APP/D0515/A/12/2181777 and APP/A2525/A/12/2184954 (Treading Bank)
- E15 APP/C1625/11/2155923 (Berkeley Vale)
- E16 APP/N2739/A/14/2221816 (Lumby)
- E17 APP/L2630/A/10/2143349 (Upper Vaunces)
- E18 APP/D0840/W/15/3103858 (Churchtown Farm, Warbstow)
- E19 APP/Q0830/A/05/1189328 (Penpell Farm)
- E20 APP/Y2430/A/13/2191290 (Asfordby)
- E21 APP/D0515/A/10/2123739 (Burnthouse Farm)
- E22 APP/J1915/A/09/2104406 (Benington)
- E23 APP/M0933/A/09/2099304 (Sillfield)
- E24 APP/X1118/A/12/2189089 (Rackenford)
- E25 APP/J0405/A/13/2194726 (Ford)
- E26 APP/X1545/A/12/2174982 (Turncole Farm)
- E27 APP/D0840/A/09/2103026 (Carland Cross)
- E28 APP/P1615/A/13/2204221 (Alvington Court Farm)
- E29 APP/T6850/A/13/2209593 (Garreg Lwyd Hill)
- E30 APP/C0820/A/07/2047583 (Crimp)
- E31 APP/D0840/A/14/2226449 (High Street Industrial Estate)
- E32 APP/D0840/W/15/3004392 (Knowle farm)
- E33 APP/D0840/W/15/3023033 (Carveth Farm)
- E34 APP/F2415/A/09/2096369 (Swinford)
- E35 APP/Y2003/A/09/2105130 (Flixborough)
- E36 APP/D0840/W/15/3134592 (North Tamerton)
- E37 *North Norfolk DC v SoSCLG* [2014] EWHC (Admin)
- E38 APP/C1625/A/11/2155923 (Stinchcombe)
- E39 Garreg Lwyd High Court Decision [2015] EWHC 3284 (Admin)
- E40 Ellough Solar High Court Judgement [2014] EWHC 2006 (Admin)
- E41 APP/T3535/A/13/2193543 (Ellough Solar Redetermination Letter)
- E42 Bradwell High Court Decision on the 2nd Appeal [2011] EWHC 807 (Admin)
- E43 Mordue Court of Appeal Decision [2015] EWCA Civ 1243
- E44 Carsington High Court Decision [2009] EWHC 1729 (Admin)
- E45 APP/D2510/A/12/2176754 (Carlton Grange)
- E46 APP/N2535/A/14/2216163 (Kingerby Wood)
- E47 Airfield Farm High Court Decision [2013] EWHC 2847 (Admin)

F1	Siting and Designing Wind Farms in the Landscape Version 2(SNH) May 2014
F2	Visual Representation of Wind Farms (SNH) 2006 and 2014 Versions
F3	GLVIA Third Edition 2013
F4	Assessing the Cumulative Impact of Onshore Wind Energy Developments (SNH) March 2012
F5	The Countryside Agency Landscape Character Assessment Guidance for England and Scotland (2002)
F6	An Approach to Landscape Character Assessment – Natural England (October 2014)
F7	Natural England's LCA Topic Paper 9: Climate Change and Natural Forces – the Consequences for landscape Character
F8	Natural England NCA149: The Culm, NCA 152; Cornish Killas, NCA153: Bodmin Moor and NCA151: North Devon
F9	Not used
F10	Trefursdon Barn Block Plan
F11	Trefursdon Barn DAS
F12	Trefursdon Barn Proposed Plans
F13	Cornwall AONB Management Plan 2011-2016 (currently under review)
F14	The Cornwall and Isles of Scilly Landscape Character Study
F15	Natural England – Making Space for Renewable Energy: Assessing Onshore Wind Energy Development (2010)
F16	Cornwall Design Guide 2013
F17	SNH – Spatial Planning for Onshore Wind Turbines – Natural Heritage Considerations June 2015
F18	European Council 2030 Climate and Energy Framework 2014
F19	DECC Public Attitudes tracker 2015
F20	An Assessment of the Landscape Sensitivity to Onshore Wind and Large Scale Solar Photovoltaic Development in Cornwall 2011
F21	Visit Scotland (2012) Tourism Study
F22	Climate Change (2012): The Impact of Wind Farms on Scottish Tourism
F23	LDA ZTV Clarification Note
G1	Historic Environment Good Practice Advice in Planning Note 1
G2	Historic Environment Good Practice Advice in Planning Note 2
G3	Historic Environment Good Practice Advice in Planning Note 3
G4	English Heritage (2008) Conservation Principles, Policies and Guidance
G5	Edwards Z (2014) Warbstow Bury, Warbstow – Archaeological Survey Report (English Heritage Report Series No.3-2014))
G6	Week St Mary Conservation Area Character Statement (North Cornwall DC)
G7	Ashbury Fort Aerial Photographs
G8	Creddacott Barrow Cemetery Aerial Photographs
G9	Warbstow Bury Aerial Photographs
G10	A Oswald, S Ainsworth and T Pearson: Hillforts Prehistoric Strongholds of Northumberland National Park (English Heritage 2006) (Extracts)
G11	A Preston-Jones and P Rose: Week St Mary Town and Castle (Cornish Archaeology 31 (1992) (Extracts)
G12	Ancient Monuments and Archaeological Areas Act 1979 (no hard copy provided)
G13	Consultation response and related correspondence from HE
G14	Cornwall & Scilly Isles HER – entries relating to heritage assets held on

	the record
G15	Cornwall Council: Historic landscape Characterisation
G16	D Lysons and S Lysons Magna Britannia Vol.3 Cornwall (London 1814) (Extracts)
G17	DCMS: Principles of Selection for Listed Buildings (March 2010)
G18	DCMS: Scheduled Monuments and Nationally Important but Non-Scheduled Monuments (October 2013)
G19	E H Sedding: Norman Architecture in Cornwall (Truro 1909) (Extracts)
G20	Historic England – List entries for relevant designated heritage assets
G21	N Johnson and P Rose: Bodmin Moor, An Archaeological Survey, Volume 1: The Human Landscape to c1800 (English Heritage 1994) (Extracts)
G22	P Beacham and N Pevsner: The Buildings of England Cornwall (London 2014) (Relevant Extracts)
G23	T Rowe: Cornwall in Prehistory (Stroud 2005) (Relevant Extracts)
G24	English Heritage: Wind Energy and the Historic Environment
G25	Design manual for Roads and Bridges (HA208/07) Volume 11, Section3, Part 2
H1	ETSU-R-97: The Assessment and rating of Noise from Wind Farms
H2	IoA Good Practice Guide to the application of ETSU-R-97 including supplementary guidance notes 1-6h3
H3	DEFRA Noise Policy Statement for England March 2010
I1	Not Used
I2	Natural England Technical Information Notes: TIN051 – Bats and Onshore Wind Turbines, TIN059 – Bats and Single Large Turbines and TIN069 – Birds and onshore Wind Farms
I3	Eurobats Agreement No.3 (2008) – Guidelines for the Consideration of Bats in Wind Farm Projects
I4	Bat Conservation Trust – Bat Survey Good Practice Guidelines – 2 nd Edition – 2012
I5	Letter from Amber Rudd, SoS for Energy and Climate Change dated 29 October 2016
I6	Not Used
I7	Renewable Energy Progress Report (2015) from the Commission to the European parliament, The Council, The European Economic and Social Committee, and the Committee of the Regions
I8	Excerpt from the Committee on Climate Change Renewable Energy Review (2011)

Inquiry Documents

ID1	Opening Statement on behalf of the appellant
ID2	Opening Statement on behalf of CARE
ID3	Opening Statement by the Council
ID4	Copy of flier circulated by Friends of the Earth
ID5	Copy of Appeal Decisions: APP/X1118/A/11/2162070 & 2171005
ID6	Extract from Appeal Decisions: APP/X1118/A/00/1056022 & 1056023
ID7	Copy of Appeal Decision: APP/Q1153/A/04/1170234
ID8	Extract from Appeal Decision: APP/Y1138/A/08/2084526
ID9	Correction to PoE and ES relating to visual effect on Creddacott Bungalow put in by Mr Goodrum
ID10	Copy of Historic Environment Law: Planning, Listed Buildings, Monuments, Conservation Areas and Objects Supplement 2014 by Richard Harwood QC
ID11	Submissions on <i>Forest of Dean DC v SoS for Communities and Local Government and Gladman Developments Ltd</i> [2016] EWHC 421 (Admin) put in by appellant
ID12	Submissions on <i>Forest of Dean DC v SoS for Communities and Local Government and Gladman Developments Ltd</i> [2016] EWHC 421 (Admin) put in by CARE
ID13	List Entry Summaries for various bowl barrows (SAMs)
ID14	Copy of ' <i>The Setting of Heritage Assets</i> ' by Historic England
ID15	Copy of Designation: Listing Selection Guide – Places of Worship (HE)
ID16	Bundle of material relating to the Cornwall Local Plan
ID17	Green Cornwall: Our Strategy for a Greener, Sustainable, Low Carbon Cornwall (Cornwall Council)
ID18	Copy of Report into the Scottish Government's Renewable Energy targets
ID19	Copy of ' <i>On the Performance of Wind Farms in the United Kingdom</i> ' by David MacKay FRS
ID20	Copy of response to Professor MacKay on REF's UK wind farm lifetime analysis
ID21	Energy Generation and Capacity Factor – figures on curtailment
ID22	Load Factor (and other statistics relating to) of Wind Power Stations in the UK (Geoffrey Sinclair – 1 December 2012)
ID23	Submission of the Reverend Rob Yeomans
ID24	Submission of Scott Mann MP
ID25	Submission of Stephen Smith FCA (1)
ID26	Submission by Dr Rob Isherwood
ID27	Submission of Adrian Shute
ID28	Submission of Jeremy Ward
ID29	Submission of Bill Andrews
ID30	Submission of David Smith (read by Mr Andrews)
ID31	Submission of Mary Carter
ID32	Submission of Esther Grieg
ID33	Submission of Linda Cobbledick
ID34	Submission of Peter Willetts
ID35	Submission of Stuart Mealing
ID36	Submission of Rob Dickenson
ID37	Submission of Elizabeth Pallett
ID38	Submission of the Venerable Bill Stuart-White

ID39	Submission of Andrew Smeeth
ID40	Submission of Gillian Faiers
ID41	Submission of Stephen Pawley
ID42	Submission of Jon Balsdon
ID43	Submission of Christine Heard
ID44	Submission of Caroline Pallett
ID45	Submission of Richard Horn
ID46	Submission of Charmian Larke FRSA
ID47	Submission of John Allen
ID48	Submission of William Leslie Pearce
ID49	Submission of Peter Edwards
ID50	Submission of Alan May
ID51	Submission of Paul Sousek
ID52	Submission of Stuart May
ID53	Submission of Ron Dingle
ID54	Submission of Tristan Gadd
ID55	Submission of Christopher Gunn
ID56	Submission of Joshua Sorono
ID57	Submission of Eloise Nickerson
ID59	Submission of Richard Cochrane
ID60	Submission of Graham Gimblett
ID61	Submission of Valerie Griffin
ID62	Submission of Louise Cann
ID63	Submission of Mike Morey
ID64	Submission of Raymond Griffin
ID65	Submission of Sue Morey
ID66	Submission of Micheline Smith
ID67	Submission of Nicky Chopak
ID68	Submission of Stephen Smith FCA (2)
ID69	Submission of Gerald Turner
ID70	Submission of Annabel Yates
ID71	Submission of Susan Reppold
ID72	Submission of Jonathan Allin
ID73	Submission of Paul Martin
ID74	Submission of Bob Gunby
ID75	Submission of Alana Sharp
ID76	Submission of Tim Ward
ID77	Submission of Jenny Smith
ID78	Submission of Ray Hockin
ID79	Submission of John Uglow
ID80	Submission of Peter Chapman
ID81	Submission of Ross Paynter
ID82	Submission of Peter Finneran
ID83	Schedule of Accompanied Site Visits
ID84	Heads of Terms for Proposed Joint Venture
ID85	Suggested Conditions
ID86	Draft Unilateral Undertaking
ID87	Closing Submissions by Cornwall Council
ID88	Closing Submissions by CARE
ID89	Closing Submissions by Appellant
ID90	Statement of Common Ground
ID91	Completed Unilateral Undertaking

Annex C: PLANS

- A BLOCKPLANON_BIGF_PE10139 – Block Plan/ Proposed Site Plan (submitted January 2014)
- B SITEPLANON_BIGF_PE10139 – Site Plan (submitted January 2014)
- C 2.3 Figure 2.3 - Wind Turbine General Arrangement A3 (Submitted in March 2016)
- D 2.3a SITEPLANOFF - Offsite Planning Boundary Location (Submitted in March 2016)

Annex D: SUGGESTED CONDITIONS

- 1) The development hereby permitted shall be commenced before the expiration of five years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: BLOCKPLANON_BIGF_PE10139 – Block Plan/ Proposed Site Plan (submitted January 2014); SITEPLANON_BIGF_PE10139 – Site Plan (submitted January 2014); 2.3 Figure 2.3 - Wind Turbine General Arrangement A3 (Submitted in March 2016); and 2.3a SITEPLANOFF - Offsite Planning Boundary Location (Submitted in March 2016).
- 3) The local planning authority shall be notified in writing within 14 days of the date when electricity from the development is first supplied to the grid (the First Export Date) and the development hereby permitted shall be removed from the site following the expiry of 25 years from that date. Such removal shall include the decommissioning and removal of the wind turbines and all related above ground structures.
- 4) Development shall not commence until details of the proposed highway access works, including vegetation clearance and replacement, road widening, street furniture removal/replacement, and the construction of new roadways and bridge crossings has been submitted for the written approval of the local planning authority. The submitted details shall include the timing and duration of the proposed works and associated restoration details. The works shall subsequently be implemented in accordance with the approved details; so retained as necessary thereafter for the duration of the construction period; and removed, and the site restored in accordance with the approved details within the agreed timeframe.
- 5) Development shall not commence until a Construction Phase Traffic Management Plan (CPTMP) has been submitted to and approved in writing by local planning authority. The CPTMP shall include details relating to (a) the management and routing of construction traffic; (b) the management of junctions with and crossings of the public highway; (c) delivery times; (d) proposed accommodation works and where necessary a programme for their subsequent removal and the reinstatement of street furniture, where required along the route; (e) provision of wheel washing or pavement cleaning as required; and (f) details of pre and post construction road survey works. The development shall be carried out in accordance with the approved CPTMP.
- 6) Development shall not commence until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following: (a) a timetable for the construction programme; (b) a construction quality control procedure; (c) a scheme for the maintenance of air quality and management of dust arising from the construction of the wind farm; (d) the protection of archaeological and cultural heritage assets through a Watching Brief during the construction of the site and access track; (e) the securing of the mitigation for biodiversity management; (f) the approach to be adopted in the event of any chemical contamination being discovered on site during the construction process; (g) Landscape and Visual Management Plan in respect of the location of temporary

construction works to reduce their visibility; (h) the excavation, handling, storage, management and replacement of excavated soils; (i) Site Waste Management Plan which sets out details of all fuel, oil, concrete and chemical storage facilities together with details of how they are to be brought on to, stored on and removed from the site, including all waste materials; (j) the design and construction methods of the access tracks and pollution prevention measures to be implemented, to ensure that there are no polluting discharges from tracks and disturbed areas, including provision to ensure that no polluting discharge from haul roads and disturbed areas enter any watercourse; (k) the nature, type and quantity of materials to be imported on site for backfilling operations or construction of access tracks together with details of where and how such materials are to be stored on site; (l) the management of foul water; (m) the construction period and the sequence of development; (n) the construction of on-site access tracks, wind turbine foundations and the erection of wind turbines and all other development to be carried out under this permission; (o) a scheme for a detailed geotechnical investigation to fully determine the nature of the subsoil and bedrock geology in the locality of proposed infrastructure; (p) any stone excavation, storage and crushing arising from the construction; (q) how any concrete mixing is to be carried out on the site (if any) including details of the importation and storage of its raw materials (including water); details of the washing of the plant, equipment and machinery to be used and how the washings would be dealt with; and (r) protective fencing to non-working areas, trees and hedges to be retained. The development shall be carried out in accordance with the approved CEMP.

- 7) Eighteen months prior to the expiry of 25 years from the First Export Date, a restoration scheme shall be submitted in writing to the local planning authority for its written approval. The scheme shall include details of the timing of the restoration works, a traffic management plan to detail traffic impact issues during the decommissioning period and the location of the material laydown areas. The restoration shall be carried out in accordance with the approved scheme within 12 months following the expiry of 25 years from the First Export Date.
- 8) Development shall not commence until details of the wind turbine design, specifications and colour(s) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.
- 9) Development shall not commence until a scheme to investigate and alleviate shadow flicker has been submitted to and approved in writing by the local planning authority. The scheme shall include a computerised control system designed to shut down wind turbines at those times when, as determined by sensors mounted on the wind turbines, actual shadowing of properties would otherwise occur. The development shall subsequently be operated and maintained in accordance with the approved shadow flicker mitigation scheme. 'Commissioning' (in this and subsequent conditions) shall mean the date on which the first wind turbine generator forming part of the development first supplies electricity, save for the purposes of testing.

- 10) The development shall not be commissioned until an Ecological Habitat Enhancement Scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include but not be limited to a programme for the provision within the site of 250m of new hedgerow and the provision of 500m of 6m wide arable field margin habitat. The scheme shall be implemented in accordance with the approved details.
- 11) The wind turbines hereby permitted shall be erected at the grid co-ordinates in the table below. Notwithstanding the terms of this condition, the wind turbines and associated crane pads may be micro-sited within 50m and the consequential realignment of the access tracks between and to the wind turbines following micro-siting of the wind turbines shall be permitted. A plan showing the position of the wind turbines and access tracks established on the site shall be submitted to the local planning authority prior to the commissioning of the development.

Table -:Turbine Locations		
Turbine	Easting	Northing
T1	222592	094079
T2	222959	094431
T3	223100	094173
T4	223419	094410
T5	223258	094665
T6	223717	094631
T7	223609	094897
T8	223927	095095
T9	223835	094079
T10	223797	093806
T11	223744	093422

- 12) The site operator shall notify the local planning authority in writing of any wind turbine that fails to produce electricity for supply to the national electricity transmission network (hereafter referred to as the 'grid') for a continuous period of 12 months. This relevant wind turbine and its associated ancillary equipment shall be removed from the site within a period of 6 months from the end of that 12 month period, in accordance with a scheme that has been submitted to, and approved in writing by, the local planning authority. That scheme shall include the details of the manner, management and timing of the works to be undertaken and shall

also include a Traffic Management Plan for the removal of the large wind turbine components. The part of the site from which the turbine and associated ancillary equipment have been removed shall be restored in accordance with a detailed scheme that has previously been submitted to and approved in writing by the local planning authority.

- 13) All wind turbine blades shall rotate in the same direction.
- 14) Save for condition 15 the turbines shall not be illuminated and there shall be no permanent illumination on the site other than lighting required during the construction period, during planned or unplanned maintenance or emergency lighting, and a movement sensor-operated external door light for the substation building door to allow safe access.
- 15) No turbines shall be erected until details of the wind turbine(s) (if any) to be fitted with red lighting or infrared aviation lighting together with the proposed specification of the red lighting or infrared aviation lighting has been submitted to and approved in writing by the local planning authority. The approved measures shall be implemented following the erection of the turbines identified as part of the approved measures.
- 16) No development shall take place until a Mitigation Report has been prepared in consultation with Western Power Distribution (including a telecommunications site survey involving a radio signal survey and topographical survey of the land surrounding the development and Western Power Distribution's existing radio signal area) which has been submitted to and approved in writing by the local planning authority. The Mitigation Report shall include proposals for the carrying out, commissioning and operation of any necessary mitigation measures (the Mitigation Scheme) required to protect Western Power Distribution's existing equipment throughout the life of the development. The development shall not be brought into use until the Mitigation Scheme has been fully implemented and commissioned to the satisfaction of the local planning authority in consultation with Western Power Distribution.
- 17) Prior to erection of the electricity sub-station building details of its design and the materials to be used together with the details of any fenced compound and associated landscaping shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 18) Prior to the commencement of development a scheme detailing the location of all underground cabling shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 19) Prior to commencement of the development the full manufacturer's warranted noise data for the turbines to be installed, including details of tonality, shall be submitted to and approved in writing by the local planning authority. The warranty on tonal noise shall be sufficient to ensure that no tonal penalty, as provided for by Condition 23 f) below, will be required.
- 20) Prior to commencement of the development, the noise mitigation scheme for the chosen turbine(s) shall be submitted to and approved in writing by the local planning authority. The mitigation scheme approved shall operate

fully for the life of the wind turbines unless a variation is approved in writing by the local planning authority.

- 21) Data shall be provided to the local planning authority by the 31st January each year, or within 28 days of a written request from the local planning authority, to demonstrate that the turbines have been operating in accordance with their mitigation scheme for the previous 12 months. Any departures from the mitigation scheme shall be highlighted, noting the times, durations, and with an explanation as to the reason for the departures, and the corrective action taken.
- 22) Construction work, which is audible at the boundary of any noise sensitive receptor, shall only take place between the hours of 08:00 - 18.00 on Monday to Friday inclusive, 08:00 – 1300 hours on Saturdays with no such working on a Sunday or local or national public holiday. Outside these hours development at the site shall be limited to wind turbine erection, maintenance, emergency works, dust suppression and the testing of plant and equipment, or construction work that is not audible from any noise-sensitive property outside the site. The receipt of any materials or equipment for the construction of the development, other than wind turbine blades, nacelles, towers and substation, is not allowed outside the above hours, unless otherwise approved in writing by the local planning authority having been given a minimum of two working days' notice of the occurrence of the proposed event.
- 23) The rating level of noise emissions from the wind turbines (including the application of any penalties for tonal and/or amplitude modulation components) when determined in accordance with the guidance notes 1 to 4 attached to these conditions, shall not exceed the values for the relevant integer wind speed set out in or derived from Tables 1 and 2 below at the curtilage of the stated properties. For the purpose of this condition, curtilage is defined as 'the boundary of a lawfully existing domestic garden area'.
 - a) Not later than the commencement of the operation of the wind turbine, the wind turbine operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 4 – Turbine Logging Requirements. This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in electronic form 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) No wind turbines shall be operated on the site until a scheme has been submitted to the local planning authority for its written approval for monitoring the rating level of noise emissions at up to five selected residential locations taken from Table 3 of this planning permission (or at representative locations close to those properties, to be agreed with the

local planning authority) and commencing within one month following connection to the electricity grid and full operation of the wind turbines on the site. The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels in a representative range of wind speeds and under downwind conditions with the wind turbine operating normally. Monitoring shall be carried out in accordance with the approved monitoring scheme and a copy of the assessment report, together with all recorded data including audio files obtained as part of the assessment, shall be provided to the local planning authority (in electronic form) within three months of completion of the monitoring.

d) Within 21 days from receipt of a written request from the local planning authority following a complaint to it from an occupant of a noise sensitive receptor alleging noise disturbance at that noise sensitive receptor lawfully in existence at the date of this planning permission, the wind farm operator shall, at its expense, employ a consultant approved under b) above, to measure and assess by a method to be approved in writing by the local planning authority, whether noise from the turbines meets the rating levels specified in Tables 1 and 2. The assessment shall be commenced within 21 days of the written request, or such longer time as approved by the local planning authority.

e) A copy of the assessment, together with all recorded data including audio files obtained as part of the assessment, shall be provided to the local planning authority (in electronic form) within 60 days of the written request.

f) The rating levels assessed in c) and d) above shall include a tonal penalty as specified in ETSU-R-97 at section 2.1 on pages 104-109.

g) If the assessment requested by the local planning authority demonstrates that the specified level is being exceeded, the operator of the turbine/s shall take immediate steps to ensure that the noise emissions from the turbine/s are reduced to, or below, the specified noise limit. The operator shall provide written confirmation of that reduction to the local planning authority within a time period to be agreed in writing with the local planning authority. In the event that it is not possible to achieve the specified noise limit with mitigation within a reasonable time period, then the operation of the wind turbine/s shall cease.

h) Where a noise sensitive receptor to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the local planning authority for written approval proposed noise limits selected from those listed in Tables 1 and 2 to be adopted at the complainant's noise sensitive receptor for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's noise sensitive receptor.

i) Within 28 days from receipt of a written request from the Planning Authority, following a complaint related to excessive amplitude modulation (EAM) as defined in (Guidance Note 1 – Excess Amplitude Modulation) from the occupant of a noise sensitive receptor, the wind turbine operator shall submit a scheme for the assessment and regulation of EAM to the local planning authority for its written approval. The scheme shall be in general accordance with:

- any guidance endorsed in National or English Planning Policy or Guidance at that time, or in the absence of endorsed guidance,
- suitable published methodology endorsed as good practice by the Institute of Acoustics; or in the absence of such published methodology,
- the methodology published by Renewable UK on the 16th December 2013, or any other methodology agreed in writing with the local planning authority.

The scheme approved under this planning condition shall be implemented within 3 months of its written approval and shall thereafter be retained. In the event that the EAM cannot be eliminated or reduced below the level specified in the agreed methodology, then the operation of the turbine/s shall permanently cease.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 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										
	2	3	4	5	6	7	8	9	10	11	12
Middle Wheatley Farm	35	35	36	38	41	44	48	50	53	54	55
Middle Wheatley Cottage	35	35	36	38	41	44	48	50	53	54	55
Higher Whiteleigh House	35	35	36	38	41	44	48	50	53	54	55
Whiteleigh Cottage B& B	35	35	36	38	41	44	48	50	53	54	55
Higher Whiteleigh Farm Financially Involved	45	45	45	45	45	45	48	50	53	54	55
Mount Joy	35	35	36	38	41	44	48	50	53	54	55
Stapleton	35	35	36	38	41	44	48	50	53	54	55
Greenacre	35	35	36	38	41	44	48	50	53	54	55
Trefursdon	35	35	35	36	39	42	46	49	52	54	55
Property near to Trefursdon	35	35	35	36	39	42	46	49	52	54	55
Delabole Farm	35	35	35	35	36	39	43	46	49	51	51
Creddacott Bungalow	35	35	35	35	36	39	43	46	49	51	51
Exworthy Farm	35	35	35	35	36	39	43	46	49	51	51

Creddacott	35	35	35	35	36	39	43	46	49	51	51
Creddacott Farm, Financially involved	45	45	45	45	45	45	45	46	49	51	51
Higher Exe Farm Financially Involved	45	45	45	45	45	45	47	50	53	55	56
Lower Exe Farm	35	35	35	37	40	44	47	50	53	55	56
Exmoor Farm	35	35	35	37	40	44	47	50	53	55	56
South Wheatley	35	35	35	36	38	41	43	46	48	50	52
Wheatley Farm B&B Financially Involved	45	45	45	45	45	45	45	46	48	50	52
Lower Wheatley	35	35	35	36	38	41	43	46	48	50	52
Little Exe Cottage Financially involved	Limits should not be required if not residential										

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-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										
	2	3	4	5	6	7	8	9	10	11	12
Middle Wheatley Farm	43	43	43	43	43	43	44	48	51	51	51
Middle Wheatley Cottage	43	43	43	43	43	43	44	48	51	51	51
Higher Whiteleigh House	43	43	43	43	43	43	44	48	51	51	51
Higher Whiteleigh Farm Financially Involved	45	45	45	45	45	45	45	48	51	51	51
Whiteleigh Cottage B& B	43	43	43	43	43	43	44	48	51	51	51
Mount Joy	43	43	43	43	43	43	44	48	51	51	51
Stapleton	43	43	43	43	43	43	44	48	51	51	51
Greenacre	43	43	43	43	43	43	44	48	51	51	51
Trefursdon	43	43	43	43	43	43	43	47	50	50	50
Property near to Trefursdon	43	43	43	43	43	43	43	47	50	50	50
Delabole Farm	43	43	43	43	43	43	43	44	48	48	48
Creddacott Bungalow	43	43	43	43	43	43	43	44	48	48	48
Exworthy Farm	43	43	43	43	43	43	43	44	48	48	48
Creddacott	43	43	43	43	43	43	43	44	48	48	48
Creddacott Farm, Financially involved	45	45	45	45	45	45	45	45	48	48	48

Higher Exe Farm Financially Involved	45	45	45	45	45	45	45	48	52	52	52
Lower Exe Farm	43	43	43	43	43	43	44	48	52	52	52
Exmoor Farm	43	43	43	43	43	43	44	48	52	52	52
South Wheatley	43	43	43	43	43	43	43	44	47	47	47
Wheatley Farm B&B Financially Involved	45	45	45	45	45	45	45	45	47	47	47
Lower Wheatley	43	43	43	43	43	43	43	44	47	47	47
Little Exe Cottage Financially involved	Limits should not be required if not residential										

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

Property	Easting	Northing
Middle Wheatley Farm	224607	94057
Middle Wheatley Cottage	224649	93709
Higher Whiteleigh House	224596	94397
Higher Whitleigh Farm (FI)	224586	94370
Whiteleigh Cottage	224656	94705
Mount Joy	224770	95184
Stapleton	224900	95390
Greenacre	224915	95513
Trefursdon	222894	93412
Property near to Trefursdon	222889	93470
Credacott Bungalow	223133	95644
Exworthy Farm	222882	95324
Lower Credacott	223164	95439
Credacott Farm, (FI)	223126	95485
Lower Exe Farm	221926	94190
Exmoor Farm	221832	93518
Wheatley Farm B&B (FI)	224507	92924
Lower Wheatley	224433	92943
Little Exe Cottage (FI)	223338	93847
Delabole Farm	223252	95923

Higher Exe Farm (FI)	222259	94250
South Wheatley (House 25, The Barn)	224485	92966

FI = financially involved

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

Italics indicate a background monitoring location used to inform the limits.

Definition of 'noise sensitive receptor(s)':-

A noise sensitive receptor is a dwelling, residential property, care or residential home, hospital, school, caravan or camping site lawfully in existence by virtue of an express planning permission at the date of this planning permission.

GUIDANCE NOTES

These notes are to be read with and form part of the noise condition set out in this planning permission. They further explain the condition and specify some of the methods to be employed in the assessment of complaints about noise emissions from the wind farm.

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). IoA Good Practice Guides refers to the Institute of Acoustics Good Practice Guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise, dated May 2013, the supplementary guidance notes and any future updates to these documents.

Guidance Note 1 – Excess Amplitude Modulation

Excess Amplitude Modulation ("Excess AM") is the modulation of aerodynamic noise produced at the frequency at which a blade passes a fixed point and occurring in ways not anticipated by ETSU-R-97, The Assessment and Rating of Noise from Wind Farms, on page 68.

Guidance Note 2 – Tonal Penalty

(a) If a tonal penalty is required in accordance with Condition 22 (f), 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 (b) below and the penalties for tonal noise as derived in accordance with Condition 22 (f) at each integer wind speed.

(b) For those data points considered valid, values of the LA90,10 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 approved methodology from part (c) of the condition, 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 turbine/s noise level at each integer speed.

Guidance Note 3 – Measurement Methodologies

All approved methodologies should be in accordance with recognised best practice at the time such as the Institute of Acoustics Good Practice Guides.

Guidance Note 4 – Turbine Logging Requirements

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 LPA, 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. All 10-minute periods shall commence on the hour and in 10 minute increments thereafter.



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 for permission 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

With the permission of the High Court 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. 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 for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: 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 Inspector's report of the inquiry or hearing within 6 weeks of the day after 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.