



Department for
Communities and
Local Government

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Our Ref: APP/Y0435/A/10/2140401;
APP/K0235/A/11/2149434;
APP/H2835/A/11/2149437
Your Ref: SMITHMO/156396-000119

17 December 2013

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY RWE NPOWER RENEWABLES LTD
LAND BETWEEN BOZEAT, LAVENDON AND HARROLD
APPLICATION REFS: 08/02118/FULEIS; 09/00137/MAF AND WP/2008/0603/FEIA**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Andrew Pykett BSc(Hons) PhD MRTPI, who held a public local inquiry on 11-14 and 18-21 June 2013 into your client's appeals against:
 - a failure by Milton Keynes Council to give notice within the prescribed period of a decision on an application for the construction of a wind farm comprising 3 wind turbines up to 125m in height to blade tip and ancillary equipment, access tracks and anemometry mast; in conjunction with planning applications to: Bedford Borough Council for 6 turbines and access tracks; and the Borough of Wellingborough for 3 turbines, substation, construction compound, access tracks and site access; as part of a single wind farm of 12 turbines for an operational period of 25 years (application ref: 08/02118/FULEIS dated 19 December 2008) (**Appeal A**);
 - a refusal by Bedford Borough Council to grant planning permission for the construction of a wind farm comprising 6 wind turbines up to 125m in height to blade tip and ancillary equipment and access tracks; in conjunction with planning applications to: Milton Keynes Council for 3 turbines, anemometry mast and access tracks; and the Borough of Wellingborough for 3 turbines, substation, construction compound, access tracks and site access; as part of a single wind farm of 12 turbines for an operational period of 25 years (application ref: 09/00137/MAF, dated 19 December 2008) (**Appeal B**); and
 - a failure by the Borough Council of Wellingborough to give notice within the prescribed period of a decision on an application for the construction of a wind farm comprising 3 wind turbines up to 125m in height to blade tip and ancillary equipment, access tracks, substation, construction compound, and site access; in conjunction with planning applications to: Milton Keynes Council for 3 turbines, anemometry mast and access tracks; and Bedford Borough Council for 6 turbines

and access tracks; as part of a single wind farm of 12 turbines for an operational period of 25 years (application Ref: WP/2008/0603/FEIA dated 19 December 2008) (**Appeal C**).

2. As explained at IR2, these appeals were initially transferred for decision by a Planning Inspector, and the Planning Inspector issued his decision on them on 23 December 2011. That decision was subsequently quashed by order of the High Court in August 2012 and the three appeals fell to be considered anew. In pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, they were then recovered for the Secretary of State's determination on 5 June 2013, because they involve proposals of major significance for the delivery the Government's climate change programme and energy policies. Following the second inquiry, the Inspector recommended that all three appeals be dismissed and planning permission refused. The Secretary of State agrees with the Inspector's recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

3. The Secretary of State notes that Wellingborough Borough Council now consider that planning permission should be granted for the scheme and that they were not represented at the inquiry (IR2). He also notes that, partly in response to Wellingborough's changed position, the Inspector raised the prospect of a split decision (IR294). However, the Secretary of State agrees with the Inspector and the parties that, notwithstanding the complications resulting from its location at the junction of various boundaries, the scheme has been planned and pursued as a single project for a number of years; and that it is the complete scheme which is the subject of the Environmental Statement (ES), the Supplementary Environmental Statement (SEI) and the evidence of the witnesses. He therefore considers it appropriate to determine the scheme on this basis. Notwithstanding Wellingborough's changed position, the Secretary of State, like the Inspector, has considered the proposal against the contents of the development plans of all three councils.
4. The Secretary of State has had regard to correspondence submitted too late to be considered by the Inspector, as set out in the Annex to this letter. He has carefully considered these representations but, as they do not raise new matters that would affect his decision, he has not considered it necessary to circulate them to all parties. Copies of these representations can be provided on application to the address at the bottom of the first page of this letter.
5. The Secretary of State agrees with the Inspector that the ES and the SEI, submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 meet the requirements of these regulations (IR3). He considers that sufficient information has been provided for him to assess the environmental impact of the appeals.

Policy considerations

6. In determining these appeals, 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 the case of Wellingborough, the development plan consists of the saved policies of the Borough of Wellingborough Local Plan 1999 and the North

Northamptonshire Core Spatial Strategy 2008. For Milton Keynes, the development plan consists of the saved policies of the Milton Keynes Local Plan 2005 and the Milton Keynes Core Strategy which was adopted in July 2013 - after the close of the inquiry. In the case of Bedford, the development plan consists of the saved policies of the Bedford Borough Local Plan 2002 and the Bedford Core Strategy and Rural Issues Plan 2008. The Secretary of State considers that the development plan policies most relevant to this case are those set out at IR14-21, except that Milton Keynes Local Plan Policy S1 has now been replaced by Milton Keynes Core Strategy Policy CS1. Furthermore, Policies CS15 and CS20 of the emerging Milton Keynes Core Strategy (as referred to in IR21) are now policies CS14 and CS19 respectively in the adopted Core Strategy, and the Secretary of State has given them due weight to reflect that.

7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework); the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3); the Overarching NPS for Energy (EN-1); the Written Ministerial Statements on 'Local Planning and onshore wind' (DCLG) and 'Onshore wind' (DECC); the Planning Practice Guidance for renewable and low carbon energy; Planning Policy Statement (PPS) 5 Planning for the Historic Environment Practice Guide; Circular 11/95: The Use of Conditions in Planning Permissions; and the publications referred to in IR27-28 and IR30. The Secretary of State has also taken into account the "Milton Keynes Wind Turbines Supplementary Planning Document and Emerging Policy 2013" document, but he gives limited weight to the wind turbine policy contained in this document as it is still subject to change. The Secretary of State has had regard to the fact that on 28 August 2013 Government opened a new national planning practice guidance web-based resource. However, given that the guidance has not yet been finalised, he has attributed it limited weight.
8. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has paid special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess. He 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

Landscape character

9. The Secretary of State has had regard to the national and local landscape character assessments which have been undertaken in the area (IR223-225), and he agrees with the Inspector that these documents provide a useful a framework against which to assess the impact of the proposal (IR226). He notes the appellant's case that the change as a result of the development would be sufficient to create a windfarm landscape in a localised area extending some 650-700m from the turbines - where these would be the defining and dominant element in the landscape character; and that thereafter, and for a distance of some 3-4kms from the turbines, the development would be the cause of local landscape sub-types within the general context of the existing identified landscape character types (IR227).

10. For the reasons given at IR228-229, the Secretary of State agrees with the Inspector's conclusion at IR 229 that the appellant's acknowledgement that a new windfarm landscape type would be created is itself a measure of the substantial impact of the proposed development. He agrees with the Inspector that, although the effect of the scheme on the landscape fabric would be limited (IR230), landscape character is derived from a number of contributory components; and that the division of the effect of the windfarm into relatively geometrical inner and outer areas pays insufficient regard to some of the other contributors (IR231). He agrees that, at 125m, the proposed turbines would be very tall components of the landscape; that the adoption of a standard radius to define the area of the new windfarm landscape is an acknowledgement of dominance; and that there would be nothing in any way comparable in the immediate area of the turbines (IR231). He also agrees with the Inspector at IR232-233 that, although the impact of the turbines on landscape character would generally be reduced as the former landscape character reasserts itself, the assessment of effects is not just a measure of visibility.
11. The Secretary of State agrees with the Inspector (IR234) that a significant change to the landscape character in the area would result from the construction of the proposed windfarm and that the appellant's case with regard to the impact of the scale of the turbines in the context of the local landscape is not entirely clear. He also agrees (IR235) that it is possible that a scheme with fewer, smaller turbines would not give rise to such a radical change in landscape character that new classifications would be required, but that where this does occur it must inevitably be considered to be harmful. Like the Inspector, the Secretary of State is also concerned that the proposed edge of the windfarm landscape may be too close to the turbines, and that the location of the locally characterising sub-type outer boundary should have been more accurately assessed (IR235).

Visual effects

12. The Secretary of State has carefully considered the Inspector's assessment of visual effects at IR236-257, taking account of the level of agreement both between the principal parties that the visual effects would extend to 7-8kms from the turbines, with the greater distances applying to the more elevated views (IR236), and between the landscape witnesses in relation to the potential for significant effects in EIA terms (IR237). The Secretary of State agrees with the Inspector (IR238) that, other than in relation to the more elevated viewpoints, over about 6kms the turbines would become relatively manageable components of the scene. He also agrees (IR241) that, in relation to the extent of the interface between the built-up area and its undeveloped surroundings, the relationship in all the settlements referenced in IR236 and IR240 is intimate and essential, and in many ways the area immediately surrounding a settlement is the most important and accessible expression of its rural location.
13. The Secretary of State has gone on to consider the Inspector's findings on the impact of the development on the settlements listed in IR243-252. He agrees that: the impact of the turbines on Harrold, Odell, and Carlton/Chellington would be considerable and harmful (IR243); the impact on the setting of All Saints Church, Turvey would be very limited and the impact on the setting of Turvey House limited (IR245); the turbines would have a considerable and harmful effect on the landscape setting of Lavendon (IR246); there would be an adverse impact on Olney, although not as great as the effect from Harrold and Carlton (IR247); the impact on Clifton Reynes would be relatively modest (IR248); the turbines would result in some harm to the setting of

Bozeat (IR249); and, although the scheme would not preserve the setting of the Grade I listed Easton Maudit church, there would be less than substantial harm to its significance (IR252).

14. Having regard to the impact of the scheme on the settings of the other listed buildings referred to by English Heritage in its written representations – the churches at Bozeat and Grendon, and Grendon Hall (IR253) - the Secretary of State agrees with the Inspector that the effect would be insubstantial. He has also considered the effect of the scheme in relation to the conservation areas at Carlton, Odell and Podington (IR253), and agrees with the Inspector that the effect of the turbines on the experience of these heritage assets would be of minor significance.
15. The Secretary of State agrees with the Inspector (IR255) that the turbines would have a major effect on the manner in which the Three Shires Way would be experienced and have a similar effect on the Milton Keynes Boundary Walk. He agrees with the Inspector that the experience and recreational amenity of the Three Shires Way would be seriously affected by the development and that, by reason of their proximity, size and motion, the turbines would materially damage the scenery (IR257). However, he also agrees with the Inspector that, although the effect could be such that some existing users may look to use alternative routes, this would not be an inevitable consequence and the routes would remain useable for the purposes for which they are designated for both long-distance routes and shorter local circuits.

Cumulative effects

16. The Secretary of State agrees with the Inspector that the primary consideration under this heading is the effect of the project in relation to operational and permitted schemes (IR259). He notes that, in considering the cumulative effect, the Inspector attaches significant weight to the Poddington proposal which, at the time of the inquiry, had received planning permission but was subject to a High Court challenge by Bedford Borough Council (IR261). As he notes that the High Court subsequently dismissed Bedford Borough Council's challenge (on 26 July 2013), he attaches very significant weight to the Poddington scheme in considering the cumulative effect of the current proposal; and he considers that this amounts to a significant revision to the baseline circumstances of the case (IR262). He agrees with the Inspector that, using the same criteria as those adopted by the appellant, the landscape sub-types would overlap between Nun Wood and Podington, and between Nun Wood and Petsoe; and he notes that the appellant's landscape witness acknowledges that the siting of the Nun Wood scheme between the Petsoe turbines and the Podington project would lead to a coalescence of the landscape sub-types around the River Great Ouse, resulting in significant cumulative landscape effects (IR262).
17. The Secretary of State agrees with the Inspector that the addition of 12 more turbines in the space between the two operational/ permitted schemes at Petsoe and Poddington would result in an unacceptably extensive additional cumulative effect; and that, because of their size and motion, the turbines inevitably draw attention to themselves, and in this respect the current appeal scheme would be seriously harmful (IR264).
18. The Secretary of State has had regard to the appellant's Updated Cumulative Assessment (IR265) and he agrees with the Inspector's conclusions that the seriousness of the cumulative effect would vary in each of the viewpoints set out

(IR266). He also agrees with the Inspector (IR267) that the screening effect of topography and tree cover would apply at some locations, but that the effect would soon be lost; and that, although the significant cumulative landscape and visual effects would be localised in extent, the purpose of the assessment is to avoid such effects where they would be harmful.

19. The Secretary of State has had regard to the cumulative effects for those travelling by road in the vicinity as described by the Inspector at IR268. He agrees that, travelling south, the cumulative effects derived from the sites at Nun Wood and Petsoe would be more marked for a length of about 1km; and that, given the proximity of the appeal site to the turbines at Petsoe, their combined and consecutive appearance would amount to a harmful cumulative effect in a relatively limited area. He also agrees with the Inspector that, even though all the turbines would not be simultaneously visible at every vantage point, the existence of the 3 windfarms would serve to reinforce and enlarge the experience of the individual windfarm landscapes and the presence of the landscape sub-type over a large area, and that this would amount to a substantial harmful effect on a short journey.
20. The Secretary of State agrees with the Inspector (IR269) that the cumulative effect of the visibility of the Nun Wood and Petsoe sites from Turvey House would not be sufficiently serious to harm the setting of the building.

Living conditions

21. The Secretary of State has considered the concerns about the effect of the turbines on the living conditions of Northey Farm Flat and Bozeat Grange (IR270). He is sympathetic to the local concerns about the impact on the amenity of these properties. While he considers the adverse impact should not be taken lightly and should be given considerable weight, he does not in this instance disagree with the Inspector's conclusion on the matter.
22. For the reasons set out in IR271-272, the Secretary of State agrees with the Inspector that, although the effect is mitigated to a degree by elevation, the turbines would certainly be an unavoidable presence. However, having particular regard to the fact that the foreground does not provide an attractive outlook for the flat and taking all the circumstances into account, he also agrees with the Inspector that the proposed turbines would not render Northey Farm Flat an unpleasant or unattractive dwelling to the degree necessary in this case to resist the proposal on public interest grounds. He also agrees with the Inspector's findings in relation to the cumulative effect of the additional visibility of the site at Petsoe. He further agrees with the Inspector that, for the reasons given at IR272-275, the scheme would not render Bozeat Grange an unpleasant or unattractive dwelling in which to live (IR275); that the visibility of the turbines cannot in itself render dwellings unpleasant or unattractive places in which to live (IR276); and that the noise related issues raised at the inquiry can be addressed by the imposition of appropriately worded conditions where necessary (IR277).

Other matters

23. For the reasons in IR279-285, the Secretary of State agrees with the Inspector that the threat to the enterprise at Lower Farm Stables has been exaggerated. He also agrees with the Inspector that there are no grounds for objecting to the scheme in relation to aviation considerations (IR286) or the possibility of driver distraction (IR287).

Benefits and the planning balance

24. Having carefully considered the Inspector's analysis and comments at IR288-303, the Secretary of State agrees with his conclusion at IR304 that the combined effect of the development plans and the Framework in each authority is very similar – in each case there is effectively a presumption in favour of the scheme in policy terms subject to the proviso that the impacts are acceptable. The Secretary of State also agrees that, although in energy generation terms renewables are sustainable because they do not need fuel, both paragraphs 14 and 98 of the Framework nevertheless require that a balanced judgement is made (IR305). He has therefore gone on to consider this.
25. The Secretary of State agrees with the Inspector (IR306) that there would be an inevitable and harmful change to the landscape character of the site and its surroundings although, like the Inspector, he recognises that such a change is an inevitable consequence of a commercial windfarm proposal. He also agrees that there would be considerable and harmful visual effects from some locations, although much depends on the local topography and on the size, number and extent of the turbines. He further agrees that, especially from the east, the development would appear dominating and intimidating rather than sensitive and familiar; and that the potential appearance of the turbines on the landscape could not be described as "sculptural". He also agrees that the effect of the scheme on Turvey House and All Saints' Church, Turvey, would not be significantly damaging to their settings; and that, although the setting of the Church of St Peter and St Paul, Easton Maudit, would be adversely affected, it would result in less than substantial harm to its significance.
26. For the reasons given at IR307, the Secretary of State agrees with the Inspector that the construction of a third windfarm between the two operating/consented schemes at Petsoe and Poddington would result in an unacceptably harmful cumulative effect, in conflict with the Framework. Against that, the Secretary of State also agrees (IR308) that, as far as the living conditions of windfarm neighbours are concerned, no dwellings would be rendered unpleasant or unattractive places in which to live, and any potential noise disturbance is capable of regulation by an appropriately worded condition. He also sees no objection on the basis of equestrian issues, aviation interests, or potential driver distraction.
27. The Secretary of State notes the Inspector's view that, for the reasons in IR309, the benefit to the appellant's case of the reversibility of the scheme is limited. The Secretary of State considers that the proposed 25 year operational life of the proposed development is in any case a relatively long time and he has therefore given the temporary nature of the impact of the proposed development limited weight - although this issue was not determinative in his decision on the scheme.
28. Overall, the Secretary of State agrees with the Inspector's assessment of the balance of issues at IR310 and with his conclusion that the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits.

Conditions

29. The Secretary of State has considered the schedule of conditions attached to the IR, the reasons for the suggested conditions set out at IR187-219 and national policy as set out in Circular 11/95 and the Framework. He is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of Circular 11/95

and paragraph 206 of the Framework. However, the Secretary of State does not consider that they overcome his reasons for dismissing the appeals.

Overall conclusions

30. The Secretary of State concludes that the proposal conflicts in important respects with the relevant development plans and the Framework and that there would be immediate and substantial impacts on the landscape. Furthermore, although the scheme addresses climate change and renewable energy considerations, this is outweighed by the inadequate protection of the character and quality of local landscapes and overall, on balance, the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits. In relation to the harm to the preservation of the setting of the church at Easton Maudit, the Secretary of State concludes that this would be less than substantial but, although he considers that this in itself would not outweigh the public benefits of the proposal, it adds to his concern about the impact of the scheme. Taking all these considerations into account, the Secretary of State concludes that, within the terms of paragraph 98 of the Framework, the adverse impacts of the proposed development would be unacceptable.

Formal Decision

31. For the reasons given above, the Secretary of State hereby dismisses your client's appeals against:

- a failure by Milton Keynes Council to give notice within the prescribed period of a decision on an application for the construction of a wind farm comprising 3 wind turbines up to 125m in height to blade tip and ancillary equipment, access tracks and anemometry mast; in conjunction with planning applications to: Bedford Borough Council for 6 turbines and access tracks; and the Borough of Wellingborough for 3 turbines, substation, construction compound, access tracks and site access; as part of a single wind farm of 12 turbines for an operational period of 25 years (application ref: 08/02118/FULEIS dated 19 December 2008) (**Appeal A**);
- a refusal by Bedford Borough Council to grant planning permission for the construction of a wind farm comprising 6 wind turbines up to 125m in height to blade tip and ancillary equipment and access tracks; in conjunction with planning applications to: Milton Keynes Council for 3 turbines, anemometry mast and access tracks; and the Borough of Wellingborough for 3 turbines, substation, construction compound, access tracks and site access; as part of a single wind farm of 12 turbines for an operational period of 25 years (application ref: 09/00137/MAF, dated 19 December 2008) (**Appeal B**); and
- a failure by the Borough Council of Wellingborough to give notice within the prescribed period of a decision on an application for the construction of a wind farm comprising 3 wind turbines up to 125m in height to blade tip and ancillary equipment, access tracks, substation, construction compound, and site access; in conjunction with planning applications to: Milton Keynes Council for 3 turbines, anemometry mast and access tracks; and Bedford Borough Council for 6 turbines and access tracks; as part of a single wind farm of 12 turbines for an operational period of 25 years (application Ref: WP/2008/0603/FEIA dated 19 December 2008) (**Appeal C**).

Right to challenge the decision

32. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
33. A copy of this letter has been sent to Milton Keynes Council, Bedford Borough Council, the Borough Council of Wellingborough, Bozeat and Lavendon Oppose the Turbines (BLOT), Alistair Burt MP, Mark Lancaster MP, and The Clerk to Sharnbrook Parish Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf

Annex

Correspondence submitted after the close of the inquiry or too late to be considered by the Inspector

Correspondent	Date
Mr Colin Arnold	1 July 2013
Mr Alan Chapman, Borough Council of Wellingborough (enclosing correspondence from Mr David Williams)	28 August 2013
Mark Lancaster MP	13 November 2013
Mr Brian Skittrall, Chairman BLOT	18 November 2013
Mr Richard Sakyi, Milton Keynes Council	4 December 2013



Report to the Secretary of State for Communities and Local Government

by Andrew Pykett BSc(Hons) PhD MRTPI

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

Date: 15 October 2013

TOWN AND COUNTRY PLANNING ACT 1990

MILTON KEYNES COUNCIL

BEDFORD BOROUGH COUNCIL

BOROUGH COUNCIL OF WELLINGBOROUGH

APPEALS BY

RWE NPOWER RENEWABLES LIMITED

Inquiry opened on 11 June 2013

Land between Bozeat, Lavendon and Harrold

File Refs: APP/Y0435/A/10/2140401; APP/K0235/A/11/2149434; APP/H2835/A/11/2149437

Appeal A

File Ref: APP/Y0435/A/10/2140401

Land between Bozeat, Lavendon and Harrold

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by RWE Npower Renewables Limited against Milton Keynes Council.
- The application Ref: 08/02118/FULEIS is dated 19 December 2008.
- The development proposed is the construction of a wind farm comprising 3 wind turbines up to 125m in height to blade tip and ancillary equipment, access tracks and anemometry mast; in conjunction with planning applications to: Bedford Borough Council for 6 turbines and access tracks; and the Borough of Wellingborough for 3 turbines, substation, construction compound, access tracks and site access; as part of a single wind farm of 12 turbines for an operational period of 25 years.
- The inquiry sat for 8 days on 11-14, 18-21 June 2013.
- This report supersedes the decision issued on 23 December 2011. That decision on the appeal was quashed by order of the High Court.

Summary of Recommendation: That the appeal is dismissed and planning permission is refused.

Appeal B

File Ref: APP/K0235/A/11/2149434

Land between Bozeat, Lavendon and Harrold

- 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 RWE Npower Renewables Limited against the decision of Bedford Borough Council.
- The application Ref: 09/00137/MAF, dated 19 December 2008, was refused by notice dated 15 February 2011.
- The development proposed is the construction of a wind farm comprising 6 wind turbines up to 125m in height to blade tip and ancillary equipment and access tracks; in conjunction with planning applications to: Milton Keynes Council for 3 turbines, anemometry mast and access tracks; and the Borough of Wellingborough for 3 turbines, substation, construction compound, access tracks and site access; as part of a single wind farm of 12 turbines for an operational period of 25 years.
- The inquiry sat for 8 days on 11-14, 18-21 June 2013.
- This report supersedes the decision issued on 23 December 2011. That decision on the appeal was quashed by order of the High Court.

Summary of Recommendation: That the appeal is dismissed.

Appeal C

File Ref: APP/H2835/A/11/2149437

Land between Bozeat, Lavendon and Harrold

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by RWE Npower Renewables Limited against the Borough Council of Wellingborough.
- The application Ref: WP/2008/0603/FEIA is dated 19 December 2008.
- The development proposed is the construction of a wind farm comprising 3 wind turbines up to 125m in height to blade tip and ancillary equipment, access tracks, substation, construction compound, and site access; in conjunction with planning applications to: Milton Keynes Council for 3 turbines, anemometry mast and access tracks; and Bedford

Borough Council for 6 turbines and access tracks; as part of a single wind farm of 12 turbines for an operational period of 25 years.

- The inquiry sat for 8 days on 11-14, 18-21 June 2013.
- This report supersedes the decision issued on 23 December 2011. That decision on the appeal was quashed by order of the High Court.

Summary of Recommendation: That the appeal is dismissed and planning permission is refused.

Procedural Matters

1. As is evident from the above, the appeal proposal straddles the areas of 3 local planning authorities – Wellingborough Borough Council in Northamptonshire, Bedford Borough Council in Bedfordshire, and Milton Keynes Council in Buckinghamshire. Three applications for planning permission were submitted at the same time. That in respect of Bedford (Appeal B) was refused permission. In Milton Keynes (Appeal A) and Wellingborough (Appeal C) the applications were not determined. An appeal in respect of Appeal B was made in November 2010. As a result of procedural matters associated with the submission of an Environmental Statement (ES) under the Environmental Impact Assessment Regulations, the appeals in respect of Appeals A and C were not made until March 2011. In respect of the latter appeals (Appeals A and C) the respective councils resolved that, had they retained jurisdiction, they would have refused planning permission.
2. The 3 appeals were considered at an inquiry held in October 2011. The appeals were allowed¹, but the decisions were the subject of a successful application to the High Court made by Milton Keynes Council. The decisions were quashed by consent in August 2012, and the case was returned for redetermination. The proposal was reconsidered in its entirety as recorded above, but at the second inquiry the submission of an Updated Statement of Common Ground between the appellant and Wellingborough Borough Council records that the council now considers that planning permission should be granted for the scheme². However, the council was not represented at the inquiry and, other than as indicated, it took no part in the proceedings. The two other councils maintain their opposition to the scheme, and another Statement of Common Ground between the appellant and the two councils was received just before the inquiry³. I have taken both into account in the preparation of this Report.
3. The applications were accompanied by an ES comprising 4 volumes dated December 2008. These are: Volume 1 – Main Volume; Volume 2 – Figures; Volume 3 – Appendices; and Volume 4 – Non-Technical Summary. Regulation 19 Supplementary Environmental Information (SEI) was submitted in October 2010. I consider the contents of the ES and the SEI collectively meet the requirements of the Regulations, and I have taken them into account in the preparation of this Report. The applications were also accompanied by a Design and Access Statement and a Planning

¹ CD5.1

² Document 4

³ Document 3

Statement, both dated December 2008. These too have been taken into account.

4. A local community action group – Bozeat and Lavendon Oppose the Turbines (BLOT) – had sought and been granted Rule 6 status under the relevant Inquiry Procedure Rules at the first inquiry. It has continued its interest in the case, and it took a full part in the second inquiry. A Pre-Inquiry Meeting attended by the principal parties was held in Bedford on 26 February 2013.
5. The appeals relate to proposals of major significance for the delivery of the Government's climate change programme and energy policies. As a result, the Secretary of State recovered the appeals for his own determination on 5 June 2013. At the inquiry an evening session was held on 13 June, largely for the benefit of those with unavoidable day-time commitments. Accompanied site visits were held on 20 and 21 June, together with a number of unaccompanied visits.

The Site and Surroundings

6. The appeal site is located around and just to the north-east of the point where 3 counties meet at Nun Wood – Bedfordshire, Northamptonshire and Buckinghamshire. The site and its surroundings are shown on an OS base map at Figure 3.2 of the ES (Volume 2). The map illustrates some of the principal components of the area. The appeal site falls within an area defined by 4 roads. The A509 (which is the main road between Wellingborough and Milton Keynes) passes to the west. It by-passes the village of Bozeat in a cutting, but thereafter rises to 108m AOD, before falling again to the A509/A428 junction north of the dispersed settlement of Warrington. The A428 (which links Bedford and Northampton) passes to the south-west of the site at a rather lower elevation. The village of Lavendon lies on the A428, just under about 2kms from the nearest turbine site. The minor road linking Lavendon (at an altitude of around 60m AOD) to the village of Harrold lies on lower ground some 2kms to the south-east of the site. Two minor roads also link Harrold to Bozeat to the north-east and north of the site. The first rises from the level of the River Great Ouse at Harrold, at about 40m AOD, to 106m AOD close to Dungee Wood; the second slopes gently down thereafter to Bozeat at about 80m AOD. At its closest, Bozeat would be just over 1km from the nearest turbine, while Harrold would be approximately 2½kms to the nearest turbine.
7. The proposed wind farm would extend in a general south-west/north-east direction over a distance of some 3½kms. At its greatest it would be about 1km in width, but the turbines would be in two distinct groups. A northern group comprising 5 turbines at an altitude of between about 90 and 105m AOD, and a southern group comprising 7 turbines at an altitude of between about 85 and 100m AOD. The OS extract shows the course of the River Great Ouse as it meanders in a general north-easterly direction between Olney, Turvey and Harrold. The map also illustrates the location and extent of the small woodlands which are a characteristic of the area.
8. The limited numbers of contours within the area defined by the roads to which I have referred indicate how the area is characterised by gentle slopes, and, at some locations, extensive prospects. The site of the

northern group of proposed turbines would occupy the highest part of a low ridge or plateau which extends from Dungee Wood and beyond to the north-east, to the highest point of the A509 and beyond to the south-west. From some locations this area appears almost flat. The southern group of proposed turbines would occupy a rather more complicated topography, interspersed with areas of woodland – Threeshire Wood, The Oaks Wood, The Slipe, and Nun Wood itself. The undulating slopes of the Bedfordshire side of the ridge are more evident, but the gradients are still gentle. Both areas contrast with but complement the area defined by the River Great Ouse. It is characterised by flat land and pastures immediately adjoining the slow moving river, and by river-side trees. The river is not deeply incised.

9. The majority of the land within the site and its surrounding area is in use for arable agriculture, and there are a scatter of farms and former farms occupying sites in the open countryside. They are linked by a number of small tracks, bridleways and footpaths. In terms of its appearance there are two other important components to the area surrounding the site. The Design and Access Statement records that there is a row of 132kV electricity pylons and power lines passing through the northern part of the site, on a south-east/north-west axis. There is a larger 400kV line of pylons and cables which crosses the landscape just beyond the south-west corner of the site. It too follows a south-east/north-west route.

The Proposals

10. I have referred to some aspects of the proposals in the preceding paragraphs. The scheme envisages the turbines would be up to 125m in height above ground level to the blade tip at its maximum elevation. As is normally the case for such proposals, a final decision concerning the manufacturer and make of the selected turbine is reserved until later in the process. The turbines under consideration each have 3 blades with a maximum blade diameter of approximately 90m. The cylindrical steel towers would be approximately 80m in height. Each turbine would have a power output of between 1.8 – 3 MW; resulting in a total generating capacity of between 21.6 – 36 MW.
11. Access to the site would be obtained off the A509 close to Northey Farm. The access track would lead to a construction compound just to the west of The Oaks Wood. Access tracks would be constructed leading south to turbines 1, 2 and 3, together with permanent and temporary anemometry masts to a height of approximately 80m. A longer complex of access tracks would lead east and north from the compound to serve turbines 4 – 7 (in the southern group) and 8 – 12 (in the northern group). The total length of the access tracks would be approximately 11,800m. Although transformers have previously been sited within towers, I understand that for safety reasons it is now intended there would be an external transformer for each turbine. These would be housed in structures no greater than 5.4m x 3m x 3m adjacent to each base. A substation would be constructed about 500m north of T11, where the output of the windfarm would link directly into the 132kV power lines.

Planning Policy

Development Plan

12. The scheme falls to be considered against the contents of 3 development plans and other material considerations. I refer to the relevant parts of each development plan in the order in which the 3 appeals are listed above.
13. Although it is recorded in the Updated Statement of Common Ground between the appellant and the Borough Council of Wellingborough that the development plan is either silent or does not contain a policy dealing with renewable energy⁴, I record below the policies against which the proposal was considered at the previous inquiry.

Wellingborough

14. The saved policies of the *Borough of Wellingborough Local Plan* include Policy G6⁵. This seeks to restrain development in the open countryside unless it would satisfy a number of criteria. Although the first of these is that the proposed development could not be accommodated other than in the open countryside, the second requires that new structures should be small scale. The local plan was adopted in 1999 with an alteration adopted in 2004. The policy to which I refer was saved in 2007.
15. The *North Northamptonshire Core Spatial Strategy* was adopted in 2008⁶. As well as Wellingborough, the plan covers the areas of Corby, Kettering, and East Northamptonshire Councils. It was prepared in collaboration with Northamptonshire County Council. Renewable energy proposals are most directly addressed in paragraphs 4.14 to 4.23 of the plan. Amongst other matters, these record that new wind energy proposals would, in principle, be considered favourably in the plan area. However, Policy 14 is concerned with energy efficiency and sustainable construction and it does not provide a basis against which to consider wind energy proposals. Policy 13 seeks to address the general principles of sustainable development, but it too is more concerned with the construction of new buildings. However, it also aims to ensure that new development respects and enhances the character of its surroundings (paragraph h) and that landscape character is conserved and enhanced (paragraph o).

Milton Keynes

16. The saved policies of the *Milton Keynes Local Plan 2001-2011* (2005) include Policy D5 which is directly relevant to the appeal proposal⁷. It records that planning permission will be granted for proposals to develop renewable energy resources unless it would result in: significant harm to the amenity of residential areas by reason of noise, traffic, pollution or odour; significant harm to a wildlife species or habitat; or, an unacceptable visual impact on the landscape. Turbines should avoid unacceptable shadow flicker and electro-magnetic interference and should be at least 350m from any dwellings.

⁴ See paragraphs 2.4 and 2.5 of Document 4

⁵ CD1.4

⁶ CD1.5

⁷ CD1.1

17. There are a number of more general policies. Paragraph (vii) of Policy S1 (General Principles) requires development to respect key environmental constraints. The purpose of Policy S10 (Open Countryside) is to protect the countryside and concentrate new development within and adjoining existing settlements. It both defines the area affected and restrains development to that which is essential for agriculture, forestry, countryside recreation or other development which is wholly appropriate to a rural area and cannot be located within a settlement. The purpose of Policy D1 (Impact of Development Proposals on Locality) is to prevent development causing harm to the site and the surrounding area. Paragraph (iii) seeks to avoid unacceptable visual intrusion. Paragraph (iv) seeks to avoid unacceptable noise pollution, and paragraph (v) seeks to defend statutorily protected and other important built and natural features and wildlife habitats. In circumstances where development in the open countryside is acceptable in principle, Policy NE4 (Conserving and Enhancing Landscape Character) requires that it should respect the particular character of the surrounding landscape.

Bedford

18. The saved policies of the *Bedford Borough Local Plan (2002)* include Policies BE6 and BE7 which are specifically concerned with renewable energy⁸. Policy BE6 supports the development of renewable energy schemes provided they would not harm interests of acknowledged importance in the local environment. In making the necessary assessment, Policy BE7 records that particular regard will be had to: the immediate and wider impact on the landscape; the need to protect features of natural, cultural, historical and archaeological interest; the minimisation of impact on landscape and residential amenity; the local and wider benefits of the proposal; the geographically specific limitation of certain renewable energy resources; and the need for restoration after the use is ceased.
19. Policy BE30 lists 12 considerations to be taken into account in the determination of planning applications for new development. Paragraph (i) refers to the visual impact of development; paragraph (vii) refers to any noise or safety problems likely to be generated; paragraph (ix) refers to any factors which might give rise to disturbance to neighbours and the surrounding community; and paragraph (x) refers to any adverse effects on the natural environment and the built heritage likely to arise from the development.
20. The *Core Strategy and Rural Issues Plan* was adopted in 2008⁹. Paragraph (iii) of Policy CP2 (Sustainable Development Principles) records that the development and use of land will ensure that climate change and renewable energy issues are properly addressed. Paragraph (iv) notes that buildings and spaces promote the character of townscape and the setting of settlements and enhance human health and safety, and paragraph (v) seeks to ensure that the character and quality of local landscapes are preserved and where appropriate enhanced. Policy CP13 (The Countryside and

⁸ CD1.2

⁹ CD1.3

Development Within It) defines the countryside as all land outside settlement policy areas. Development will only be permitted within these areas if it would be consistent with national policy. Amongst other matters, Policy CP21 (Designing In Quality) records that new development should fully consider the context within which it would sit. It should also preserve and, where appropriate, enhance listed buildings and their settings, and address sustainable design principles including renewable energy resources. Policy CP22 seeks to protect green infrastructure from development. Paragraph 4.83 defines the green infrastructure as including recreation and sports facilities, pathways and routes, natural and historic sites, canals and water spaces, and accessible countryside. Finally, Policy CP24 (Landscape Protection and Enhancement) requires that the landscape and character of the borough will be conserved and where appropriate enhanced. New development should protect and where appropriate enhance the quality and character of the landscape. The nature and scale of development should be appropriate within the wider landscape.

Emerging development plan policy

21. The *Milton Keynes Core Strategy* is nearing adoption¹⁰. It has completed its examination, and, as a result a revision is to be made to Policy CS15 (Community Energy Networks and Large Scale Renewable Energy Schemes). Although it is concerned with community energy networks, it also addresses large scale renewable energy schemes. In the latter context it records that the council wishes to promote the use of renewable energy schemes where it can be demonstrated that there would not be any negative social, economic or environmental results. Policy CS20 (The Historic and Natural Environment) records that new development will protect and enhance the condition and strength of character of the different landscapes of the Borough, and respect their significance as identified in a landscape character assessment. No change is proposed to this policy. In view of the stage which the plan has reached I consider it should be endowed with considerable weight.

Other material considerations

22. The purpose of paragraphs 213-215 of the *National Planning Policy Framework* (the Framework) is, where necessary, to encourage local planning authorities to revise plans to take account of the policies contained in the Framework. The 12 months period referred to in paragraph 214 expired in March 2013, and under paragraph 215, the weight to be attached to the relevant policies of existing plans will vary according to their degree of consistency with the Framework – the closer the policies are to the policies of the Framework, the greater the weight they will attract.
23. Amongst other matters, paragraph 93 of the Framework refers to the key role played by planning in supporting the delivery of renewable and low carbon energy and associated infrastructure. It is central to the economic, social and environmental dimensions of sustainable development. Paragraph 97 refers to the role authorities can play in helping to increase the use and supply of renewable and low carbon energy. It seeks a

¹⁰ CD3.3

contribution from all communities. Policies should be designed to maximise such development, but they should also ensure that adverse effects are satisfactorily addressed – including cumulative landscape and visual effects. Footnote 17 draws specific attention to the approach adopted in the *National Policy Statement for Renewable Energy Infrastructure* (EN-3)¹¹ and the *Overarching National Policy Statement for Energy* (EN-1)¹². When determining planning applications, paragraph 98 states that authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy. It should also be recognised that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Applications should be approved if their impacts are, or can be made to be, acceptable.

24. The status afforded to the development of renewable energy is evident from its inclusion in one of the 12 core planning principles referred to in paragraph 17 of the Framework. It records that support should be afforded for the transition to a low carbon future. Paragraph 6 of the Framework more generally seeks to ensure that the purpose of the planning system is to contribute to the achievement of sustainable development, while the contents of paragraphs 18-219 are specifically identified as constituting the Government's view of what sustainable development in England means in practice for the planning system. Paragraphs 11-16 refer to the presumption in favour of sustainable development, and, at paragraph 14, how decisions should be made in order to promote sustainable development.
25. In the light of the contents of paragraph 215 of the Framework, I have considered the development plan policies to which I have referred above against the requirement for a balanced approach in the conclusions of this Report.
26. Notwithstanding the contents of the Statements of Common Ground concerning the impact of the scheme on heritage assets or their settings, Section 66 of the *Planning (Listed Buildings and Conservation Areas) Act 1990* imposes a general duty as respects listed buildings in the exercise of planning functions. Section 72 of the same Act imposes a similar general duty as respects conservation areas in the exercise of planning functions.
27. The appendices in the Statements of Common Ground provide a comprehensive review of national energy policy. The *Climate Change Act 2008* introduced legally binding targets for greenhouse gas emission reductions of at least 80% by 2050, and reductions in CO₂ emissions of at least 26% by 2020, against a 1990 baseline. In April 2009 the European Directive 2009/28/EC committed the EU to achieving a reduction in greenhouse gas emissions of 20% by 2020 compared to 1990 levels. The package included a binding renewables target of 20%, and the UK's share of this target is to deliver 15% renewable energy by 2020.

¹¹ CD6.16

¹² CD6.15

28. The electricity market reform White Paper was published in July 2011¹³. It is the objective of the White Paper that by 2030 a reduction in greenhouse gas emissions across the whole country will have been achieved in line with our carbon budgets, and that we should be firmly on track towards achieving the 80% reductions by 2050 cited above. More than a third of our energy generation should be from renewable sources. The *UK Renewable Energy Roadmap* was also published in July 2011¹⁴. It sets out a delivery plan to achieve the UK's renewable energy target over the next decade. The *Annual Energy Statement 2012*¹⁵ and the *UK Renewable Energy Roadmap Update*¹⁶ were both published late in 2012. The former confirms the important role of the planning system in tackling climate change and making the transition to a low carbon economy. The latter confirms that the Government is committed to onshore wind as part of a diverse energy mix contributing to the security of supply and carbon reduction targets.
29. In June 2013 the Secretary of State issued a written ministerial statement on local planning and onshore wind¹⁷. The statement refers to the need to ensure the delivery of the balance expected by the Framework in relation to onshore wind energy decisions. The protection afforded by the Framework to the natural and historic environment is cited, but so are the concerns expressed by local communities that insufficient weight is being given to environmental considerations like landscape, heritage and local amenity. The written ministerial statement refers to the intention to issue new planning practice guidance.
30. The new practice guidance – *Planning Practice guidance for renewable and low carbon energy* – was issued in July 2013. Amongst other matters, this records a number of questions and answers of relevance to renewable energy schemes and it refers (at paragraphs 29-44) to the particular planning considerations that relate to wind turbines. Paragraph 2 of the guidance cancelled *Planning for Renewable Energy – A Companion Guide to PPG22*. The inquiry took place between the written ministerial statement and the publication of the new practice guidance, and the views of the principal parties were therefore sought on the contents of the new document after the closure of the inquiry¹⁸. I have taken account of both the new practice guidance and the views of the principal parties on its contents in the preparation of this Report.

The Case for the Appellant

I have reported the case on the basis of the advocate's closing submissions¹⁹ with additional references to the evidence submitted before and during the inquiry as necessary. The material points are:

¹³ CD6.20

¹⁴ CD6.19

¹⁵ CD6.28

¹⁶ CD6.31

¹⁷ Documents 20 and 21

¹⁸ See Documents 111, 112 and 113

¹⁹ Document 57

31. It is common ground between the parties that nothing on the ground of any substance has changed since the last inquiry and the previous Inspector's decision. Although the previous decision was quashed, addressing other amplitude modulation neither was, nor is, a determinative issue²⁰. The previous decision was thorough, properly constructed and balanced, and there is a general principle of consistency in administrative law which means that previous decisions should not be departed from without adequate reasons. It is hard to think of a more material consideration than the previous decision.
32. The principal objections from the councils and BLOT are directed at the previous Inspector's conclusions on the acceptability of the harm caused and his view that the need for the windfarm was both urgent and sufficient to outweigh the harm. The impact assessment is virtually identical. The revocation of the regional targets does not mean that the need case has abated. On the contrary, the Framework makes it clear that renewable energy is central to the achievement of sustainable development objectives, and the urgency of the need is specifically cited in national policy statement EN-1²¹ - which itself is specifically referenced in the Framework.
33. The cross-boundary location of the site increases the complexity of the case. Wellingborough considers that planning permission should be granted for those parts of the proposal which lie within its area, and it has made no objection to the other components of the scheme which lie in Bedford and Milton Keynes. The council accepts the previous decision in all respects apart from the failure to adequately address other amplitude modulation. The support of Wellingborough in relation to the appeal in its area is a material consideration in the determination of the appeals in the other two areas. However, the appellant agrees with the councils that a split decision, on either an administrative or a cluster basis, is not possible. The proposal was designed as a single 12 turbine installation, and there is insufficient environmental information to consider the likely significant environmental effects of a reduced scheme.
34. Much is made by the councils and BLOT of the extent of local opposition, but almost equal numbers of individuals spoke in favour of the proposal as spoke against. BLOT comprises a small number of local residents, and although the appellant does not doubt the sincerity with which its views were expressed, the local countryside will always be valued at the local level. To argue that the impact of a commercial windfarm on a local landscape is unacceptable is equivalent to saying that onshore wind should not play a significant role in the provision of renewable energy. In addition, and unlike the position of the councils, there is no requirement for third party objectors to adopt a balanced position.

Development plan policy

²⁰ The previous decision was quashed for failure to adequately resolve the possibility of other amplitude modulation.

²¹ CD6.15, paragraphs 3.3.1 and 3.4.5

35. Reference is made to the relevant development plans of the 3 authorities and to specific policies cited by the parties²². The plans and their policies are recorded in paragraphs 12 to 20 above. The appellant has assessed the cited policies against paragraph 215 of the Framework; to the effect that due weight should be given to relevant policies in existing plans according to their degree of consistency with the policies of the Framework.
36. As far as Milton Keynes is concerned, saved local plan Policy NE4 is considered to be inconsistent with the Framework if it is used to test a windfarm proposal. Although Policies D1 and D5 are considered to be not fully consistent, the proposed development would comply with Policy D5, and the scheme should be permitted without delay. Alternatively, if Policy D5 is judged to be out-of-date and inconsistent with the Framework, the decision should be made in the terms of the fourth bullet point in paragraph 14 of the Framework; and the appeal upheld. Policy CS15 should be given no weight as it is not applicable to standalone renewable energy schemes.
37. As far as Bedford is concerned, saved local plan Policy BE7 is considered to be consistent, but Policy BE30 is considered inconsistent. Core strategy Policy CP21 is not considered to be applicable, and Policies CP22 and CP24 are held to be inconsistent with the Framework if used to test a windfarm. Policy BE7 is a criteria based policy which takes a number of subject areas into account. It is not necessary to look beyond this policy as the others cited were not drafted with wind energy in mind. The appellant contends the scheme complies with Policy BE7, and, in accordance with paragraph 14 of the Framework, the scheme should be permitted without delay.
38. As far as Wellingborough is concerned, both core strategy Policy 13 and core strategy Policy 14 are inconsistent with the Framework if used to test a windfarm proposal. The appellant submits that the policies are out-of-date and that the fourth bullet point of paragraph 14 of the Framework therefore applies. The appeal should be upheld, and, in any event, the appellant is supported in this regard by the council itself.

Other material considerations

39. First amongst these is the *National Planning Policy Framework*. It supports renewable energy proposals in particularly trenchant terms. They are referred to in the paragraph 17 core principles, and in paragraph 93. This paragraph 'operationalises' the concept of sustainable development in the form of a renewable energy scheme – such as this windfarm. Paragraph 96 refers to the responsibility of all communities to contribute, and paragraph 98 records that all applications should be granted permission provided the impacts are (or can be made) acceptable.
40. The proposed development is an inherently sustainable form of development which engages with the presumption included in paragraph 14 of the Framework. In this respect the planning witness for Milton Keynes

²² The decision at the first inquiry refers to Appeals A (Milton Keynes), B (Bedford) and C (Wellingborough). I have retained the same references at the beginning of this Report, but the appellant's opening and closing submissions refer to Appeals A (Bedford), B (Wellingborough) and C (Milton Keynes).

agrees with the appellant's planning witness, in contrast to the position adopted by Bedford's planning witness. The appellant's view is reinforced by the Inspector's observations in allowing an appeal for 8 commercial turbines at Thacker Bank, near Louth²³ - a decision which has not been challenged in the courts. Windfarms are regarded as being inherently sustainable forms of development, even though this does not mean that every scheme would be acceptable. Impacts have to be acceptable. There is no policy requirement that this scheme has to be a paradigm of windfarm design, but the topography militates against the adoption of a rigid or rectilinear approach. The changes to the composition and layout of the scheme are fully described in the ES.

Written ministerial statements

41. The statements from DECC and DCLG when taken together demonstrate explicit and continued support for the further deployment of onshore wind. They do not constitute a change in Government policy. The Framework, along with the national policy statements remain the principal national planning policy guidance documents for onshore wind development in England. The 4 specific bullet points included in the statements are already addressed in national planning policy and guidance. Moreover, need remains an important material consideration and the appellant has taken full account of cumulative effects, local topography, and the potential impact on heritage assets.

Energy policy

42. On the basis of policy both before and after 2010, there is no reasonable room for dispute regarding the seriousness of climate change, the need to cut CO₂ emissions, and the Coalition Government's intentions regarding renewable energy deployment. Much of the councils' energy witness's evidence is irrelevant, and in this regard the appellant endorses recent appeal decisions at Chelverston²⁴ and Thacker Bank, Louth²⁵.
43. The scheme would generate a potential maximum of 36MW and both the *UK Renewable Energy Roadmap* and its *Update* record that it is not possible to presume that all schemes in the pipeline will be consented or commissioned. This is why national policy statement EN-1 refers to the urgent need for new large scale renewable energy projects. The urgency has been reaffirmed and underlined. The 13GW of onshore wind included in the *Update* is not any form of cap or limit, and EN-1 specifically records that it is not the intention of the Government to impose a target or cap for any given technology type.
44. The key role played by planning in the process is referred to in paragraphs 93, 97 and 98 of the Framework. Achieving the 2020 target

²³ CD5.17

²⁴ CD5.8

²⁵ CD5.17

depends on schemes in the planning system coming to fruition, and onshore wind is presently the most cost-effective way of generating renewable energy. It will play an important role in making up the shortfall in progress with other technologies. In this case especially, there are no grid connection impediments to rapid deployment at Nun Wood. The content of the White Paper on Energy (2007)²⁶ that significant weight should be attached to the wider environmental benefits of renewable energy remains valid, and there is still an enormous gap between need and supply.

45. The councils argue that when the need is less urgent, the threshold of harm sufficient to outweigh the need in any particular case should be less. However, although the inquiry at Sober Hill Farm²⁷ was held in 2009 against the background of the then existing regional targets, the then Secretary of State specifically rejected this approach. It is even less arguable where there is no national cap or target. It is possible the councils may have come to different conclusions in the current case had their calibration and weighting of harm not been influenced by this mistaken approach.
46. Milton Keynes Council sought to adopt *Wind Turbines Supplementary Planning Document and Emerging Policy* in July 2012. This was the subject of a High Court challenge brought by the appellant, and the document was quashed in April 2013. The council's planning witness accepted that its contents are therefore irrelevant to this inquiry, but BLOT has sought to introduce a revised draft version²⁸. The appellant and Milton Keynes Council are in agreement that it should be given no weight.

Regional evidence base

47. The appeal site falls into the areas of 3 of the former regional strategies. *The South East Plan* for Milton Keynes; *The East of England Plan* for Bedford; and *The East Midlands Plan* for Wellingborough. Although these have all been revoked, the respective evidence bases remain material considerations. Most specifically, the Bedford component of the site falls within the broad area of search earmarked for a higher concentration of windfarms than otherwise in *Placing Renewables in the East of England*²⁹. It thus lies in an area where a higher level of cumulative effects would be acceptable, and the likelihood of a windfarm landscape developing is materially higher. This part of the site also falls within the area identified as having capacity in the *East of England Renewable and Low Carbon Energy Capacity Study*³⁰.
48. In the Wellingborough and Milton Keynes components of the scheme, the Secretary of State's attention is drawn to *Low Carbon Energy Opportunities*

²⁶ CD6.2

²⁷ CD5.22, paragraph 14

²⁸ Documents 64 and 65

²⁹ CD3.2

³⁰ CD3.4

*and Heat Mapping for Local Planning Areas across the East Midlands*³¹, together with the *Review of Renewable and Decentralised Energy Potential in South East England*³².

Landscape character and visual amenity

49. The policies aimed at tackling climate change have been developed in the knowledge that this will give rise to significant landscape and visual change. The national policy statement on the renewables (EN-3) acknowledges that commercial wind turbines will have significant adverse effects extending over many kilometres. The previous Inspector thought the harm to landscape character and visual amenity was acceptable. Natural England has not objected to the scheme on landscape grounds. Wellingborough now considers the appeals should be upheld. Milton Keynes' landscape architect considers there are no grounds for opposing the scheme³³. The councils' case in relation to the landscape and visual effects rests entirely on the views of its joint landscape witness.
50. There is a high degree of agreement between the professional landscape witnesses for the councils and the appellant regarding methodology. The appellant's landscape witness is a leading and experienced windfarm assessor with a transparent and systematic approach to the question of acceptability. In contrast, the councils' landscape architect sets too high a standard of acceptability. His conclusions were often too personal and subjective, rather than professional and objective. Neither council has criticised the design of the proposed windfarm, which has reduced from 24 turbines originally, to 16, and then to 12 turbines – in response to minimising the effects on a designed view from Castle Ashby and the Natural England guidance on bats.
51. In relation to landscape character, the following points are made. The site lies on working farmland within the Hinwick Wooded Wolds (in the Bedford Borough LCA³⁴), the Bozeat Claylands (in the Northamptonshire Landscape Characterisation Project³⁵), and Yardley Ridge (in the LDA Landscape Character Study³⁶). It is noted that the Milton Keynes Landscape Character Assessment of 2007³⁷ remains in draft form, and it therefore carries less weight. However, none of the landscape character assessments consider landscape sensitivity and capacity to accommodate wind energy developments.
52. The land is in arable use with large, regularly shaped fields. There are a number of overgrown hedges and woodland blocks. The local landscape is not especially sensitive to wind farm development. The *Placing Renewables in the East of England* study³⁸ records that area 88 (the Bedfordshire and

³¹ CD3.5

³² CD3.6

³³ Document 66

³⁴ CD7.23

³⁵ CD7.18

³⁶ CD7.19

³⁷ CD7.22

³⁸ CD3.2, pages D29 and D30

Cambridgeshire Claylands) has a low-medium/medium sensitivity to commercial turbine development, while area 91 (Yardley-Whittlewood Ridge) has medium sensitivity. The maximum windfarm typology which applies to each area is medium-large (9-16 turbines) in area 88, and medium (4-12 turbines) in area 91³⁹.

53. The windfarm would create a windfarm landscape (where the turbines would be the defining and dominant element in the landscape character) in a very localised area extending to approximately 650-700m from the turbines. A local landscape subtype would be created thereafter within 3-4kms of the turbines. At this distance the windfarm may be a strong, contributory characterising factor, or regarded as a prominent feature in the view – with direct and indirect effects on the various landscape character areas as appropriate.
54. The councils' landscape witness suggests the effects have been underestimated and that they would extend to 6-8kms, but his more detailed findings are confined to a more limited area. The effects of scale and sky-lining are considered at Appendix 05 in relation to the various landscape character types⁴⁰. Intervisibility is also addressed. As far as the prospect of Easton Maudit church from the west is concerned (with the turbines in the background); there would be a significant visual effect but the turbines would be so different in form and function that there would be no confusion or competition in the viewer's attention. Although the spires at Easton Maudit and Chellington are located on high ground, the churches at Bozeat, Harrold and Lavendon are lower, and their effect as landmarks is more localised. In relation to the impact of the scheme on the setting of undesignated settlements, the appellant considers this can only be assessed in terms of key characteristics and visual receptors.
55. There would be visual effects in the surrounding villages, but these would not be unacceptable. The potential effects have been assessed by reference to views from within the settlements, the sequential effects on road users and walkers, and receptors at local focal points. The rolling topography provides a degree of visual containment at Bozeat, Lavendon and Harrold. There is a broad level of agreement between the councils' and the appellant's landscape witnesses in relation to these matters.

Residential amenity

56. The separation between private and public interests in relation to windfarm matters has been tolerably clear since the Enifer Downs, Dover case in 2009⁴¹. Bedford Council has not identified any unacceptable impacts on residential amenity, nor did the Inspector at the first inquiry. Milton Keynes Council argues the public interest test (the Lavender test) would be failed at Bozeat Grange and at Northey Farm Flat; a view not supported (in relation to Bozeat Grange) by the councils' landscape witness. In any event, neither Bozeat Grange nor the closest potential turbine site (T4), are in Milton Keynes – both are in Wellingborough. In addition, *Milton Keynes*

³⁹ CD3.2, page D12

⁴⁰ In the Appendices to Document 9

⁴¹ CD5.41

Local Plan Policy D5 does not deal with the visual component of residential amenity, and the council cannot rely on its own policy as a matter of law. Notwithstanding the argument deployed in paragraph 137 of the councils' closing submissions⁴², the appellant submits that this would be wrong in law.

57. In relation to Northey Farm Flat, the councils' landscape witness acknowledged that he had not visited the dwelling. In contrast, the appellant's landscape witness has visited all 9 properties within 900m of a turbine site.
58. It is observed that no individual has the right to a view, but it recognised that by reason of proximity, size and scale, a residential property could be rendered so unattractive by a turbine or turbines that planning permission should be refused. Such a finding would necessitate a degree of harm over and above an identified substantial adverse effect on a private interest to justify refusal on public interest grounds. A fundamental change in outlook would not necessarily be unacceptable. Each case has to be considered on its merits, but granting permission here would be in line with other decisions where the point is at issue.
59. At Bozeat Grange the nearest turbine would be 625m from the dwelling which is owned and occupied by a financially involved landowner. At Northey Farm Flat the nearest turbine (T3) would be 677m from the dwelling, with effects also from T2 and T4. The prospect of the open countryside between and beyond the turbines would remain, and the significance of visual permeability has been noted in other appeal decisions. Although the appellant places no reliance on it, the flat is owned by a financially involved landowner. The appellant remains of the view that at neither this nor any other dwelling would there be unacceptable effects to render the turbines overbearing, overwhelming or oppressive.

Recreational amenity

60. Studies have been carried out concerning the potential effects of the scheme on users of the Three Shires Way, the Milton Keynes Boundary Walk and the Ouse Valley Way. The Three Shires Way is the focus of attention. Although significant effects are expected, it would not be unique for such a route to run through a windfarm. The appellant produced a list for the inquiry⁴³. There would be no greater harm at Nun Wood than is already experienced elsewhere by riders, cyclists and walkers. Views towards the turbines would be broken up by hedgerows and woodlands, and the installation would be visually permeable. Significant cumulative effects would be limited – views to the south towards Petsoe are frequently screened, and the turbines at Burton Wold are about 17kms to the north. There is no evidence that individuals would be deterred or intimidated. The only appeal case cited supporting the councils' objection is that at Hemington⁴⁴, where the decision was based on a misinterpretation of policy

⁴² Document 43, page 48

⁴³ Document 51

⁴⁴ CD5.35

out of accord with the Secretary of State's own view as expressed at Sober Hill⁴⁵.

Cumulative effects

61. There is considerable agreement between the councils' and the appellant's landscape witnesses in relation to significant cumulative landscape and visual effects. Differences are largely down to the acceptability of such effects. There would be some coalescence of landscape subtypes between Petsoe⁴⁶ and Nun Wood, but the different orientations of the projects and the screening effect of local topography and tree cover render the relationship acceptable. The two schemes would not result in a windfarm landscape as defined in SNH guidance. There is adequate separation.
62. There is nothing new in terms of cumulative effects compared with the first inquiry. The sites at Petsoe, Podington⁴⁷ and Burton Wold were all taken into account. At the second Podington inquiry⁴⁸ the reverse situation was considered by the Inspector in that case. He found that in the event of Nun Wood being constructed, there would be no unacceptable visual tension between the schemes. Significant cumulative visual effects would arise at up to distances of approximately 8kms from the turbines, but none of these would be unacceptable. Neither the councils nor BLOT have made a robust case for unacceptable sequential effects along the A509.

Reversibility

63. It is recognised in the national policy statements that in assessing the impacts of wind energy schemes on landscape character and cultural heritage, account should be taken of the substantial reversibility of schemes. The proposed development would therefore be a sustainable form of development from the perspective of safeguarding a landscape resource and long term visual amenity. The link between climate change and landscape character should also attract significant weight.

Cultural heritage

64. The evidence of the appellant's cultural heritage consultant⁴⁹ is not countered by either the councils or BLOT. The appellant reduced the 16 turbine iteration of the scheme to 12 turbines in order to protect a designed view from Castle Ashby. Although English Heritage (EH) has maintained its objection in relation to Turvey House and Turvey Church, it did not appear at the inquiry. The appellant considers its concern is exaggerated and untenable. The effect of the proposed development on Easton Maudit Church would be almost imperceptible. In all respects the scheme is reversible.

Noise

⁴⁵ CD5.22

⁴⁶ This windfarm is also sometimes known as Petsoe Milton Keynes.

⁴⁷ This consented windfarm is also known as Airfield Farm.

⁴⁸ CD5.7

⁴⁹ Document 13

65. There is no challenge to the appellant's noise evidence⁵⁰ from a technically qualified acoustician. The necessary noise assessment was carried out in accordance with the requirements of ETSU-R-97⁵¹ and the IoA Bulletin (2009)⁵². It demonstrates that noise levels will fall within the relevant levels of acceptability for all locations, at all wind speeds and directions, at all times. The noise assessment complies with the recent IoA Good Practice Guide.
66. Account has been taken of the possible effect of wind shear by using both the ETSU-R-97 methodology (by reference to a standardised 10m height), and the evolving preferred methodology (by reference to actual hub height wind speeds). The results were very similar. ETSU-R-97 does not advise on noise predictions, but the use of a $G=0.5$ ground factor methodology is a realistic practice. There is an acceptable margin between the predicted noise levels and the derived limits at Nun Wood. The night-time noise limit of 43dB L_{90} has been used irrespective of the prevailing background levels which are affected by night-time traffic noise – hence, the exclusion of the night-time background noise levels in Appendices E and F of the SEI.
67. It is common knowledge that there have been some instances of noise characteristics at some windfarms that could not be attributed to normal blade swish. There is no consensus however among acousticians as to the trigger, but transitory stall of a blade appears to be a likely cause. ETSU-R-97 anticipates a certain level of amplitude modulation, but there is no reason to suppose the site at Nun Wood would generate greater than expected or excessive levels. Because there is so little understanding of the phenomenon, any condition imposed would be arbitrary and unnecessary – it is possible only to mitigate foreseeable impacts. Two forms of condition have been imposed in the past in the Den Brook⁵³ and Swinford⁵⁴ cases. In the former case the condition was considered in a challenge in the courts, but this was concerned merely with the construction of the words rather than with the science of amplitude modulation.

Aviation

68. The councils do not raise an aviation related objection. The appellant's aviation witness demonstrates that aviation activity at both Easton Maudit and Cranfield Airport would be able to continue safely in the presence of the windfarm. At Easton Maudit, the airstrip has very limited usage, and BLOT's witness accepted that the flight paths suggested by the appellant were possible. The appellant's witness sought to demonstrate that an aircraft could successfully take off to the south-east, and that the pilot would be able to turn to the east and avoid both the power lines and the turbines. Alternatively, take off could be to the north-west.
69. BLOT's aviation witness was particularly concerned about the consequences of engine failure when taking off to the south-east. However,

⁵⁰ Document 10

⁵¹ CD8.1

⁵² CD8.2

⁵³ CD5.28

⁵⁴ CD5.25

engine failure at any stage of take off would not require the aircraft to make a forced landing towards or between the turbines. The rate of descent would not take the aircraft as far as the turbines. The parties agreed that there would be no particular concerns flowing from turbulence associated with the turbines.

Equestrian activity

70. The appellant has demonstrated that large numbers of windfarms have bridleways and footpaths running through them, across them and beside them, and have had for many years. There is nothing in law, regulation or policy guidance which requires a separation distance of 200m between a turbine and a bridleway. In this case it is acknowledged nevertheless that all the turbines would be more than 200m from The Three Shires Way. There is no clear rationale for the increased distances now sought by the British Horse Society (BHS) for either local or national riding routes. The BHS guidance⁵⁵ includes alternatives to the desirable separation distances, and the appellant considers the scheme would comply with its requirements.
71. It is acknowledged there is a distinction to be made between locally owned horses and riders (such as those from Lower Farm Stables) and infrequent visitors, and there is in any event no reliable empirical evidence which demonstrates that commercial wind turbines are unsafe for horses and their riders. The Scottish BHS advice note⁵⁶, which is of more recent origin, is very positive in tone and recognises that horse riding and wind turbines can happily co-exist. In addition, the BHS has not yet published the results of its 2012 survey. BLOT's equestrian witness was particularly concerned about a minority of horses and the perceived effect of moving shadows on riding routes.
72. However, the appellant considers the shadow flicker DVD produced by BLOT is misleading. It is understood the record was made at Petsoe at 19:00 hrs, but that at the Three Shires Way, onto which the first recording was superimposed, was made at 14:00 hrs. There were no shadows cast by the hedges along the route at that time of the day, and the report commissioned by the appellant at the SEI stage⁵⁷ refers to the importance of the mosaic effect of local and longer shadows reducing the prominence of the shadows from the turbines.
73. Turbines start very slowly and only gradually pick up speed, and in this respect they are unlikely to frighten all but the most highly-strung horses. If the perceived danger had been a real problem it would have been addressed in national planning guidance a long time ago. There is nothing particularly special or out of the ordinary about the circumstances at Nun Wood. Whilst it does not accept the need for such a condition, the appellant is prepared to offer a scheme of horse/turbine familiarisation days for riders.
74. There is no evidence as to the extent of the use of the Three Shires Way as a long distance bridleway. Given the nature of the horses stabled at

⁵⁵ CD13.7, page 3

⁵⁶ Document 12, Appendix 8

⁵⁷ SEI, section 2.2, page 15

Lower Farm Stables and the need for local care and maintenance routes, the claim by BLOT that local riders would not use the existing routes is not credible. The turbines would not be present in such numbers or in such proximity to the stables as to affect the operation of the stables. Shadows would not extend as far as the livery yard or the manège. The horses are general 'hacking' horses, rather than highly-strung racehorses. There is no evidence of stables failing to obtain insurance cover as a result of the erection of nearby wind turbines. On the contrary, horses and their riders are likely to be habituated to the presence of turbines, and the perception of potential customers is not supported by evidence. In the circumstances, there is no reason the business should suffer a reduction in trade or threat of closure.

Conclusions

75. These appeals are not finely balanced. Taking account of the harm which is alleged and the benefit of the proposed development, the balance is clearly in favour of the scheme. The councils have had to search hard to find comprehensible reasons to refuse the scheme, and they have not taken the changed position of Wellingborough fully into account.
76. The proposed development would accord with those elements of the development plans which are up-to-date and consistent with the Framework. Where the development plans are out-of-date, then the second limb of the decision-taking component of paragraph 14 of the Framework applies. Either way, the full force of paragraph 14 is engaged and the presumption in favour of sustainable development applies. The level of harm does not come close to significantly and demonstrably outweighing the benefits of the scheme.
77. In his recent ministerial written statement the Secretary of State for Energy and Climate Change reaffirmed that 'appropriately sited onshore wind, as one of the most cost effective and proven renewable energy technologies, has an important part to play in a responsible and balanced UK energy policy. It is low carbon and brings new growth, investment and jobs to the UK economy. It reduces our reliance on imported fossil fuels and helps keep the lights on and our energy bills down. The UK has some of the best wind resources in Europe, and the Government is determined that the UK will retain its reputation as one of the best places to invest in wind energy and the renewables more generally. We are also legally committed to ensure that 15% of our energy will come from renewable sources by 2020'.
78. The Nun Wood proposal is appropriately sited and should play its part in a low carbon future. The proposed development complies with the relevant and up-to-date development plan policies, it is compliant with the Framework, and its environmental, economic and social impacts would be acceptable. Planning permission should be granted in the form in which it has been sought without delay.

The Case for Milton Keynes and Bedford Borough Councils

I have reported the case on the basis of the advocate's closing submissions⁵⁸ with additional references to the evidence submitted before and during the inquiry as necessary. The material points are:

79. The councils recognise and acknowledge the important contribution which the exploitation of renewable energy resources can make to combating climate change. It is plain however that wind turbines can have a dramatic effect on the landscape and on amenity. The need to ensure the proper protection of the landscape and visual environment is reflected in both national and local planning policy. The Framework requires that renewable energy developments should be approved 'if its impacts are (or can be made) acceptable'. The decision therefore rests on a balancing exercise based on: (a) the 'deemed' weight attached to all renewable energy schemes; (b) the actual benefits of the scheme; and (c) the disbenefits of the project. The councils consider the appellant has overestimated both the planning policy support for the scheme and its true benefits, and underestimated the significant visual and landscape harm. The balance therefore tips in favour of dismissing the appeals.
80. It is common ground between the parties that the decision-maker in the case is not bound by the favourable decision following the first inquiry, but that the previous decision should not be departed from without proper reasons. In contrast to paragraph 103 of the previous decision the councils consider the extent of the harm cannot be described as 'limited', nor can the need for renewable energy be described as 'urgent'. The appellant has sought to find justification for its case in the decisions of other Inspectors in onshore wind energy cases, but these can never be binding and much caution should be exercised in assessing their value.
81. It was suggested on behalf of the appellant that, following the views expressed by the planning witness for Milton Keynes in relation to the interpretation of planning policy, the council is precluded from advancing a contrary argument. This is incorrect. The advocate is instructed by the corporate body, and it is these instructions which are incorporated into the councils' final submissions.
82. The location of the appeal site at the junction of 3 local planning authority areas itself raises the possibility of a split decision. However, the full environmental information submitted with the scheme applies only to the single 12 turbine windfarm. There is no disaggregated consideration of the scheme on the basis of its division by the relevant local planning authority boundaries, and no assessment has been made of any scheme other than that proposed. This position is not affected by the contents of the Statement of Common Ground agreed between the appellant and Wellingborough Borough Council. There is therefore no lawful basis for allowing one of the 3 appeals, or for any other combination of the differing applications. The case should be determined on the basis of the 12 turbine scheme.

Policy framework

⁵⁸ Document 43

83. National planning policy provides strong support for the development of renewable energy. One of the core principles of the Framework encourages the use of the renewable resources, and paragraph 93 identifies the key role of planning in supporting the delivery of renewable and low carbon energy and its associated infrastructure. Further support is derived from paragraphs 97 and 98. Policy CP2 of the core strategy for Bedford and local plan Policy BE7 include similar provisions. Policy D5 of the local plan for Milton Keynes is similarly supportive.
84. Neither national nor local policy is unquestioning however. They indicate that effects on the immediate environment must be weighed in the balance. As is evident from others of the core principles in paragraph 17 of the Framework, there is no presumption in favour of any particular scheme of renewables development. The necessary balance between the benefits of a scheme and its effects is recognised the *Overriding National Policy Statement for Energy* (EN-1). The need for a similarly balanced approach is evident in Bedford's Policies CP2 and CP13, while Policies CP22 and CP24 are essentially protective. Local plan Policy BE7 also includes a list of criteria to be taken into account. In Milton Keynes, local plan Policies S10, D1 and NE4 are essentially protective of the countryside, and the specific policy in relation to renewable energy also includes a proviso to avoid unacceptable visual impacts on the landscape.
85. Much of the appellant's case is founded on the argument that renewable energy schemes are, by definition, sustainable, and that to justify refusal any harm would (in the words of paragraph 14 of the Framework) have to 'significantly and demonstrably outweigh the benefits'. However, the appellant has misinterpreted the last sentence of paragraph 93 of the Framework. Although renewable energy may be central to the economic, social and environmental dimensions of sustainable development, it does not follow that every scheme has to be regarded as being sustainable.
86. The environmental role of sustainable development (included in paragraph 7 of the Framework) consists of 'contributing to protecting and enhancing our natural, built and historic environment'. A development which harms these objectives cannot be considered to be sustainable, but a decision has to be made in each case. In addition, the Framework (in both the Foreword and paragraph 6) makes it plain that all the policies of the document are to be considered before concluding whether or not a particular development is sustainable. Other Inspectors have considered the argument advanced by the appellant and rejected it.
87. It is argued on behalf of the appellant that, in order to achieve consistency with the Framework, all plans should specifically refer to the need for *significant* and *demonstrable* harm to outweigh the benefits of sustainable development. The Framework does not support this interpretation. Indeed, paragraph 211 makes it plain that plans should not be regarded as out-of-date simply because they were adopted before the publication of the Framework.
88. Paragraph 14 also refers to the objectively assessed needs of plan-making areas, but it is impossible to apply this requirement to the need for renewables. With the revocation of the regional level of plan-making, this

can only be dealt with at a national level. As far as decision-taking is concerned, the first task is to consider whether the development plan is absent or silent, or whether relevant policies are out-of-date. The development plans for Milton Keynes and Bedford are neither absent nor silent. Nor are they out-of-date. The relevant local plans all post-dated the emergence of the former Planning Policy Statement 22 (PPS22) and its Companion Guide, and the relevant plans are Framework compliant. Thus, if a Bedford renewables scheme is found to be acceptable under Policy CP2 of the core strategy, it would follow that it would be acceptable under Policies CP13, CP21, CP24 and local plan Policy BE7. The central renewable energy policy in Milton Keynes is local plan Policy D5. A scheme which satisfies this policy would also be acceptable under Policies S10 and NE4. As far as the emerging core strategy is concerned, the plan does not contain a policy specifically directed at windfarms or other large-scale renewables. Nevertheless, the saved policies of the local plan provide the necessary policy framework. It is concluded that the development plan framework is neither absent, nor silent, nor out-of-date, and that the *significant* and *demonstrable* requirement of paragraph 14 does not apply.

89. The councils contend that, in policy terms, the Framework indicates a weakening of the overall support for the renewables in comparison with the policy provisions of PPS22. The *significant weight* referred to in the key principles of the PPS has been replaced by the *encouragement* of paragraph 17 and the *valuable contribution* of paragraph 98 of the Framework. Nor is it appropriate to place excessive reliance on the Renewables Statement of Need in the 2007 White Paper which post-dated PPS22, and thus simply recorded its advice. In any event, it is not a planning policy document.

Benefits

90. Paragraph 3.2.3 of EN-1 records that substantial weight should be given to considerations of need. The weight to be attributed to any given case should be proportionate to the anticipated extent of the project's actual contribution to satisfying the need for a particular type of infrastructure. The power output of the scheme would not be substantial, and, in contrast to the first inquiry, there are no longer any regional or sub-regional targets. Nor is there a national requirement that where targets are neared, they should be automatically raised. These fundamental differences in the policy regime post-date the National Policy Statements.
91. The extent of the need therefore has to be judged in a national context. There are good reasons – based on topography, landscape and the wind resource – why the potential for each region will necessarily be different. The evidence of the councils' energy consultant indicates that operational schemes provide 6.52GW; those under construction will provide 1.55GW; and those with planning permission and awaiting construction will provide 5.19GW. The upper aim of the 2020 target included in the *UK Renewable Energy Roadmap* (13GW) is likely to be achieved. It is acknowledged grid capacity can be a problem, in Scotland for example, but achieving the 2020 target is not an illusion.
92. Appendix A of the *UK Renewable Energy Roadmap Update* indicates that the Government believes it is taking the necessary steps to ensure that

consented schemes come to fruition. Indeed, planning policy improvements suggested in the Roadmap have already been implemented through the Framework. The evidence given by the councils' energy consultant suggests that some of the urgency associated with the delivery of onshore wind has abated. The Roadmap Update recognises (at paragraph 2.13) that some technologies may require less deployment than originally intended.

93. The appellant argues that, notwithstanding the progress which has been made, an ever greater deployment of the renewables is necessary – in both absolute and proportionate terms. However, the councils contend that, if missed targets add to the weight in favour of a scheme, the inevitable corollary is that a satisfied target should render the scheme less urgent. This is the position adopted at the Ellands Farm, Hemington case. The appellant contends that the opposite position was adopted by the Inspector and the Secretary of State in the Sober Hill case, but this is of no relevance now that regional targets no longer exist. The only applicable target now is the national target, and the disparity of treatment which arose at Sober Hill does not now arise.
94. The contents of paragraph 98 of the Framework are noted, but this does not mean that the current deployment of wind energy schemes as a proportion of the total should be ignored. Such an approach would diminish the sensible performance of a balancing exercise. This interpretation has received judicial support in the case of *Bayliss v SSCLG* [2013] EWHC 1612 (Admin) where the need to balance the overall benefits against the overall detriment received clear judicial support.
95. The appellant also places reliance on the National Policy Statements that there is an urgent need for schemes. However, these statements are directed towards large infrastructure projects. In any event, the weight to be applied must vary with the facts, and the Statements were drafted before the considerable increase in the number of onshore schemes recorded in the Roadmap Update. The councils hold that the circumstances have changed since the first inquiry, and that the degree of urgency cited then does not now apply.
96. The first benefit which falls to be considered is the actual generating capacity of the turbines. The appellant estimates the long term wind speed at hub height to be 6.8m/s, but the councils consider that the adopted surface roughness of 0.985m is too great. This leads to the calculation of higher wind speeds at hub height than would actually be the case. There would also be significant wake losses to be taken into account. As a result, it is unlikely the site would be considered suitable for the 3MW turbines, and the predicted net capacity factor is only 23%. It is correspondingly unlikely, whatever the target, that the site would be able to contribute 36MW.
97. The evidence of the councils' energy consultant was effectively ignored by the appellant and it was thus unchallenged. Two conclusions are drawn – the power generated would be towards the lower end of the scale, and the design of the scheme would not result in an optimum energy output from the available resource. The CO₂ savings would also therefore be at the lower end of the scale. The scale of the socio-economic benefits would be

small, with only one or two permanent jobs created. The ecological benefits would be limited.

Landscape and visual impact

98. The assessments made under this heading by the previous Inspector are not binding, and there is no bar to a different conclusion. It is accepted, nevertheless, that there is a considerable measure of agreement between the assessments of effects made in the ES and those of the two landscape witnesses. The assessments as to the acceptability of the effects is, however, very different.
99. None of the landscape character areas affected by the turbines is of low sensitivity to turbine development. In the councils' view, 4 are of high sensitivity, 4 are of medium-high sensitivity, and 2 are of medium sensitivity. The turbines would be imposed on an area where there are no comparable structures, and only very few features which protrude above the natural landscape. They would stand clear of any surrounding woodland or other landscape features. In medium distance views they would dominate and dwarf any existing structures. They would be more than 3 times the height of the woodland with which they would share the ridge, and equal in height to the elevation of the landscape above the level of the River Great Ouse. Turbines also stand out more in reality than they appear in photomontages. The turbines would occupy an area greater than that of any of the settlements in the vicinity.
100. The turbines would be entirely functional in appearance, and in terms of both this and their form, they would be alien to the local landscape. Due to the rotation of the blades they would constantly draw the eye, and they would induce a sense of increased industrialisation in a rural area. The visual and noise effects would reduce the remaining sense of remoteness and tranquillity. The visual impacts would be entirely adverse in their effects – a distinction accepted by all parties.
101. The appellant's landscape witness holds that, rather than 'industrial' structures, the turbines should be regarded as 'sculptural' structures. It was acknowledged on the appellant's behalf that a windfarm landscape would be created in a small area under the turbines. The fixed radius of the area defined, and of the surrounding local landscape subtype, is inconsistent with any identified particular features on the ground. It was also argued that the settlements around the proposed turbines would have no setting within the landscape which needed to be considered and respected. However, both paragraphs 4.43-45 of *Siting and Designing windfarms in the landscape*⁵⁹, and paragraphs 46-50 of the Inner Farm, Burnham-on-Sea case⁶⁰, refer to the settings of settlements.
102. The most significant omission in the appellant's landscape case is the absence of any real analysis of where the turbines would cease to exercise an impact on landscape character or to have real visual effects. Even under cross-examination there was no detailed explanation of the rationale leading

⁵⁹ CD7.3

⁶⁰ CD5.36

to the assessment that the turbines would be 'absorbed into the landscape and the movement of the blades would accord with movement in the wider landscape, including routes through the area'. However, even at the distance of 5.6kms at Viewpoint 14, the effect of the turbines would be very pronounced.

103. In contrast, the councils' landscape witness provided a comprehensive and reasoned survey. First, attention was drawn in particular to the effect of the scheme on the valley of the River Great Ouse. That this is a 'very special place' is strongly supported by local residents – an assessment given new emphasis by the recent ministerial written statement. Viewpoints I and J show the potential effect – the turbines would be both prominent and alien.
104. Secondly, the local churches are attractive local features in the environment – again cited by many local residents. The landscape function of the turbines would be considerable, and they would compete with and disrupt the contribution of the churches. The effect on the appearance of the church at Easton Maudit would be pronounced, of which it was said by the appellant there would be no competition in terms of form and function. This is an unsupportable assessment.
105. Finally, the councils' landscape witness drew attention to the considerable numbers of residential properties which the appellant accepts would be affected by the turbines.

Cumulative impact

106. This is a matter best left to the judgement of the Inspector, but it is important to note that photomontages will underestimate the size and visual prominence of turbines. For example, from the Chellington Centre the Petsoe turbines are prominent in the prospect, but they appear to be subsidiary features in the photomontage. Although the appellant's landscape witness considered none of the cumulative effects would be particularly severe, no suggestion was offered as to what would constitute an unacceptable cumulative effect.
107. While it was acknowledged by the appellant that the coalescence of landscape effects up to 3-4kms from the turbines would be a component of a cumulative effect, the judgement of the councils' witness that the cumulative effect would be unacceptable is preferred.

Public rights of way

108. Two features sound out in the different arguments of the parties. The appellant's landscape witness held that there would not be a sufficiently adverse effect for the threshold of unacceptability to be crossed. The tests of dominance and deterrence are arbitrary, and there is no support in planning policy for such a stringent requirement. It is difficult to see with these tests how it could ever be concluded there would be an unacceptable impact.
109. In the councils' view the degree of screening potentially possible is very limited; notwithstanding the partial screening available along some sections of the Three Shires Way or that other sections enjoy 360° views. Even

where it would be possible to look away from the turbines, they would still have a significant impact on the experience of the users of the rights of way. Considered in association with the existing turbines at Petsoe⁶¹ and the permitted turbines at Podington⁶², the effect would be pronounced, harmful and unacceptable. It should be noted that the Three Shires Way is regarded as the principal recreational resource of several of the landscape character areas concerned.

Residential amenity

110. At Northey Farm Flat, the Lavender test is met and the public interest is engaged, indicating a refusal of the scheme. The effects on the property would be unacceptable. The permeability of the windfarm would be irrelevant to the effect of the turbines on the enjoyment of the property. As far as the existing and potential future residents are concerned the effect would be anything but temporary or reversible. Although the landlord of the flat has a financial interest in the proposed windfarm, this is of no relevance to the residential amenity of the occupiers. Any profit made by the landlord would not serve as mitigation in respect of the tenant.
111. The councils' planning witness for Milton Keynes has also applied his planning judgement to the Lavender test in relation to Bozeat Grange – even though this property lies within the area of the Borough of Wellingborough. As it was contended the sole reason for the failure of the test was the visual impact of the scheme, it is acknowledged that, in the circumstances, local plan Policy D5 is not engaged. Nevertheless, the absence of a specific policy basis cannot justify a failure to protect the residential amenity of residential property.

Written ministerial statements

112. The statements do not constitute new policy, but are concerned with the correct interpretation of the existing policy included in the Framework – particularly in relation to the weight to be attached to environmental protection. It is recorded that, although the Framework includes strong protection for the natural and historic environment, some local communities have genuine concerns that insufficient weight is given to environmental considerations, such as landscape, heritage and local amenity. New guidance will be issued shortly.
113. The associated press releases reflect the written statements made by the Secretaries of State at both the DCLG and the DECC. They record that current planning decisions do not always reflect a locally-led planning system. It is recorded that the new planning guidance will give greater weight to landscape and visual impact concerns, and that the need for renewable energy does not automatically override the environmental protection and planning concerns of local communities.

⁶¹ 7 turbines of comparable height

⁶² Also known as Airfield Farm, where 3 turbines of comparable height are proposed. See CD5.7

114. The premise of the written statements is that current planning decisions do not always reflect a locally-led planning system. It cannot be argued that the statements do not constitute a shift in the interpretation of policy, and it must constitute a material consideration to be given due weight in this case.

Conclusion

115. Despite the benefits the scheme would bring, and the support for the renewables in Government policy, the environmental cost at this location would be too high. The harm would outweigh the benefit, and the proposal is therefore contrary to the relevant development plans when considered in their balanced entirety. It would be contrary to the policy of the Framework as a whole. The appeals should be dismissed and permission refused as appropriate.

The Case for BLOT

I have reported the case on the basis of the advocate's closing submissions⁶³ with additional references to the evidence submitted before and during the inquiry as necessary. The material points are:

116. A local interest group such as BLOT (and even the local authorities) is at a disadvantage at inquiries such as this when it is opposed by a team of seasoned professionals who routinely defend windfarm proposals at appeal. The imbalance should be taken into account. Nevertheless, BLOT has demonstrated a number of harms that would be caused by the windfarm which would justify, either singly or in combination, the dismissal of the appeal. The modest amounts of renewable energy which would be generated would be insufficient to justify the harm. In recent years, the perceived need to reach renewables targets has trumped the need to avoid local harm. It is the extent to which this has happened which has probably prompted the Secretary of State to issue a written ministerial statement and recover the appeal.
117. BLOT identifies the greatest harm under 5 headings – landscape (the industrialisation of a deeply rural landscape), cumulative (considered in association with the existing and consented schemes in the immediate and wider area, the scheme would result in a high level of cumulative impact), social (rendering one dwelling an unpleasant place to live with impacts on over 500 others), economic (the inevitable closure of a local livery business), and public rights of way (surrounding a nationally promoted bridleway, a long distance footpath and other local walks).

Landscape and visual impact

118. The scheme extends across 3 landscape areas which do not have precise boundaries. Nor is landscape assessment a precise science, but more a matter of professional judgement. The scheme has been assessed by 4 landscape architects – two for the appellant (including one at ES stage), one for the councils, and one interested person⁶⁴. The appellant's landscape

⁶³ Document 69

⁶⁴ Document 78

witness takes the most lenient view of the distances (3-4kms) over which the significant effects would be experienced. All however have found a substantial number of significant adverse effects, but the appellant's witness concludes these are insufficient to render the scheme unacceptable. Both the councils' landscape witness and the interested person conclude the opposite.

119. The appellant's landscape witness considers a new windfarm landscape would extend 650-700m from the turbines. On this basis BLOT suggests the scheme envisages two windfarms coalescing into a single windfarm landscape. Although this description was not accepted by the appellant, it was conceded that from the east and the west there would be two distinct groups of turbines.
120. In BLOT's view the two groups had been designed simply to optimise output within the site constraints, with only minor adjustments to reduce the impact of the scheme. In the councils' view the design of the scheme was chaotic. BLOT agrees with this view because of the unbalanced division of the turbines and the resultant extent of stacking (where turbines appear behind others).
121. The most sensitive and exceptional local landscape is that of the valley of the River Great Ouse. It is of very high quality, with a tranquil and unspoiled rural nature. There are small scale landscape features which would be radically and adversely altered by large scale industrial forms. The relevant part of Bedfordshire was formerly designated as an AGLV (Area of Great Landscape Value) until the advent of PPS7. BLOT holds that the same sensitivities which led to the designation should now be protected under landscape character assessment.
122. For example, in the Hinwick Wooded Wolds LCA (area 2A), caution is expressed that 'large scale vertical features...have the potential to disrupt views'. This is the only LCA in the former AGLV which is singled out for its sensitivity to large scale vertical features. Attention is also drawn to the visual sensitivities of the Pavenham Wooded Wolds (area 2B) and the Harrold Great Ouse Valley (area 3A). In this context BLOT also draws parallels derived from the Holford Rules (in relation to electricity pylons in the landscape)⁶⁵.
123. BLOT's landscape witness described the harmful impact of the scheme on the Ouse valley from Chellington (Viewpoints 24 and J). The turbines would dominate the view and stacking would occur. The landscape here is exceptional and cherished, although the portion of the ridge which the LCA seeks to protect is not extensive. The Harrold Country Park (on the opposite bank of the river north of Chellington) attracts over 300,000 visitors per year, and any screening of the turbines within the park would be significantly reduced in winter.
124. The Northamptonshire landscape on the plateau is less spectacular and less sensitive than that in the Ouse valley. Church spires are a key landscape feature of the landscape. The turbines would compete with the

⁶⁵ CD7.25

spires to the extent that, from some viewpoints, the turbines would replace the spires. Attention is drawn to the effect of the scheme in relation views from the west towards Easton Maudit church with the turbines in the background.

125. As far as cumulative impacts are concerned, the scheme would lie between those at Petsoe (operational) and Podington (consented). Although the latter is currently the subject of a High Court challenge, it would be unsafe to assume this is going to be successful. In the event of the Nun Wood scheme succeeding, there would be a row of 4 distinct groups of turbines within under 12kms. There would be an unacceptable cumulative impact. The appellant's landscape witness disagreed, but seemed unable to define circumstances when such an impact would occur. However, the appellant's planning witness recognised that the addition of the Podington scheme to those at Petsoe and Nun Wood would be a different process compared with the addition of Nun Wood to Petsoe and Podington.
126. There would be a sequential cumulative impact on the Three Shires Way long distance bridleway. The bridleway has 4 operational or consented schemes along its route, with 5 more proposed (including Nun Wood). The current scheme would be distinctive for being the only scheme with turbines close to and surrounding the route. It would therefore have an extreme impact. It would appear as two wind farms in rapid succession rather than as a single scheme. The journey from Milton Keynes to Corby/Rockingham (on the A509) has 7 operational or consented windfarms along its route, with a further 5 proposed (including Nun Wood). The extent of the sequential cumulative impact would be unacceptable.
127. Attention was drawn by BLOT to the visual impact of the scheme on local walks and the long distance rights of way. On the basis of the appellant's assessment, walkers or riders would be passing through a windfarm landscape for up to 4kms. The design of the scheme, centred on and surrounding a long distance bridleway, is unique. In none of the other schemes considered were the windfarms centred on bridleways and footpaths. Only one of the proposed Nun Wood turbines would be more than 400m from a public right of way.
128. The Three Shires Way is identified in the Bozeat Claylands LCA as a main recreational opportunity, and BLOT contends that the scheme would result in an unprecedented level of impact on an important recreational route. The amenity value of the route would be substantially and adversely affected. It would act as a deterrent to long distance and local users of the routes. Although the effect of the scheme on public rights of way would not warrant the dismissal of the appeals, it should nevertheless count heavily against the proposal – especially in view of the emerging Milton Keynes Windfarm SPD⁶⁶ upon which consultation has started.

Residential amenity

129. The appellant's residential amenity survey notes that 524 homes would be affected of the 1,334 assessed within 2kms of a turbine. BLOT contends

⁶⁶ Document 64

that such a diminution in the quality of such a large proportion of the housing stock would not be in the public interest. There would also be some cumulative impacts (with the schemes at Petsoe and Podington) at some dwellings, and this possibility has not been considered for dwellings beyond 900m.

130. The most notable impact in terms of residential amenity would apply at Northey Farm Flat – a dwelling which is already affected by the visibility of the Petsoe turbines. The landlord in this case is a financially involved landowner, but this is not a material planning matter in the necessary assessment for compliance with the Lavender test. The flat is occupied by long term tenants who regard it as their home, and it would be rendered an unpleasant place in which to live. It is acknowledged that the wider impacts on residential amenity would probably be insufficient to justify the dismissal of the appeals, but they should still weigh heavily against the scheme.

Heritage assets

131. Although the impact of the scheme on heritage assets does not form part of BLOT's case, EH has objected to the scheme because of the cumulative impact at Turvey House. The Petsoe turbines are already prominent from the terrace, from where it is likely the Nun Wood turbines would also be visible. The proposed turbines would certainly be visible from elsewhere within the registered park. Although the scheme had been redesigned before the ES stage to omit certain turbines in the designed view from the east terrace at Castle Ashby, they would nevertheless be visible from elsewhere in this registered park, and possibly from the east-facing windows of upper rooms. The impact of the scheme on the setting and significance of church spires within the landscape was also raised.

Equine issues

132. The appellant did not provide a witness qualified in equine behaviour, but it was acknowledged by the planning witness that there is a widespread perception in the riding community that turbines are dangerous. This perception was repeated by all the riders who gave evidence to the inquiry, who stated they would not ride through the turbines.
133. Bridleways are often raised at windfarm appeals because they provide objectors with clarity when the rules have not been met – even when the bridleway is not frequently used or where alternatives are available. This is not the case here however. The Three Shires Way is a national bridleway and the sole hacking route for Lower Farm Stables. There are no alternatives for horse riders who either do not wish to ride through the turbines, or who would be unable to do so as a result of the temperament of the horse or its inexperience.
134. The proposal is unique in terms of its design along and astride a national bridle route, with 10 of the turbines failing the meet BHS guidelines and no alternatives available. The appellant's report in relation to other windfarms⁶⁷ indicated that none of the other schemes are comparable.

⁶⁷ Document 51

None were designed with a bridleway at the heart of the scheme. The stables at Middlemoor for example, are over 3kms from the turbines.

135. BLOT's equine witness is a BHS representative, and a clear rationale for the revised BHS guidelines for separation distances was provided. It is considered the greatest danger would be from shadows cast over the bridleway. Horses are prey animals and shadows are likely to be perceived as an attack on their legs. The greater separation distance for national bridleway routes is considered necessary to allow for the greater probability that horses which are unfamiliar with turbines will use the route.
136. Attention was drawn by the appellant to the approach adopted by the Scottish BHS to windfarms, but the same separation distances are recommended. In addition, there is a more flexible right of access to the countryside in Scotland. Furthermore, the Scottish BHS also notes that many riders and carriage drivers are reluctant to take their horses near turbines. The extensive guidance on measures to be employed to avoid accidents when travelling through a windfarm does not suggest the experience would provide a relaxed or enjoyable form of recreation.
137. The SEI includes a report on the extent of shadows expected. BLOT's equine specialists recorded that shadowing would be most likely to affect the bridleway at the time when livery clients would wish to ride. This would be especially so on sunny days when shadows would also be cast. Avoiding the possibility of shadows would involve making an assessment of likely weather conditions at critical times. The appellant's planning witness did not demur from the view that riders would be more likely to wish to ride in sunshine and avoid cloudy days – so increasing the chances of shadows during the best riding times.
138. It is accepted there would be variation in the intensity of blade shadows with the angle of the blades to the sun. There would still be shadows cast however, and it is the movement rather than the width which would be likely to disturb a horse. The manner in which the blades would form moving shadows was illustrated in a DVD presented by the Lower Farm witnesses. The shadows were recorded at a distance of 450m from the relevant turbine at 19:00 hrs in the summer, and then transposed onto a recording of the Three Shires Way. The shadows cast at Nun Wood would cross the bridleway at a closer distance to the relevant turbine, and they would therefore have greater density. It is recognised that there is some hedge screening along the bridleway, but this is more limited on its western side and much reduced in winter.
139. Lower Farm Stables lies to the south of the site of the southern group of turbines. It is the perception of potential clients that riding through turbines carries a certain risk that would influence their decisions concerning the use of the yard. There are no equivalent bridleways to the east, and some prospective clients had stabled their horses elsewhere when learning of the proposed windfarm. It is feared the stables would be forced to close, with a consequential loss of employment – a prospect reinforced by both sets of BHS guidelines which state that riders are reluctant to ride near turbines. This threat is sufficient on its own to justify the dismissal of the appeals. The development could have a similar detrimental impact on the use of the

bridleway by the Bedfordshire and Buckinghamshire mounted games teams⁶⁸.

Localism and community engagement

140. BLOT cites the Prime Minister's assurance after the first inquiry decision that the (then) Localism Bill would ensure that local people and their councils would decide what people need in their areas and how the need would be met. The appellant's only attempt to consult the local community was in the form of a newsletter, which was subsequently censured by the Advertising Standards Agency⁶⁹. The appellant had treated the local planning process as though it was an inconvenient step before the matter was considered at appeal, and the motives of BLOT and its advocate were questioned.
141. It became clear during the inquiry that Wellingborough's failure to contest the appeal was driven by lack of funds rather than a willing acceptance of the scheme. The local community has essentially been disregarded for 8 years, and, in the event of a less than comprehensive dismissal, the process would start all over again.

Noise

142. BLOT is concerned that the noise modelling method used at Nun Wood places excessive emphasis on noise from a corn drier near the site, and on railway noise from about 7 miles to the south-east. Concerns are also expressed about the possibility of excessive (or other) amplitude modulation, although it is recognised the matter can be addressed by the imposition of an appropriately worded condition or conditions.
143. The appellant's noise witness was confident the predicted noise levels would be within the 2dB uncertainty incorporated into the methodology. He acknowledged that the cause of greater than expected amplitude modulation is not understood. In BLOT's view this reinforces, in the event of the appeals succeeding, the need for conditions.
144. In relation to general noise conditions, BLOT supports the approach adopted by the councils. The limits should be based on the predicted noise generated by the scheme rather than those included in ETSU-R-97. This would be consistent with the approach included in national policy statement EN-3, and prevent the selection of the noisier candidate turbines cited in the ES. To enable the choice of noisier turbines would be inconsistent with the minimisation of noise impacts.

Aviation

145. There is an airstrip just outside Easton Maudit, and its use was described on behalf of BLOT by its aviation witness. The main concern would be taking off to the south-east, where manoeuvrability is constrained by pylons

⁶⁸ Document 97

⁶⁹ CD13.1

and overhead power lines and a number of rural dwellings. The turbines would further reduce the options of a pilot should the plane get into difficulties whilst taking off.

146. The appellant's aviation witness acknowledged that the airstrip fell within the 5kms exclusion zone used by Land Use Consultants when identifying opportunities for windfarms⁷⁰ in the East Midlands. The turbulence caused by turbines is an additional factor, although the appellant argues that beyond 10 rotor diameters the turbulence would be no greater than that generally experienced by light aircraft pilots. BLOT does not challenge this and concedes that, if correct, the airstrip would continue to enjoy a viable circuit. Although safety margins would be reduced it is accepted this would be insufficient to justify dismissing the appeals.

Split decision

147. BLOT considers any such possibility would be unfair and possible unlawful. The terms of reference for the inquiry indicate that the scheme was to be assessed as a single project. The two parts of the scheme are interdependent. The omission of any of the turbines would essentially result in a scheme which would differ from that against which the various assessments have been made. Even if the proposed turbines closest to the Great Ouse valley were omitted, the others would still be sufficiently close to the relevant LCA boundary to impact adversely on this sensitive and highly valued landscape.

Planning balance

148. BLOT is not surprised by the appellant's view concerning the relative weight to be attached to need and harm. When an exception is made to permit a particular scheme, the bar is lowered for all subsequent schemes. Individual appeal decisions were excessively cited by the appellant, and it is the progressive ratchetting down of protection which has probably provoked the ministerial written statement. It is clear the Minister considers the planning balance has moved too far in favour of windfarm schemes, and that greater weight must be attached to local harm. Each decision must be made on its own merits, rather than being driven by the lowest common factors pulled from a number of schemes. It is essential that significant weight is given to local harm, and that the pursuit of targets which are being comfortably achieved is not used to discount local concerns.
149. The scheme would harm what is arguably the best landscape in Bedfordshire and result in the industrialisation of a deeply rural area which has been protected from inappropriate development for many years. Taking account of operating and consented schemes, there would be a significant cumulative impact on amenity and travel routes. There would be adverse effects on riders and walkers, with no opportunities for local alternatives to the amenities lost or degraded, and the appeals should be dismissed.

The Cases of Interested Persons

⁷⁰ CD3.5, p21

150. **Mr Simon Hall** is the treasurer of the Luton and Bedfordshire Green Party, and stood as a candidate in the last general election⁷¹. He believes wind power is clean and consistently renewable, and that it can make a vital contribution to our electricity supply. However, there are a number of myths which are untrue.
151. At a distance of 300m a turbine will have a sound pressure level of 43dB, and at 500m this will drop to 38dB. Turbines are inaudible at about one mile. Denmark produces about 25% of its power requirement from wind, and it has a national commitment for 100% by 2050. We should have the same commitment. As far as the visual impact is concerned, the countryside is already largely manmade and windmills are considered picturesque. Increasing temperatures are themselves having an impact on the countryside, and it would not be preferable to see a nuclear power station at Nun Wood. The gas alternative is still carbon producing, it is finite, and it needs to be imported. Nuclear power is not the answer, and it is vital that we support wind energy projects including this one.
152. **Ms Victoria Harvey** is the Co-ordinator of the Bedfordshire Friends of the Earth⁷². There is a gap between the lack of renewable energy projects in the wider area and the policies of the Framework. A step change is needed to lift the contribution of the renewables from 3.8% to 15% by 2020. The Framework seeks to promote the renewables but its policies are not being implemented. Many windfarms are refused planning permission, and the councils are not proactively implementing other low carbon energy solutions. Little has been achieved by Milton Keynes since the windfarm at Olney was approved in 2006.
153. Onshore wind is the cheapest low carbon energy available on a large scale, and it is important for our energy mix. It receives less than half the subsidy of offshore wind, and its costs will be comparable with gas quite soon. The Framework expects councils to adopt proactive strategies, but we seem to be in a renewables free zone. Investment in renewables is falling, yet it can support many jobs. Onshore wind supported over 8,600 jobs in 2011, and this could rise to 15,500 by 2020. Locally generated onshore wind power is more sustainable than electricity produced in Scotland or Wales. The economic and environmental benefits of the Nun Wood proposal are considerable.
154. **Mr Traviss Locke** lives in Olney and has worked in Wellingborough, Bedfordshire and Milton Keynes⁷³. He has walked in the Brecon Beacons and the Lake District. These areas are surrounded by windfarms, but they retain their attractiveness. The 7 wind turbines at Petsoe are a sign of hope for a supply of abundant, locally produced clean energy. The appearance of the landscape is under threat from both climate change and the use of fossil fuels. The benefits of this development would be realised by the youth of today.

⁷¹ Document 70

⁷² Document 71

⁷³ Document 72

155. **Ms Brittany Wilkerson** is the Co-ordinator of the Milton Keynes Friends of the Earth⁷⁴. Climate change is the most urgent environmental threat which we face. Wind power has the potential to curb greenhouse gas emissions. It is clean, safe, mature and cost-effective, and a turbine will repay the energy used in its manufacture in 6-9 months of operation. A report compiled by the UK Committee on Climate Change indicates that investment in onshore and offshore wind is around one third of the annual rate required by the end of the decade. In terms of their appearance, windfarms look impressive and futuristic – they are preferable to coal plants or incinerators.
156. **Mr Ivan Delgado** lives and works in Milton Keynes⁷⁵. Electricity should be produced locally in an ecological and sustainable way. But most of the UK's energy comes from fossil fuels – natural gas (47%), coal (28%), and oil (1%). Nuclear power, which is a huge risk, produces 16%, with only 7% from the renewables. The renewables provide 270,000 jobs and this could be more. By preventing the Nun Wood scheme we would be sending out a negative message which would drive investment away. We are currently enjoying the benefits of electricity without incurring the disadvantages of producing it.
157. **Mr Phil Houghton** is also a resident of Milton Keynes⁷⁶. He believes investment in the renewable technologies is urgently needed in Britain to mitigate the effects of climate change. The DECC reports that CO₂ emissions increased by 3.5% in 2012, so more needs to be done to prevent climate-induced catastrophes. Investment in clean energy such as wind power is vital in helping the UK reduce its carbon emissions. In any event, wind turbines are visually attractive and impressive – they are hopeful and inspiring.
158. **Mr Doug Neil** represented Carlton with Chellington Parish Council⁷⁷. The council supports and applauds the effort made by BLOT. Its support numbers over 2,000 individuals. The local communities are integral to the landscape. There is a focus on the dwellings which would be affected by the proposed development, but the real value of the Ouse valley is the outdoors – the open countryside, the quiet tranquillity and immense beauty of the English landscape.
159. The appeal site occupies a quarter of the open panoramic view from Bozeat, Harrold and Carlton. Half the beauty visible from favourite local viewpoints would be lost if the scheme goes ahead. There would be a significant negative impact on the visual amenity of most residents and visitors to the Ouse valley. In a matter of two decades we will have irrevocably degraded the amenity enjoyed for centuries. Wind energy is yesterday's technology which owes its existence to a political expedient and a misguided policy of subsidies. The scheme would devalue the experience of residents and visitors to the Chellington Centre and the Emmaus residential community, as well as those visiting the Harrold Country Park.

⁷⁴ Document 73

⁷⁵ Document 74

⁷⁶ Document 75

⁷⁷ Document 76

160. **Mr Tony Brooks-Payne** lives in Warrington with a potential prospect of turbines 1, 2 and 3 which would be 11 times the height of his house⁷⁸. The Petsoe turbines are already a blot on the landscape. Their visual impact is inescapable. He has been riding for 55 years and has owned more than 60 horses. The risk of riding through turbines is too great and riders would be deprived of the Three Shires Way. It is a beautiful and rare grass bridleway, and turbines should be at least 500m from any such route. Horses are quick to panic and the turbines would be on both sides of the route. They would spin round and gallop away from danger towards home. In his case that would involve either the A428 or the A509. In the event of an accident to a rider the turbines would prevent helicopters from landing.
161. **Mr Jonathan Billingsley** is both a resident of Bozeat, a qualified landscape architect, and a former resident of Olney⁷⁹. He has appeared as an expert witness at a number of public inquiries over recent years. He draws attention to the written ministerial statement by the Secretary of State for the DCLG which indicates a welcome rebalancing of the decision process for onshore wind turbine proposals. The statement specifically refers to the cumulative effects on landscape, local amenity, local topography, and heritage assets. In his opinion there are numerous reasons why the appeal should be dismissed on landscape and visual grounds.
162. The previous Inspector recorded significant adverse impacts on landscape character in all 3 of the LCAs directly affected, as well as on two others. This is correct. The harm to the Ouse valley would be significant and adverse – it is one of the treasures of Bedfordshire. Even though the turbines would be out of the valley core, they would be so large that they would have a very damaging effect. In terms of their visual effect, they would be too close to Bozeat (T11 and T12) and to Lavendon (T1). There would be major effects on recreational routes – especially the Three Shires Way, and the local loop at Bozeat, and the Harrold Country Park to Chellington and Odell loop. Cumulative landscape and visual impacts would occur in association with the sites at Burton Latimer, Petsoe and Podington. The division of the Nun Wood scheme into two clusters would increase the sense of sequential cumulative impact. Although it is not contended there would be substantial harm (in Framework terms) on individual heritage features, there would be harm to the settings of: the church of St Peter and St Paul at Olney, the church of St Peter and St Paul at Easton Maudit, St Peters Church at Harrold, and Chellington Church, St Marys Church at Bozeat, and Harrold Bridge and causeway.
163. **Dr William Green** runs a small family farming business and lives just outside Bozeat⁸⁰. The farm is in the Natural England Higher Level Stewardship scheme and pursues wildlife friendly farming policies. In view of the planned proximity of turbine 12 to the boundary, and the proposed micro-siting flexibility, there is a possibility the blades may oversail land belonging to White House Farm. This matter has not been addressed by the

⁷⁸ Document 77

⁷⁹ Document 78

⁸⁰ Documents 79 and 98

appellant. The turbine could effectively appropriate a proportion of the wind and light resource of the farm, although it is recognised the matter could be resolved by the imposition of an appropriately worded condition. The distance of T12 to White House Farm is variously recorded as 905m (in the ES) and 1075m (in the Residential Visual Amenity Survey). This is a significant difference, although this may be attributable to different consultants using different definitions of the curtilage of the property. In addition, the filtering of the appearance of the turbines by ash trees cannot, in view of Ash Dieback Disease, be relied upon. The appellant's observation that countryside workers have a lower level of sensitivity to their surroundings is inaccurate, patronising and insulting. Conditions should also be imposed to regulate the danger of flicker disturbance and noise at White House Farm.

164. The original wildlife surveys are now out-of-date. There is also now an extensive area between Bozeat and Harrold which falls within the Higher Level Stewardship agreement. There are a number of bird and bat populations present on the land, and the plan is not compliant with Natural England's Technical Advice Note TIN051 *Bats and onshore wind turbines*. It requires a 50m buffer between turbines and hedgerows. A survey carried out on 18 June 2013 found bats foraging in the southern corner of the boundary hedge of White House Farm, and, in accordance with paragraph 6.188 of the ES, a separation distance of 100m should apply from a hedgerow where bat activity is detected.
165. The proposed windfarm access tracks would allow easier access for potential theft from farm buildings. An excavated ditch would therefore be necessary along the boundary between the relevant properties. There would also be a danger from ice falling off the blades of T12, together with the risks of fire and complete collapse. In contradiction with the need for community consultation, the appellant has not discussed these matters.
166. **Ms Katie Mordue** is a resident of Bozeat – a rural, tranquil, village community⁸¹. Trees and hedges would not be able to disguise the turbines. They would industrialise the area around Nun Wood. There is not enough energy in the wind to make its capture worthwhile.
167. **Mr Mark Handford** is a resident of Emberton⁸². He has travelled widely and witnessed the alarming rate of global change. The biggest single concern appears to be visual intrusion on the skyline, but this has to be measured against the benefits – increased energy independence; energy sourced in perpetuity; and environmental benefits from reduced atmospheric pollution. People would adapt to the revised skyline, just as they have at Petsoe. The plan for the turbines is sensible and responsible and preferable to the alternative of large numbers of small-scale, domestic turbines.
168. **Cllr Alison Foster** is the ward councillor for Harrold Ward which includes the Bedfordshire turbine sites⁸³. The ministerial statements of 6 June

⁸¹ Document 90

⁸² Document 91

⁸³ Document 92

outline a new deal for communities and onshore wind. There is huge concern locally about the visual impact of the scheme on the landscape – particularly in relation to the views over the Ouse valley from Carlton. The beauty of the landscape here is breathtaking. The view from the Harrold to Carlton road is very special. The turbines at Nun Wood would significantly disturb this bucolic rural scene. The Three Shires Way would be lined with turbines, and the scheme could have an adverse effect on tourism and the opportunities for local riders.

169. **Mr Alistair Burt MP** is the local member for North East Bedfordshire⁸⁴. He has listened to many constituents in relation to this matter since 2006. Many maintain the view that it is not the number of turbines which is the material issue, but the principle of their placing and effectiveness. There is a strong balance of opinion against the scheme on the following grounds: the impact on the much prized visual landscape; concerns over noise; the impact on those who walk and ride in the area; and uncertainty about the value of this potential solution to the nation's energy mix.
170. Harrold is one of the nicest places to live in middle England. Constituents welcome renewable energy solutions, but goodwill and local support is also essential even in the context of a national benefit. The Secretary of State's reforms will end speculative proposals; communities will be consulted earlier; community benefit will be increased. Improved planning guidance will assist both councils and Inspectors. Decisions should take account of the cumulative impacts of turbines and properly reflect the impact on the landscape and local amenity, or regions like the East will have a disproportionate number. The acceptable schemes should be the right ones in the right locations, but this is not the case with this proposal.
171. **Ms Pamela Hider** is a newly retired resident of Carlton⁸⁵. It is our duty to protect the beauty and tranquillity of the local landscape. The scheme would amount to the industrialisation of the landscape and is being promoted by businessmen. They are not environmentalists. People would see the value of their houses drop; they would be forced to move away; and lifetime habits (riding) would be lost. In 2011 onshore turbines generated only 3% of the UK's energy needs – we have to fall back on fossil fuels when necessary. The urban planning mistakes of the past should be avoided in our villages.
172. **Mr John Tusting** has lived in the Great Ouse valley all his life⁸⁶, but has travelled far. There is nowhere more beautiful, more gentle, or on a more intimate scale than the English landscape. It would be dominated by the turbines. The view from the trig point at Carlton Hill (90m AOD) is captivating – including the spires of the churches at Harrold and Chellington. That at Chellington has now been converted and refurbished into a residential rural youth centre. He was the leader of the Chellington Redevelopment Group and the conversion was completed in 2005, and the centre provides a welcome alternative to the pressures of urban life. The

⁸⁴ Document 93

⁸⁵ Document 94

⁸⁶ Document 95

rural uncluttered scene is an essential component of the initiative. The 125m turbines would be out of all proportion to the intimacy of the landscape.

173. **Mr Ralph Hipkin** is a resident of Lavendon. He would be able to see the turbines, which he considers would be alien to the countryside, from his house and garden. He can already see the Petsoe turbines. The footpaths and bridleways to the north-west of Lavendon are a particular attraction. The scheme is opposed by the majority of people, by the parish councils, and by the 3 MPs. A report in the *Sunday Telegraph* records that each job in the renewables industry requires an effective subsidy of £100,000.
174. **Ms Katiuslia Cancedde** also spoke in favour of the scheme.
175. **Ms Shuna Mitchell, Mr Colin Arnold and Ms Michelle Chalkley** also spoke against the scheme.

Written Representations

176. Following the quashing of the last decision in the High Court, a new Notice of Inquiry was distributed by the councils. It resulted in 20 written objections. For the most part, the objectors either appeared as witnesses for BLOT or as Interested Persons at the inquiry. Of those who did not appear, the written representations of objectors to the scheme refer to many of the same matters as reported above. I refer to additional matters below.
177. English Heritage (EH) has advised on the Nun Wood scheme since 2005. It responded to the councils' consultations in 3 letters dated 17 March 2009 (after the preparation of the ES), 19 November 2010 (after the preparation of the SEI), and 21 September 2011 (before the first inquiry). In response to the second inquiry, EH refers to these preceding letters.
178. In the first letter, EH refers in particular to the effect on the settings of conservation areas at Carlton, Odell and Podington. It was considered that, rather than the 'minor' change acknowledged in the ES, the impact of the change would be 'moderate'. The effect on the significance and settings of certain listed buildings was also questioned – specifically, the churches at Bozeat (Grade I), Easton Maudit (Grade I) and Grendon (Grade II*), and on Grendon Hall (Grade II*).
179. In the second letter, reference is also made to the impact of the scheme on the setting of two more listed buildings – Turvey House (Grade I) and All Saints' Church, Turvey (Grade I). EH refuted the claim made in the SEI that there would be 'no significant impacts on any heritage asset'. On the contrary, the supplementary information served to increase its concerns about the capacity of the regional landscape to accommodate such an extensive development. It is recorded that, 'while it is unlikely that the heritage assets identified in this advice, with the specific exception of those at Turvey, would not individually experience substantial harm to their

setting[s], cumulatively there is substantial harm to the character and significance of the historic environment of which they form a part'.⁸⁷

180. In the third letter, EH confirmed the position adopted in the previous letters. It was considered in the light of the new information submitted⁸⁸ that this confirmed its advice with particular regard to Turvey House and Easton Maudit Church.
181. By letter dated 22 September, the Ministry of Defence confirmed it had no objection to the proposal. In the summer and autumn of 2008, Cranfield Airport recorded that it had concerns about the possibility that the turbines would have an adverse effect on the performance of radar at the airport. Discussions between the airport and the appellant continued until 2010, but no further substantive responses have been received.
182. A number of additional written representations were received during the inquiry. There were 8 individual objections, including one from **Mr Mark Lancaster TD MP** – the member for Milton Keynes North⁸⁹. He expresses concern about the potential impact of the scheme on Lower Farm Stables and about its possible closure. The scheme would have a severe impact on the Three Shires Way and the Milton Keynes Boundary Walk, with a substantial reduction in amenity. The turbines would also be close to local houses. The situation is different to that which applied in 2011 when there was thought to be an urgent need. Appropriate weight should be attached to emerging Government policy as included in the written ministerial statement.
183. The other objections refer to many of the matters reported above. They included objections on behalf of Olney Town Council⁹⁰ and Bozeat Parish Council⁹¹. Stevington Parish Council was unable to support the proposal⁹².
184. **Mr Nigel Walker** is a resident of Bozeat⁹³. Amongst other matters, he argues the turbines would be the cause of distraction to drivers using the A509.
185. There was one additional letter of support received during the inquiry⁹⁴. **Mr Ray Miles** is a resident of Wellingborough. He believes the scheme would benefit Wellingborough and the surrounding area, and that it would be good as a landmark when travelling.
186. In the preparation of this Report, I have also taken account of the tenor of the previous written representations made both in relation to the first inquiry and at the application stage.

⁸⁷ Inspector's Note: Notwithstanding the double negative in this sentence, I believe the meaning is clear.

⁸⁸ The appellant's LVIA Appendices dated July 2011

⁸⁹ Document 109

⁹⁰ Document 99

⁹¹ Document 110

⁹² Document 101

⁹³ Document 106

⁹⁴ Document 103

Conditions

187. Both the councils⁹⁵ and the appellant⁹⁶ submitted schedules of draft conditions in the event of the appeals succeeding. BLOT also submitted a note⁹⁷ in relation to the relevant issues raised. The principal differences between the parties are indicated in Document 41. I have considered the conditions in the light of the discussion at the inquiry, and the contents of DoE Circular 11/95 *The Use of Conditions in Planning Permissions*. A consequential schedule of draft conditions is included at the end of this Report.
188. Permission is sought for a temporary period of 25 years and draft conditions 2 and 3 are therefore necessary and reasonable to secure both the removal of the installation and the management of the process. There would be no purpose in removing the tower foundations below 1m below surface level.
189. In the event of a turbine ceasing to export electricity to the grid, the purpose of draft condition 4 is to secure its repair or removal. Both the councils and BLOT consider the specified period should be 6 months (as imposed by the previous Inspector), but the appellant seeks a 9 months period. The councils also consider the condition should specifically refer to the possibility of an appeal (and a time limit for its determination) in the event of the necessary scheme being refused. I raise no objection to the 9 months period sought by the appellant, and I see no need for an additional reference to the approval of the submitted scheme. In the interests of precision and reasonableness however, and to avoid uncertainty and sidestepping the statutory process, I have omitted the phrase 'unless otherwise agreed in writing by the local planning authority'.
190. The purpose of draft condition 5 is to ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process. For the same reason as recorded above I have omitted the phrase 'subject to any variations approved in writing by the local planning authority'.
191. Draft condition 6 is in the interests of amenity, to restrain noise, and to protect the local environment during construction. The councils and BLOT suggest working periods of 08:00-18:00 (Monday to Friday) and 08:00-13:00 (Saturday). The appellant would prefer 07:00-19:00 and 07:00-13:00 respectively. I raise no objection to the appellant's suggested working time limits which would allow greater flexibility and a marginally shorter construction period.
192. The purpose of draft condition 7 is also to minimise disturbance to local residents as a result of deliveries during the construction process. The councils favour time restriction as recorded in the preceding paragraph, while the appellant suggests 07:00-19:00 (Monday to Friday). BLOT draws attention to the volume of traffic on the A509 and suggests deliveries should

⁹⁵ Document 42

⁹⁶ Document 56

⁹⁷ Document 67

be avoided during the commuting hours of 08:00-09:00 and 17:00-18:30. I raise no objection to the appellant's preferred delivery times, and, although I recognise the road can be busy at the peak times, the proposed improvement to the means of access off the A509 would ease the necessary manoeuvres.

193. Draft condition 8 seeks, in the interests of highway safety, the submission of a Construction Traffic Management Plan. It would be concerned especially with the delivery of abnormal loads, and most of the impact would be experienced in the area of the Borough of Wellingborough. Although the Management Plan would therefore be of little interest to Bedford and Milton Keynes, I see no purpose in devising 3 sets of conditions. Nor do I consider there would be a need to restrain times to avoid the peak hours.
194. The purpose of draft conditions 9 and 10 is the secure highway safety.
195. The purpose of draft condition 11 is in the interests of the character and amenity of the area. In view of the size of the turbines I see no advantage in requiring, as suggested by BLOT, the installation of internal transformers.
196. The purpose of draft condition 12 is to enable necessary minor adjustments to the position of the turbines and access tracks to allow for site-specific conditions, while simultaneously protecting interests of acknowledged importance. In accordance with the conditions imposed by the previous Inspector, the condition permits micro-siting of up to 25m from the identified sites, except where this would infringe certain limitations relevant to equestrian matters, badgers, bats, and, in relation to T12, the proximity of land outside the site in the ownership of White House Farm.
197. Draft condition 13 seeks to regulate the appearance of the turbines in the interests of the character and appearance of the area.
198. Draft condition 14 seeks to regulate the appearance of the substation in the interests of the character and appearance of the area.
199. The purpose of draft condition 15 is to secure a satisfactory appearance in the landscape and to ensure ecological impacts are acceptable. The councils are concerned about the possible adverse ecological effect of cables in excess of 5m from the access tracks and within 5m of any hedgerow or woodland. The matter is however addressed in (i) in draft condition 5, and I have revised the draft condition accordingly.
200. Draft conditions 16, 17 and 18 are concerned respectively with the prevention of light pollution, nature conservation and protected species, and breeding birds. All are necessary and reasonable.
201. The councils and the appellant disagree about the utility and content of draft condition 19. The appellant favours the preparation of a Habitat Management Scheme, essentially concerned with hedgerows and grassland areas. The councils favour a more elaborate Landscape, Ecological Mitigation, Enhancement and Management Plan (LEMEMP) – to include long-term ecological objectives, a management regime, maintenance schedules and post-construction monitoring. The LEMEMP should be reviewed and approved every 5 years. I agree with the appellant that the breadth of the proposed LEMEMP would be excessive, and, in view of other conditions,

superfluous. I conclude that the appellant's suggested Habitat Management Scheme would be necessary, reasonable and sufficient.

202. The councils and the appellant agree that draft condition 20 – to regulate the possibility of shadow flicker – is necessary and reasonable in the interests of the amenities of nearby residents. BLOT considers the condition should specifically require the relevant turbine or turbines to be shut down at the relevant times. I agree with the councils and the appellant however that the condition as drafted would be sufficient to regulate the phenomenon should it arise.
203. The purpose of draft condition 21 is to avoid TV and radio interference, primarily in the interests of the amenities of neighbours. The councils and BLOT consider the condition should refer to 'a lawfully occupied dwelling, residential building or use'; the appellant favours reference to 'a lawfully occupied dwelling (defined for the purposes of this condition as a building within Use Classes C3 and C4 of the Use Classes Order)'. I consider the appellant's limitation would be excessively circumscribed and that the councils' preference more adequately acknowledges the types of uses which might be affected. I have amended the draft condition accordingly.
204. The purpose of draft condition 22 is to secure any matters of archaeological interest which might arise during the construction period. It is both reasonable and necessary.
205. The appellant considers draft conditions 23 and 24 to be unnecessary as the site has not been identified as being liable to the disturbance of contaminants. In view of its existing and previous agricultural use of the land, I agree with this assessment.
206. The purpose of draft condition 25 is to notify the Ministry of Defence (MoD) and the Civil Aviation Authority in the interests of aviation safeguarding. It is necessary and reasonable.
207. Draft condition 26 is also in the interests of aviation safeguarding. BLOT draws attention to its support for the MoD's preference for infrared lighting, but this could be taken into account within the terms of the drafted condition.
208. Draft condition 27 (suggested by Bedford Borough Council) seeks a scheme for the protection, enhancement and/or creation of green infrastructure in accordance with the provisions of Policy AD24 (Green infrastructure network opportunity zones) of the emerging Allocations and Designations DPD. However, it is not clear on the basis of the plan received (Map 1) that the appeal site would affect the cited opportunity zones 1 and 2. The plan is currently in draft form and it therefore attracts only limited weight. Nor is it clear how the requirement might be satisfied.
209. Draft condition 28 comprises several parts, including two tables, together with a set of guidance notes. Its purpose is to ensure that the noise immissions from the combined effects of the turbines do not lead to the limits included in the tables (for particular wind speeds at particular locations) being exceeded.

210. Paragraph (A) of the condition provides for the submission of a list of independent consultants able to undertake compliance measurements. By including reference to the possibility that the councils may refuse to accept the list and the exercise of a right of appeal by the applicant, the councils seeks to secure the impartiality of any consultant who may be appointed. I do not believe this would add to the efficacy of the condition. The list to be supplied specifies that the consultants should be independent, and, in any event, it is subject to the councils' approval. A right of appeal therefore already exists.
211. Similarly, at paragraphs (C), (D) and (E) the councils suggest refinements to the procedure for the selection of alternative limits to those specified in the tables where a complainant's property is not specifically identified (C); to secure the amendment of proposed measurement locations (D); and to amend the proposed assessment protocol (E). However, at each stage the procedure is subject to the councils' written approval, and any defect in the process could therefore be corrected without recourse to the additional provisions. I conclude the suggested additions to paragraphs (C), (D) and (E) would be unnecessary.
212. The councils also propose significant amendments to the two tables as initially proposed by the appellant. The purpose of the tables is to list maximum decibel levels at the 12 surrounding closest residential properties for wind speeds of between 1 and 12m/s. Table 1 covers the day-time between 07:00 and 23:00, and Table 2 covers the night-time between 23:00 and 07:00. The councils refer to the same residential properties, but their Table 1 refers to the night-time between 23:00 and 07:00, and their Table 2 refers to all other times. In both cases the relevant wind speeds are confined to between 4 and 12m/s.
213. The councils' position and its tables are based on the submissions made in Document 33. Paragraph 5.1 of this document records that the councils' approach to the noise limits is that they should be related to noise predictions. To this end, the limits proposed are either 5dB(A) below the derived noise limits, or at the predicted noise level where the 'headroom' is less than 5dB(A). The proposed limits are derived from the predictions, based on a candidate turbine, and included in the ES. The argument is advanced that, in the event of a louder turbine being subsequently installed, permission would have been granted for a materially different scheme to that which had informed the ES stage of the process. Such a decision may be subject to challenge.
214. I have taken account of the paper prepared on behalf of the councils, and the support provided by BLOT, however, its author did not attend the inquiry and was not subject to cross-examination. I am unable therefore to attach as much weight to its contents as the councils may consider desirable in this notoriously elaborate aspect of wind energy casework. Although the author makes extensive reference to the contents ETSU-R-97, I am unconvinced that there is serious conflict between it and the principles of decision making where an ES has been undertaken. It is ETSU-R-97 which enjoys the support of Government in such circumstances, and I have no reason to suppose the significant headroom between the councils' tables and those devised by the appellant would render a breach any more, or

less, likely. In any event, and in accordance with the contents of ETSU-R-97, it is the derived limits which are used to populate the tables, rather than the predictions based on turbine source noise data. I have therefore included the tables as submitted by the appellant in the draft conditions. Even though a final decision on the type of turbine used would not be made until later in the process, I have no reason to question the appellant's conviction that the limits included in the tables would not be exceeded⁹⁸. The condition, and the limits it includes, is also necessary in view of the possibility of unexpected meteorological circumstances, and the wear and tear on the machinery over time.

215. BLOT has also suggested a condition would be necessary in order to regulate excess, or other, amplitude modulation (AM). It draws attention to the Den Brook⁹⁹ and Swinford¹⁰⁰ models of conditions which are designed to address this aspect of AM. It was argued in those cases that the circumstances could give rise to greater than expected levels of AM. In this case the councils have not sought such a condition, and the appellant considers such a condition would be unnecessary, imprecise, unenforceable and unreasonable¹⁰¹.

216. In *A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise*¹⁰², paragraph 7.2 records that the evidence in relation to excess or other AM is still developing, and that at the time of writing, current practice is not to assign a planning condition to deal with it. It therefore remains a recognised phenomenon which, if it occurs, can be audible, continuous, and disturbing. The appellant acknowledges that there is no consensus amongst acousticians as to the trigger, but suggests a condition cannot be claimed to be necessary in the sense of mitigating foreseeable impacts. The difficulty was recognised in ETSU-R-97, published in 1996¹⁰³, and it is disappointing that such little progress in resolving the matter appears to have been made. In this case however I have received little evidence that points to a likelihood of greater than expected AM, and in the circumstances I have concluded a condition could not be justified.

217. BLOT has referred to a number of additional matters which it is considered should be the subject of additional conditions. In relation to a community fund; it is a firmly established principle of development management that such a payment cannot form part of any planning balance and it cannot therefore be required by condition. As far as decommissioning is concerned; I understand the scrap value of the towers alone would exceed the costs of their demolition and removal, and I therefore see no need for any additional mechanism to secure the removal of the turbines. Nor do I consider a bond is necessary to repair damage caused during the

⁹⁸ I have taken account of the predicted small exceedance of the daytime lower limit at Harrold Park Farm, but I note the building is currently uninhabited.

⁹⁹ CD5.28, Conditions 20 and 21

¹⁰⁰ CD5.21, paragraph 210 and condition 24

¹⁰¹ Document 57, paragraph 5.17

¹⁰² Published by the Institute of Acoustics in May 2013

¹⁰³ At page 68

delivery of parts and the construction of the windfarm. Any such damage would be a matter between the parties involved. I have taken account of the possibility that the proposed construction and maintenance tracks could give rise to ease of access for those with criminal intentions. I fear however that a security ditch along the hedge to the west of turbine 12 would both result in ecological damage and be of little deterrence value. In view of the contents of draft condition 12 in relation to bats, I do not consider additional restraints on the night-time operation of turbines 4, 5 and 7 would be necessary.

218. BLOT has suggested 5 conditions relevant to the use of the Three Shires Way for riding. These would comprise: the erection of warning signs; safety arrangements during construction and maintenance; the identification of alternative routes during temporary closures; the resurfacing of routes; and notice of turbine testing times. In view of the conclusion I reach later in this Report, I do not believe warning signs would be necessary. As far as the other matters are concerned, I believe account of these could be included in the Construction Method Statement required by draft condition 5.

219. In recognition of the interests of equestrian users the appellant has proposed an additional draft condition¹⁰⁴. The condition makes provision for a scheme of horse/wind turbine familiarisation days for a 12 month period. The appellant records however¹⁰⁵ that the condition is not considered to be necessary, and it therefore fails the first test of Circular 11/95. In the event of the appeal succeeding I can see no reason why such an arrangement should not be the subject of a private agreement outside the terms of any permission.

¹⁰⁴ Draft condition 25 in Document 56

¹⁰⁵ Document 57, paragraph 5.32

Conclusions

The following conclusions are based on my report of the evidence submitted to and heard at the inquiry, and my inspections of the site and its surroundings. The numbers in square brackets refer to preceding paragraphs of the Report.

220. During the inquiry extensive reference was made to the quashed decision of the previous Inspector. These are included in the reports on the cases of the parties. However, after the inquiry the attention of the principal parties was drawn to the judgement in the case of *Arun District Council v Secretary of State for Communities and Local Government* [2013] EWHC 190 (Admin). Amongst other matters, it indicates that, in a redetermination case, no weight can be attached to a quashed decision. In view of the references which had been made to the quashed decision the views of the principal parties were sought on the implications of the judgement for this case¹⁰⁶. The parties agreed that references to the contents and conclusions of the previous Inspector's decision would be inappropriate, and I have prepared these conclusions accordingly.

221. The reason for the Secretary of State's recovery of this case is that the appeals relate to proposals of major significance for the delivery of the Government's climate change programme and energy policies. Taking this into account, together with the evidence I have received and my observations of the site and its surroundings, I believe the main considerations on which the case turns are as follows:

- The impact of the scheme on the landscape character of the surrounding area;
- The visual effect of the scheme, including its effect on local settlements and the Three Shires Way;
- The cumulative effect of the scheme considered in association with other existing and permitted wind energy projects in the area;
- The effect of the proposed development on living conditions at dwellings in the surrounding area, including its impact on visual amenity and noise; and
- Whether any harm resulting from the above considerations is outweighed, on balance, by the need to increase the supply of renewable energy.

Landscape character

222. The assessment of landscape impact and visual impact are generally considered as separate exercises. The former refers to the effects of a proposed development on the landscape fabric, character and quality, and so concerns the degree to which a scheme would become a significant or defining characteristic of the landscape. Much benefit which can be

¹⁰⁶ See Documents 114, 115 and 116

obtained from landscape character assessments which may already have been undertaken in the area. [24]

223. In this case the area has been subject to both national and local landscape character assessments. At the national level, the appeal site falls in its entirety into Character Area 91 – the Yardley-Whittlewood Ridge¹⁰⁷. This extends from the Cambridgeshire/Bedfordshire boundary in the north-east to near Brackley in the south-west. As recorded in the Countryside Agency's description, it takes the form of a broad plateau elevated above the adjacent vales. It is characterised by mixed uses of pasture, arable and woodlands, with medium-sized fields behind full hedges. There is a low density of settlement and consequently few local roads, but it is crossed by some major north/south routes – including the A509. The identified area is long and narrow, and only about 6kms in width in the vicinity of the appeal site.
224. To its north-west, the plateau/ridge adjoins Character Area 89 – the Northamptonshire Vales. This is a significantly more extensive area which is characterised by gentle clay ridges and valleys, and includes Northampton and Wellingborough and a number of smaller settlements. To its south-east, the plateau/ridge adjoins Character Area 88 – the Bedfordshire and Cambridgeshire Claylands. This is also a much more extensive area, characterised by gently undulating topography and plateau areas, divided by broad shallow valleys – most notably in the context of the current case by that of the River Great Ouse.
225. I saw on my visits to the site and its surroundings that, though modest in terms of its elevation, the Yardley-Whittlewood Ridge is a notable feature of the local topography. Below this level of classification, local landscape character has been further sub-divided at a finer grain. To the north-east the ridge falls into two landscape character types – the Hinwick Wooded Wolds on the Bedfordshire side¹⁰⁸ (including the sites for turbines 5, 6, 7, 8, 9 and 10), and the Bozeat Claylands on the Northamptonshire side¹⁰⁹ (including the sites for turbines 4, 11 and 12). In Buckinghamshire to the south-west the Yardley Ridge (including the sites for turbines 1, 2 and 3) is distinguished from the Ouse Valley in a fairly broad brush classification¹¹⁰. In the most recent landscape classification carried out on behalf of Milton Keynes, the distinction is retained but the area of the Ouse Valley is enlarged to the north at the expense of the Yardley Ridge¹¹¹. I understand however that the latter document is still in draft form, and I have therefore been able to endow it with only limited weight. [51]
226. I have found both the national and the local landscape characterisation documents useful in providing a framework against which to assess the impact of the proposed development. Within the context of this heading I have considered the cases of the principal parties, together with the

¹⁰⁷ Document 44

¹⁰⁸ CD7.23, pages 65-70

¹⁰⁹ CD7.18, page 79

¹¹⁰ CD7.19, page 9

¹¹¹ CD7.20, Appendix 3

observations of interested persons and those who have made written representations.

227. Both the councils and the appellant refer to the extent of agreement between the landscape witnesses. In the appellant's case it is observed that the change would be sufficient to create a windfarm landscape in a localised area extending some 650-700m from the turbines. In this area the turbines would be the defining and dominant element in the landscape character. Thereafter, and for a distance of some 3-4kms from the turbines, they would be the cause of local landscape sub-types¹¹² within the general context of the existing identified landscape character types. [50, 53, 98]
228. A series of 7 drawings in the ES describe the evolution of the scheme and the changes which have occurred since its original conception¹¹³, such that it now comprises two distinct groups – turbines 1-7 to the south, and turbines 8-12 to the north. The two closest turbines within each group would be turbines 7 and 9. The submitted plans indicate these would be about 1.3kms apart, and, adopting the appellant's assessment, there would be an overlap between the new windfarm landscape character areas surrounding each group. The area would extend to about 5kms, with a general south-west/north-east orientation. [11]
229. On the basis of the appellant's prediction, a significant proportion of the area of the Bozeat Claylands character type would need to be reclassified and included in the new area. Considered purely in spatial and proportionate terms, the effect on the other landscape character types affected would not be as substantial – even though the area of the Hinwick Wooded Wolds character type requiring reclassification would be greater. I do not question the utility of the appellant's assessment that a new windfarm landscape would be created; quite the contrary. However, to my mind the greatest significance of this conclusion is that the change to the landscape character of the site and its surroundings would be sufficiently substantial to justify this conclusion. The acknowledgement that a scheme can be of a size and effect to require the identification of a new landscape type is itself a measure of the substantial impact of the proposed development.
230. I agree with the appellant that, as a result of the particular characteristics of the design of a windfarm, the effect of the scheme on the landscape fabric would be limited. However, landscape character is derived from a number of contributory components. These include geology, landform, soils, vegetation, land use, field patterns and human settlement – all contributing to a particular sense of place. It is inevitable therefore that with distance from the windfarm, the dominance to which the appellant refers would diminish. The appellant recognises that the 650-700m threshold is neither pre-determined nor a sharp line on a plan¹¹⁴, but it has been informed by the nature of views towards the scheme and by visiting the location of many other windfarms in lowland England. It is on this basis

¹¹² Document 9, Proof, paragraph 6.74

¹¹³ ES Vol 2, Figs 3.3-3.9

¹¹⁴ Document 9, Proof, paragraph 6.73

that a conclusion has been reached on the potential for dominant effects, and it is consistent with the views of other landscape professionals. [50]

231. There can be no doubt that the particular characteristic of a commercial windfarm does result in its having a defining impact on its surroundings. I have taken account of the appellant's caveats, but I believe the division of the effect into relatively geometrical inner and outer areas (equivalent to an inner new landscape character area which would be surrounded by the pre-existing areas redefined as sub-types) pays insufficient regard to some of the other contributors to the landscape character. I agree in this respect with the councils' case. At 125m, the proposed turbines would be very tall components of the landscape, and I regard the adoption of a standard radius to define the area of the new windfarm landscape to be an acknowledgement of dominance. There would be nothing in the immediate area of the turbines which would in any way be comparable. However, and although I recognise the legitimacy of professional judgement, a reasoned justification for the 650-700m radius would have been beneficial to the presentation of the appellant's case. [53, 99]
232. As far as the outer area (between about 700m and 4kms) is concerned, the impact of the turbines on landscape character would generally be reduced as the former landscape character reasserts itself. In this area the landforms and vegetation would have an increasingly significant influence on the location of the outer limit. While the calculation of the effect as up to 3-4kms may be accurate and appropriate in a flat and featureless landscape, a more sophisticated judgement would be appropriate in an area characterised by slopes, hills, valleys and woodlands. It is in this context that I note that the SNH *Guidelines on the Environmental Impacts of Windfarms and Small Hydroelectric Schemes* records that a windfarm is usually seen as a dominant focus from distances of up to 2kms¹¹⁵. It continues, that between 2 and 5kms the turbines are likely to be seen as one of the key elements of the landscape rather than the dominant feature. The same calibration is included in the landscape appendix to *Placing Renewables in the East of England*¹¹⁶ where 'dominance' extends up to 2kms from the turbines, and 'prominence' between 2 and 5kms away.
233. In comparison with these assessments, the appellant's thresholds are significantly closer to the turbines. In addition, and in view of the importance of this consideration, a cartographic representation of the form of the inner and outer zones in the particular landscape concerned would have been instructive. I recognise in this context that there would be a certain amount of overlap with the existing information included in the ZTV to hub height¹¹⁷, but the assessment of effects in relation to landscape character is not just a measure of visibility.
234. Having concluded that a significant change to landscape character in the area would result from the construction of the proposed windfarm, it is surprising that it is also considered the turbines would not be out of scale in

¹¹⁵ CD7.2, paragraph 2.3.3

¹¹⁶ CD3.2, page D9

¹¹⁷ Document 9, Appendices, Fig 7.11

the context of the local landscape¹¹⁸. If this is the case, the rationale for the creation of an entirely new landscape character type must be questionable. In his conclusions on this consideration, the appellant's landscape witness also observes¹¹⁹ that 'notwithstanding the potentially significant local landscape effect, which adopting a precautionary stance should be considered adverse, it is considered there would be landscape character attributes arising from the windfarm development that would be congruent with the local landscape types and part of the wider character area'. However, the attributes to which reference is made are not defined, and I consider this part of the appellant's case is not entirely clear.

235. It is possible that a scheme with fewer, smaller turbines would not give rise to such a radical change in landscape character that new classifications would be required, but where this does occur I believe it must inevitably be considered to be harmful. I also remain concerned that the proposed edge of the windfarm landscape may be too close to the turbines, and that the location of the locally characterising sub-type outer boundary should have been more accurately assessed.

Visual effects

236. The visual effect of the scheme derives essentially from the visibility of the turbines. The appellant's judgements in relation to this consideration are based on a number of representative viewpoints for which photographs and photomontages have been prepared. The councils have also prepared a similar range of visualisations. There is a level of agreement between the principal parties that the effects would extend to 7-8kms from the turbines, with the greater distances applying to the more elevated views. The assessments include the visibility of the site from nearby settlements (Bozeat and Lavendon within 1-2kms), and from further away (Harrold, Easton Maudit and Carlton are within 3.5kms). The effect on recreational amenity is also assessed, especially in relation to the Three Shires Way and the Milton Keynes Boundary Walk. Finally, transport routes are taken into account – particularly the A509 and the A428¹²⁰.
237. Visual effects concern the degree to which renewable energy development becomes a feature of particular views, and the impact this has on the people experiencing these views. The principal parties acknowledge that there is a level of agreement between the landscape witnesses in relation to the potential for significant effects in EIA terms. [50, 98]
238. The appellant's ZTV diagrams¹²¹ illustrate the extent to which the visibility of the turbines would diminish with distance as the physical geography intervenes. Other than in relation to the more elevated viewpoints, I acknowledge that over about 6kms the turbines would become relatively manageable components of the scene. The arc of any view of which they formed a part would become smaller with distance. It is not surprising therefore that much of the evidence at the inquiry, and many of

¹¹⁸ Document 9, Proof, paragraph 6.77

¹¹⁹ Document p, Proof, paragraph 6.78

¹²⁰ Document 9, part 7

¹²¹ Document 9, Appendices, Figs 7.11 and 7.12

the representations made, concern specific viewpoints within 5kms of the appeal site. [158, 160, 167, 169 -172]

239. Although the ZTVs are useful, their principal disadvantage is that they cannot take account of the interruptions to visibility resulting from woodlands, trees, hedgerows and buildings. Woodlands and hedges for example can prevent visibility from locations lying within the 'open' countryside, but from where the prospect may be anything but open. At some locations visibility would depend on the elevation of the receptor. There can be a substantial difference for example between passengers in cars and those in coaches travelling along the same length of road. Within the built-up areas of settlements, it is the buildings themselves which curtail visibility. It is inevitable therefore that a complete assessment would be impossible – hence the concentration on an agreed range of viewpoints.
240. I visited most of the viewpoints cited by the parties during my visits to the surrounding area. Reference is made in Bedford's refusal reasons, and in the putative reasons recorded by Milton Keynes, to the effect of the scheme on the visual amenity of settlements. It became clear at the inquiry that in Bedford's case the principal settlements concerned were Harrold and Odell, Carlton/ Chellington, and Turvey. In Milton Keynes' case, the focus of concern was on Lavendon and Olney. In Wellingborough's case, the putative refusal reason (as reported to the first inquiry) did not refer specifically to the impact on settlements, and in any event the council does not now object to the scheme. However, specific matters were raised both by BLOT and the other councils' landscape witness in relation to the effects at Bozeat and Easton Maudit. [33, 34, 104, 123, 124]
241. It was argued on behalf of the appellant that settlements do not have settings in the landscape which need to be considered and respected. I agree that such a concept may be difficult to assess in the context of a city or large town. However, where the settlements concerned are small villages (or, in Olney's case, a small town) in a rural location, the extent of the interface between the built-up area and its undeveloped surroundings is quite different. In all the settlements to which I have referred I would describe the relationship as intimate and essential, and in many ways the area immediately surrounding a settlement is the most important and accessible expression of its rural location. [101]
242. I saw on my visits that the immediate environs of Harrold, Odell, Carlton/ Chellington and Olney were both easy to access and entirely complementary to the built-up areas of the various settlements. Given their accessibility, it is perhaps not surprising that they should be the focus of concern.
243. As far as Harrold, Odell, and Carlton/Chellington are concerned, the prospect to the west is illustrated in the appellant's Viewpoint 2alt¹²² and the councils' Viewpoints I and J¹²³. Viewpoint I in particular benefits from the inclusion of the village and its church spire, the tree-lined River Great Ouse, the adjoining meadows crossed by a pedestrian causeway, with the Yardley-Whittlewood Ridge in the background. The elevation of the ridge in

¹²² Document 9, Appendices

¹²³ Document 5, Appendices

relation to its surroundings is perhaps more evident in Viewpoint J. The councils have drawn attention to the size of the turbines in relation to trees, but perhaps more significantly, it is said their height above ground level would be equal to the height difference between the level of the river and the plateau on which they would be sited. In fact, the relevant contours indicate the difference between the river and the plateau is only about 60m. Although from this vantage point the lower parts of the towers would be obscured by trees, I consider the impact of the turbines would be considerable and harmful. [99, 123]

244. Turvey is also located on the River Great Ouse with a similar bridge to that at Harrold. However, the A428 passes through the centre of the village and it is perhaps not as attractive a walking environment as the surroundings of Harrold. The focus of concern here is the impact of the scheme on Turvey House and All Saints' Church – both being Grade I listed buildings. The prospect is illustrated in the appellant's Viewpoint CH06 and the councils' Viewpoint L. The buildings lie close to each other on the north-west side of the village with open prospects to the west and north-west in the direction of the appeal site. In view of their status and the contents of Section 66 the relevant Act, I have given special regard to the desirability of preserving the settings of these buildings. [27, 131, 179]
245. I visited both Turvey House and the church during the inquiry. The principal elevation and approach to the church is from the centre of the village to the south-east. Although there is an attractive prospect to the west from the church yard, I consider the impact of the turbines on its setting would be very limited. In contrast, the principal elevation of the house faces south-west, with an extensive area of parkland lying between it and the river. As indicated in Viewpoint CH06, the turbines would be visible between the trees. As shown by the wireframe view, more than turbines 3 would be visible in winter, but they would still appear relatively modest in size compared with the trees. Although therefore the setting of the building may be judged to be more extensive during this season, I nevertheless conclude that the effect would still be limited. [64]
246. Unlike Harrold or Turvey, Lavendon is sited above the level of the River Great Ouse in the shallow valley of a small tributary which flows from north to south. Much of the village therefore has a general southerly aspect. However, Castle Road extends to the north-west directly towards the site of the southern group of turbines. It provides access to a network of footpaths and bridleways which themselves lead to the Three Shires Way and the Milton Keynes Boundary Walk. Most of this area would fall within the new windfarm landscape identified by the appellant, in which the turbines would be dominant. The effect on this area is illustrated in the appellant's Viewpoint 3 – which also indicates the difference in scale between the proposed turbines and the existing pylons. The closest turbine to the edge of the built-up area of the village (T1) would be about 1.5kms away. Thereafter the turbines would extend away from the village towards the north, but, if for no other reason than their size and proximity, they would have a considerable and harmful effect on the landscape setting of the settlement.

247. Olney is a notably larger settlement than the others, but it too has an attractive setting as the River Great Ouse passes to the south and east. The councils were particularly concerned about the impact of the scheme from the meadows to the south-east of the town. The prospect to the north is shown at their Viewpoint K. The footpath to the east lies on the northern bank of the river and there are attractive pastoral views in all directions. It is a low level footpath where most of the interest lies in the foreground and middle distance. The turbines would lie to the north; the closest (T1) would be about 4.5kms away. Although the turbines would evidently be visible, they would, because of the orientation of the proposal, be clustered notably closer together than compared with prospects from the east or the west. I conclude there would be an adverse impact, though not as great as the effect from Harrold and Carlton.
248. When in this area I also visited Clifton Reynes, which occupies higher ground to the east of Olney and on the opposite side of the river. The councils' Viewpoint C indicates the impact of the scheme from the footpaths and tracks to the south of the village. The photomontage illustrates how a fairly modest increase in elevation (to 72m AOD, compared with about 50m AOD in the river flood plain), could result in the proposed development becoming notably more prominent, even though the distance to the turbines would be very similar. Although the turbines would appear taller in their landscape setting, they would nevertheless form a relatively modest proportion of the total prospect.
249. Of the settlements closest to the proposed windfarm, Bozeat occupies the most elevated position. The land rises to about 90m AOD at the southern extremity of the village, and the nearest turbine (T11, at a height of about 100m AOD) would be about 1km away to the south-east. The appellant's Viewpoint 1 illustrates the impact of the proposal from the eastern edge of the village. The land within the village slopes generally down towards the north and north-west, and the landscape to the south-east is distinctly different from that enjoyed by the settlements in the valley of the River Great Ouse. I saw on my visits that the wooded wolds and the river valley to the east and south give way to the high level claylands to the north-west of the ridge. I agree with BLOT's landscape witness that the plateau landscape is less sensitive. The prospect to the south-east from houses on this side of Bozeat may be uninspiring, but, on the basis of the appellant's 650-700m radius, the new windfarm landscape would be close to the village with little to distinguish land within and land outside the defined area. Although I believe the landscape setting of Lavendon to be more attractive, I consider that on size and proximity grounds, the turbines would result in some harm to the setting of the village. [124]
250. At the inquiry the councils' landscape witness expressed more concern about the impact of the proposed development on the prospect of Easton Maudit and beyond from the north-west, and from within the village itself looking south-east. I have taken account of his views, supported by BLOT, even though the village and the closest turbine sites (T11 and T12 in the northern group, and T4 in the southern group) all lie within Wellingborough. The concern which has been expressed is illustrated by the appellant's

Viewpoints 13 and CH05 and by the councils' Viewpoints G1, G2 and G3¹²⁴. [104, 124]

251. Easton Maudit is a very small village with little evidence of much recent development. The presence and appearance of the settlement in its landscape setting is substantially derived from its Grade I listed church. The appellant's heritage statement¹²⁵ describes the potential effect of the proposed windfarm on the setting of the church as being 'very slight'. The level of harm would thus be 'very insubstantial'. [178, 180]
252. Paragraph 5.7 of the appellant's heritage statement refers to Viewpoint CH05 but it is recognised that the spire can be seen over long distances and that the setting extends beyond the village. On the basis of the illustration derived from Viewpoint CH05, I do not disagree with the conclusion reached. However, the effect is more disturbing from Viewpoint 13. From this location the turbines would be on the skyline and would clearly compete with, and dominate, the church spire. The setting of a heritage asset is defined in the Framework as the surroundings in which it is experienced. In addition, I note the caution expressed at page 8 of *Wind Energy and the Historic Environment*¹²⁶. It records that where an historic feature such as a church spire is the most visually dominant feature in the surrounding landscape, adjacent construction of turbines may be inappropriate. Although the proposed turbines would self-evidently have a very different form and function to the church and its spire, I do not believe this would render the effect of their appearance any more compatible. I do agree with the appellant however that the setting of the church could still be appreciated from a number of other locations into which the turbines would not intrude. The proposals would clearly not result in the total loss of the asset, but nor would it result in substantial harm. However, I consider it could not be said that the scheme would preserve the setting of the listed building. There would be a harmful effect, although, in the words of paragraph 134 of the Framework, the scheme would result in less than substantial harm to its significance.
253. I have taken account of the impact of the scheme in relation to the significance of the settings of the other listed buildings referred to by EH – the churches at Bozeat and Grendon, and Grendon Hall. In relation to these buildings however, I agree with the ES that the effect on their settings would be insubstantial¹²⁷. I have also considered the effect of the scheme in relation to the conservation areas at Carlton, Odell and Podington. I agree with the description and analysis of the conservation areas and with the predicted operational impacts included in the ES¹²⁸. Viewpoint CH02 in the SEI (Figures) shows the impact of the scheme from the western end of Carlton Conservation Area. Although each of the conservation areas enjoy a rural setting, their character and appearance is essentially derived from the buildings and streets which comprise their built-up areas. The turbines

¹²⁴ There is no photomontage for Viewpoint G2.

¹²⁵ Document 13, paragraph 5.8

¹²⁶ CD9.3

¹²⁷ ES Vol 2, pages 356, 362

¹²⁸ ES Vol 2, pages 347-350, and 374-376

would be visible from some parts of the conservation areas, but, as I saw at Olney in relation to the Petsoe Windfarm, their visibility would be intermittent. I consider the effect of the turbines on the experience of these heritage assets would be of minor significance. [178]

254. Both Bedford's refusal reasons and the putative reasons of Milton Keynes and Wellingborough refer to the impact of the scheme on the Three Shires Way. Notwithstanding Wellingborough's revised position, the other councils retain their objection to the proposal on these grounds. It remains a particular concern of BLOT. [108, 126, 127, 128]
255. As is acknowledged by the appellant, the scheme would result in the formation of a new windfarm landscape, and, given the route of the Three Shires Way, it would be inevitable that the turbines would have a major effect on the manner in which it would be experienced. The effect would be similar on the Milton Keynes Boundary Walk, though for a rather shorter period. As BLOT observes, the most direct effect would be experienced by walkers and riders for about 4kms on the Three Shires Way. Taking account of its status as a long distance bridleway, it considers this aspect of the design of the proposal to be unique. [127]
256. Much of the evidence in relation to this matter was considered at the inquiry in the context of the equestrian matters to which I return later in this Report. BLOT prepared a schedule recording the distances between the turbine sites and the bridleway¹²⁹. It shows that these vary between 208m (T6) and 821m (T8), with 8 of the turbine sites being under 300m from the right of way. For its part, the appellant prepared a review of 22 operational and consented windfarms with reference to their proximity to public rights of way and bridleways¹³⁰. [60]
257. The survey shows the extent to which turbines have been erected (or authorised) in the landscape in the presence of existing bridleways and footpaths. Although each site is different, there are many examples of similar circumstances to those proposed at Nun Wood. I can see that the Three Shires Route is an important bridleway – especially in relation to riders from Lavendon and its surroundings, and that it forms part of circular walking routes from Bozeat (in the north) and Lavendon (in the south). The experience and recreational amenity of the routes would be seriously affected. In many of the prospects from the routes the turbines would inevitably dominate the foreground and/or the middle distance. As such, they would diminish the significance of the more distant landscape. By reason of their proximity, size and motion they would materially damage the scenery. The effect may be such that some existing users may look to use alternative routes, but I do not consider this would be an inevitable consequence. There is a distinction to be made between the adverse effect I have described and the possibility of creating an insurmountable deterrent to the use of the routes. They would remain useable for the purposes for which they are designated for both long-distance routes and shorter, local circuits. [160, 168, 169, 179, 171, 182]

¹²⁹ Document 68

¹³⁰ Document 51

Cumulative effects

258. In recognition of their size and impact in the landscape, the cumulative effect of wind energy schemes has always been an important consideration. The acknowledgement of its significance was carried forward from *Planning for Renewable Energy* into paragraph 97 of the Framework, and paragraphs 39-44 of the new practice guidance.
259. The prime consideration under this heading is, of course, the effect of the project in relation to operational and permitted schemes. Proposals which are the subjects of EIA scoping exercises or which have reached the application stage are relevant, but they self-evidently cannot carry the same weight.
260. The last inquiry took place in October 2011 and the decision was issued in November 2011. This decision was superseded under the slip rule and a revised decision issued in December 2011¹³¹. The Petsoe windfarm was operational at the time of the inquiry. The proposal at Podington for 3 turbines (to a maximum height of 126.5m) had been dismissed on appeal on 23 February 2010¹³². This decision was however the subject of a challenge to the High Court¹³³ and the Secretary of State conceded in December 2010¹³⁴. The redetermination inquiry was held in December 2011, and in the second decision (dated 13 August 2012) the Inspector refers¹³⁵ to the Nun Wood proposal as then being the subject of a High Court challenge. It is recorded that in the event of the Nun Wood scheme proceeding, 'the degree of separation is such that there would be no great visual tension' between the two projects. He concluded that 'the proposal would not lead to any significantly harmful, cumulative impact upon the landscape'. However, this successful appeal decision is itself now the subject of a challenge by Bedford Borough Council¹³⁶.
261. At the time of my predecessor's consideration of the cumulative impact of the Nun Wood proposal the closest operational/permitted site was therefore that at Petsoe – some 6.1kms to the south. The site at Podington had been unsuccessful at appeal, and, although the challenge had been successful, the scheme must have remained in doubt. It certainly could not have been regarded as a consented scheme. The extent to which it could have made a contribution to the cumulative effects of the 3 schemes was therefore limited. There is no reason to suppose the Podington scheme will not proceed if the council's challenge is unsuccessful¹³⁷. I have therefore been able to attach significant weight to the Podington proposal in considering the cumulative effect of the current proposal.
262. Contrary to the appellant's view, I consider this amounts to a significant revision to the baseline circumstances of the case. The site at Podington

¹³¹ The slip was a single incorrectly transposed decibel limit in condition 25.

¹³² CD 5.7 – contains two appeal decisions

¹³³ Document 24

¹³⁴ Document 25

¹³⁵ CD5.7, second decision, paragraph 30

¹³⁶ Document 26

¹³⁷ I understand from Document 112, page 5 that the challenge was unsuccessful.

would be some 3.3kms to the north-east of the Nun Wood scheme, and it is therefore substantially closer than the existing turbines at Petsoe. The 3 windfarms would all use turbines of roughly the same height, and, using the same criteria as those adopted by the appellant, the landscape sub-types would overlap between Nun Wood and Podington, and between Nun Wood and Petsoe. Indeed, the appellant's landscape witness acknowledges that the siting of the Nun Wood scheme between the Petsoe turbines and the Podington project would lead to a coalescence of the landscape sub-types around the River Great Ouse, resulting in significant cumulative landscape effects¹³⁸. [61, 62]

263. The new practice guidance records that cumulative effects may arise where two or more of the same type of renewable energy developments are visible from the same point, or are visible shortly after each other along the same journey¹³⁹. There would have been no purpose in specifically identifying the importance of cumulative effects other than to act as a regulator on the number and distribution of schemes in a given area. Furthermore, it is difficult to contemplate circumstances where a cumulative effect could be other than an adverse effect. Except in terms of their numbers, the appearance of the turbines at Podington, Nun Wood and Petsoe would be comparable. In this sense there would be similarities between the 3 projects, and although the distances between them would ensure that they retained their separate identities, I do not believe this resolves the matter.
264. Derived no doubt from a preference for locations on higher ground, the 3 sites are all well above the lower level of the valley of the River Great Ouse as it makes its way between Olney and Sharnbrook. The 3 windfarms would replicate the course of the river, and, especially to the east and south-east of the current proposal, there would be little respite from their presence and appearance in the landscape. The two sites at Podington and Petsoe are sufficiently close for cumulative effects to result from certain viewpoints or routes (at Carlton for example), but they are relatively modest in terms of the numbers of turbines. The addition of 12 more turbines in the space between the two operational/ permitted schemes would result in an unacceptably extensive additional cumulative effect. Because of their size and motion the turbines inevitably draw attention to themselves, and in this respect I agree with the councils and BLOT that the current appeal scheme would be seriously harmful. [106-7, 126]
265. Although I agree with the implication of my colleague (in the second Podington case) that a harmful cumulative effect *could* result from the proximity of ostensibly separate windfarms, I do not believe such an effect is necessarily confined to those circumstances. Indeed, at the other end of the scale, paragraph 40 of the new practice guidance indicates that cumulative effects can arise even when no other sites are even visible from the proposed development site. The appellant's Updated Cumulative

¹³⁸ Document 9, paragraph 8.70

¹³⁹ Paragraph 40

Assessment¹⁴⁰ records the extent to which cumulative effects would arise in the current case.

266. It provides assessments from a number of different viewpoints, including 3 close to Harrold and Carlton/Chellington (Viewpoints 2alt, 23 and 24). At Viewpoint 2alt (at the western edge of Harrold), all 3 windfarms would be visible in an arc between north-east (Podington), west (Nun Wood) and south (Petsoe). At Viewpoint 23 (on the Carlton/Harrold causeway) Petsoe and Podington would be largely screened by vegetation, but Nun Wood would be clearly visible. Although Petsoe is visible from Viewpoint 24 (on the footpath leading to the Chellington Centre), Podington would be screened by a hedgerow, but Nun Wood would be readily visible. The seriousness of the cumulative effect would vary in each case. In the case of the latter viewpoint, the location is quite close to the hedgerow on the access lane to the Chellington Centre. I noted on my visit that a location rather further to the west on the same footpath would have brought all 3 sites into view. Similarly, Figures CLVIA 06b and 08b indicate the visibility of all 3 sites from the higher ground to the east and south-east of Carlton/Chellington.
267. In his conclusions to the Updated Cumulative Assessment the appellant's landscape witness refers to the potential of the Nun Wood scheme to lead to the coalescence of landscape sub-types between Petsoe and Podington. There is also reference to the screening effects of topography and tree cover, particularly in the intervening landscape between Nun Wood and Podington. I acknowledge this would apply at some locations, but the effect would soon be lost with elevation and relatively low hedges. Nor do I dispute that the significant cumulative landscape and visual effects would be localised in extent¹⁴¹, but the purpose of the assessment is to allow a judgement to be made to avoid such effects where they would be harmful.
268. I have considered the sequential cumulative effects of those travelling on main roads in the vicinity. The appellant recognises that cumulative effects would exist, for example travelling north on the A509 where the site at Podington would be visible in combined views with Nun Wood. I agree however that the turbines at Podington would be merely glimpsed. Travelling south the cumulative effects derived from the sites at Nun Wood and Petsoe would be more marked for a length of about 1km. Given the proximity of the appeal site to the turbines at Petsoe, I consider their combined and consecutive appearance would amount to a harmful cumulative effect in a relatively limited area. As far as minor road users are concerned, the most notable sequential effects would be experienced by those travelling along the route from Emberton (south of Olney) via Newton Blossomville, Turvey, Carlton/Chellington to Felmersham, or visa versa. Even though all the turbines would not be simultaneously visible at every vantage point, I consider the existence of the 3 windfarms would serve to reinforce and enlarge the experience of the individual windfarm landscapes and the presence of the landscape sub-type over a large area. This would amount to a substantial harmful effect on a short journey. [62]

¹⁴⁰ Document 9, Appendices

¹⁴¹ Document 9, Appendices, Updated Cumulative Assessment, paragraph 6.1.6

269. I have also taken account of the cumulative effect of the visibility of the Nun Wood and Petsoe sites from Turvey House. I saw on my visit that the former are visible from the terrace of the house. The proposed new turbines would also be visible from south-west facing windows on the front elevation and from the terrace – especially in winter, but I do not consider the effect would be sufficiently serious to harm the setting of the building.

Living conditions

270. The appellant's landscape witness has carried out a comprehensive residential visual amenity survey¹⁴². The survey covered properties to within 2kms of the proposed turbines, but it paid particular attention to those within 900m. There are 12 dwellings within this distance. The appellant considers that there are no properties where the turbines would be present in such numbers, size and proximity that they would represent an unpleasantly overwhelming and unavoidable presence in the main views from a house or garden, and so render the property an unpleasant and unattractive place in which to live. However, the councils and BLOT have raised specific concerns about two dwellings – Northey Farm Flat and Bozeat Grange. Both dwellings have been the subject of detailed consideration in the survey, and I visited both properties during the course of my site visits. [56-59, 110, 111, 129]
271. Northey Farm Flat is a first floor dwelling with a living room sited at its eastern end. The living room enjoys the benefit of prospects to the east and south. The former is via a large sliding patio window opening onto a terrace on the roof of the building below; the latter is via a large bay window which extends from the building. Direct open views would be available of turbines 2, 3 and 4. T3 would be 677m from the flat and both it and T2 would be visible to their entire heights. Other turbines in the southern cluster would also be visible (T4, T5, T6, T7) though partly hidden by farm buildings and plant. It is likely that T1 would be visible in the winter. The bay window faces south and I understand the Petsoe turbines are visible at a distance of approximately 6.7kms.
272. The view from the flat is shown in Viewpoint R2. The prospect from both the flat and its terrace is distinctly agricultural in nature. The foreground does not provide an attractive outlook for the flat, although the effect is mitigated to a degree by elevation. However, this would also result in the turbines having a greater impact than they might have had from rooms and an external amenity space at ground floor level. Beyond the farm buildings and plant the prospect is one of open arable fields with a backdrop of woodland. The turbines, especially taking their rotation into account, would certainly be an unavoidable presence, but taking all the circumstances into account, I consider they would not render the property an unpleasant or unattractive dwelling to the degree necessary to resist the proposal on public interest grounds. In addition, I raise no objection derived from the cumulative effect of the additional visibility of the site at Petsoe.
273. The councils and BLOT also raise concerns about the impact of the turbines on residential amenity at Bozeat Grange. The farmhouse is

¹⁴² Document 9, Appendices, Residential Visual Amenity Survey

occupied by one of the financially involved landowners concerned and the circumstances are complicated by its location within the area of the Borough of Wellingborough – which now supports the proposed development. The occupants of the dwelling have not objected to the scheme, and in the circumstances I consider the role of the councils is at least questionable. There is a distinction to be made in this regard between the application of national law and policy (Section 66 and the Framework, for example), and the protection of the public interest at the local level. The protection of residential amenity essentially falls into the second category. In addition, the closest turbine site (T4) is also within Wellingborough, while turbines 1, 2 and 3 would be in Milton Keynes, and turbines 5, 6 and 7 would be in Bedford. [56]

274. It is evident that wind turbines can result in cross-border effects, and that a council could seek to restrain development within its area on the grounds of an effect outside. I remain sceptical however that such a course could be legitimately pursued in the face of the contrary view being taken by the relevant local planning authority, and in the absence of an objection from the occupant.
275. Be that as it may, I have in any event considered the impact of the turbines on residential amenity at the property concerned. The front of the building faces west, but the relevant elevation in residential amenity terms is the rear elevation. It is a two storey building and Viewpoint R1 shows the prospect to the south-east from the rear garden. The rear elevation of the building is behind the photographer. Although the closest turbine would be 635m away, only a proportion would be seen from this level above vegetation and external buildings. As I saw on my visit, more would be visible from the east-facing first floor windows, but the lower parts of the turbines would be obscured by woodland. In this case also therefore, I consider that the scheme would not render the property an unpleasant or unattractive dwelling in which to live.
276. I have taken account of BLOT's concern that some adverse effects on a total of 524 dwellings (out of 1,334 dwellings in the study) amounts to harm to the public interest, but the visibility of turbines cannot in itself render dwellings unpleasant or unattractive in which to live. [129]
277. The councils have not pursued a noise objection to the proposed development, but BLOT has raised a number of related issues. I have however already referred to these in the context of the discussion concerning the draft conditions reported above. I have considered the matters raised and I see no purpose in repeating the different points made. I consider the matters raised can either be addressed by the imposition of appropriately worded conditions, or, in relation to greater than expected amplitude modulation, I believe a condition would not be necessary. [65-67, 142-144, 209-216]

Other matters

278. BLOT has raised two other matters, the first of which – equestrian issues – it considers should constitute a main consideration. The second relates to aviation interests. [132-139, 145-6]
279. BLOT's concern is centred on the use of the Three Shires Way as a bridleway and on the future of the Lower Farm Stables. Paragraph 56 of the now cancelled Wind Annex to *Planning for Renewable Energy* refers to the then advice of the BHS that, in order to avoid frightening horses, turbines should not be closer than 200m to a bridleway. It continued however that, negotiations should take place if this is difficult to achieve. Since 2010 however the BHS has revised its policy and it now advises a separation distance of 4 times the overall height of the relevant turbine for the most important routes, and 3 times for other routes, with the 200m separation distance being regarded as a minimum. Where these distances cannot be achieved it is suggested that prospective developers should: demonstrate how safety issues could be addressed; identify details of alternative routes; and provide funds to improve or create other rights of way.
280. At the inquiry BLOT's equestrian witnesses, and others, described how the Three Shires Way is used and how it forms the basis of the equestrian enterprise at Lower Farm Stables, to the north-west of Lavendon. The riders are concerned in particular about the highly-strung nature of some horses, especially young horses, and about their fear of moving shadows on the ground. Whether this characteristic of equine behaviour is substantiated or not, a perception has arisen amongst riders of a certain incompatibility between horses and turbines. It is argued that this in itself would be sufficient to drive potential customers away from the stables and so affect its survival. [132, 139, 160, 168, 182]
281. There is no dispute between the parties that the Three Shires Way is an attractive hacking route, and particularly from Lower Farm Stables, I can see that a good length of bridleway is available without the need to cross a main road. However, I note from the appellant's evidence that turbines can successfully co-exist with equestrian interests and that many windfarms have been constructed with bridleways passing through them¹⁴³. The guidance included in the Scottish Wind Farm Advice Note¹⁴⁴ is more conciliatory. [70, 74]
282. Although it notes that many riders are reluctant to take their horses near wind turbines, it also records that if horses are familiarised with turbines in a gradual and sympathetic way, then most horses will accept them. Indeed, windfarms can sometimes present a positive opportunity for riders to create new routes and improve access. The advised separation distances however remain the same in Scotland as in the rest of Britain, and specific mention is made of the potential problems associated with moving blade shadows. [71]
283. In recognition of the significance of this issue, the appellant commissioned a Three Shires Way shadowing assessment at the SEI

¹⁴³ Document 51

¹⁴⁴ Document 12, Appendix 8

stage¹⁴⁵. This sought to assess the extent to which the route of the bridleway might be affected by blade shadows on the ground, and I also saw a representation of the effect in a DVD prepared on behalf of BLOT. I question the accuracy of the DVD in some respects – for example, the shadows recorded at 14:00 hrs would certainly be denser than those experienced at the bridleway when the sun is low in the sky in the early morning or late afternoon. However, there is no dispute that the survey reveals shadows could reach the bridleway within 2-3 hours of sunrise and sunset throughout the year. [72, 137]

284. Taking account also of the weather, the wind speed necessary to turn the turbines, and the wind direction, it is estimated that shadows would reach the bridleway around 9% of the time in winter, and around 19% of the time in summer. Although by creating their own shadows, hedgerows could also reduce the visibility of turbine shadows along the route, the specific lengths cited in paragraph 6.216 of the ES are not included in the parties' draft conditions. I have amended draft condition 19 accordingly to refer to the relevant lengths of the bridleway. [137]

285. I accept the evidence submitted on behalf of BLOT that some horses can be temperamental and unpredictable. I also recognise however that horses can be familiarised with turbines, and that the perceived danger associated with moving shadows can be reduced. In all the circumstances, and although the fear of consequences is capable of being a material consideration, I believe the threat to the enterprise at Lower Farm Stables has been exaggerated. My attention has been drawn to the total length of the Three Shires Way and to the possibility that horses using the long-distance route may not be familiar with wind turbines. On the basis of the evidence I have received however, I consider the numbers involved would be limited. I also note that the turbines would be approached gradually rather than suddenly, and the horses would therefore be less likely to be startled. [133]

286. BLOT's aviation witness provided a detailed description of the existing and potential difficulties associated with taking off to the south-east from the airstrip at Easton Maudit. Engine failure on take off would evidently present the pilot with the need to make some quick decisions, but I agree with the appellant's aviation witness that the matter would need to be resolved before the aircraft was near the turbines. It was accepted on behalf of BLOT that, in normal circumstances, the turbines would not thereafter prevent the airstrip being able to enjoy a viable circuit either to the north (between Bozeat and the northern turbines), to the east (between the southern and northern turbines), or to the south and west (having gained sufficient height to pass over the existing pylons and cables). As far as the early objection from Cranfield Airport is concerned, this has not been pursued. In the circumstances, I see no objection to the scheme arising from aviation considerations. [69, 145, 146, 181]

287. One of those making written representation has referred to the possibility of driver distraction on the A509. However, drivers are required to respond

¹⁴⁵ SEI, section 2.2

to many distractions during a journey, and wind turbines should not be treated any differently. There has been no history of accidents associated with such schemes. [184]

Benefits and the planning balance

288. I turn now to the last of the main considerations. A significant proportion of the councils' case was based on the evidence of its energy witness¹⁴⁶ concerned with the extent to which the proposed development would be able to fulfil its expectations and contribute to both CO₂ savings and the low carbon future. [91]
289. A distinctive aspect of this part of the inquiry was the extent to which both the councils and the appellant cited particular extracts from Government energy policy in order to demonstrate urgency (in the appellant's case) and progress towards the 2020 target (in the councils' case). The appellant records that the scheme has the potential to generate a maximum of 36MW and that the 13GW of onshore wind referred to in the *Renewable Energy Roadmap Update* is not intended to be a cap or limit. Indeed, national policy statement EN-1 specifically states that the need for new renewable electricity generation projects is urgent¹⁴⁷.
290. The councils also refer to EN-1 to support their case. Paragraph 3.2.3 states that 'the weight which is attributed to considerations of need in any given case should be proportionate to the anticipated extent of the project's actual contribution in satisfying the need for a particular type of infrastructure'. On this basis it is argued that it is both legitimate and necessary to take account of the local wind speed and the capacity factor of the scheme. In any event, the current proposal is not a large infrastructure project, and the 2020 target is likely to be achieved. [42-45, 90, 91, 94, 95]
291. It is certainly the case that the application and the ES were accompanied by a substantial quantity of information and supporting material, but, especially in relation to its development management function, it is not the role of the planning system to re-examine national energy policy in relation to every individual project. In this context the essential documents are the Framework – for national planning policy, and the development plan – for local planning policy.
292. The first bullet point of paragraph 98 of the Framework is quite specific that there is no need to require applicants (or appellants) to demonstrate the overall need for renewable or low carbon energy. It continues that it should be recognised that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. The need is therefore

¹⁴⁶ Document 6

¹⁴⁷ CD6.15, paragraphs 3.3.15 and 3.4.5

taken as given, and the size of the actual contribution is not material. It is self-evident that the costs of promoting a windfarm are such that it is safe to assume schemes would not be proposed in circumstances where the resource could not be exploited. I do not dispute the interest of the councils' case in relation to this matter, but it can have little impact on the outcome. It follows that I attribute little weight to the councils' argument that the need is less when the target has been reached or passed. [93]

293. Notwithstanding the national status or importance of the Framework, paragraph 12 records that it does not change the statutory status of the development plan as the starting point for decision making. I have recorded the relevant contents of the development plans at the beginning of this Report, and I now turn to consider the scheme against the cited policies in the light of main considerations I have identified.

294. In response partly to Wellingborough's changed position between the first and the second inquiries, I raised the prospect of a split decision at the inquiry. I agree with the parties however that, notwithstanding the complications resulting from its location at the junction of various boundaries, the scheme has been planned and pursued as a single project for a number of years. It is the complete scheme which is the subject of the ES and SEI and the evidence of the witnesses. Notwithstanding Wellingborough's changed position I have therefore considered the proposal against the contents of its development plan, as well as against the plans of the other two councils. [33, 82, 147]

Development plan

295. Policy G6 of the local plan for Wellingborough seeks to restrain development in the open countryside, unless such a location is necessary, in which case the development should be small scale. Although wind turbines have been successfully erected in industrial or port locations, a windfarm will generally require a countryside site. However, in view of the conclusion I have reached in relation to the visual effect of the scheme, it cannot be considered to be small scale. The proposal therefore conflicts with Policy G6. Notwithstanding the general support for renewable energy proposals included in the North Northamptonshire core strategy, the conclusion I have reached in relation to the effect of the scheme on landscape character leads to the further conclusion that the project also conflicts with Policy 13 (paragraphs h and o). [14, 15]

296. Policy D5 of the local plan for Milton Keynes is also supportive of renewable energy schemes, subject to various criteria including impact on landscape. I have taken account of the benefits of the scheme, but, on balance, and in view of the conclusions I have reached in relation to the first 3 main considerations (landscape character, visual effects, cumulative effects), I conclude the scheme would conflict with Policy D5. It follows that the scheme must also be considered to conflict with paragraph (iii) of Policy D1, with paragraph (vii) of Policy S1; with Policy S10; and with Policy NE4. [16, 17]

297. Renewable energy proposals are also directly addressed in the local plan for Bedford. Policy BE6 is supportive, but subject to a no harm proviso which is expanded upon in Policy BE7. In combination, the policies require

that a balanced judgement is made with the landscape impact on one side and the local and wider benefits on the other. It is also recognised that certain renewable energy resources can only be harnessed where the resource occurs. However, in view of the conclusions I have reached in relation to the first 3 main considerations, I have further concluded that, on balance, the scheme would be in conflict with Policies BE6 and BE7. For the same reason the scheme would also conflict with paragraph (i) of local plan Policy BE30. [18, 19]

298. Policy CP2 of Bedford's core strategy seeks to ensure that a number of principles relevant to sustainable development are addressed. Thus, although as a renewable energy project the scheme would comply with paragraph (iii), it would conflict with paragraph (v) because of its effect on the character and quality of local landscapes. It too requires that a balanced judgement is made. Policy CP13 is essentially protective of the countryside, but compliance or otherwise is dependent on national policy. Policy CP21 is directed towards the design of new development, but in relation to the potential for landscape harm the scheme is in conflict, while in relation to the exploitation of renewable energy resources, it is in compliance. In view of the conclusions I have reached in relation to the equine issues raised by the case, I see no conflict with Policy CP22, but in view of the harm I have identified in respect of the first 3 main considerations, I conclude the project would conflict with Policy CP24. [20]
299. As far as the emerging core strategy for Milton Keynes is concerned, the councils did not question the appellant's view that Policy CS15 is not applicable to standalone renewable energy schemes. In view of the conclusions I have reached in relation to the first 3 of the main considerations, it follows that I also consider the scheme to be in conflict with Policy CS20. Taking account of the stage it has reached, I attribute significant weight to this conclusion, even though the plan does not yet form part of the development plan. [36, 21]

The Framework

300. The Framework was published in March 2012 and its policies applied from the day of publication. Amongst other matters, it records that plans may need to be revised to take account of the policies which it includes. For the first 12 months after publication decision-takers could continue to give full weight to relevant policies adopted since 2004 even where there was a limited degree of conflict with the Framework. In other cases, and following the 12 month period, the weight to be attached to the relevant policies of existing plans varies according to their degree of consistency with the Framework. It is on this basis that the appellant has assessed the development plan policies concerned and their applicability to windfarm proposals such as the appeal scheme. [35-38]
301. As far as the determination of planning applications and appeals for renewable energy schemes are concerned, the essential policy is that included in the second bullet point of paragraph 98. It records that such applications should be approved if their impacts are (or can be made) acceptable. The balancing exercise which, in any event, is a feature of the appeal decisions included in the core documents for this case, is therefore

the essential guidance against which to assess the weight to be attached to the various components of the development plans referred to above.

302. Ideally, development plans should include policies which are specifically directed towards the likelihood of proposals for renewable energy schemes being submitted, and the need for determinations to be made in accordance with the policies included in paragraph 98. Other relevant policies which are not specifically directed at wind energy schemes are not necessarily inconsistent with paragraph 215, but their effect is circumscribed by the need to arrive at a balanced judgement. In any event, it is also a firmly established principle that decisions in relation to individual development schemes should be assessed against the contents of the development plan as a whole.
303. I agree with the appellant, however, that where, as in Milton Keynes and Bedford, there are policies of direct relevance to a wind energy proposal and which include the necessary balancing exercise, there is little to be gained by reference to other policies which simply repeat the disbenefits associated, for example, with an adverse landscape impact. As far as Wellingborough is concerned, I also agree with the appellant that the cited development plan policies, as applied to a wind energy case, are not Framework compliant. In the circumstances the Wellingborough component of the proposal falls to be considered against the final bullet point of paragraph 14 of the Framework – where the development plan is absent, silent, or relevant development plan policies are out-of-date. In such circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. [38-38]
304. The combined effect of the development plans and the Framework in each authority area is therefore very similar – in each case there is effectively a presumption in favour of the scheme (Policy D5 in Milton Keynes; Policies BE6 and BE7 in Bedford; and paragraph 98 of the Framework in Wellingborough), but this is subject to the proviso that the impacts are acceptable. I do not believe the recent written ministerial statement (which was much discussed at the inquiry) or the new practice guidance depart from these principles.
305. I digress to address the concept of ‘inherent sustainability’ referred to by the appellant. In accordance with the contents of paragraph 93, there can be no doubt that a wind energy scheme can be accurately and legitimately described as an example of sustainable development. Paragraph 14 of the Framework refers to a presumption in favour of sustainable development as a golden thread running through both plan-making and decision-taking. However, the definition of sustainable development included in paragraphs 6-10 of the Framework not only cites its economic, social and environmental components, but it also refers to the policies in paragraphs 18-219. The definition is therefore inevitably broad, and a renewable energy scheme falls within its terms. I recognise that in energy generation terms, the renewables are sustainable because they do not need fuel, but I see no particular justification for the elevation of their status or any reason to accelerate their passage to paragraph 14. In any event, and although the

hurdle may be higher in the former, both paragraphs 14 and 98 still require that a balanced judgement is made. [40]

306. I have concluded in relation to the main considerations that there would be an inevitable and harmful change to the landscape character of the site and its surroundings. I recognise and acknowledge, however, that such a change is an inevitable consequence of a commercial windfarm proposal. There would be considerable and harmful visual effects from some locations, but much depends on the local topography and on the size, number and extent of the turbines. Even though the appeal scheme is for significantly fewer turbines than originally proposed, I believe that, especially from the east, the development would appear dominating rather than sensitive, and intimidating rather than familiar¹⁴⁸. I would not describe the potential appearance of the turbines in the landscape as 'sculptural'¹⁴⁹. I do not consider the effect of the scheme on either Turvey House or All Saints' Church at Turvey would be significantly damaging to their settings. However, I do believe the setting of the Church of St Peter and St Paul, Easton Maudit would be adversely affected, resulting (in the formulation used in paragraph 134 of the Framework) in less than substantial harm to its significance. [101]
307. At the time of the first inquiry, the 3 turbine Podington scheme had been dismissed on appeal, and, although the decision had been challenged, the site did not form part of the baseline of operating/consented wind energy schemes. Although the schemes at Petsoe and Podington utilise (or plan to utilise) comparably sized turbines, both are significantly smaller than the Nun Wood scheme in terms of the numbers and extent of the turbines. This renders their landscape impact more manageable. I have concluded the construction of a third windfarm between the two operating/consented schemes would result in an unacceptably harmful cumulative effect. In this respect I believe the appeal scheme seriously conflicts with the purpose of the second bullet point in paragraph 97 of the Framework, which refers specifically to cumulative landscape and visual impacts.
308. As far as the living conditions of windfarm neighbours are concerned, I believe no dwellings would be rendered unpleasant or unattractive places in which to live, and any potential noise disturbance is capable of regulation by an appropriately worded condition. Outstanding ecological concerns are similarly capable of resolution by the imposition of conditions. I see no objection on the basis of equestrian issues or aviation interests, or potential driver distraction.
309. In support of its case the appellant has referred to the reversibility of the scheme. Paragraph 2.7.17 of EN-3 records that the time-limited nature of windfarms is likely to be an important consideration when assessing landscape and visual effects and effects on the settings of listed buildings. I have taken this into account. However, there is a tension between this deferred benefit of the proposal at the end of the 25 year period, and the potential for repowering sites referred to in paragraphs 2.7.25-2.7.28 of the

¹⁴⁸ Using the terms adopted in CD7.2, paragraph 2.4

¹⁴⁹ In the sense in which it is used in CD7.2, paragraph 2.4

same document. I gather repowered sites generally utilise fewer turbines, but they also tend to be even larger. Such a change could both increase the local impact of the scheme, and it would significantly extend the life of the installation. In addition, I note that although 2020 is now relatively close, the 25 life span of the windfarm would have expired well before the 2050 target date for reducing greenhouse gas emissions by 80%. In the event of the appeals succeeding, I anticipate there would be considerable pressure for the site to be repowered in due course. I therefore consider the benefit to the appellant's case derived from the reversibility of the scheme is limited. [28, 63, 64]

Overall conclusion

310. Where I have identified harm I have sought to assess its weight and consider this against the benefits of the scheme, including the encouragement derived from the sixth bullet in paragraph 17 of the Framework, and from paragraphs 93, 97 and 98. However, on balance, I consider the relevant parts of the proposal conflict with paragraph (iii) of local plan Policy D5 in Milton Keynes. In Bedford, I consider that, on balance, the scheme conflicts with the proviso included in local plan Policy BE6. Notwithstanding the wider benefits of the proposal cited in paragraph (iv) of Policy BE7, I believe these would be outweighed by the immediate and wider impact of the proposed development on the landscape cited in paragraph (i). Similarly, I consider that although the scheme properly addresses the climate change and renewable energy considerations referred to in paragraph (iii) of core strategy Policy CP2, on balance, this is outweighed by the protection of the character and quality of the local landscapes afforded by paragraph (v). Notwithstanding the encouragement included in paragraph 4.14 of the core strategy for North Northamptonshire (including Wellingborough), I agree with the appellant that Policy 14 is not a suitable basis against which to assess the proposal. However, within the terms of paragraph 14 of the Framework, I consider the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits. In relation to the harm I have identified to the preservation of the setting of the church at Easton Maudit, I consider this would be less than substantial. Although in itself this would not outweigh the public benefits of the proposal, it adds to my concern about the impact of the scheme. Taking all these considerations into account, I further conclude that, within the terms of paragraph 98 of the Framework, the adverse impacts of the proposed development would be unacceptable. [15, 16, 18, 20, 38]

Recommendations

311. That Appeal A is dismissed and refused planning permission; that Appeal B is dismissed; and that Appeal C is dismissed and refused planning permission. In the event that the Secretary of State concludes otherwise, there is a schedule of appropriately worded conditions at the end of this Report.

Andrew Pykett

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITIES:

Mr Andrew Fraser-Urquhart	of Counsel, instructed by the Solicitors for Bedford Borough and Milton Keynes Councils
He called:	
Mr Nigel Evers	Cooper Partnership
DipLA(Glos) CMLI	
Mr Colin Godfrey	CLG Energy Consultants Ltd
BSc(Hons) CEng MEI	
Mr Richard Sakyi	Milton Keynes Council
BA(Hons) DipUP MRTPI	
Mr Peter White	Bedford Borough Council
BA(Hons) MA DipTP	
MRTPI	

FOR THE APPELLANT:

Mr David Hardy	Partner, Eversheds LLP
He called:	
Mr Kenneth Halliday	Stephenson Halliday
BSc(Hons) MPhil CMLI	
Dr Andrew McKenzie	Hayes McKenzie Partnership Ltd
PhD BSc MIOA	
Mr Malcolm Spaven MA	Aviatica Ltd
MSc	
Mr David Stewart	David Stewart Associates
MA(Cantab) DipTP	
MRTPI	

FOR BLOT:

Mr Brian Skittrall, gave evidence himself and	
He called:	
Mr Peter Scott	Volunteer, CPRE Bedfordshire
Mr Timothy Allebone	Local resident and pilot
Mrs Ann Kennedy	County Bridleways and Access Officer, British Horse Society, Bedfordshire
Miss Kate Gregory and Mr Richard Gregory	Local residents and equestrians

INTERESTED PERSONS:

Supporters:	
Ms Victoria Harvey	Co-ordinator, South Bedfordshire Friends of the Earth
Mr Traviss Locke	Local resident

Ms Brittany Wilkerson	Co-ordinator, Milton Keynes Friends of the Earth
Mr Ivan Delgado	
Mr Phil Houghton	
Ms Katiuslia Cancedde	
Mr Simon Hall	Treasurer, Luton and Bedfordshire Green Party
Mr Mark Handford	Local resident

Opponents:

Mr Doug Neil	For Carlton with Chellington Parish Council
Mr Tony Brooks-Payne	Local resident
Mr Jonathan Billingsley	Local resident
Dr William Green	Local resident
Ms Katie Mordue	Local resident
Cllr Alison Forster	Harrold ward councillor, Bedford Borough Council
Mr Alistair Burt MP	Member for North East Bedfordshire
Ms Shuna Mitchell	Local resident
Mr Colin Arnold	Local resident
Ms Pamela Hider	Local resident
Ms Michelle Chalkley	Local resident
Mr John Tusting	Local resident
Mr Ralph Hipkin	Local resident

DOCUMENTS

- 1 Council's Notice of Inquiry and circulation list
- 2 Letters and emails of representation
- 3 Statement of Common Ground with Bedford and Milton Keynes
- 4 Updated Statement of Common Ground with Wellingborough

Proofs of Evidence and Appendices, and Written Statements

For the Councils

- 5 Mr Evers' Proof, Appendices and Summary
- 6 Mr Godfrey's Proof and Appendices
- 7 Mr Sakyi's Proof, Appendices and Summary
- 8 Mr White's Proof, Appendices and Summary

For the Appellant

- 9 Mr Halliday's Proof, Appendices and Summary
- 10 Dr McKenzie's Proof, Appendices and Summary
- 11 Mr Spaven's Proof, Appendices and Summary
- 12 Mr Stewart's Proof, Appendices and Summary
- 13 Dr Jonathan Edis BA MA PhD MIFA IHBC submitted a Written Statement, Appendices and Summary
- 14 Dr Stephen Holloway PhD BSc(Hons) MIEEM CEnv submitted a Written Statement and Appendices

For BLOT

- 15 Mr Allebone's Proof and Appendix
- 16 Mrs Kennedy's Proof, Summary and Appendices
- 17 Mr Skittrall's Proofs (4), Appendices and Summary
- 18 Mr Scott's Proof, Appendices and Summary
- 19 Miss Gregory's and Mr Gregory's Proof, Appendices and Summary

Documents submitted by the Councils during the Inquiry

- 20 Letter dated 7 June 2013 and Written Ministerial Statement from the Secretary of State to the Leader of Milton Keynes Council
- 21 Letter and Written Ministerial Statement from the Secretary of State to the Chief Executive of the Planning Inspectorate
- 22 Opening Statement of Milton Keynes Council and Bedford Borough Council
- 23 Extract from Review of Guidance on the Assessment of Cumulative Impacts of Onshore Windfarms, Entec, September 2008
- 24 Claim Form and Particulars of Claim in respect of Airfield Farm, Podington
- 25 Consent Order dated 7 December 2010
- 26 Claim Form and Details of Claim
- 27 Nun Wood Wind Farm, Figures 7.13A and 7.13B
- 28 Joint Statement by Peter White and Richard Sakyi in relation to the Government's recent statements on local planning and onshore wind
- 29 Vestas – Wind turbine classes
- 30 Extract from Wind Energy – The Facts, Technology
- 31 Revised Table 4 from Appendix 1 to Mr Godfrey's evidence
- 32 Annual Onshore Wind Performance
- 33 Statement by Graham Parry in respect of Noise Conditions
- 34 Draft noise conditions for discussion, dated 10 October 2011
- 35 UK Renewable Energy Roadmap Update 2012, Annex A
- 36 Onshore Wind Call for Evidence: Government Response to Part A (Community Engagement and Benefits) and Part B (Costs), June 2013
- 37 Milton Keynes Core Strategy, Policy CS 15, dated 19 June 2013
- 38 Email exchange with Mark Haynes, Senior Landscape Architect, Milton Keynes Council
- 39 Environment Agency consultation response dated 5 November 2010
- 40 Natural England consultation response dated 26 October 2010
- 41 Conditions for discussion: Nun Wood Wind Farm, 20 June 2013
- 42 Conditions proposed by Bedford Borough & Milton Keynes Councils
- 43 Closing Submissions of Milton Keynes Council and Bedford Borough Council

Documents submitted by the Appellant during the Inquiry

- 44 Countryside Character Volume 4: East Midlands – revision to CD 7.16
- 45 Countryside Character Volume 6: East of England – revision to CD 7.17
- 46 Opening submissions on behalf of the Appellant
- 47 Updated Statement of Common Ground relating to Nun Wood Wind Farm between the Appellant and the Borough Council of Wellingborough
- 48 Letter from the Planning Inspectorate dated 11 June 2013

- concerning the proposed Turncole Wind Farm and the Secretary of State's Written Ministerial Statement
- 49 Noise conditions for Nun Wood proposed by RWE Npower Renewables, dated 13 June 2013
- 50 Park Farm, Lavendon
- 51 Review of Operational/Consented Wind Farm Proximity to Public Rights of Way & Bridleways, 18 June 2013
- 52 Nun Wood Wind Farm – further information regarding the location of T12, dated 17 June 2013
- 53 Submissions regarding recent ministerial statements by Mr Stewart
- 54 Email dated 25 June 2013, including Written Statement on Ecology - Addendum
- 55 Email dated 26 June 2013, including planning permission for temporary siting of anemometry mast dated 19 June 2013.
- 56 RNRL Conditions: Nun Wood Wind Farm, 24 June 2013
- 57 Closing submissions on behalf of the Appellant

Documents submitted by BLOT during the Inquiry

- 58 BLOT Opening Speech
- 59 Comments on the equine extract of Mr Cookson's decision note as presented in 8.6.7.1 of Mr Stewart's evidence
- 60 OS extracts – Middlemoor
- 61 OS extract – Derwent Reservoir and Consett
- 62 BLOT submission on the Ministerial Statement
- 63 BLOT comments on IoA Good Practice Guide
- 64 Draft wind turbines Supplementary Planning Document and emerging policy 2013 consultation following the High Court judgement on the 2012 Wind Turbines SPD
- 65 Draft – wind turbines Supplementary Planning Document and emerging policy 2013, Annex
- 66 Email letter from BLOT dated 6 December 2009 concerning Mr Haynes landscape assessment
- 67 BLOT conditions
- 68 Email plans and coordinates dated 26 June 2013
- 69 BLOT Closing Submission

Documents submitted by Interested Persons during the Inquiry

- 70 Statement by Simon Hall
- 71 Statement by Victoria Harvey
- 72 Statement by Traviss Locke
- 73 Statement by Brittany Wilkerson
- 74 Statement by Ivan Delgado
- 75 Statement by Phil Houghton
- 76 Statement by Doug Neil
- 77 Statement and photographs by Tony Brooks-Payne
- 78 Statement and plans by Jonathan Billingsley
- 79 Statement by William Green
- 80 Statement by Katie Mordue
- 81 Statement by Mark Handford

- 82 Statement by Alison Foster
- 83 Statement by Alistair Burt
- 84 Statement by Pamela Hider
- 85 Statement by John Tusting
- 86 Statement by Ralph Hipkin
- 87 Written objection by the Leese and Berry family
- 88 Additional evidence and response to a note presented by RWE
npower Renewables on 17 June 2013, by W T Green, including
Higher Level Stewardship Agreement Map, Bat Box, Note TIN051

Additional Letters/emails received during the inquiry

- 89 Letter dated 14 June 2013 from the Clerk to Olney Town Council
- 90 Online comments on case by David Jenkins
- 91 Letter dated 19 June 2013 from the Administrative Assistant for
planning matters to Stevington Parish Council
- 92 Email exchange dated 20/21 June 2013 by Audrey Gant
- 93 Ray Miles
- 94 Mr & Mrs F Westray
- 95 Shuna Mitchell
- 96 Nigel Walker
- 97 Mr D and Mrs A George
- 98 Colin Arnold
- 99 Mark Lancaster TD MP
- 100 Margaret Docker, Bozeat Parish Council

Documents submitted after the inquiry

- 101 Statement by Bedford Borough and Milton Keynes Councils in
relation to DCLG *Planning practice guidance for renewable and
low carbon energy*, July 2013
- 102 BLOT Comments on *Planning practice guidance for renewable and
low carbon energy*.
- 103 Submissions for the appellant regarding *Planning practice
guidance for renewable and low carbon energy*.
- 104 Joint comment by Bedford Borough and Milton Keynes Councils in
relation to the status of the previous Inspector's decision in the
light of *Arun DC v Secretary of State* [2013] EWHC 190 (Admin)
- 105 BLOT comments on *Arun District Council v Secretary of State for
Communities and Local Government* [2013] EWHC 190 (Admin)
- 106 Letter on behalf of the appellant dated 4 September 2013 in the
light of the Arun Judgement.

Core Documents List

Appeals by RWE Npower Renewables Limited

APP/Y0435/A/10/2140401 - APP/K0235/A/11/2149434 - APP/H2835/A/11/2149437

		Document
1 Adopted Development Plan Documents		
Requested by		
		<u>Milton Keynes</u>
RWE MKC BLOT	1.1	Saved Policies of the Milton Keynes Local Plan (adopted 2005) and Saving Direction of the Secretary of State
		<u>Bedford</u>
RWE BBC BLOT	1.2	Saved Policies of the Bedford Local Plan (adopted 2002) and Saving Direction of the Secretary of State
RWE BBC BLOT	1.3	Bedford Borough Council Core Strategy and Rural Issues Development Plan Document (adopted 2008)
		<u>Wellingborough</u>
RWE	1.4	Saved Policies of the Wellingborough Local Plan (adopted 1999 – alteration 2004) and Saving Direction of the Secretary of State
RWE	1.5	North Northamptonshire Core Spatial Strategy (adopted June 2008)
2 National Planning Policy Guidance		
RWE MKC BBC BLOT	2.1	DCLG: National Planning Policy Framework (March 2012)
RWE MKC BBC BLOT	2.2	Companion Guide to the Former PPS 22: Renewable Energy (2004) (Extracts)
BLOT	2.3	Spatial Planning Advice Note: SP 12/09 – Planning Applications for Wind Turbines near to Trunk Roads, Highways Agency (31 January 2009)
BLOT	2.4	Spatial Planning Advice Note: SP 04/07 – Planning Applications for Wind Turbines near to Trunk Roads, Highways Agency (23 July 2007)
3 Other Local Planning Authority Documents, Regional Renewable Energy Documents and Documents regarding Regional Spatial Strategies		
RWE	3.1	Letter dated 6 July 2010 from the Secretary of State for Communities and Local Government to all Chief Planning Officers
RWE	3.2	Arup Report: Placing Renewables in the East of England, East of England Regional Assembly (2008)
RWE	3.3	Milton Keynes Council draft Core Strategy (Submission Version)
RWE	3.4	East of England Renewable and Low Carbon Energy Capacity Study, AECOM

		Document
		(2011)
RWE	3.5	Low Carbon Energy Opportunities and Heat Mapping for Local Planning Areas across the East Midlands, LUC (2011)
MKC BBC	3.6	Review of Renewable and Decentralised Energy Potential in South East England (2010) LUC/TV Energy
RWE	3.7	Reviewing Renewable Energy Targets for the East Midlands" Faber Maunsell (2009) (Executive Summary)
MKC BBC	3.8	Renewable and Low Carbon Energy Capacity Methodology - Methodology for the English Regions, SQW energy, January 2010 (extracts)
MKC BBC BLOT	3.9	Bedford Borough Council Draft Allocations & Designations Plan for Submission (adoption anticipated in Autumn 2013)
BLOT	3.10	East Midlands Regional Plan (March 2009)
BLOT	3.11	Regional Spatial Strategy for the East Midlands (March 2005)
BLOT	3.12	The South East Plan – Regional Spatial Strategy for the South East (May 2009)
BLOT	3.13	Development of a Renewable Energy Assessment and Targets for the South East, TV Energy (January 2001)
BLOT	3.14	Milton Keynes Council, Wind Turbines Supplementary Planning Document and Emerging Policy
4 High Court Decisions		
RWE	4.1	Derbyshire Dales District Council v Secretary of State for Communities and Local Government [2009] EWHC 1729
RWE	4.2	R (Hulme) v Secretary of State for Communities and Local Government [2010] EWHC 2386 (Admin)
RWE	4.3	R (Lee) v Secretary of State for Communities and Local Government, Maldon District Council, Npower Renewables [2011] EWHC 807 (Admin)
RWE BLOT	4.4	Michael William Hulme v Secretary of State for Communities and Local Government and RES Developments Limited [2011] EWCA Civ 638
RWE	4.5	The Queen on the Application of Cala Homes (South) Limited v Secretary of State for Communities and Local Government & Anr [2011] EWCA Civ 639
RWE	4.6	(1) South Northamptonshire Council (2) Deidre Veronica Ward v (1) Secretary of State for Communities and Local Government (2) Broadview Energy Developments Limited [2013] EWHC 11 (Admin)
RWE	4.7	(1) East Northamptonshire District Council (2) English Heritage (3) National Trust v (1) Secretary of State for Communities and Local Government (2) Barnwell Manor Wind Energy Limited [2013] EWHC 473 (Admin)
BLOT	4.8	R (on the application of RWE Npower Renewables) v Milton Keynes Council [2013] EWHC 751 (Admin)
5 Various Wind Farm Appeal and Application Decisions		

		Document
RWE	5.1	Nun Wood (decision of Inspector Cookson December 2011 APP/K0235/A/11/2149434, APP/H2835/A/11/2149437 and APP/Y0435/A/11/2140401)
RWE	5.2	Chiplow (APP/V2635/A/11/2154590) and Jack's Lane (APP/V2635/A/11/2158966)
RWE	5.3	Woolley Hill (APP/H0520/A/11/2158702)
RWE	5.4	Burnt House Farm (Decision Letter and Inspector's Report conclusions) (APP/D0515/A/10/2123739 and APP/D0515/A/10/2131194)
RWE	5.5	Cleek Hall (APP/N2739/A/12/2172629)
RWE	5.6	Carland Cross (APP/D0840/A/09/2103026)
RWE BLOT	5.7	Airfield Farm, Podington (APP/K0235/A/09/2108506) dated 23 February 2010 and 13 August 2012
RWE	5.8	Chelveston (APP/K0235/A/11/2160077 and APP/G2815/A/11/2160078)
RWE	5.9	Lilbourne (APP/Y2810/A/11/2164759)
RWE	5.10	Winwick (APP/Y2810/A/11/2156527)
RWE	5.11	Kelmarsh (APP/Y2810/A/11/2154375)
RWE	5.12	Spaldington (APP/E2001/A/10/2137617 and APP/E2001/A/10/2139965)
RWE	5.13	Kiln Pit Hill (APP/R2928/A/08/2075105)
RWE	5.14	Middlemoor (ELEC/2005/2004 – GDBC/001/00245C) (s36 consent) (Extracts)
RWE	5.15	Carsington Pastures (APP/P1045/A/07/2054080)
RWE	5.16	Fraisthorpe (APP/E2001/A/12/2179233)
RWE	5.17	Thacker Bank/Gayton le Marsh (APP/D2510/A/12/2176754)
RWE	5.18	Yelvertoft (APP/Y2810/A/10/2120332)
RWE	5.19	Cotton Farm (APP/H0520/A/09/2119385)
RWE	5.20	Alaska Wind Farm (APP/B1225/A/11/2161905)
RWE	5.21	Batsworthy Cross (APP/X1118/A/11/2162070)
RWE	5.22	Sober Hill (APP/E2001/A/09/2101421)
RWE	5.23	Crook Hill (Inspector's Report Extracts and Decision Letter) (APP/P4225/A/08/2065277)
RWE	5.24	Earls Hall Farm (APP/P1560/A/08/2088548)
RWE	5.25	Swinford (Inspector's Report and Decision Letter) (APP/F2415/A/09/2096369/NWF)

		Document
RWE	5.26	Low Spinney (APP/F2415/A/09/2109745)
RWE	5.27	Hemphall (APP/L2630/A/08/2084443)
RWE	5.28	Den Brook (APP/Q1153/A/06/2017162) dated 11 December 2009
RWE	5.29	Little Linton Farm (APP/W0530/A/09/2108277)
RWE	5.30	Bradwell (APP/X1545/A/06/2023805) dated 25 January 2010
RWE	5.31	Frodsham (s36 consent) (Inspector's Report Extracts and Decision Letter)
RWE	5.32	Fullabrook Down (GDBC/003/00024C) (s36 consent) (Inspector Report Extracts and Decision Letter)
RWE	5.33	North Forest (APP/A4710/A/11/2166509)
RWE	5.34	Wadlow (APP/W0530/A/07/2059471) (Extracts)
BBC	5.35	Ellands Farm (APP/G2815/A/06/2019989)
BBC	5.36	Inner Farm, Edithmead, Burnham-on-Sea (APP/V3310/A/06/2031158)
BBC	5.37	Bickham Moor, Kirkton Lane, Oakford, Devon (APP/Y1138/A/08/2084526)
BBC	5.38	North of Goveton, Sandy Lane End, Kingsbridge, Devon (APP/K1128/A/08/2072150)
RWE	5.39	Little Cheyne Court (GDBC/003/00001C) dated 13 May 2005 (Extracts)
RWE	5.40	Bradwell (APP/X1545/A/06/2023805) dated 10 September 2007
BLOT	5.41	Enifer Downs (APP/X220/A/08/2071880)
BLOT	5.42	Palmers Hollow (APP/Y2430/A/09/2108595)
6 Planning, Renewable Energy and Climate Change Documents		
MKC	6.1	Intentionally left blank
RWE MKC	6.2	DTI Energy White Paper "Meeting the Energy Challenge" (2007) (Extracts)
RWE	6.3	Natural England: "Climate Change Policy", 2008
RWE	6.4	Natural England: "Sustainable Energy Policy", 2008
MKC BBC	6.5	The Climate Change Act 2008
RWE	6.6	DECC: The UK Renewable Energy Strategy (2009)
RWE	6.7	DECC: The UK Low Carbon Transition Plan, White Paper (July 2009) (Executive Summary)
RWE	6.8	European Commission: Directive on the Promotion of the Use of Energy from Renewable Sources 2009/28/EC (2009)
RWE	6.9	Natural England: "Position on Wind Energy" (March 2009)

		Document
RWE	6.10	Natural England: "All Landscapes Matter", 2010
RWE MKC	6.11	The Coalition Government: "Our Programme for Government" (2010)
RWE MKC	6.12	DECC: Annual Energy Statement (July 2010)
RWE	6.13	DECC: National Renewable Energy Action Plan for the United Kingdom (July 2010)
RWE	6.14	Natural England: 'Making Space for renewable Energy', 2010
RWE MKC BBC BLOT	6.15	DECC: Overarching National Policy Statement for Energy EN-1 (July 2011)
RWE MKC BBC BLOT	6.16	DECC: National Policy Statement for Renewable Energy Infrastructure EN-3 (July 2011)
RWE	6.17	Committee on Climate Change: Renewable Energy Review (May 2011)
RWE	6.18	Government Response to the Consultation on the Draft National Policy Statements for Energy Infrastructure: Extracts from October 2010 and June 2011 Responses
RWE MKC	6.19	DECC: UK Renewable Energy Roadmap (July 2011)
RWE	6.20	DECC: White Paper: Planning our Electric Future – A White Paper for Secure, Affordable and Low Carbon Electricity (July 2011)
RWE	6.21	Intentionally left blank
RWE	6.22	Coalition Government: Carbon Plan 'Delivering our Low Carbon Future' (December 2011)
RWE	6.23	DECC: "Onshore Wind, Direct and Wider Economic Impacts" (May 2012)
RWE	6.24	Committee on Climate Change: Meeting Carbon Budgets – 2012 Progress Report to Parliament (June 2012)
RWE	6.25	DECC: Special Feature – "Renewable Energy in 2011" (June 2012)
RWE	6.26	DECC: Special Feature – "Sub-national renewable electricity, renewable electricity in Scotland, Wales, Northern Ireland and the regions of England in 2011" (September 2012)
RWE	6.27	Energy Bill (29 November 2012) (relevant extracts)
RWE	6.28	DECC: Annual Energy Statement (29 November 2012)
RWE	6.29	DECC: Electricity Market Reform: Policy Overview (November 2012)
RWE BBC	6.30	Intentionally left blank
RWE BBC MKC BLOT	6.31	DECC: UK Renewable Energy Roadmap Update 2012 and Annex A and Annex B (December 2012)

		Document
RWE	6.32	Advice on Wind Turbines, British Horse Society 2013/1
MKC	6.33	Sustainable Development Commission Report on Wind Power in the UK
MKC BBC	6.34	DECC: Statistical Release – 2012 UK Greenhouse Gas Emissions, Provisional Figure (28 March 2013) (Extract)
MKC BBC	6.35	First Progress Report on the Promotion and Use of Energy from Renewable Sources for the United Kingdom (December 2011) (Extracts)
MKC BBC	6.36	DECC: Government response to the consultation on proposals for the levels of banded support under the Renewables Obligation for the period 2013-17 and the Renewable Obligation Order 2012 (July 2012) (Extracts)
MKC BBC	6.37	Government response to the Fourth Annual Progress Report of the Committee on Climate Change: Meeting the Carbon Budgets – 2012 Progress Report to Parliament (October 2012) (Extracts)
MKC BBC	6.38	DECC: Energy Trends (March 2013) (Extracts)
MKC BBC	6.39	Ofgen: Feed in Tariff Update (March 2013)
BLOT	6.40	Wind energy in the Irish power system, Fred Udo, http://www.clepair.net/IerlandUdo.html
BLOT	6.41	DECC: Onshore Wind Call for Evidence, Part A – Community Engagement and Benefits (20 September 2012)
BLOT	6.42	DECC: Restats database (May 2013)
7 Landscape and Visual (including public perception) Documents		
RWE MKC	7.1	The Landscape Institute: Institute of Environmental Management and Assessment, 2002, "Guidelines for Landscape and Visual Impact Assessment", Second Edition
RWE	7.2	Scottish Natural Heritage: "Guidelines on the Environmental Impacts of Windfarms and Small Scale Hydro Electric Schemes" (2001)
RWE	7.3	Scottish Natural Heritage: "Siting and Designing Windfarms in the Landscape, Version 1" (December 2009)
RWE	7.4	The Countryside Agency: "Landscape Character Assessment: Guidance for England and Scotland" (2002)
RWE	7.5	Countryside Agency and Scottish Natural Heritage: "Landscape Character Assessment Series: Topic Paper 6 – Techniques and Criteria for Judging Capacity and Sensitivity" (2003)
RWE	7.6	Scottish Natural Heritage and The Countryside Agency: Landscape Character Assessment Series "Topic Paper 9: Climate change and natural forces – the consequences for landscape character" (2003)
RWE	7.7	LDA Design, Supplementary Assessment (October 2010) (see CD 12.4)
RWE	7.8	Visual Assessment of Wind Farms: Best Practice (produced by Scottish Natural Heritage by the University of Newcastle) (2002)

		Document
RWE MKC BBC	7.9	Visual Representation of Wind Farms – Good Practice Guidance (2006)
RWE	7.10	Scottish Natural Heritage: “Cumulative Effects of Windfarms” Version 2 (2005)
RWE	7.11	“Landscape Architecture and the Challenge of Climate Change”, Landscape Institute (October 2008)
RWE	7.12	Landscape Institute Advice Note 01-11 Photography
RWE	7.13	Scottish Natural Heritage: “Guidance Assessing the Cumulative Impact of Onshore Wind Energy Developments” Version 3 (March 2012)
RWE BBC BLOT	7.14	Cooper Partnership – Environmental Statement Stage 1 Audit Report on behalf of Bedford Borough Council (January 2010)
RWE BBC BLOT	7.15	Cooper Partnership – Environmental Statement Stage 2 Audit Report with Site Observations on behalf of Bedford Borough Council (January 2011)
RWE	7.16	Countryside Character: Volume 4: East Midlands (Countryside Agency) (1999) (Extracts)
RWE	7.17	Volume 6: East of England (Countryside Agency) (1999)
RWE	7.18	Northamptonshire Landscape Characterisation Project (LDA Design on behalf of Northamptonshire) (2006)
		<u>Milton Keynes</u>
RWE MKC BLOT	7.19	Milton Keynes Landscape Character Study (LDA Design on behalf of Milton Keynes Council) (1999)
RWE MKC	7.20	Local Landscape Designations Study for Milton Keynes Council Report (October 2006)
MKC	7.21	Ouse Valley Area of Attractive Landscape
MKC	7.22	Milton Keynes Landscape Character Assessment, Draft Report (The Landscape Partnership on behalf of Milton Keynes Council) (2007)
		<u>Bedford</u>
RWE BBC BLOT	7.23	Bedford Borough Council Landscape Character Assessment (Land Use Consultants on behalf of Bedford Borough Council) (2007)
BLOT	7.24	Submission to the appeal of J Billingsley (February 2013)
BLOT	7.25	National Grid: The Holford Rules
8 Noise		
RWE	8.1	ETSU-R-97: The Assessment and Rating of Noise from Wind Turbines (September 1996)
RWE	8.2	“Prediction and assessment of wind turbine noise – agreement about relevant factors for noise assessment from wind energy projects”, D Bowdler, AJ Bullmore, RA Davis, MD Hayes, M Jiggins, G Leventhall, AR McKenzie, Institute of Acoustics, Acoustics Bulletin, Vol 34, No 2 March/April 2009

		Document
RWE	8.3	The Institute of Acoustics: "Good Practice Guidance to the Application of ETSU-R-97 for Wind Turbine Noise Assessment" (July 2012)
RWE	8.4	IEC (BS EN) 61400-11 "Wind turbine generator systems – Part 11: Acoustic noise measurement techniques"
RWE	8.5	DEFRA: Noise Policy Statement for England (March 2010)
RWE	8.6	ISO 9613-2 "Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculations"
RWE BLOT	8.7	Report for Bedford Borough Council, Milton Keynes Council, Wellingborough Council – Nun Wood Wind Farm, Review of ES noise chapter and SEI in respect of proposed Nun Wood wind farm by Temple Group Ltd (December 2010)
RWE	8.8	Planning Conditions as submitted at 2011 public inquiry
RWE	8.9	Crichton et al: "Can expectations produce symptoms from infrasound associated with wind turbines"
RWE	8.10	Chapman et al: "Spatio-temporal differences in the history of health and noise complaints about Australian wind farms"
9 Cultural Heritage		
RWE	9.1	English Heritage – Paper on Wind Energy (2005) (See CD 9.4)
RWE	9.2	English Heritage – Setting of Heritage Assets (October 2011)
RWE	9.3	English Heritage – Guidance on Wind Energy and the Historic Environment (2005)
RWE	9.4	English Heritage – Climate Change and the Historic Environment (2008)
10 Ecology		
RWE	10.1	Institute of Ecology and Environmental Management (2006) Guidelines for Ecological Impact Assessment.
RWE	10.2	Joint Nature Conservation Committee (2010). Handbook for Phase 1 Habitat Survey. A Technique for Environmental Audit.
RWE	10.3	Whitfield, P., Bullman, R. & Band, W. (2005). Survey Methods for use in Assessing the Impacts of Onshore Windfarms Upland Bird Communities. SNH Guidance.
RWE	10.4	Bat Conservation Trust (2007) Bat Surveys: Good Practice Guidelines
RWE	10.5	Bat Conservation Trust (2012) Bat Surveys: Good Practice Guidelines 2 nd Edition
RWE	10.6	Natural England Technical Information Note TIN051: Bats and Onshore Wind Turbines – Interim Guidance, 2 nd Edition (29 February 2012)
RWE	10.7	Oldham, R.S., Keeble, J., Swan, M.J.S. & Jeffcote, M. (2000): Evaluating the Suitability of Habitat for the Great Crested Newt – Herpetological Journal 10: 143-155
RWE	10.8	Foster, J. (2001): Great Crested Newt Mitigation Guidelines – English Nature,

		Document
		Peterborough.
RWE	10.9	SLR Consulting (2012): Nun Wood Proposed Wind Farm – Evaluation of Ecological Work (SLR Ref: 423-02273-00032)
RWE	10.10	Natural England Technical Information Note TIN051: Bats and Onshore Wind Turbines – Interim Guidance, 1 st Edition (11 February 2009)
RWE	10.11	SLR Consulting (2013): Nun Wood Proposed Wind Farm – Bat Survey Report (SLR Ref: 423.02273.00032)
RWE	10.12	Rodrigues, L., L. Bach, M.-J. Dubourg-Savage, J. Goodwin & C. Harbusch (2008): Guidelines for consideration of bats in wind farm projects. EUROBATS Publication Series No. 3 (English version). UNEP/EUROBATS Secretariat, Bonn, Germany, 51 pp.
11 Aviation		
RWE	11.1	Civil Aviation Authority, Directorate of Airspace Policy, CAP 793: Safe Operating Practices at Unlicensed Aerodromes
RWE	11.2	Civil Aviation Authority, Directorate of Airspace Policy, CAP 764: CAA Policy and Guidelines on Wind Turbines (January 2012)
RWE	11.3	The Rules of the Air Regulations 2007
RWE	11.4	Air Navigation Order 2009, Schedule 7, Parts A and B (Extracts)
12 Planning Application and Appeal Documents		
BLOT	12.1	BLOT representations relating to the planning applications and Supplementary Environmental Information
RWE BLOT	12.2	Planning Application and Supporting Documents (provided in the Appeal Bundle)
RWE BLOT	12.3	Environmental Statement (provided in the Appeal Bundle)
RWE BLOT	12.4	Supplementary Environmental Information (provided in the Appeal Bundle)
		<u>Milton Keynes</u>
RWE BLOT	12.5	Officer Report to the Milton Keynes Council Development Control Committee (17 February 2011)
RWE BLOT	12.6	Minutes of the Milton Keynes Council Development Control Committee (17 February 2011)
RWE MKC BLOT	12.7	Officer Report to the Milton Keynes Council Development Control Committee (22 January 2013)
RWE BLOT	12.8	Minutes of the Milton Keynes Council Development Control Committee (22 January 2013)
		<u>Bedford</u>
RWE BLOT	12.9	Officer Report to the Bedford Borough Council Planning Committee (14 February 2011)

		Document
RWE BLOT	12.10	Minutes of the Bedford Borough Council Planning Committee Meeting (14 February 2011)
RWE BBC BLOT	12.11	Officer Report to the Bedford Borough Council Planning Committee Meeting (27 June 2011)
RWE BLOT	12.12	Minutes of the Bedford Borough Council Planning Committee Meeting (27 June 2011)
RWE BBC MKC	12.13	Statement of Common Ground between Appellant, Milton Keynes Council and Bedford Borough Council dated May 2013
RWE WBC	12.14	Statement of Common Ground between Appellant and the Borough Council of Wellingborough dated June 2013
RWE	12.15	Statement of Common Ground between Appellant, Milton Keynes Council, Bedford Borough Council and the Borough Council of Wellingborough dated 2011
13 Miscellaneous		
BLOT	13.1	Advertising Standards Authority adjudications refs: 47693 & A06-8392 http://www.asa.org.uk/ASA-action/Adjudications/2009/12/RWE-Npower-Renewables-Ltd/TF_ADJ_47693.aspx & http://www.asa.org.uk/ASA-action/Adjudications/2007/2/RWE-npower-plc/TF_ADJ_42239.aspx
BLOT	13.2	OFGEM ROC data for nearby operational schemes
BLOT	13.3	Performance of England's Onshore Wind Energy Developments 2009 by Prof M Jefferson, LMBS
BLOT	13.4	Report on a Review of the Risk Assessment for a Wind Turbine, Faber Maunsell for ASDA Stores Ltd, ASDA Brackmills (10 October 2008)
BLOT	13.5	Mechanical Operating and Maintenance Manual, Vestas V90 – 3.0MW, VCRS 60Hz (Onshore/Offshore Mk 7) – Appendix O
BLOT	13.6	Health and Safety Executive: Reducing Risks and Protecting People (2001)
BLOT	13.7	Wind Farms: a general guidance leaflet published by the BHS
BLOT	13.8	Yelvertoft Wind Farm Environmental Statement Chapter 3: Site Selection, Alternative Sites and Design, Daventry District Council planning application ref: DA/2009/0350

Schedule of Conditions

1. The development hereby permitted shall commence before the expiration of three years from the date of this permission. Written confirmation of the commencement of development shall be provided to the Local Planning Authority no later than one week after the event.

2. The development hereby permitted shall be removed in accordance with condition 3 below after a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid ("First Export Date"). Written notification of the First Export Date shall be given to the Local Planning Authority no later than 14 days after the event.

3. Not later than 12 months before the expiry of the 25 year period, a decommissioning and site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall make provision for the removal of the wind turbines, the turbine foundations to a depth of at least 1 metre below the ground, the substation and meteorological mast, compound areas, buildings and hardstandings and shall also provide for the removal of access tracks as required. The scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period, identification of access routes, location of material laydown areas, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats and details of site restoration measures. The approved scheme shall be fully implemented within 18 months of the 25 year period.

4. If any wind turbine generator hereby permitted ceases to export electricity to the grid for a continuous period of 9 months, a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 9 month period for the repair or removal of that turbine. The scheme shall include either a programme of remedial works where repairs to the relevant turbine are required, or a programme for removal of the relevant turbine and associated above ground works approved under this permission. The programme shall include the removal of the turbine foundation to a depth of at least 1 metre below ground and site restoration measures following the removal of the relevant turbine. The scheme shall thereafter be implemented in accordance with the approved details and timetable.

5. No development shall take place until a Construction Method Statement shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved statement. It shall include:

- a) Details of the phasing of construction works;

- b) Details of the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
- c) Details of foundation design;
- d) Dust management;
- e) Pollution control: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;
- f) Temporary site illumination during the construction period;
- g) Details of the proposed storage of materials and soils and disposal of surplus materials;
- h) Details of timing of works;
- i) Details of surface treatments and the construction of all hard surfaces and tracks, including routing of onsite cabling;
- j) Details of emergency procedures and pollution response plans;
- k) Siting and details of wheel washing facilities
- l) Cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway;
- m) A site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats;
- n) Details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound;
- o) Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009;
- p) Details of safety arrangements for crossing public rights of way and bridleways during construction; and
- q) Areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles.

6. Construction work shall only take place between the hours of 07:00 – 19:00 hours Monday to Friday inclusive, and 07:00 – 13:00 hours on Saturdays, with no such work on a Sunday or Public Holiday. Works outside these hours shall only be carried out: (a) with the prior written approval of the Local Planning Authority; or (b) in the case of an emergency, provided that the Local Planning Authority is notified by telephone and writing as soon as reasonably practicable (and in any event within 48 hours) following the emergency first being identified, such notification to include both details of the emergency and any works carried out and/or proposed to be carried out; or (c) dust suppression.

7. The delivery of any construction materials or equipment for the construction of the development, other than turbine blades, nacelles and towers, shall be restricted to the hours of 07:00 – 19:00 on Monday to Friday inclusive, 07:00 to 13:00 on Saturdays, with no such deliveries on a Sunday or Public Holiday unless: (a) previously approved in writing by the Local Planning Authority; or (b) the delivery is necessary in the event of an emergency on the site. The delivery of turbine, nacelles and/or crane components may take place outside these hours, subject to not less than 48 hours prior notice of such traffic movements being given to the Local Planning Authority in writing.

8. No development shall take place until a Construction Traffic Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall include proposals for the routing of construction traffic, scheduling and timing of movements, the management of junctions to and crossings of the public highway and other public rights of way, details of escorts for abnormal loads, any identified works to accommodate abnormal loads along the delivery route including any temporary warning signs, temporary removal and replacement of highway infrastructure/street furniture, reinstatement of any signs, verges or other items displaced by construction traffic, banksman/escort details and a timetable for implementation of the measures detailed. No vehicles transporting abnormal loads shall access the site until any identified works to accommodate abnormal loads along the delivery route have been carried out and measures put in place to maintain any such works for the period abnormal loads are scheduled to be delivered to the site. The Construction Traffic Management Plan shall be carried out as approved in writing by the Local Planning Authority and in accordance with its timetable.

9. No development shall take place until the details of the site accesses and the timetabling of the work for the site accesses shall have been submitted to and approved in writing by the Local Planning Authority. The site accesses shall be laid out in accordance with the approved details and timetable.

10. There shall be no direct vehicular access to or from the A428 Northampton Road.

11. The blades of all wind turbines generators shall rotate in the same direction. The overall height of the wind turbines shall not exceed 125m to the tip of the blades when the turbine is in the vertical position as measured from natural ground conditions immediately adjacent to the turbine base.

12. The turbines and meteorological mast hereby permitted shall be erected at the following grid co-ordinates:

T1	490645, 255170
T2	490829, 255532
T3	490857, 255890
T4	490843, 256275
T5	491466, 256123
T6	491332, 256399
T7	491865, 256381
T8	492616, 257587
T9	492174, 257618
T10	492193, 258091
T11	491815, 258270
T12	491574, 257829

Met Mast 490655, 255800.

Notwithstanding the terms of this condition and subject to the specific restrictions set out below, the turbines and other infrastructure hereby permitted may be micro-sited within 25 metres. A plan showing the position of the turbines and tracks established on the site shall be submitted to the Local Planning Authority within one month of the First Export Date.

No turbine (tower or blades) shall be micro-sited to within: (a) 200m to any bridleway; (b) 30m of a badger sett without appropriate mitigation; (c) 50m of any woodland edges or hedgerows with bat roost or foraging potential, except where a site-specific survey completed during the 6 months before construction shows little or no activity; or (d) as regards turbine 12, 59m of the site boundary.

13. Prior to the erection of any wind turbine, details of the colour and finish of the towers, nacelles and blades, anemometry mast and any external transformer units shall be submitted to and approved in writing by the Local Planning Authority. No name, sign, or logo shall be displayed on any external surfaces of the turbines, anemometry mast or any external transformer units other than those specifically to meet health and safety requirements. The approved colour and finish of the wind turbines, anemometry mast and any external transformer units shall not be changed without the prior consent in writing of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

14. Prior to commencement of the construction of the electricity substation, details of the design and the external appearance, dimensions and materials for the building and any associated compound or parking area and details of surface and foul water drainage from the substation building shall have been submitted to and approved in writing by the relevant Local Planning Authority. The development of the substation building and any associated compound or parking area shall be carried out in accordance with the approved details.

15. All electrical cabling between the individual turbines and between the turbines and the electricity substation on the site shall be installed underground.

16. There shall be no permanent illumination on the site other than aviation related lighting on the turbines, lighting required during the construction period (as approved through the Construction Method Statement), lighting required during planned or unplanned maintenance or emergency lighting and a movement sensor-operated external door light for the electricity substation building door to allow safe access.

17. No development shall take place until a specification for protected species surveys shall have been submitted to and approved in writing by the Local Planning Authority. The surveys shall be undertaken by a qualified ecologist in accordance with the approved specification in the last suitable season prior to site preparation and construction work commencing. The survey results, a programme of any mitigation measures required as a consequence, and a timetable for any such mitigation measures shall have been submitted to and approved in writing by the

Local Planning Authority prior to any works associated with the development taking place. The programme of mitigation work shall be implemented as approved under the supervision of a qualified ecologist.

18. No development shall take place until a specification for checking surveys for nests of breeding birds on the development site to be carried out by a qualified ecologist shall have been submitted to and approved in writing by the Local Planning Authority. The specification shall include the methodology for the surveys, and a timetable for the checking surveys and submission for a report detailing the results of the survey. A report detailing the survey reports and identifying any mitigation measures required as a result of the survey for any construction works or clearance of vegetation between 1 March and 31 August of any year shall also have been submitted to and approved by the Local Planning Authority prior to any site preparation and construction work commencing. The specification and mitigation measures shall be implemented as approved under the supervision of a qualified ecologist.

19. No development shall commence until an on-site Habitat Management Scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include proposals to improve hedgerows to encourage movement of species, including at locations along the Three Shires Way between turbines 1 and 6 and between turbines 12 and 10, with new hedgerow planting around the substation and the establishment of new grassland areas. The scheme shall be implemented as approved in writing by the Local Planning Authority.

20. Prior to the construction of the first turbine, a written scheme shall have been submitted to and approved in writing by the Local Planning Authority setting out a protocol for the assessment of shadow flicker in the event of any complaint to the Local Planning Authority from the owner or occupier of any building which lawfully exists or had planning permission at the date of this permission. The written scheme shall include remedial measures to alleviate any shadow flicker attributable to the development. Operation of the turbines shall take place in accordance with the approved protocol unless the Local Planning Authority gives its prior written consent to any variations.

21. Prior to the erection of any turbine a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference (including to energy and water service industry radio links) to terrestrial television caused by the operation of the turbines shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a lawfully occupied dwelling, residential building or use which lawfully exists or had planning permission at the date of this permission, where such complaint is notified to the developer by the Local Planning Authority within 12 months of the First Export Date. Where impairment is determined by the qualified television engineer to be attributable to the wind farm, mitigation works shall be carried out in accordance with the scheme which has been approved in writing by the Local Planning Authority.

22. No development shall take place on site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme of investigation shall be implemented as approved.

23. No development shall take place until the Local Planning Authority has been provided with the following information:

- (i) The dates of commencement and anticipated completion of the construction;
- (ii) The height above ground level of the tallest permanent structure;
- (iii) The maximum extension height of any construction equipment; and
- (iv) The latitude and longitude of each turbine.

24. No development shall take place until a scheme of aviation obstruction lighting has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.

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

- (A) Prior to the First Export Date, the wind farm operator shall submit to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.
- (B) Within 21 days from receipt of a written request of the Local Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Local Planning Authority made under this paragraph (B), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the Local Planning Authority in the format set out in Guidance Note 1(e).
- (C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a

complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Local Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.

- (D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the Local Planning Authority pursuant to paragraph (C) of this condition shall be undertaken at the measurement location approved in writing by the Local Planning Authority.
- (E) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (F) of this condition, the wind farm operator shall submit to the Local Planning Authority for written approval a proposed assessment protocol setting out the following:
 - (i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions.
 - (ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the Local Planning Authority under paragraph (B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Local Planning Authority and the attached Guidance Notes.

- (F) The wind farm operator shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority made under paragraph (B) of this condition unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- (G) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (F) above unless the time limit for the submission of the further assessment has been extended in writing by the Local Planning Authority.
- (H) The wind farm operator shall continuously log wind speed, wind direction at the permanent meteorological mast erected in accordance with this consent and shall continuously log power production and nacelle wind speed, nacelle wind direction and nacelle orientation at each wind turbine all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine and the permanent meteorological mast shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the Local Planning Authority on its request within 14 days of receipt in writing of such a request.

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

Table 1: Between 07:00 and 23:00 hours (Noise Level in dB L_{A90}, 10-min)

Location (easting, northing grid co-ordinates)	Standardised 10 m height Wind Speed (m/s)											
	1	2	3	4	5	6	7	8	9	10	11	12
L _{A90} Decibel Levels												
Bozeat Grange (490335, 256548)	45.9	45.9	45.9	45.9	46.3	47.4	48.9	50.9	50.9	50.9	50.9	50.9
Dungee Farm (493756,258758)	40.0	40.0	40.0	40.0	40.0	40.0	40.0	42.4	42.4	42.4	42.4	42.4
Harrold Lodge Farm (493089,255309)	40.0	40.0	40.0	40.0	40.0	40.0	40.0	42.7	42.7	42.7	42.7	42.7
Lower Farm (491200,254433)	40.0	40.0	40.0	40.0	40.6	41.9	43.8	46.5	46.5	46.5	46.5	46.5
Manor Farm (493230,256989)	40.0	40.0	40.0	40.0	40.0	40.0	40.3	44.8	44.8	44.8	44.8	44.8
Middle Farm (492676, 256141)	40.0	40.0	40.0	40.0	40.0	40.0	40.3	44.8	44.8	44.8	44.8	44.8
Bozeat Grange Houses (490171,256,582)	45.9	45.9	45.9	45.9	46.3	47.4	48.9	50.9	50.9	50.9	50.9	50.9
Bozeat nearest properties (490901,258725)	40.4	40.4	40.4	40.4	40.6	41.3	42.6	44.3	44.3	44.3	44.3	44.3
Harrold Park Farm (492495,258617)	40.0	40.0	40.0	40.0	40.0	40.0	40.8	44.8	44.8	44.8	44.8	44.8
The Willows (489525,255287)	46.2	46.2	46.2	46.2	46.5	47.5	49.1	51.2	51.2	51.2	51.2	51.2
Northey Farm (490222,256022)	42.1	42.1	42.1	42.1	43.2	45.3	47.9	50.8	50.8	50.8	50.8	50.8
White House Farm (490742,258131)	40.4	40.4	40.4	40.4	40.6	41.3	42.6	44.3	44.3	44.3	44.3	44.3

Table 2: Between 23:00 and 07:00 hours (Noise Level in dB L_{A90}, 10-min)

Location (easting, northing grid co-ordinates)	Standardised 10 m height Wind Speed (m/s)											
	1	2	3	4	5	6	7	8	9	10	11	12
L _{A90} Decibel Levels												
Bozeat Grange (490335, 256548)	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
Dungee Farm (493756,258758)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Harrold Lodge Farm (493089,255309)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Lower Farm (491200,254433)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Manor Farm (493230,256989)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Middle Farm (492676, 256141)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Bozeat Grange Houses (490171,256,582)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Bozeat nearest properties (490901,258725)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Harrold Park Farm (492495,258617)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
The Willows (489525,255287)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Northey Farm (490222,256022)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
White House Farm (490742,258131)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0

Note to Tables 1 & 2: The geographical coordinates references set out in these tables are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies. The standardised wind

speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

Guidance Notes for Noise Condition

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

Note 1

- (a) Values of the $L_{A90,10\text{-minute}}$ noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting BS EN 60945:2003 "Electroacoustics – sound calibrators" Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.
- (b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The $L_{A90,10\text{-minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind

direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).

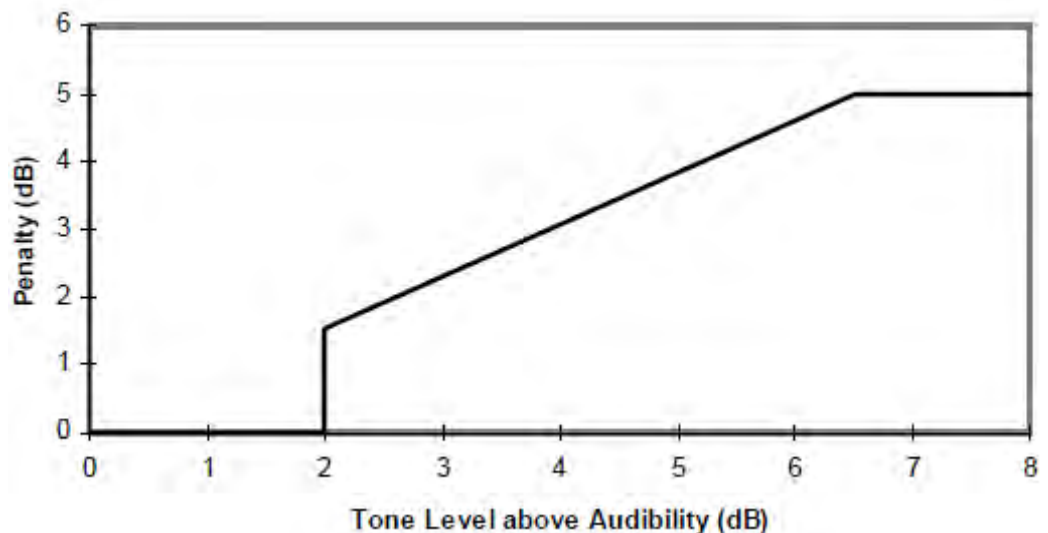
- (d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in metres from north in each successive 10-minutes period at the permanent meteorological mast erected in accordance with the planning permission on the site. Each 10 minute arithmetic average mean wind speed data as measured on the mast at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated during each successive 10-minutes period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.
- (e) Data provided to the Local Planning Authority in accordance with paragraphs (E) (F) (G) and (H) of the noise condition shall be provided in comma separated values in electronic format.
- (f) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d). The wind farm operator shall submit details of the proposed location of the data logging rain gauge to the Local Planning Authority prior to the commencement of measurements.

Note 2

- (a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).
- (b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Local Planning Authority under paragraph (E) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).
- (c) Values of the $L_{A90,10\text{-minute}}$ noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (E) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.
- (b) For each 10-minute interval for which $L_{A90,10\text{-minute}}$ data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.
- (c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.
- (d) The average tone level above audibility shall be calculated for each integer wind speed bin. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- (e) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.

**Note 4**

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

out in the approved assessment protocol under paragraph (E) of the noise condition.

- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Note 2.
- (c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (C) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.
- (d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
 - i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (E) of this condition.
 - ii. The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then the development fails to comply with the conditions.



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

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

SECTION 2: AWARDS OF COSTS

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

SECTION 3: INSPECTION OF DOCUMENTS

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