Department for Communities and Local Government

Conor Rafferty Esq.
Eversheds LLP
115 Colmore Row
Birmingham
B3 3AL

Our Ref: APP/H0520/A/13/2197548
Your ref: J Bowater156396/000059

3 December 2014

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY RWE INNOGY UK LTD (FORMERLY RWE NPOWER RENEWABLES LTD)
LAND TO THE NORTH OF A14 TRUNK ROAD AND VILLAGE OF BYTHORN AND NORTH EAST OF MOLESWORTH VILLAGE, CAMBRIDGESHIRE
APPLICATION REF: 1200967FUL

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, R P E Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI, who held a public local inquiry between 10-14 and 17-19 December 2013 into your client's appeal against the non-determination of an application by Huntingdonshire District Council (the Council) for the erection of six three-bladed horizontal axis wind turbines, 126m high to blade tip with associated infrastructure including: new vehicle access, onsite access tracks, foundations, external transformers (if required), crane hardstanding areas, one permanent anemometry mast, one temporary anemometry mast, temporary construction compound, control building and compound and underground cabling, in accordance with application ref 1200967FUL dated 13 June 2012.

2. On 11 October 2013, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to the Town and Country Planning Act 1990, because the appeal involves a renewable energy development.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that a split decision be issued such that the appeal is allowed in respect of the 3 western turbines but dismissed in respect of the 3 eastern turbines. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation, dismisses the appeal and refuses planning

Department for Communities and Local Government
Planning Casework Division,
SE Quarter, 3rd Floor,
Fry Building, 2 Marsham Street
London SW1P 4DF

Tel: 0303 444 1634
Email: PCC@communities.gsi.gov.uk

permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. In reaching this position, the Secretary of State has taken into account the Environmental Statement (ES) which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (IR5, 69(2), 449 and 450). The Secretary of State considers that the ES complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the proposals.

Matters arising after the close of the inquiry

5. Following the close of the inquiry, on 6 March 2014, the Government issued new planning guidance. The written comments of the main parties on any relevant implications of that guidance have been sought and taken into account in the Inspector's Report (IR1).

6. In addition, on 9 May 2014, the Secretary of State wrote to the main parties inviting comment on a recent Court of Appeal judgment relating to proposals affecting the protection of heritage assets under section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1991.

7. Responses were received from Bob Barfoot on behalf of Stop Molesworth Wind Farm Action Group (SMWFAG) dated 2 June, from the Council also dated 2 June and from David Hardy at Eversheds on behalf of the appellant again dated 2 June. The Secretary of State has taken account of these responses in his consideration of the appeal before him. As the responses were copied to the main parties, he does not consider it necessary to summarise their responses here or attach them to this letter. Copies of the correspondence can be obtained upon request to the address at the bottom of the first page of this letter.

8. After the inquiry closed, Huntingdonshire District Council adopted the Supplementary Planning Document (SPD): Wind Energy Development in Huntingdonshire 2014 on 19 June 2014. This SPD deals with issues of landscape and visual impact for wind energy development proposals, identifying which landscape character areas are more or less suitable for wind turbine development of different types. That includes the Northern Wolds LCA which is considered to have a low capacity for a medium scale group of 6-12 turbines and a moderate capacity for a small scale group of 2-5 turbines.

9. The Secretary of State notes that the 2014 SPD replaces the Wind Power SPD adopted in 2006 (WP SPD), which has been revoked. In his report, the Inspector considered the WP SPD to be an important material consideration and because the 2014 SPD was only in draft form at the time of the inquiry, the Inspector afforded it only limited weight (IR41). The Secretary of State considers that due to the document's current status now that it has been adopted by the District Council, it merits significant weight in his consideration of this appeal. However, as the Inspector and parties were aware of the document, albeit in draft form at the time of the inquiry, he does not consider it constitutes new evidence requiring further reference back to the parties.

Policy considerations

10. In deciding the appeal the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

11. In this case the development plan consists of the saved policies of the Huntingdonshire Local Plan (1995) and Alteration 2002 (except those superseded by the Core Strategy), the Huntingdonshire Local Development Framework Core Strategy (2009), the Huntingdon West Area Action Plan (2011) and the Cambridgeshire and Peterborough Minerals and Waste Development Plan Core Strategy Development Plan Document (2011). The Secretary of State considers that the policies identified in IR25-28 are the most relevant policies to this appeal.

12. Other material considerations which the Secretary of State has taken into account are those outlined in IR29-55, particularly the Huntingdonshire Landscape and Townscape Assessment SPD (2007) and the Wind Energy Development in Huntingdonshire Supplementary Planning Document 2014. The Secretary of State has also taken into account the planning practice guidance published in March 2014; the National Policy Statements (NPS) for Energy (EN-1) and Renewable Energy (EN-3); and Ministerial Written Statements on renewable energy published in June 2013 by the Secretary of State for Energy and Climate Change and by the Secretary of State for Communities and Local Government and both Written Ministerial Statements on renewable energy published by the Secretary of State for Communities and Local Government in October 2013 and April 2014.

13. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA), the Secretary of State has paid special attention to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas, as required by section 72(1) of the LBCA.

14. At the Inquiry, the Inspector gave consideration to both the development of the submitted 6 turbine scheme and also the possibility of a split decision whereby some but not all of the turbines would be permitted (IR67-68). Both the full 6 turbine scheme and the 3 turbine scheme which includes the western turbines T1, T3 and T5 but which excludes the eastern turbines T2, T4 and T6 are considered below.

Main Issues

Benefits

15. The Secretary of State agrees with the Inspector's assessment of the renewable energy, economic and other benefits of the scheme at IR548-553. He agrees that there is no dispute that the proposal, whether as submitted or as a reduced 3 turbine proposal, would make a very significant and useful contribution to renewable energy. He also agrees that the contribution it would make to

renewable energy production and CO^2 savings attract considerable weight in favour of the proposal (IR554).

Landscape Character

Key views to Church Spires

16. The Secretary of State has given careful consideration to the Inspector's assessment of impacts on church spires at IR466-475, particularly the impact of the turbines on views of Keyston Church and Bythorn Church. In terms of the view of Keyston Church from the south west of the village, he agrees that although the 6 turbines would not dominate the church, they would be a significant distraction undermining the pre-eminent status of the spire above the village. Like the Inspector, the Secretary of State considers that the impact on the views from the south west would be reduced if only turbines T1, T3 and T5 were to be erected (IR 468).

17. Turning to Bythorn Church, the Secretary of State agrees that from views to the south of the village, the 6 turbines would again be seen on both sides of the church spire and would at best diminish and at worst usurp the role of the church tower in the landscape. However, like the Inspector, he considers the impact would be reduced if only T1, T3 and T5 were erected with all the 3 turbines appearing to the left side of the church (IR469).

18. The church spires are also seen when approaching the villages from the north-west and east. The Secretary of State agrees with the Inspector (IR471) that whilst these also include key views of the spires, in those views the spires would not be closely juxtaposed with the turbines. Overall, the Secretary of State accepts the Inspector's conclusion (IR472) that the 6 turbine scheme would diminish the visual prominence of both church spires and their role as a landscape feature. In his report, the Inspector compared the impacts of the 3 turbine scheme with those in the Woolley Hill appeal (IR473). The Secretary of State considers that the Inspector's comment that that the reduced 3 turbine scheme would similarly have 'limited impacts on the perception of church spires in the landscape' underplays their adverse effects on the church spires as characteristic features of this part of Huntingdonshire.

Ridges, Plateaux, Valleys and Valley Crests

19. The Secretary of State agrees with the Inspector that in this case, the western half of the appeal site accords most closely with the location preference of the SPD as to where turbines could be best accommodated in this large scale landscape (IR474). Turning to the eastern half of the appeal site, he agrees too that turbines T2, T4 and T6 would be close to the valley crests and T6 would be on such a crest and would dominate a smaller scale landscape. Although the Secretary of State accepts that a split decision that deleted T2, T4, and T6 and permitted T1, T3, and T5 in a 3 turbine scheme would have a reduced landscape impact, like the Inspector, he considers it would still have an adverse effect on established local landscape character (IR475).

Respect setting of historic villages

20. The Secretary of State has given careful consideration to the Inspector's comments on the setting of historic villages at IR476-483. He agrees with the Inspector's overall conclusion (IR484) that the 6 turbines would dominate the scale and historic character of Bythorn in particular, and having lesser, but still adverse, landscape effects on the setting of the other 3 nearest villages. However, the Secretary of State considers the Inspector's comment that those impacts would be 'much reduced' in a 3 turbine scheme if turbines T2, T4 and T6 were not erected, overplays the reduction in harm.

Cumulative effects

21. For the reasons given at IR485-490, the Secretary of State agrees with the Inspector's conclusion (IR491) that there would be mainly sequential slight adverse cumulative impacts from this and other wind farm developments, including in a wider area extending from beyond the Northern Wolds. Like the Inspector, he considers these impacts are not significant enough to justify the dismissal of the proposal on landscape grounds should the proposal otherwise be found acceptable in terms of its landscape effects (IR491).

22. The Secretary of State accepts the Inspector's overall conclusion (IR492) that the 6 turbine scheme would have significant adverse landscape effects when assessed against the WP SPD criteria and especially in relation to the impacts on the setting of Bythorn and its church spire and on the intimate scale of the small valleys to the north of Bythorn, and an albeit lesser adverse effect on the setting of Keyston. The Inspector reports that the deletion of turbines T2, T4 and T6 would remove the adverse effect on the small valleys and would markedly reduce the adverse effect on the setting of the church spires of Bythorn and Keyston and on the landscape setting of Bythorn village in particular.

23. Although the Secretary of State agrees that the adverse effects would be reduced by the deletion of turbines T2, T4 and T6, having also considered illustrations and predicted views of the turbines, he considers the Inspector's comment that their removal would 'markedly reduce the adverse effect on the setting of the church spires of Bythorn and Keyston and on the landscape setting of Bythorn village' overplays the reduction in harm their deletion would achieve.

Visual Amenity

24. The Secretary of State has carefully considered the Inspector's assessment of visual amenity at IR493-503. He agrees that the turbine scheme would cause significant harm to visual amenity for recreational users of public rights of way, particularly to the north of Bythorn and also to a short stretch of public footpath near to turbine T3. He agrees too that there would also be significant harm to the visual amenity of residents and particularly those living on the north and west sides of Bythorn, the west side of Molesworth, and (to a lesser extent) on the north side of Keyston.

25. In terms of living conditions, the Secretary of State agrees with the Inspector that Warren Grange would experience the greatest harm due mainly to ever-present open views from most main room windows of turbines T2, T4 and T6,

exacerbated by filtered views of T1, T3 and T5 in other directions. Whilst in some circumstances the nearest separation distance of 892m would be sufficient to avoid unacceptable harm, the Secretary of State agrees that here the extra elevation of the turbines relative to the house and their spread across the view are aggravating factors such that Warren Grange would become an unsatisfactory place to live. Nevertheless, he accepts that were turbines T2, T4 and T6 deleted from the scheme, then Warren Grange would remain as a satisfactory place to live and the visual impact on the most sensitive public rights of way including Warren Lane would also be substantially mitigated (IR504).

Cultural Heritage

26. In determining this appeal, the Secretary of State has had regard to the potential impacts on listed buildings, having special regard to the desirability of preserving those buildings or their settings, as required by section 66(1) of the LBCA. He has also had regard to paragraph 007 of the Planning Guidance on Renewable and Low Carbon Energy which states that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting and paragraph 019 of the same guidance, which states that, depending on their scale, design and prominence, a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset. Bearing this in mind, the Secretary of State has paid particular attention to the Inspector's assessment of heritage matters at IR505-520, in addition to the evidence put to the inquiry in this respect, and the representations he received on this matter in response to his letter of 9 May.

27. The Secretary of State has given careful consideration to the Inspector's assessment of impacts on the wide range of heritage assets, which include the setting and heritage significance of the Grade II* listed Bythorn Church, the Bythorn Conservation Area (which also includes other listed buildings), the Grade II listed Scots Farmhouse, the Grade I listed Keyston Church, Keyston Conservation Area (which includes other listed buildings and also the ground level remains of a scheduled ancient monument), the Grade II* listed Molesworth Church and Molesworth Conservation Area.

28. In accordance with the recent Court of Appeal decision in Barnwell Manor Wind Energy Limited v East Northamptonshire District Council and others [2014] EWCA Civ 137, the Secretary of State attaches considerable weight and importance to the harm caused to designated heritage assets in the planning balance. He agrees with the Inspector (IR505-516) that the 6 turbine scheme would result in just less than substantial harm to the setting of some listed buildings and in particular to the setting of Bythorn Church and Scotts Farmhouse. It would also result in some but lesser harm to Keyston Church and to the setting of other listed buildings within the Bythorn Conservation Area, minor harm to the setting of Molesworth Church, and minor or negligible harm to the setting of other listed buildings. However, he considers that the Inspector's comment that the 3 turbine scheme of T1, T3 and T5 'would result in significantly reduced, levels of harm' overplays the level of harm that would be reduced by the deletion of turbines T2, T4 and T6.

29. Although the Secretary of State agrees with the Inspector that the level of harm would not be 'substantial' in the terms set out in the Framework but that, in accordance with s.66 of the LBCA, the preservation of setting is to be treated as a desired or sought-after objective, and considerable importance and weight attaches to the desirability of preserving the setting of listed buildings when weighing this factor in the balance. The Secretary of State takes the view that it does not follow that if the harm to heritage assets is found to be less than substantial, then the subsequent balancing exercise undertaken by the decision taker should ignore the overarching statutory duty imposed by section 66(1) and he therefore sees a need to give considerable weight to the desirability of preserving the setting of all listed buildings.

30. The Secretary of State agrees with the Inspector (IR512) that the harm caused by the 6 turbine scheme to the significance of Bythorn Conservation Area falls just below the level of substantial harm but is nonetheless significant. In terms of the effects on the Keyston Conservation Area, he agrees (IR514) with the Inspector that apart from the general views of the village from the south there would be no important views of, within or from the conservation area or the monument where the turbines would have a significant impact on heritage significance. Turning to Molesworth Conservation Area, the Secretary of State accepts the Inspector's assessment (IR515) that the turbines would not usually appear in the same view as the church or other buildings in the conservation area. One exception is a view from Millennium Green in the village where for example, some harm would arise from seeing the moving turbine blades incongruously above the roof of a listed thatched cottage in a typically traditional rural village setting (IR515).

31. In this case, where the harm is 'less than substantial' as set out in paragraph 134 of the NPPF, the harm to heritage assets needs to be weighed against the benefits of the proposal.

Other Matters

32. The Secretary of State agrees with the Inspector's reasoning and conclusions on ecology at IR521-528, noise IR529-547 and other considerations including health effects, tourism and the fear that the scheme would not be completed (IR555-558).

Conditions

33. The Secretary of State has considered the Inspector's reasoning and conclusions on the proposed planning conditions (IR451), together with the reasons for individual conditions included in the Schedule of Conditions (provided at pages 123-138 of the Inspector's Report). He is satisfied that the proposed conditions are reasonable and necessary and meet the tests of paragraph 206 of the Framework. However, he does not consider that these conditions overcome his reasons for dismissing the appeal.

Planning balance

The 6 turbine scheme

34. The Secretary of State concludes, in agreement with the Inspector, that the 6 turbine scheme would have significant adverse landscape effects, especially in relation to the impacts upon the setting of Bythorn and its church spire and on the intimate scale of the small valleys to the north of Bythorn. In addition, he concludes they would create a new area of wind farm landscape, would dominate the setting of Bythorn in the landscape; and would also intrude on key views of the spire of Keyston church from the south west.

35. The Secretary of State concludes that the 6 turbine scheme is not supported by the 2014 SPD in that there would be significant harm to key views of Bythorn and Keyston church spires, one turbine would be sited on a valley crest and both it and the other turbines would dominate the intimate valleys north of Bythorn. Furthermore, he finds, in agreement with the Inspector at IR562 that the 6 turbines would not respect the settings of historic villages because they would dominate the scale and historic character of Bythorn in particular, and would have lesser, but still adverse, effects on the setting of the other 3 villages.

36. The Secretary of State finds, in agreement with the Inspector at IR565, that the 6 turbine scheme would cause significant harm to visual amenity for recreational users of public rights of way, particularly to the north of Bythorn and also to a short stretch of public footpath near to turbine T3. There would also be significant harm to the visual amenity of residents and particularly those living on the north and west sides of Bythorn and the west side of Molesworth. He agrees with the Inspector that the occupiers of Warren Grange in Bythorn would experience the greatest harm and, for the reasons given at paragraph 25 above, agrees it would become an unsatisfactory place to live.

37. The Secretary of State agrees that the 6 turbine scheme would result in just less than substantial harm to the setting of some listed buildings and in particular to the setting of Bythorn Church and Scotts Farmhouse. It would also result in some lesser harm to the setting and significance of Keyston Church and to the setting and significance of other listed buildings within the Bythorn Conservation Area. Like the Inspector, he attaches considerable weight to these identified harms.

38. Against the harms described above and those identified at paragraph 32, he weighs the significant benefits in terms of renewable energy generation (IR571).

The 3 turbine scheme

39. The Secretary of State concludes that although the deletion of turbines T2, T4 and T6 would reduce the adverse effect on the setting of the church spires and the villages, especially in Bythorn and to a lesser extent in the other 3 nearest historic villages, the reduction in harm has been overplayed by the Inspector. In particular, harm to key views of Bythorn and Keyston church spires would still remain albeit the 3 turbines would usually appear to one side of the spires. He acknowledges that the reduced number of turbines would be more respectful to the settings of historic villages, but he concludes that the harm would still be significantly adverse.

40. He agrees with the Inspector's view that although the impact of the 3 turbine scheme would be reduced by comparison with the 6 turbine group owing to the smaller scale of the development and the slightly greater separation from the Woolley Hill scheme, mainly sequential slight adverse cumulative impacts with other existing and consented wind farm developments would remain.

41. The Secretary of State finds, in agreement with the Inspector, that whilst a number of dwellings would still experience changes to their outlook which residents may consider to be adverse, neither Warren Grange nor any other dwelling would become an unsatisfactory place to live. In addition, the visual impact on the most sensitive public rights of way including Warren Lane would be substantially mitigated in that no public rights of way would pass between the turbines.

42. The Secretary of State concludes that while the levels of harm caused by the 3 turbine scheme to the setting and significance of Bythorn Church, Bythorn Conservation Area, Scotts Farmhouse, Keyston Church and other heritage assets to the south and east of the development would be reduced, the reduction in harm compared to the 6 turbine scheme has been overplayed by the Inspector and this harm still merits considerable weight.

Overall conclusions

6 turbine scheme

43. The Secretary of State acknowledges that the 6 turbine scheme would create the most renewable energy and thus the most associated environmental and economic benefits. However, having weighed up all relevant considerations, the Secretary of State concludes overall that the factors which weigh in favour of the proposed 6 turbine development are clearly outweighed by the cumulative harm and the conflict identified with national policy. For these reasons and having regard to all other matters, the Secretary of State accepts the Inspector's recommendation that the appeal should be dismissed in respect of the full 6 turbine scheme.

44. The Secretary of State acknowledges that the 3 turbine scheme comprising only the 3 western turbines (T1, T3 and T5) would generate only half as much energy as the full 6 turbine scheme, with a commensurate reduction in the environmental benefits, but would still make an important contribution towards meeting statutory targets which merits considerable weight.

45. The Secretary of State agrees with the Inspector that the 3 turbine scheme would be in limited conflict with some objectives of CS Policy CS 1 but it would accord with another important objective of that policy to maximise opportunities for renewable energy. Having regard also to the considerable weight to be accorded to any failure to preserve the setting of listed buildings, as required by S66 of the 1990 Act, the Secretary of State concludes overall that the benefits of the 3 turbine scheme do not outweigh the identified harm. For this reason, the Secretary of State has concluded that the 3 turbine scheme should be dismissed.

46. Having weighed up all relevant considerations, the Secretary of State concludes that the factors which weigh in favour of the 3 turbine development are clearly outweighed by the cumulative harm and the conflict identified with national policy.

Formal decision

47. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector that the 6 turbine scheme should be dismissed, but disagrees with his recommendation that a split decision be issued such that the appeal is allowed in respect of the 3 western turbines but dismissed in respect of the 3 eastern turbines. He hereby dismisses your client's appeal and refuses planning permission for the erection of six three-bladed horizontal axis wind turbines, 126m high to blade tip with associated infrastructure including: new vehicle access, onsite access tracks, foundations, external transformers (if required), crane hardstanding areas, one permanent anemometry mast, one temporary anemometry mast, temporary construction compound, control building and compound and underground cabling, in accordance with application ref 1200967FUL dated 13 June 2012.

48. This letter serves as the Secretary of State's statement under Regulation 21(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

49. 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.

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

Yours faithfully

Richard Watson
Authorised by Secretary of State to sign in that behalf

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by R P E Mellor BSc DipTRP DipDesBEnv DMS MRICS MRTPI

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

Date: 11 April 2014

Town and Country Planning Act 1990

Huntingdonshire District Council

Appeal by

RWE NPower Renewables Ltd

Inquiry held on 10-14 and 17-19 December 2013 and closed in writing on 14 January 2014
Accompanied Site Visit on 20 December 2013

Land to the North of A14 trunk road and village of Bythorn and North East of Molesworth village, Cambridgeshire PE28 0

File Ref: APP/H0520/A/13/2197548

File Ref: APP/H0520/A/13/2197548
Land to the North of A14 trunk road and village of Bythorn and North East of Molesworth village.

- 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 Ltd against Huntingdonshire District Council.
- The application Ref 1200967FUL is dated 13 June 2012.
- The development proposed is: 'the erection of six three bladed horizontal axis wind turbines, 126m high to blade tip with associated infrastructure including: new vehicles access, onsite access tracks, foundations, external transformers (if required), crane hardstanding areas, one permanent anemometry mast, one temporary anemometry mast, temporary construction compound, control building and compound and underground cabling'.

Summary of Recommendation: It is recommended that a split decision is issued such that the appeal is allowed in respect of the 3 western turbines but dismissed in respect of the 3 eastern turbines.

CONTENTS	Page No.

Abbreviations used in this Report

AOD	Above Ordnance Datum
CD	Core Document
CO2	Carbon Dioxide
CLCA	Current Landscape Character Assessment (Northants)
CS	Huntingdonshire Core Strategy
DECC	Department of Energy and Climate Change
DL	Decision Letter Paragraph
DPD	Development Plan Document
Draft LP	Stage 3 draft of the Local Plan to 2036
EAM	Excess Amplitude Modulation
EH	English Heritage
EIA	Environmental Impact Assessment
EN-1	National Policy Statement for Energy
EN-3	National Policy Statement for Renewable Energy
ES	Environmental Statement
ETSU	The assessment and rating of noise from wind farms (ETSU-R-97)
EU	European Union
Framework	National Planning Policy Framework
GLVIA	Guidelines for Landscape and Visual Impact Assessment
GW	Gigawatt
ha	hectare
HDC	Huntingdonshire District Council
HLTA SPD	Huntingdonshire Landscape and Townscape Assessment Supplementary Planning Document
IoA	Institute of Acoustics
IPC	Infrastructure Planning Commission
IR	Inspector's Report
km	Kilometre
LCA	Landscape Character Area
LDF	Local Development Framework
LP	Huntingdonshire Local Plan
LPA	Local Planning Authority
LVIA	Landscape and Visual Impact Assessment
m	Metre
MCS	Minerals and Waste Core Strategy
MW	Megawatt
NE	Natural England
NOx	Nitrous Oxide
PPG (RLCE)	Planning Practice Guidance (March 2014) (Renewable and Low Carbon Energy section)
NPS	National Policy Statement
OAM	Other Amplitude Modulation
PPS	Planning Policy Statement
RSS	Regional Spatial Strategy
RUK	Renewable UK
SAM	Schedule Ancient Monument
SEI	Supplementary Environmental Information
SMWFAG	Stop Molesworth Wind Farm Action Group
SoS	The Secretary of State for Communities and Local Government
SoCG	Statement of Common Ground
SNH	Scottish Natural Heritage
TSHA	The Setting of Heritage Assets – English Heritage
TWh	Terrawatt Hour
VP	Viewpoint (landscape) or Vantage Point (ecology)
WP SPD	Wind Power Supplementary Planning Document
WTD Report	Wind Turbine Development Report (also known as the LUC Report)
XIC	Evidence in Chief
XX	Cross examination
ZTV	Zone of Theoretical Visibility

PROCEDURAL MATTERS

1. Since the Inquiry, the Appellant company has changed its name to RWE Innogy UK Ltd. Also, on 6 March 2014, the Government issued new Planning Practice Guidance (PPG). In particular this includes a section on 'Renewable and Low Carbon Energy' (RLCE). The written comments of the main parties on any relevant implications of that guidance have been sought and taken into account in this report.

2. After the appeal was lodged the Council resolved on 17 June 2013 that it would have refused planning permission for what the Council described as one reason but which comprises 4 paragraphs and is in several parts as follows:

> *The proposal, being within the setting of a number of heritage assets, would result in harm to their significance (including substantial harm to Bythorn Church and Bythorn Conservation Area) by virtue of the impacts upon views from and to these important assets. As such the Council is unable to find that the proposal has special regard to the setting of these Listed Buildings and finds that the proposal does not preserve the character and appearance of the affected Conservation Areas. The proposal is therefore in significant conflict with Policies En2, En5, En9 and En 11 of the Local Plan, draft Policy LP31 of the Local Plan to 2036: Stage 3 and the National Planning Policy Framework.*
>
> *The proposal would also lead to unacceptable impacts upon the character of the landscape and amenity of the area by virtue of the number, size and location of the proposed wind turbines. There could also be unacceptable cumulative impacts arising from the proposal. The proposal is therefore contrary to Policies En2, En5 and En9 of the Local Plan 1995, Policy LP31 of the Draft Local Plan to 2036: Stage 3 2013, the Wind Power SPD 2006, the Huntingdonshire LDF Consultation Draft SPD: Landscape Sensitivity to Wind Turbine Development 2012 and the National Planning Policy Framework.*
>
> *The proposal would also unacceptably impact upon the amenity of the existing and future occupiers of Warren Grange such that, owing to the number, size and proximity of the turbines they would represent an unpleasantly overwhelming and unavoidable presence in main views from the main living areas of the house and the main area which is used as a garden. The impact is considered such that the property would be widely regarded as an unattractive and thus unsatisfactory place in which to live. The public interest would not be maintained if the development proceeded. There is also conflict with draft Policy LP15 of the Local Plan to 2036: Stage 3 and the National Planning Policy Framework.*
>
> *These conflicts with policy cumulatively outweigh the support which the proposal enjoys from national guidance and policy and the resulting employment opportunities. The planning balance therefore does not weigh in favour of the proposal and so the proposal is therefore in significant conflict with Policy CS1 of the Core Strategy, draft Policy LP5 of the Local Plan to 2036: Stage 3, the Wind Power SPD 2006, the Huntingdonshire LDF Consultation Draft SPD: Landscape Sensitivity to Wind Turbine Development 2012 and the National Planning Policy Framework.*

THE SITE AND SURROUNDINGS

3. The site is in Cambridgeshire within the PE28 0 postcode area. To the north west the appeal site abuts the border with Northamptonshire (East Northamptonshire District). The Council describes the location as: *'Land South West of RAF Molesworth, Warren Lane, Bythorn'*.

4. There is a brief site location and description at page 5 of the Statement of Common Ground (the SoCG) (Document 2) and a site location plan at SoCG Appendix 2.

5. The Environmental Statement (ES) at Figure 6.4 includes a landscape and visual analysis plan which provides a diagrammatic indication of the local topography. At Appendix 10 to document AG1.4 is a reduced scale version of the same plan on which the SMWFAG landscape witness Michelle Bolger has marked the positions of the proposed turbines.

6. SoCG Appendix 3 shows the public rights of way in the vicinity. A number of footpaths, bridleways and the Warren Lane by-way cross the appeal site. Figure 3.5 of the ES Volume 2 Figures indicates how the position of each turbine in the finally submitted layout would relate to a series of suggested buffer distances to either side of the public rights of way. Buffers are also indicated to woodland, water courses/features, high voltage cables and existing radio-communication links. The bases of the turbines are marked on that plan but it does not show the extent of the turbine blades. This is relevant to considerations of micro-siting should the positions of the turbines be adjusted.

7. SoCG Appendix 4 lists distances from assessed dwellings to the nearest turbine. The separation distances typically exceed 1km except in relation to some dwellings on the northern edge of Bythorn, the western edge of Molesworth, and the northern edge of Keyston. The nearest dwellings are Jolly Hills, Molesworth (744m from Turbine T6) and Old Tollbar House, Keyston (an isolated dwelling north of the A14 and 773m from T5). The only dwelling cited in the Council's putative reason for refusal as unacceptably harmed by the development is Warren Grange, Bythorn, which is 892m from T4. However there are also objections from other persons in relation to the effect on other dwellings.

8. The appeal site is spread across the boundary between National Character Area (NCA) 88: '*Bedfordshire and Cambridgeshire Claylands* and NCA 89: '*Northamptonshire Vales'*. Both NCAs cover extensive areas and they are of less value in site specific assessments than are the more local landscape character assessments.

9. The site is within the locally assessed '*Northern Wolds Landscape Character Area'*. This is described in the Council's '*Huntingdonshire Landscape and Townscape Assessment SPD'* (the HLTA SPD) (CD2.5). The Northern Wolds are the highest land in the District and are they formed of glacial till overlying rock. Ridges have been formed by streams that have eroded pronounced valleys. The area is described in the LCA as having a harmonious character and relative tranquillity. However that tranquillity is acknowledged as reduced where the A14 dual carriageway crosses the area between east and west (south of the appeal site).

10. The adjoining land within Northamptonshire was assessed by the Northamptonshire '*Current Landscape Character Assessment'* (2006) as either part of the '*Farmed Claylands Landscape Character Are'* or of the '*Limestone Valley Slopes Landscape Character Area'*. There are extracts from the document at Appendix 4 to Ms Bolger's Proof (Document AG1.4).

11. The turbines would be located to the north and north-west of Bythorn and to the west of Molesworth. The western half of the site is a relatively flat area of high ground used as large open arable fields. It forms a broad ridge that is an extension of the plateau on which the Molesworth air base is located. The land drops away gently north-west towards a broad valley beyond the Northamptonshire border which also features large open arable fields. A high voltage overhead power line supported by pylons crosses the westernmost corner of the appeal site on a north-west to south-east alignment. The eastern half of the appeal site has a more varied topography owing to incursions from the south into the high ground by small stream-eroded valleys. These valleys have a more intimate scale with steeper slopes, smaller fields, and more trees and hedgerows.

12. The busy dual carriageway A14 passes to the south of the appeal site in a shallow cutting across the ridge on which the turbines would stand. To the east it runs along the floor of a broad valley in the direction of Huntingdon and the A1. The road creates a physical barrier between the village of Keyston to the south and the village of Bythorn to the north. Molesworth village is to the east of Bythorn and is also north of the A14. Background road noise from the A14 is apparent in these three villages. Brington is to the north east of Molesworth and further from the A14. A section of the old road known as Thrapston Road, and which the A14 replaced, runs parallel and to the north of the dual carriageway between junctions 15 and 16 and through the village of Bythorn. Junction 16 on the A14 is a grade-separated junction with a bridge. Junction 15 is a staggered crossroads without acceleration or deceleration lanes.

13. Each of the above 4 small villages is of approximately equal size. Each has its own distinctive listed stone church and some other listed buildings, together with a modest amount of modern development. The Keyston Church is listed Grade I and the other 3 churches are all Grade II*. The Keyston, Brington and Bythorn churches were built with distinctive tall stone spires. However that at Bythorn was truncated in the 1950s for structural reasons, before that building was listed. The boundaries of the Conservation Areas of Bythorn, Keyston and Molesworth are shown at Appendix 3 of Document HDC/LB/3 appended to the Council's heritage proof. There is more detail on larger scale plans in Appendices 5, 8 and 9 of that document, which also records the locations of the listed buildings. The Bythorn Conservation Area includes open land within the settlement. There are some listing descriptions at Appendix 2. The Molesworth Conservation area includes many of the fields around the village and these abut the appeal site's eastern boundary for about 200m. There is a Character Statement for the Keyston Conservation Area (2003)(CD10.9). A moat and earthworks are all that remain of the Old Manor House at Keyston which is a scheduled ancient monument.

14. Molesworth air base is on a plateau area to the north of Molesworth village. It has no active runway. A tower at the base stands out in some photographs. Orange streetlighting on the skyline makes the base stand out at night.

15. There are numerous photographs of the area in the Environment Statement Figures from 6.20 onwards and in the Supplementary Environmental Information Figures. These are accompanied by visualisations of the proposed turbines using a 50mm lens as recommended in current Scottish Natural Heritage guidance. A further volume of visualisations was prepared by the Stop Molesworth Wind Farm Action Group and submitted as Document AG1.3. These include photographs with focal lengths of both 50mm and 75mm which enables comparisons to be made of the two formats. SMWFAG considers that the 75mm format is more representative of how the turbines will be seen[1].

THE PROPOSALS

16. The formal planning application drawings are listed in the recommended conditions. There is a fuller set of drawings included within Volume 2 of the ES. This includes some indicative drawings of matters that would require further approval under the terms of the conditions.

17. The 6 x 125m turbines numbered T1-T6 would straddle a broad ridge (or narrow plateau) as illustrated on the 5m interval contour plan at Appendix G to the Council's landscape proof (HDC/CT/3). Turbines T2, T4 and T5 would be in an almost straight east-west line across the higher ground at similar heights of 75m, 75m and 70m respectively Above Ordnance Datum (AOD). T6 would be at a similar height of 72m AOD but slightly offset to the south east. T1 at 68m would be on slightly lower ground on the northern edge of the ridge. T3 would be the lowest at 61m AOD on falling land on the north west side of the ridge.

18. Whilst T2, T4 and T6 would occupy some of the highest ground, they are also the turbines which are closest to the more intimate scale valleys to the north of Bythorn. They are also the closest and most prominent turbines in views north from Bythorn or west from Molesworth. The same contour plan illustrates how turbines T4, T2 and T6 would relate to these relatively steep sided small valleys to the east. Bu contrast, Turbines T5, T1 and T3 would be on land which is either flat or which is gently sloping towards the broad valley to the north west where there is no nearby settlement other than an abandoned house.

19. According to the SoCG the four villages of Bythorn, Molesworth, Keyston and Brington would all be within 2km of the nearest turbine, as would some isolated farmhouses and other dwellings in Northamptonshire. Numerous dwellings in Bythorn and Molesworth would be within 1,000m of Turbines T4 and T6. Also 3 dwellings in the main settlement of Bythorn are listed as being within 1,000m of T5 as the nearest turbine: Ash Cottage (945m), The Forge (977m) and Doyden Barn (985m). Whilst turbines T3 and T5 would be the turbines closest to the village of Keyston, the dwellings in the main settlement of Keyston are all at least 1,350m away. There are 2 isolated Keyston dwellings beside the A14 that are closer to the turbines: Old Tollbar House (773m from T5) and Boundary House (819m from T3). The nearest Brington dwellings would be at least 1,700m away from T6. Excluding the abandoned Titchmarsh Lodge East, the nearest Northamptonshire dwelling would be 1,378m from T3.

[1] Although current Scottish Natural Heritage guidance favours the 50mm format, SNH has been consulting recently on use of the 75mm format (See CD8.21).

20. Warren Lane is a by-way which passes between the locations proposed for the turbines but which would not be used for vehicular access. Instead a new access track through the site serving all the turbines would be constructed from a location on Thrapston Road to the east of Bythorn. The control building would be sited about 220m north of the highway access point. An anemometer mast would be erected near turbine T3.

21. The application does not include the grid connection which the Appellant company indicates would be made by means of underground cables within the public highway between the site entrance and Brington.

PLANNING POLICY

The Development Plan

22. S.38(6) of the Planning Act 2004 requires that: *"If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

23. The National Planning Policy Framework (the Framework) advises at paragraph 215 that: *"due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*

24. The relevant development plan here comprises:

- The Huntingdonshire Local Development Framework Core Strategy 2009 (the CS) (CD1.2)
- The saved policies of the Huntingdonshire Local Plan 1995 (the LP)(CD1.1)
- The Cambridgeshire and Peterborough Minerals and Waste Development Plan Core Strategy Development Plan Document 2011 (The Minerals and Waste DPD) (CD1.3)

25. CS Policy CS1 seeks (amongst other things) to maximise opportunities for renewable and low carbon energy sources whilst also seeking (again amongst other things) to preserve and enhance the diversity and distinctiveness of Huntingdonshire's villages and landscapes including the conservation and management of buildings, sites and areas of architectural, historic or archaeological importance and their setting and protecting, maintaining and enhancing the range and vitality of characteristic habitats and species to create a viable ecological network. The supporting text encourages proposals for renewable energy provision and refers to the Council's Supplementary Planning Document on Wind Power (the Wind Power SPD).

26. The LP was adopted 19 years ago and does not include any policies for renewable energy. However several general LP policies are referred to in the putative reason for refusal. LP Policy En2 requires regard amongst other things to the setting of listed buildings. LP Policy En5 requires that development directly affecting conservation areas preserves of enhances their character or appearance. LP Policy En9 provides that development will not normally be

permitted if it would (amongst other things) impair views into or out of conservation areas.

27. There are other LP policies of potential relevance to the proposal or to the application of planning conditions. In particular, the Council points out that LP Policy En17 would *'generally'* restrict development in the countryside to a list which does not include wind turbines. However the Council does not rely on that policy and has permitted wind turbine developments elsewhere in the countryside. Also En17 would permit development which is essential to the efficient operation of (amongst other things) *'public utility services'*. LP Policy En12 provides that conditions may be applied for development on sites of archaeological interest. LP Policy En22 requires, where relevant, that planning determinations take appropriate account of the interests of nature and wildlife conservation. LP Policy En25 expects that new development will generally respect the scale, form, materials and design of established buildings in the locality. LP Policies En11, En12, En18, En20, En23, En25, R15 and R18 have also been referred to by some parties but are of little relevance to the main issues.

28. Minerals and Waste DPD Policies CS1 and CS26 provide amongst other things for Mineral Safeguarding Areas, one of which affects the appeal site.

The Emerging Development Plan

29. The Huntingdonshire Draft Local Plan to 2036 (the Draft LP) (CD2.1) was subject to informal Stage 3 consultation in the summer of 2013. It is due to be subject to formal consultation in early 2014 before submission for examination in Spring 2014. It has been the subject of objections and may change. It remains at an early stage and thus merits only limited weight as a material consideration.

30. The Council's putative reason for refusal refers to Policies LP 5, LP 15 and LP 31 of the Stage 3 Draft LP. LP 5 will support renewable energy generating schemes where all potential adverse impacts including cumulative impacts have been avoided or minimised as afar as possible. Potential adverse impacts are stated to relate to: the environment and local amenity including noise levels; heritage assets and their settings; biodiversity; and the character of the surrounding landscape. Remaining impacts after avoidance, minimisation, enhancement and/or compensatory measures will be weighed with the public benefits of the proposal. For redundant or time-limited proposals the policy makes provision for the removal of apparatus and site reinstatement. The Appellant company submitted an objection to that draft policy (CD2.2). LP 15 seeks a high standard of amenity having regard amongst other things to light, noise and whether development would be oppressive or overbearing. LP 31 relates to the conservation of heritage assets and their settings including views of and from the asset. The Appellant company also submitted an objection to that policy during the Stage 3 consultation (CD2.2). Another potentially relevant draft policy is LP 28 which will support proposals that do not give rise to significant impacts on protected species and priority habitats or species.

Local Guidance

31. The *Huntingdonshire Landscape and Townscape Assessment SPD (2007)* (CD2.5) (the HLTA SPD) follows earlier landscape character assessment work that located the appeal site within the Northern Wolds Landscape Character Area. The

boundary of that area is shown on a plan at SoCG Appendix 5. Key characteristics of that area are defined as:

- A strong topography of ridges bisected by pronounced valleys
- Valleys are well vegetated and intimate in scale, while ridges/plateaux feel more open
- An historic landscape, containing many medieval features
- Dispersed pattern of historic villages, with little modern development
- Distinctive church towers topped with spires form characteristic landmarks

32. The document also defines some key issues including:

- Protection and enhancement of the distinctive characters of valley and plateaux landscapes through the protection of smaller fields and meadows in the valleys, and the maintenance of long views from upland areas
- Protection of key views towards the distinctive skyline of ridge tops, church towers and woodland

33. The landscape has no local or national designations. However the HLTA SPD notes that:

> *"The Northern Wolds Landscape Character Area generates a very positive response from visitors, and is regarded as being amongst the most attractive countryside in the district".*

34. In Northamptonshire, the *Current Landscape Character Assessment* (2006) (the CLCA) is not part of the local development framework but it usefully describes key characteristics of the adjoining Farmed Claylands Landscape Character Area as including:

- an expansive flat or gently undulating landscape where plateau areas are divided by broad valleys;
- wide views give the landscape an expansive and sometimes exposed character; and
- open and intensively farmed landscape with large scale fields bounded by open ditches or sparse, closely trimmed hedges.

35. Also in Northamptonshire the south west corner of the appeal site abuts the Limestone Valley Slopes Landscape Character Area which is described in the CLCA as a transitional landscape displaying characteristics of surrounding landscape types. These include:

- expansive long distance views and wide panoramas;
- predominance of arable land;
- fields predominantly large and medium to large but with small to medium pasture fields surrounding villages.

36. The *Wind Power Supplementary Planning Document* (2006) (the WP SPD) (CD2.4) was based upon a report to the Council by Land Use Consultants entitled

'Wind Turbine Development' (CD2.3) (the WTD Report). The WTD Report had assessed the effect of different forms of turbine development against 7 landscape attributes. In that assessment it initially defined a 'small scale group' of turbines as 2-12 turbines but it then departed from that definition. In particular it found that the Northern Wolds LCA generally has a low sensitivity to a single turbine or a small group but only up to 4 or 5 turbines. Having regard also to landscape values, the Report then found that the Northern Wolds landscape had a high capacity for such development. When commenting on settlement pattern and density the Report concluded at page 79 that: *"A small group of turbines would dominate the scale and historic character of the villages if sited in close proximity. However there is sufficient space between villages to avoid impacts".*

37. The Report Summary at Table 14.1 on page 123 did again conclude that the Northern Wolds would have **high capacity** for a small scale group. However confusingly, and without explanation, a small scale group was there redefined as only **2-3 turbines**. The landscape capacity for any larger groups was concluded to be 'low'. The landscape was not considered to have a 'moderate' capacity for any type of wind energy development.

38. The summary Table 14.1 of the WTD Report was carried forward as WP SPD Table 2.1. This again therefore summarises the capacity of the Northern Wolds LCA as **'high'** for a single turbine or a small-scale group of **2-3 turbines** and low for any larger groups[2]. This is further confirmed by WP SPD paragraph 8.3 and is illustrated by Picture 8.1 taken from the WTD Report which shows 3 turbines in an open landscape and is captioned: *'A small group of turbines could respond well to the ridge and plateau topography and open arable land cover.'* Paragraph 8.3 advises that: *'Key sensitivities relate to the more intimate valleys, historic villages and valued elements, particularly with respect to historic features and the distinctive church spires'*. More detailed guidance follows on the location of a small-scale group with a list of matters to be taken into account at sub paragraphs (a) to (j). At the Inquiry the Council claimed conflict only with criteria (a), (b) and (d) which are:

    (a) 'Respect existing landmark features such as key views to church spires

    (b) Respect the landform and relate turbines to the strong ridges and plateau; avoid locating turbines within the more intimate landscape of valleys and along valley crests where they will be out of scale with the landscape and settlements such as Kimbolton'

    (d) 'Respect the site and setting of the historic villages which characterise the Northern Wolds'

39. Paragraph 8.4 advises that: *'There is very little scope for the Northern Wolds to accommodate more than one small group. This is a landscape highly valued in the district for its 'unspoilt' quality and harmonious character; turbine development should not affect the perception of this special character. Decisions will need to be taken on a case-by-case basis'.* That text was taken directly from the WTD Report.

[2] 'High capacity' is defined at paragraph 2.4 as *'an opportunity to locate turbine development without affecting key characteristics and/or values in the landscape, although the guidance on siting, form and cumulative impacts should be followed.'*

40. The WP SPD is not part of the development plan but it has been adopted as part of the Local Development Framework following a public consultation process. It thus merits more weight than the WTD Report. However paragraph 2.12 of the WP SPD states that the summary Table 2.1 should be read together with the background material in the report prepared by Land Use Consultants (the WTD Report).

41. The *Landscape Sensitivity to Wind Power Development SPD (2013*) (CD2.6) (the Landscape Sensitivity SPD) has not been adopted and remains in draft form. This again seeks to redefine group sizes for turbines when compared to either the WTD Report or the WP SPD. It concludes that the Northern Wolds has a high capacity to accommodate a single turbine and **moderate capacity** to accommodate a small-scale group defined as **2-5 turbines**[3]. The document took forward from paragraph 8.3 of the WP SPD the same list of matters to take into account and also the paragraph on cumulative development. However it adds a sentence to the latter paragraph to the effect that the capacity for cumulative development in the Northern Wolds is low. The Appellant company submitted objections to the document which sought amongst other things to restore the high capacity judgement from the LUC Report and to allow for flexibility in group size such that a development of 6 turbines could be considered acceptable on a site specific assessment. Because the Landscape Sensitivity SPD remains in draft form and has been subject to objections it merits only limited weight.

42. A report was submitted to the Council in May 2013 entitled *'Cumulative Landscape and Visual Impact of Wind Turbines in Huntingdonshire'* (CD2.9). Amongst other things this sought to establish a methodology whereby zones are defined for wind turbine developments of different sizes according to whether they would appear 'prominent' or 'conspicuous' with consideration to be given to where such zones overlap with those of another wind turbine development. It also suggested thresholds for different landscape character areas. However the Report has not been developed into policy or guidance by the Council or subject to public consultation. It merits very little weight and was not relied upon by any witness at the Inquiry[4].

National Policy, Guidance and Law

43. The putative reasons for refusal claim that the development would contravene provisions in the National Planning Policy Framework (the Framework). This is disputed by the Appellant.

44. Paragraph 14 of the Framework provides that where the development plan is out of date planning permission should be granted unless:

[3] 'Moderate capacity' to accommodate wind turbines without detriment to landscape character was defined at paragraph 2.9 as that: *'there are likely to be key sensitivities or values that must be respected in relation to turbine development; in particular, proposals must follow the guidance on siting, form and cumulative impacts'*.

[4] A draft of a Wind Energy Development SPD to replace the Wind Power SPD was issued for public consultation on 28 March 2014 but has not been submitted in evidence or taken into account in this report. It remains at an early stage. The Wind Power SPD currently remains in effect.

- '*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this framework taken as a whole, or*

- *specific policies in this Framework indicate development should be restricted*'.

45. Specific policies in the Framework of relevance to renewable energy are set out in Section 10. In particular paragraph 97 includes the provision that local planning authorities should :

> *'design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative and landscape impacts'.*

46. Paragraph 98 includes the provision that when determining planning applications local planning authorities should:

> *'approve the application [unless material considerations indicate otherwise] if its impacts are or can be made acceptable.'*

Framework Sections 11 and 12 respectively set out national planning policy on conserving and enhancing the natural and historic environment.

47. Other material considerations include *National Policy Statement for Energy* (EN-1) and *National Policy Statement for Renewable Energy* (EN-3). Ministerial written statements on renewable energy were published in June 2013 by the Secretary of State for Energy and Climate Change and by the Secretary of State for Communities and Local Government. New national *'Planning Practice Guidance for Renewable and Low Carbon Energy'* (PPGRLCE) was published in July 2013 and was taken into account at the Inquiry. However, following the Inquiry PPGRCLE was slightly revised and incorporated in a chapter (Renewable and Low Carbon Energy - RLCE) within new Planning Practice Guidance (PPG) issued on 6 March 2014.

48. The PPG amplifies national policy. As it is guidance it does not change policy. However whereas paragraph 5 of the Framework explains that all communities have a responsibility to help increase the use and supply of green energy, the PPG confirms that this does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. The document also includes specific guidance at RLCE paragraphs 022-023 on the assessment of cumulative landscape and visual impacts from wind turbines.

49. The PPG further reaffirms at RLCE paragraph 015 that: '*The assessment and rating of noise from wind farms' (ETSU-R-97)* (ETSU) should be used when assessing and rating noise from wind energy developments. The Department of Energy and Climate Change also endorses the *'Good Practice Guide on the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise'* that was recently published by the Institute of Acoustics.

50. Of importance to consideration of the benefits of the development are national energy documents including the *UK Renewable Energy Strategy* (2009) (CD7.2), the *UK Renewable Energy Roadmap* (2011) (CD7.5) and the updates to that document in 2012 (CD7.6) and 2013 (CD7.36). The UK Renewable Energy

Roadmap Update 2013 emphasised the Coalition Government's commitment to the deployment of renewable energy to meet the target to deliver 15% of all energy from renewable sources by 2020.

51. Also material to consideration of the benefits of the development are other national energy documents including the *UK Renewable Energy Strategy* (2009) (CD7.2), the *UK Renewable Energy Roadmap* (2011) (CD7.5) and the updates to that document in 2012 (CD7.6) and 2013 (CD7.36). The UK Renewable Energy Roadmap Update 2013 emphasised the Coalition Government's commitment to the deployment of renewable energy to meet the target to deliver 15% of all energy from renewable sources by 2020.

52. The UK Renewable Energy Strategy 2009 had estimated that 30% of electricity would need to come from renewable energy to meet the overall 2020 target of 15%. The achievement of the overall 15% target also depends on the contribution of renewable energy in the other sectors which are not electrically powered such as heat. Renewable electricity is also likely to be needed in the transport sector to power trains and cars, including taxis. 30% renewable electricity is neither a target nor a ceiling. Thus whilst paragraph 27 of the 2013 update predicts that 32% of electricity consumption will be renewable by 2020, the update does not confirm that the other sectors will also contribute a sufficient share. Figure 5 of the update indicates that from 2008 to 2012 there was significant growth in renewable electricity but much more modest growth in renewable heat and a decline in renewable transport. Whereas the total energy generated from renewable sources was 64TWh, to reach the 2020 target of 15% would require 216-225TWh to be generated at that time. Even if the interim targets for preceding years in that Figure are met (which is not assured), that would still require a combined increase from all sectors of more than 70TWh in the last 2 years (2018-2020). That increase would represent more than the total renewable generation in 2012 which has come from renewable capacity that has been developed over a much longer period. In other words the rate of additional provision would need to increase towards 2020 to meet the 15% target.

53. In the 2013 update the anticipated contribution of onshore wind to the generation of renewable electricity was based on the assumption (illustrated in Fig. 16 p48) that the rate of success of planning proposals will be the same as in the past (also described as the historical attrition rate). This was qualified in that paragraph 136 indicates that: *"… future attrition rates may be affected by the Government response to the onshore wind call for evidence, published in June 2013 and the new Planning Practice Guidance published in July"* [PPGRLCE][5]. The paragraph concluded that: *"… it is likely that they will affect individual planning decisions in England and may impact on the overall deployment of onshore wind in England and Wales"*. It was also noted that the majority of new capacity is in Scotland and that consent rates had fallen in both England and Scotland in 2013. Paragraph 138 advised that: *"… growth would slow after 2015 due to a limit on the number of sites available, growth of competing technologies and cumulative planning impacts"*.

[5] The PPGRLCE has since been incorporated as the Renewable and Low Carbon Energy (RLCE) section in the Planning Practice Guidance (PPG) issued on 6 March 2014

54. At the date of the Inquiry draft National Planning Practice Guidance had been issued in beta format. It has since been revised and finalised as the PPG and now merits full weight as a material consideration. Although it has replaced much other guidance the *PPS5 Practice Guide* (CD10.1) has not been withdrawn and it remains material to the heritage considerations.

55. The *Guidelines for Landscape and Visual Impact Assessment* published by the Landscape Institute (CD8.1) are not national policy but were referred to by the landscape witnesses. A 3rd edition of the document (CD8.2) was published in April 2013, after the LVIA had been undertaken (using the 2nd Edition), but before the Inquiry. Whilst the SoCG agreed to use the 2nd edition, both versions were referred to at the Inquiry.

56. A statutory duty separate from national policy is that S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides at subsection (1) that:

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses."

PLANNING HISTORY

57. There have been no previous relevant planning applications on the appeal site. However there is a history of planning determinations in the surrounding area. Paragraph 7.22 of the SoCG lists relevant operational and consented schemes and those yet to be determined including turbine height and number. SoCG Appendix 5 maps the locations.

Northern Wolds LCA,

58. On 23 March 2012 a development of 4 x 130m turbines were allowed on appeal at **Woolley Hill** north of Ellington, 10km east of the appeal site and equally close to the A14. The turbines had not been erected at the date of the Inquiry. The appeal decision is at CD6.1 (Ref APP/H0520/A/11/2158702). Main issues included landscape, cultural heritage and residential amenity and the WP SPD was taken into account.

59. At **Bicton** (7km south of the appeal site) a proposal for 4 turbines was dismissed on appeal, principally because of the effect on the landscape and the setting of heritage assets and associated conflict with the WP SPD together with some harm to residential amenity. That decision dated 9 March 2012 is at CD6.26 (Ref APP/H0520/A/11/2146394). A revised application has been submitted there for 3 x 125m turbines but has yet to be determined.

60. Several small turbine developments of 1 or 2 turbines under 50m have been permitted elsewhere in the Northern Wolds and are listed and mapped in the SoCG. One turbine of 50-80m has been permitted at the northern end of the LCA at Haddon near Peterborough.

Other Huntingdonshire Developments

61. Reference has also been made in evidence to a scheme of 3 x 125m turbines permitted at **Common Barn**, Southoe to the south east of Graffham Water. The

site is 15km from the appeal site. That was a non-determination appeal where most of the matters disputed by the Council were resolved and it did not present evidence except in respect of impact on a bridleway. Various other matters were however disputed by other interested persons. The decision dated 11 July 2013 is at CD6.20. Those turbines had not been erected at the date of the Inquiry.

62. **Cotton Farm** has been referred to by some interested persons at the Inquiry and was included in the ES cumulative assessment but is not included on the SoCG list of schemes for consideration of cumulative landscape and visual effects. Neither does it appear on the SoCG Appendix 5 plan. However it can be seen at Figure 6-7b in Volume 2 of the ES figures which also shows other schemes in the wider area extending up to 45km from the appeal site. Many of the schemes shown then (September 2010) as 'in planning' have since either been permitted or refused permission. Cotton Farm is a larger and now completed scheme of 8 turbines located to the east of the A1 and south of the A14 near Graveley and about 21km from the appeal site. It was allowed on appeal in December 2010. The permission was obtained by the current Appellant RWE NPower Renewables Ltd but the site was then sold on to another company which has developed it. There are on-going issues with noise complaints.

Nearby Northamptonshire Developments

63. The SoCG Appendix 5 Plan shows other schemes referred to in evidence and which were included in the ES cumulative assessment.

64. **Chelveston** is a recently-developed wind farm of 125m turbines outside the Northern Wolds LCA and 8km south of the appeal site. It is visible from the appeal site and (at a nearer distance) from Keyston. The development traverses the Northamptonshire - Bedfordshire border. The scheme was allowed on appeal with permission granted for 9 turbines on 29 June 2012. That decision is at CD6.6.

65. **Burton Wold** is a large established scheme of 10 x 100m turbines 13km west near Burton Latimer with permission for extensions of 7 x 100m turbines to the north and 5 x 100m turbines to the south.

66. **Barnwell Manor** is 11km to the north-west of the current appeal site. A scheme for 4 x 91.4m turbines was initially allowed on appeal but that decision was quashed in the High Court on grounds relating to the setting of heritage assets at Lyveden New Build which is a National Trust property (CD5.9). That decision has recently been confirmed in the Court of Appeal. Amongst other things the court concluded that considerable weight and importance should be accorded to preserving the setting of a listed building.

POTENTIAL FOR A SPLIT DECISION

67. Having regard to: the WTD Report (which initially favoured groups of 2-5 turbines within the Northern Wolds LCA); the adopted WP SPD which followed the final WTD recommendation to favour a group of up to 2-3 turbines; the WP SPD guidance on the siting of turbines relative to ridges, plateaux and valleys; and the different landscape and visual impacts of each turbine, consideration was given by witnesses at the Inquiry as to the implications of issuing a split decision. That could potentially allow the appeal in respect of some but not all of the turbines. Thus, in addition to the alternatives of allowing or dismissing the

appeal in respect of all 6 turbines, 2 other alternatives were considered in evidence:

a) Dismiss the appeal in respect of T3 but allow it in respect of the remaining 5 turbines

b) Dismiss the appeal in respect of the eastern turbines T2, T4 and T6 but allow it in respect of T1, T3 and T5.

68. In each case the access arrangements and the location of the control building and anemometer mast would be unchanged except for the omission of the section of access track serving turbine T2.

OTHER AGREED FACTS

69. The Statement of Common Ground (SoCG) between the Appellant and the Council (Document 2) covers a variety of matters. The key points (including disputed matters) are summarised below:

1. Introduction

2. The Application, Procedural History and Documentation

- List of application documents and correspondence
- Further Supplementary Environmental Information was requested by the Council on 14 August 2012, submitted by the Appellant on 17 December 2012 and advertised on 9 January 2013.

3. Principal Issues

a) Whether the proposals accords with the development plan and whether any conflicts are outweighed by material considerations including the Framework

b) The effects of the proposed development on the heritage significance of cultural heritage assets within the area

c) The effects of the proposed development on landscape character and the amenity of the area

d) The effects of the proposed development on the amenity of the occupants of Warren Grange, Bythorn

4. Description of the Proposed Development and the Appeal Site

- The proposal is briefly described
- The site is briefly described

5. Planning Policy Framework

- The relevant local and national policy and guidance is agreed
- It is common ground that, notwithstanding the revocation of the Regional Spatial Strategy, the evidence base which informed the RSS renewable energy targets and the reports which provide an up-to-date account of installed capacity and assessments of the

ability of the area to accommodate further renewable energy development are relevant material considerations.

6. Environmental Information

- The submitted environmental information is adequate and complies with Schedule 4 of the 2011 Regulations
- The Council would consider it helpful for the cumulative assessments to be updated.

7. Landscape and Visual Impact Assessment

a) Agreed that LVIA assessment should follow best practice including Landscape Institute Guidelines for Landscape and Visual Impact Assessment 2nd Edition.

b) Council does not agree that GLVIA recommendations have been followed in respect of producing separate assessments of landscape and visual effects and distinguishing between their magnitude. The associated lack of clarity is contrary to best practice.

c) Number and location of the viewpoints used for the LVIAS was discussed and accepted but the exact location of each viewpoint was not agreed on site. The visualisations in the ES and SEI are agreed to offer a fair and reasonable representation. The Council considers that the SMWFAG visualisations can also assist understanding.

d) The landscape character effects and the visual effects are agreed to range from significant in proximity to the appeal site to not significant with greater distance although significance is not just the function of distance.

e) The Council contends that the proposal fails to satisfy criteria (a), (b) and (d) on pages 32-33 of the WP SPD but the parties agree that the other criteria there can be satisfied.

f) It is agreed that the appropriate test for the visual element of residential amenity is whether: "the property concerned would come to be regarded as an unattractive and thus unsatisfactory (but not uninhabitable) place to live."

g) The methodology to assess cumulative landscape and visual effects follows best practice and is fit for purpose but the Council considers that it would be helpful if the cumulative assessments in the ES were updated. The relevant schemes for consideration are listed. The Council considers that the scheme will give rise to cumulative landscape and visual effects which, whilst not significant in EIA terms will need to be taken into account in the planning balance.

8. Cultural Heritage

    - Council contends that there would be substantial harm to Bythorn Church and Conservation Area

9. Noise

    - Agreed that ETSU-R-97 and the IoA Good Practice Guide are appropriate methodology and have been properly applied.

    - Council has no objection on construction or operational noise grounds and agrees that it can be controlled by condition and that no amplitude modulation condition is appropriate (but see noise evidence at Inquiry when the Council did request such a condition- See Document HDC/TL/1)

10. Ecology

    - Agreed that effects appropriately assessed and that species protection can be secured by condition

11. Further Material Considerations

    - Includes matters on which Council has no objection subject to appropriate conditions

THE CASE FOR HUNTINGDONSHIRE DISTRICT COUNCIL

[These submissions are edited from the Council's Closing Statement with some additions from the evidence to the Inquiry]

70. This is an inappropriate location for wind turbine development. The turbines would cause great harm to the significance of heritage assets; harm to landscape character and visual amenity; and harm to living conditions of residents. The degree of harm clearly outweighs the benefit of the renewable energy which could be produced by 6 turbines.

71. The proposal would provide a useful amount of renewable energy whether the individual generators have an installed capacity of 1.8MW or 2.5MW. The UK needs renewable energy to assist in alleviating climate change, to give security of supply and for economic reasons. Furthermore it has entered into international agreements and enacted legislation which commits it to significantly decarbonise its energy supply across all sectors, with 15% of total energy consumption to come from renewable sources by 2020. Of that 15% roughly a third has to come from the electricity sector. The Government expects renewable electricity generation to come from a mix of technologies, including onshore wind[6]. National policy supports the identification by LPAs of areas suitable and unsuitable for such development to assist those bringing forward proposals for onshore wind[7]. It is important to be clear about what factors will be taken into account when considering individual proposals[8].

[6] EN-1 5.9.14; Framework paragraph 97 and Footnote 17;
[7] PPG paragraph 005
[8] PPG Paragraph 005

72. HDC were early in providing guidance on capacity for that technology, indicating the relative sensitivity of the landscape areas within its boundaries, and the degree of development which potentially would be acceptable, in accordance with government policy[9]. That guidance, the WP SPD[10], was the subject of public consultation and has been kept under review. The Appellant has objected to the draft SPD on the basis of supposed conflict with the size of a group as defined in the WTD Report. However the objections[11] do not suggest a higher group number than 5 is appropriate in the Northern Wolds or that the criteria applicable to site specific considerations are flawed.

HDC support for wind energy.

73. The LPA has supported a number of applications for wind farms and single turbines in locations that accord with the adopted WP SPD[12].

74. Only 4 previous applications have resulted in an appeal. Of the 3 appeals resulting from refusal by the LPA, 1 was dismissed and 2 were allowed. All the appeal decisions pre-date the current PPG.

a) **Cotton Farm** (2 June 2010 - South East Claylands LCA), refused solely for impact on a Grade II* LB, pre-dated both the EH guidance on Settings of Heritage Assets (the LPA decision pre-dated PPS5) and the draft-Framework, was allowed. The LPA did not advance landscape as a reason and the Inspector gave weight to the SPD capacity for the LCA.

b) **Bicton[13]** (9 March 2012 - Northern Wolds LCA), refused impact on heritage and landscape, post-dating the Settings document and considering the draft Framework, was dismissed on both grounds, Inspector gave significant weight to the SPD as: *"it provides the most useful and relevant guidance on the relative landscape sensitivity and turbine capacity of different areas in Huntingdonshire"* and also found that *"less than substantial harm"* to heritage assets was capable of outweighing the benefit of the development.

c) **Woolley Hill[14]** (22 March 2012 site in part of Northern Wolds LCA protruding between Central Claylands & Southern Wolds, affects church & village in Southern Wolds) refused on the basis of landscape and cultural heritage, determined prior to the issue of the Framework. *"59. The Supplementary Planning Documents relating to Landscape and Townscape Assessment and Wind Power provide an informative framework for decision-making but neither is determinative for site-specific planning proposals. It is clear that the landscape area in which the site lies has a limited capacity for wind farm development; the character area has local variations and the appeal site can be seen as being somewhat isolated from the characterising ridge and plateau landscape particularly as it does not clearly exhibit those traits itself."*

[9] CD3.1 Framework paragraph 97
[10] CD2.4
[11] CD2.7
[12] Brand Proof 8.24
[13] CD6.26
[14] CD6.1

d) **Common Barn, Southoe**[15] (11 July 2013 - Southern Wolds LCA), was not a refusal but an appeal against non-determination at a time when consultee responses were awaited or holding objections from statutory consultees were in place (highway safety A1, PROWS, potential impact ornithology). In the course of the appeal those objections were withdrawn or overcome by alterations to the proposal. Again the Inspector relied upon the support within the SPD on landscape capacity (para 76 of decision letter).

75. It is clear from the above that in regard to impact on landscape character Inspectors have placed significant weight on the WP SPD guidance on capacity. They have recognised the SPD as an appropriate starting point and that there are within the LCAs areas of greater and lesser sensitivity. The site specific guidance criteria are important determinative factors. The Northern Wolds is properly to be regarded as having limited capacity whilst other LCAs have greater capacity. Less than substantial harm to heritage is capable of outweighing benefit.

76. The landscape at Woolley Hill differs significantly from that surrounding the appeal site by lacking characteristic traits of that LCA. Mr Denney accepted in XX that within the 3.5km radius of the proposal within which he found significant effects that all the key characteristics were contained to some degree. HDC has taken a proactive, responsible and balanced response to identifying the relative sensitivities of landscape character areas to host wind turbine development and in identifying key characteristics which may restrict certain locations.

77. As a matter of law[16] the Framework cannot change the development plan but, as a material consideration, it is capable of indicating that a determination should be made otherwise. The Framework is clear that one should start with the development plan[17] and where it is up to date refuse or approve in accordance with it. Paragraph 215 of the Framework is helpful in identifying how weight should be apportioned when there is inconsistency although the way in which the advice is phrased is somewhat unhappy. However paragraph 14 advises how policies which are out of date should be considered. It is a core principle that planning should be genuinely plan led[18] and plans should be kept up-to-date.

The Development Plan & the Framework.

78. The main inconsistency identified by the Appellant is failure to include a balance within the policies. Mr Brand identifies the relevant plan policies and the degree to which consistency or inconsistency with the Framework affects the *"due weight"* to be attributed[19]. To interpret the relevant Framework policies one must have recourse to both the PPG (RLCE), which expressly says it must be read alongside the Framework and other practice guides, and the NPS EN-1 and EN-3.

[15] CD6.20
[16] R on the application of Teresa Sienkiewicz v S Somerset Council v Probiotics International Ltd [2013] EWHC 4090 (Admin)
[17] Framework paragraphs 11-12
[18] Framework paragraph 17
[19] Brand proof Table p 74 et seq

79. CS1 of the Core Strategy, the Sustainable Development policy, says: *"all development proposals in Huntingdonshire will contribute to the pursuit of sustainable development"*. *"Reflecting environmental, social and economic issues the following criteria will be used to assess how a development proposal will be expected to achieve the pursuit of sustainable development, including how the proposal would contribute to minimise the impact on and adaptability to climate change. All aspects of the proposal will be considered including design, implementation and function of the development."*

80. The two most relevant criteria for this proposal are: *"maximising opportunities for renewable… energy" and "preserving and enhancing the diversity and distinctiveness of Huntingdonshire's …villages and landscapes including the conservation ….of buildings, sites and areas of architectural historic or archaeological importance and their settings"*. The RJ recognises the challenge of climate change and says proposals for renewable energy will be encouraged. *"Development proposals for renewable energy will need to take into account the Council's SPD on Wind Power."*

81. In his proof[20] Mr Bell acknowledged that CS1 is consistent with the Framework, although he took the view that there should be a balancing provision with regard to cultural heritage assets. He conceded that CS1 did require a balancing exercise. Mr Bell[21] in his proof accepts that the development will neither preserve nor enhance the diversity etc. of the landscape and villages, including conservation of historic buildings and their settings.

82. That primacy of the development plan is not undermined by the Framework but paragraph 14 advises that, where relevant polices are out of date, planning should be granted unless:

    - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
    - *specific policies in this Framework indicate development should be restricted.*

83. The second test is cross referenced to footnote 9 which gives examples of polices which indicate such restriction. They include those relating to designated heritage assets.

Heritage Policies

84. Although policies En 2, 5, 9 and 11 of the Local Plan[22] do not expressly mention the need to balance harm against public benefit, they do seek to restrict harm to heritage assets and accord to that degree with relevant paragraphs of the Framework (126, 132-134, 136). Furthermore a degree of balance is included within some of those policies:

85. LP Policy En2 *"The District Council will require that any development…affecting a building of special architectural or historic interest has proper regard to the scale,*

[20] Bell proof 3.2.5
[21] Bell proof 3.2.4
[22] CD1.1

form, design and setting of that building". *"Proper regard"* implies a degree of balance rather than a prohibition of all or any harm to setting or asset. Mr Brand takes the view that *"proper regard"* is an interpretation of S.66 *"special regard"* which is, of course, to the desirability of preserving. Desirability is not an absolute but a recognition that it is a very good thing to do but allows that it may have to be balanced against other desirables.

86. LP Policy En9 (impairment of views into and of Conservation Areas) and En11 (adverse effect on SAM) by the use of the word *"normally"* clearly allow for justified exceptions.

87. The policies are protective in intent but are less informative than the Framework of how harm to heritage assets of different degrees of importance should be judged and balanced against benefit.

88. The Framework requires[23] that LPA's should have a: *"positive strategy for the conservation and enjoyment of heritage assets"* and *"recognise that heritage assets are an irreplaceable re-source and conserve them in a manner appropriate to their significance."* They should take into account:

    a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

    b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;

    c) the desirability of new development making a positive contribution to local character and distinctiveness; and

    d) opportunities to draw on the contribution made by the historic environment to the character of a place.

89. The first 3 of those bullets are re-iterated in the guidance on determination of applications[24].

90. It is a core principle that planning should: *"conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations"*. That reason for conserving assets was one of Mr Bell's numerous truncations of the core principles. It is relevant when one comes to consider reversibility that the quality of life of this generation is recognised by policy.

91. Paragraphs 132-134 deal with how harm to assets should be considered when a proposal has public benefit. *"As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification."* There is nothing in that to suggest that only EIA significant harm has to be justified or that minor harm should be ignored. The ES Tables 10.9-10.13 as Ms Brown noted show minor harm to 9 Grade I and II* listed buildings; 34 Grade II listed buildings; 4 Conservation Areas; 5 Registered Parks and 4 SAMs and moderate harm to one Grade II listed building and to Bythorn Conservation Area.

[23] Framework paragraph 126
[24] Framework paragraph 131

92. Neither Ms Brown nor EH agree with those assessments of harm, they consider them too low in many instances, but to satisfy the requirements of the Framework they all require justification.

"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be."

93. St Lawrence's Church Bythorn, St John's Keyston, All Saint's Brington, the Old Manor House SAM, St Swithin's Old Weston, St Peter's Molesworth, all fall within the definition of *"heritage assets of the highest significance"*[25]. Substantial harm to such assets should be *"wholly exceptional."*

94. Clearly *"wholly exceptional"* allows for exceptions but there is no explanation of what degree of benefit would permit of such an exception. The phrase is an indication that it will be very rare indeed that justification will be found for such a degree of harm to so valuable an asset. It must be even rarer than finding justification for the *"exceptional"* test applied to substantial harm to assets of lesser importance. The sole justification for any degree of harm within the policies is *"public benefit"*. Whatever the grade of the asset if there is "*substantial harm"* it has to be demonstrated to be *"necessary to achieve substantial public benefit"* that outweighs the harm[26]. A weighing or balancing exercise is being undertaken in the case of substantial harm, with guidance as to the very great amount of benefit that will be expected for that high level of harm.

95. The Framework requires[27] that: *"In assessing the likely impacts of potential wind energy development when ….. determining planning applications for such development, planning authorities should follow the approach set out in the National Policy Statement for Renewable Energy Infrastructure (read with the relevant sections of the Overarching National Policy Statement for Energy Infrastructure,…) EN-1 makes it clear that is the intent that all degrees of harm have to be weighed "Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. Where the application will lead to substantial harm to or total loss of significance of a designated heritage asset the IPC should refuse consent unless it can be demonstrated that the substantial harm to or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm.[28]"*

96. The sole distinction between the weighing exercise appropriate to *"substantial harm"* and to that required for *"less than substantial harm"* is the requirement to demonstrate that the harm is *"necessary"*. The still extant PPS5 Practice Guide recognises that at paragraph 91: "*Where substantial harm to, or total loss of, the asset's significance is proposed a case can be made on the grounds that it is necessary to allow a proposal that offers substantial public benefits. For the loss to be necessary there will be no other reasonable means of delivering similar*

[25] Framework paragraph 132
[26] Framework paragraph 133
[27] Framework Footnote 17 p22
[28] EN-1 paragraph 5.8.15

public benefits, for example through different design or development of an appropriate alternative site."

97. The Framework sets out that: *"Significance can be harmed or lost through …. development within its setting."* The PPG makes it clear that such harm can be substantial: *"Depending on their scale, design and prominence a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset.[29]"* EN-1 also provides advice on impacts on setting *"When considering applications for development affecting the setting of a designated heritage asset, the IPC should treat favourably applications that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of, the asset. When considering applications that do not do this, the IPC should weigh any negative effects against the wider benefits of the application. The greater the negative impact on the significance of the designated heritage asset, the greater the benefits that will be needed to justify approval."* It is implicit in that advice that impact on setting can justify refusal if the benefits are insufficient.

98. Mr Bell finds no conflict with LP Policy En2[30] saying that regard has been taken through *"the design of the proposed development"*, although not apparently basing that on his expert's evidence who does not address design of the wind farm nor identifying how the design has been altered to show such *"proper regard"*. It is not the design of the wind farm which concerns HDC but the location of the immensely tall, kinetic, mechanical elements of it - the turbines - in such close proximity to the assets that the contribution to significance flowing from the assets' setting is severely reduced and the capacity to appreciate the significance of the assets is seriously undermined.

99. Whether there has been *"proper regard"* must start from an understanding of the significance of the asset, the extent that setting adds to its significance or its appreciation, and an assessment of the degree of harm caused by the proposal and a weighing of the competing benefits arising from the proposal. It is a similar exercise to that required by the Framework to assess the degree of harm which needs to be weighed against the benefit. I will use one asset as an exemplar.

100. EH in their response to consultation response of 7 August 2012[31] did not accept the ES assessment of the setting to St Lawrence Bythorn as confined to the village limits; they identified that the turbines would loom large in the backdrop to views of the church when seen over open land to the south-west (which is within the conservation area); they also identified other views as one moved around the area; and recognised the importance of the spire and tower as a feature in the landscape marking the presence of the village and the historic supremacy of the church in that community; mentioned in particular the visual distraction of moving blades and overall height of the turbines, resulting in harm to the architectural and historic significance of the church. EH did not accept that the magnitude of change would be negligible and the effect minor. They assessed the impact as: *"a very significant degree of harm, falling just below that*

[29] PPG (RLCE) paragraph 019
[30] Bell proof 3.5.2
[31] CD10.11

of substantial harm". There is no suggestion that EH had seen any montages other than those produced in the ES. They did note that in some instances they had not been able to fully quantify the impact and that additional montages would have been helpful. They did not have the advantage of SMWFAG VP 3A and 3B since they were produced in October or Ms Brown's Conservation Area map and the stitched together VP 6.48.

101. Dr Edis considers significance to be: *"best appreciated from nearby surroundings in the churchyard and surrounding streets and lanes.*[32]*"* He considers the presence of 20th century farm buildings at the view from the junction of Warren Lane and Thrapston Road reduces appreciation (NB as Ms Brown pointed out the building in view at that point is a listed farmhouse); finds a view at 470m and opines *"at these distances the tower and spire are becoming points of reference in the wider scene"* and finds that the *"long view from Warren Lane, at a distance of some 1.2km shows the truncated spire is just visible breaking the skyline when seen through a hedge in the foreground…these glimpsed views contribute relatively little to the significance…"*. He failed to address the criticism of EH that the importance of the tower and spire had been undervalued but accepted in XX its historic function, hosting the bells calling their message to the faithful, and providing a spiritual and temporal landmark and being an important part of the significance of the asset.

102. His assessment gives no precise overall view of the degree of harm to the significance of the asset other than that it would not be serious or substantial (he equates serious with substantial). The changes are described as *"no change to some of the most important views*[33]*"*, he does not assess the degree of harm to the remaining important views which presumably are affected, and *"very localised and slight*[34]*"* in other locations. His overall conclusion is *"less than substantial harm"*.

103. It is difficult to know whether he adopts the finer grained assessments of the ES or the SEI as he was reluctant to divulge the precise degree of his involvement in those documents, however, he says *"the impacts were not so great as to cause substantial or unacceptable harm. A similar conclusion was reached by my colleague Lucy Jarvis…*[35] *"*. One cannot equate *"not substantial"* with *"acceptable"*. At the Bicton inquiry all harms were "less than substantial" but resulted in a dismissed appeal. If he does endorse those ES assessments then one assumes he is endorsing a negligible change and a minor impact on the Grade II* Bythorn Church. That is, he finds an impact which is not even significant in EIA terms. However in XX he accepted that this asset had evidential, historic and communal value to which the turbines in it setting would not add.

104. All parties agree that *"substantial harm"* is a high degree of harm. Clearly not all harms within the *"less than substantial harm"* bracket can be of the same degree of severity. If they were the EN-1 guidance that the greater the harm the greater the justification required would be pointless. Although one cannot endorse the judgement of the ES assessors, who, you will recall, found the same

[32] Edis Appendix 3 p1
[33] Edis proof 5.10
[34] Edis proof 5.11
[35] Edis proof 2.2

minor degree of impact on St Lawrence Church, a 1.9km distant mile stone, and the Keyston telephone kiosk, at least they attempted to give some impression of where on the *"linear spectrum"*, as EH called it, they felt the harm fell. Dr Edis does not.

105. The policy tests in the Framework are different depending on which side of the divide you fall. There is required a demonstration of *"necessary to achieve the public benefit"*, but in any weighing exercise undertaken it is essential one knows not just the grade of the asset but also the degree of harm: as EN-1 says: *"The greater the negative impact on the significance of the designated heritage asset, the greater the benefits that will be needed to justify approval"*.

106. Dr Edis takes the view that his assessment is closer to that of EH than that of Ms Brown. There is nothing in the EH letter to support that view. They do not consider the harm *"no change"* or *"localised and slight"* but *"very significant and just below substantial"*. He relies for his definition of *"substantial"* in part on the Podington case. That case was heard before the issue of the PPG (RLCE) made it clear that: *"Depending on their scale, design and prominence a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset."* There is nothing in that guidance or earlier guidance or policy to suggest that the case had to be *"extreme"* (para 18 of judgment) or that *"very much if not all of the significance"* had to be *"drained away"*.

107. He also relied on the Beta site draft National PPG suggesting that it had to: *"go to the heart of why the place was worthy of designation"*. He had apparently not read the EH objection to that draft document. It is, HDC accepts, a high test, the majority of cases will be less than substantial, but it should not only be applied to cases where the result would be de-designation[36], the judgment of whether harm crosses the boundary should be left to the decision maker. In the case of Bythorn Church and Conservation Area Ms Brown considers that the test is satisfied.

108. It is clear that there is no final consensus of where the boundary between *"substantial"* and *"less than substantial"* falls. I suggested to Dr Edis the analogy of a staircase. Ms Brown may be standing on the landing with EH on the step below but it appears that Dr Edis is reluctant to tackle leaving the hall floor. He prefers to denigrate the quality of the church by reason of its truncated steeple, making no reference to the Guidance issued by EH on Places of Worship and the historic and social relevance of alterations. Dr Edis accepted he was wrong to suggest that the Church had been listed before, and not after, the alteration of the steeple which itself was evidence of historic social change.

109. Ms Brown carefully assessed the harm to the church and identified those numerous and important views (bearing in mind the guidance now in the PPG RLCE paragraph 019 to consider impact on views important to setting[37]) from which it may be experienced. She attributed a moderate magnitude of change on a high sensitivity asset as leading to a major adverse effect. That, in her view, reaches the level of substantial harm. It is not an unreasonable judgment that an adverse *"major effect"* will *"very much reduce"* significance.

[36] HBC/LB/5 EH Comments on Beta version of PPG paragraph 13
[37] Framework paragraph 15

110. To decide which of the heritage witnesses comes closer to reality one should consider the checklists in the Settings' document[38]. There were very few elements in either list that Dr Edis did not accept were relevant to this proposal and these assets. Those matters which aid experience of the asset, and are part of how setting contributes to significance, are particularly informative. Dr Edis' assessment in Appendix 1 substantially ignores them although in XX he agreed they are relevant.

111. With the apparent endorsement of Dr Edis, the ES most clearly demonstrates a misunderstanding of setting when discussing the Grade II listed Scott's Farmhouse, Bythorn. The identified operational effects (in Table 10.10) on the farmhouse, acknowledge that the turbines, 1km away, *"will be clearly seen from the rear of the property"* and in *"some views of the property from the south and northeast"* but *"the setting of this heritage asset it limited and does not extend to the development site."*

112. The EH Setting of Heritage Assets[39] defines the extent of setting *"it can be understood that setting embraces all of the surroundings (land, sea, structures, features and skyline) from which the heritage asset can be experienced or that can be experienced from or with the asset. Setting does not have a fixed boundary and cannot be definitively and permanently described as a spatially bounded area or as lying within a set distance of a heritage asset."* The Settings document was issued by EH in October 2011. The PPS5 Practice Guide incorporated similar advice: *"An asset's setting may be affected by a scheme at some distance from the site itself"*[40]*. "For the purposes of spatial planning, any development or change capable of affecting the significance of a heritage asset or people's experience of it can be considered as falling within its setting."*[41] That was issued in March 2010. The application was submitted in June 2012. There can be no excuse for this underestimation of the extent of setting noted by EH in their response to consultation.

113. LP Policy En5 contains no balancing provision as Mr Brand and Mr Bell agree. However reading the development plan as a whole the later adopted Core Strategy CS1 does incorporate balance as already conceded by Mr Bell. Mr Bell acknowledges[42] that there *"is an element of non-compliance with the policy" arising from "some adverse effects on the setting of Conservation Areas"*. Dr Edis[43] finds there will be some erosion of the significance of Bythorn CA but avers that it will be less than substantial and will not lead to: *"conservation area status being cancelled"*. As already noted EH do not consider that an appropriate test. Mr Brand considers that the major adverse effect identified by Ms Brown constitutes significant conflict with the policy.

114. The same fine distinction of degree of harm is apparent between EH and Ms Brown in regard to the Conservation Area as was apparent at the Church. EH say the development will: *"neither preserve nor enhance the character and appearance of the conservation area"*, the turbines will be: *"alien and intrusive*

[38] CD10.8 pp19 and 21
[39] CD10.8 paragraph 2.2
[40] Paragraph 70
[41] Paragraph 118
[42] Bell proof 3.5.4
[43] Edis proof 5.21

features dominating the historic structures which make up the conservation Area" will *"result in harm to significance" "a very significant degree of harm, falling just below that of substantial harm"*. Ms Brown has had the opportunity to carry out a more in depth study of the Conservation Area, as her map shows. She sets it that one step higher at moderate impact on a high sensitivity asset resulting in a major effect that equates to substantial harm. Dr Edis does not give a precise assessment beyond *"much less than substantial harm*[44]*"*, a judgment which he also applies to the Church. However, if he endorses the ES then he takes the change to be minor. That still results in a moderate effect and therefore in this case an EIA significant result.

115. LP Policy En11 deals with Scheduled Ancient Monuments. Dr Edis and Mr Bell[45] accept that there will be some harm but it will be less than substantial. Ms Brown agrees it will be less than substantial. EH[46] considers the intention of the monument to be sited in a commanding location and takes the view that the dominant and modern industrial character of the turbines, together with their movement, would clearly diminish the experience of a visitor. They therefore conclude that the wind farm would cause harm to the monument's significance. In those circumstances the development plan indicates refusal will normally follow.

116. Hand in hand with the growing confidence that energy aspirations can be achieved has been a growing understanding that other valued and non-renewable interests, such as heritage, landscape and social values need proper protection. The PPS5 Practice Guide, the EH Setting of Heritage Assets, EN-1, the Framework and the PPG (RLCE) have taken forward the advice in Conservation Principles and applied it to this particular form of development. Properly applied the Framework provides the: *"Strong protections for …. the historic environment"* expressed by the Minister[47] as he made clear, having first expressed concern that *"current planning decisions on onshore wind are not always reflecting a locally led planning-system"* and that *"genuine concerns that when it comes to wind farms insufficient weight is being given to environmental considerations like landscape, heritage, and local amenity"*, *"We need to ensure decisions do get the environmental balance right in line with the framework and, as expected by the framework, any adverse impact from wind farm development is addressed satisfactorily."*

117. He highlighted 4 issues which were taken forward in the PPG (RLCE): need does not automatically over-ride environmental protections and planning concerns of local communities; decisions should take account of cumulative impact; local topography should be a factor in assessing wind turbine impact on landscape; and great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting.

118. Mr Pickles was not alone in noting that since the publication of the Framework the lack of practice guidance had resulted in misinterpretation of the weight to policy within it. Two Written Statements to Parliament were issued in June 2013.

[44] Edis proof 5.2
[45] Bell 3.5.10
[46] CD10.12 EH letter 18 January 2013
[47] CD3.3 SoS DCLG Statement

That by the Secretary of State for Energy and Climate Change, Mr Davey, supported wind power for its economic advantages but pointed out that it had to be developed in a way that is sustainable - economically, environmentally and socially. He too referred to the forthcoming practice guide which would *"ensure that planning decisions get the environmental balance right, in line with the framework …etc."*

Landscape Policies.

119. The key characteristics identified in the HLTA SPD[48] for the Northern Wolds include: an historic landscape, containing many medieval features; a dispersed pattern of historic villages, with little modern development; distinctive square church towers topped with spires form characteristic landmarks. The relevant LP policies relied on by HDC in the putative reason for refusal are, again, En2, En5 and En9. I do not intend to discuss the other local landscape polices: the views of Mr Brand and Mr Bell are set out in their proofs.

120. These historic key characteristics are important as Mr Denney agreed in XX that they add value to the landscape. GLVIA 3, as again Mr Denney accepted, considers that sensitivity of the landscape is derived from susceptibility to change and value. As set out above he accepts conflict with En5 and En11.

121. He also accepted that the HLTA SPD reference to the Northern Wolds being widely regarded: *"as among the most attractive landscapes in the district, by reason of a combination of factors, including its harmonious character, unspoilt quality, the varied topography, and the historic villages"*[49], added to its value. The importance of that undulating topography to the Northern Wolds is recognised by the key characteristic *"A strong topography of ridges bisected by pronounced valleys"*.

122. It is the key characteristics which distinguish one landscape character area from another. CS1, as previously identified, includes as a factor to be taken into account *"preserving and enhancing the diversity and distinctiveness of Huntingdonshire's …villages and landscapes including the conservation ….of buildings, sites and areas of architectural historic or archaeological importance and their settings"*. Mr Bell accepts that there is conflict with that criterion of the policy. He concludes[50] that overall landscape character would be subject to significant effects in the local context.

123. Mr Denney considered the significant effect on landscape character extended to 3.5km. A brief examination of the maps in Ms Bolger's Appendix 1 conveniently illustrates the prevalence of the key characteristics of the Northern Wolds within that span (MB fig. 12 the churches and historic villages, fig.13 other medieval features, fig.11 the strong topography of ridges and valleys). Mr Denney accepted that *"pronounced valleys"* had to be understood in the context of Huntingdonshire.

124. Government policy recognises that: *"Modern onshore wind turbines that are used in commercial wind farms are large structures and there will always be*

[48] CD2.5 p39
[49] CD2.5 pp41-42
[50] Bell proof 3.4.64

significant landscape and visual effects from their construction and operation for a number of kilometres around a site[51]". For that reason that the Framework urges LPA's to design policies to maximise renewable energy whilst ensuring adverse impacts are addressed satisfactorily and to identify suitable areas[52]. If the impacts are inevitable it is clearly important to guide development away from the most sensitive areas and to the areas with the greatest capacity. HDC has done that by adopting the WP SPD. EN-1 advises that : *"Where a local development document in England …… has policies based on landscape character assessment, these should be paid particular attention[53]."*

125. The Framework supports sustainable development. *"To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions[54]."* The main active, rather than re-active, role that a planning authority can play is to identify where development should be encouraged and where resisted. LPAs should have a: *"positive strategy to promote energy from renewable sources; design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts; and should consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources.[55]"* They should have criteria based policies[56]. Valued landscapes should be protected and enhanced[57].

126. Huntingdonshire District Council has local development documents based on landscape character. The ever rolling cycle of plan renewal and replacement has meant that they are SPD rather than local plan policies. The LPA has, however, gone further than simply assessing character – it has assessed sensitivity and capacity to wind turbine development and the reasoned justification to CS1 makes it clear that the WP SPD[58] is the relevant starting point for assessing landscape impact of renewable energy. The WP SPD does not support turbine development of the number here proposed in the Northern Wolds and considers that there is very little scope for more than one small scale turbine group. 4 wind turbines at Woolley Hill have permission, a number of single turbines have been approved, and there are others in the planning system[59].

"In assessing the likely impacts of potential wind energy development when identifying suitable areas, and in determining planning applications for such development, planning authorities should follow the approach set out in the National Policy Statement for Renewable Energy Infrastructure (read with the relevant sections of the Overarching National Policy Statement for Energy Infrastructure,….). Where plans identify areas as suitable for renewable and low-carbon energy development, they should make clear what criteria have

[51] CD7.4 EN-3 paragraph 2.7.8
[52] Framework paragraph 97
[53] CD7.3 EN-1 paragraph 6.9.14
[54] Framework paragraph 8
[55] Framework paragraph 97
[56] Framework paragraph 113
[57] Framework paragraph 109
[58] CD2.4
[59] HDC/CT/3 Appendix 8

determined their selection, including for what size of development the areas are considered suitable[60]".

127. The PPG (RLCE) advises that: *"Landscape Character Assessment carried out at a county or district level may provide a more appropriate scale for assessing the likely landscape and visual impacts of individual proposals." "Identifying areas suitable for renewable energy in plans gives greater certainty as to where such development will be permitted. For example, where councils have identified suitable areas for onshore wind or large scale solar farms, they should not have to give permission outside those areas for speculative applications involving the same type of development when they judge the impact to be unacceptable." "When identifying suitable areas it is also important to be clear on the factors that will be taken into account when considering individual proposals in these areas.[61]"*

128. HDC has done precisely what national policy requires of it. Not only did it adopt a landscape character based wind power capacity SPD years in advance of national policy but it actively seeks to keep it up to date through additional studies and revision. It defines 9 LCAs, 5 of which are acknowledged to have a high capacity to accommodate turbine groups of 4-12 turbines. The remaining areas are the narrow and sinuous Ouse Valley, the major recreational resource of Graffham Water, the tiny Nene Valley, and the Northern Wolds, an area generally considered the most attractive area in the district. The WP SPD clearly explains the sensitivities which are antithetical to wind power development.

129. That this is not the site where that *"very little scope"* should be extended is illustrated by its conflict with the criteria of the SPD. It fails to respect existing landscape features[62] , impinging on views towards the church spires of Bythorn and Keyston. Whether those views are key views will be a matter of judgment. No doubt the Inspector will have considered the view from the Warren Lane/Thrapston Road junction and that from Clack Lane amongst others. It fails to respect the landform[63] by positioning turbines along valley crests or slipping off them into the sensitive valleys, by being out of scale with landscape and the settlements on the valley sides. It fails to respect the site and setting of the historic villages[64] of Bythorn, Keyston, Molesworth and Brington. Mr Denney complained that the SPD does not define which villages are considered to be historic[65]. This is not only to ignore the medieval churches marking those villages but the designation of many of them as Conservation Area.

130. Although much time was spent discussing the inter-relationship of the LUC study and the WP SPD in regard to the number of turbines in a group it is the conflict with the locational guidance criteria which are the most important considerations. The adopted SPD finds a high capacity for 2-3 turbines. The WTD Report offers a range of numbers with no explanation for the variation: 2-3 in the summary, less than 5 on page 78, up to 5 on page 81, 4 or 5 on page 84.

[60] Framework footnote 17
[61] PPG (RLCE) paragraph 005
[62] CD2.4 WP SPD para 8.3(a)
[63] CD2.4 WP SPD para 8.3(b)
[64] CD2.4 WP SPD para 8.3(d)
[65] Denney proof 10.11

Neither of the documents supports more than 5 on any page - nor does the draft SPD.

131. Mr Denney opined that within the Northern Wolds it was not possible to get away from spires, plateau edges or historic settlements. Appendix 7 of his own evidence shows the position of the characteristic churches. Appendix H to Chris Thompson's evidence shows the areas of broad plateau where turbine development could be accommodated without sliding over the valley crest as it does on this narrow flat topped ridge. Whether there is a location where historic villages can also be avoided awaits an appropriate proposal: this isn't one.

132. The PPG (RLCE) also advises: *"Cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases"*. That cumulative impact arising from increased numbers of turbines is a serious concern is highlighted by the detailed consideration of the factors to be taken into account.

133. In that document the promise to protect local interests is honoured *"Protecting local amenity is an important consideration which should be given proper weight in planning decisions."* Whether the impact on Warren Grange satisfies the *"Lavender Test"* or not will be a matter of judgment. The key to assessing such impact lies not solely in distance but in received impact. Are the turbines, by reason of their number size and proximity, unpleasantly overwhelming and an unavoidable presence? Mr Brand considers that they are and will render the house an unattractive place for anyone to live. If he is right it is my submission that the impact on residential amenity is a *"show stopper"*. As Inspector Lavender observed*: "It is not in the public interest to create such living conditions where they did not exist before."*

134. Mr Brand also notes the number of other homes which will experience significant effects on visual amenity recorded in the ES. Those too weigh in the balance against the development.

Noise Conditions

135. The Council did not include harm from noise in its putative reason for refusal. In the SoCG the Council agreed that there was no objection on the basis of impacts in respect of operational noise at surrounding residential properties and that appropriate planning conditions can be applied to ensure compliance with ETSU-R-97 noise limits. The Council further agreed that it was not considered appropriate to attach a condition to address Amplitude Modulation. However the Council again raised the latter matter at a late stage in the Inquiry. This followed the publication on 16 December 2013 by the trade association RenewableUK of new research into Amplitude Modulation and a template planning condition for its control (HDC/TL/2-5). On behalf of the Council the Environmental Protection Officer - Mr Lewis - then sought at the Inquiry conditions discussion to recommend the use of an amended noise condition based on the RenewableUK template.

136. However the Council subsequently again revised its position and submitted a written statement from Mr Lewis (HDC/TL/1). This includes reference to previous attempts by Mr Lewis to recommend conditions to control Amplitude Noise and to

his belief that conditions akin to that used in the Den Brook appeal do pass the Circular 11/95 tests.

137. In this present appeal Mr Lewis, for the Council, is promoting either the use of the Renewables UK template condition or of an alternative condition similar to that previously applied at the Swinford Appeal[66] (Paragraph 26 Document HDC/TL/1). This would require a *'scheme to be agreed'* which could then incorporate any agreed changes to the RenewableUK condition which came forward after the appeal decision. The suggested wording of an additional paragraph to the noise condition would be as follows:

Following the written request of the Local Planning Authority, following a complaint to it considered by the Local Planning Authority to relate to regular fluctuation in the wind turbine noise level (amplitude modulation), the wind farm operator shall at its expense employ an independent consultant approved in writing by the LPA to undertake a noise assessment in accordance with a scheme to be submitted to and agreed in writing by the LPA. In the event that the investigation confirms that the amplitude modulation is excessive according to the agreed assessment procedure then a scheme of mitigation, to be submitted to and agreed in writing by the LPA, shall be put into effect and subsequently retained for the life of this planning permission. The factors to be incorporated in the assessment and mitigation schemes are set out in Guidance Note 5.

138. Guidance Note 5 would read:

"(a) Amplitude modulation (AM) is the periodic variation in the level of the aerodynamic noise created by the turbine, the frequency of the modulation (Hertz) being given by

(rotor rpm/60) x number of rotor blades.

(b) Condition X addresses the situation where the level of AM as perceived at a dwelling is judged to be a contributor to a complaint concerning noise. In the event that the local planning authority considers it to be justified, Condition X requires the wind farm operator to put forward a scheme for investigating and assessing the noise at a complaint location, and, if mitigation is shown to be necessary, a further scheme for mitigating the effects of AM.

(c) The investigation and assessment scheme shall take account of good practice and all information available at the time of the complaint relating to the assessment and control of the amplitude modulation of wind turbine noise."

139. Mr Lewis considers that such a condition should be applied on a precautionary basis. He cites 2 legal cases in relation to the question of necessity for such a condition:

- Feeney v SoS for Transport (May 2013) Case No. CO/12946/2012
- Champion V North Norfolk DC v Crisp Malting Group (Dec 2013) Case Nos C1/2013/1418 and C1/2013/1410

[66] (Document HDC/TL/1 – p7 Paragraph 26; p25 paragraph (J) and p31 Note 5)

140. The first case concerned whether a condition to deal with air quality impacts was lawful when modelling suggested there would be no impact. Mr Justice Ouseley reportedly stated *" … the precautionary principle meant that such a risk existed if it cannot be excluded on the basis of objective information that the plan or project will have significant effects on the site concerned"*.

141. The second case related to potential harm to water quality from a development. Lord Justice Richards stated: *"…a condition can in principle be imposed to address a situation falling short of one that is considered to involve a likelihood of significant effects."*

142. Mr Lewis considers that the alternative statutory nuisance regime confers a lower level of protection than is possible with planning conditions and is highly complex, time consuming and expensive to apply in cases such as these.

143. Mr Lewis also seeks an amendment to the noise condition recommended in the Good Practice Guide (May 2013) by the insertion of an additional paragraph (I) taken from an appeal decision which predated the publication of that guide (Chiplow and Jacks Lane)[67]. That paragraph would require the wind farm operator to submit a mitigation scheme in cases where a breach of the noise condition had been independently verified. The full text would read:

> *"(I) Once the Local Planning Authority has received the independent consultant's noise assessment required by this condition, including all noise measurements and any audio recordings, where the Local Planning Authority is satisfied of an established breach of the noise limits set out in the attached tables 1 & 2, upon notification by the Local Planning Authority in writing to the wind farm operator of the said breach, the wind farm operator shall within 21 days propose a scheme for the approval of the Local Planning Authority. The scheme shall be designed to mitigate the breach and to prevent its future recurrence. This scheme shall specify the timescales for implementation. The scheme shall be implemented as reasonably approved by the Local Planning Authority and according to the timescales within it. The scheme as implemented shall be retained thereafter unless otherwise agreed with the Local Planning Authority. 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."*

144. Mr Lewis believes that the not-agreed components of his recommended draft condition nevertheless pass the tests set out for conditions in Circular 11/95 and restated in the Framework.

Other Material Considerations

145. In relation to the other material considerations identified by the planning witnesses, such as the draft Local Plan, or the non-determinative issues such as conflict with the minerals policy. Their respective positions are clear from their proofs. Under CS Policy CS1 the factor of maximising renewable energy has to be balanced against the harms identified by HDC. Mr Bell agreed that the issue between the parties was whether this was an appropriate location. Clearly if there was strong evidence that the UK energy policy was failing to deliver as

[67] CD6.25 APP/V/2635/A/11/2154590 & 2158966 (Feb 2012)

expected the government, or perhaps even an Inspector, might have to adjust the view of what is or is not appropriate: a larger sacrifice might be necessary. However the evidence does not show anything of the kind.

146. Mr Brand accepts in his proof that the Mineral Safeguarding Area policy would be satisfied if the need for renewable energy at this site were accepted[68].

Government Energy Policy

147. Since 2006 government policy has shown a steadily growing confidence that the UK can meet its commitments to increase renewable energy deployment and a concomitant recognition that achievement of that objective should not irrevocably damage other valued and non-renewable interests, such as heritage, landscape and social values.

148. Mr Brand endeavoured to give an impartial review of energy and planning policy. Mr Bell's evidence however was partial in his report of the content of policy almost invariably omitting those elements which indicated the matters which had to be balanced against the benefits of renewable energy, those which indicated that the planning process had to hold the balance equally between benefit and harm, or indicated that success was being achieved.

149. The White Paper (Meeting the Energy Challenge) 2007 sought to devise a series of practical steps to address the 2 challenges: that of climate change and that of UK security of supply. It put forward a wide range of measures including those aimed at reducing consumption, maximising remaining fossil fuel reserves, shortage of oil refineries, progressing nuclear power, and reforming the planning system. It referred to meeting goals from all the identified sectors as *"challenging"*.

150. Among the promised planning reforms was a commitment to introduce a PPS on Climate Change. The White Paper referred back to the July 2006 Energy Review Report which had highlighted that *"the UK faces difficult challenges in meeting its energy policy goals."*

151. The White Paper reaffirmed, by a Renewables Statement of Need, that[69] no developer has to prove that the energy from his proposal is needed. Not having to prove need does not create a presumption that any particular site is suitable for renewable energy generation. The determination of suitability falls to the planning system. The Statement of Need[70] considered the type of regulatory environment which would achieve progress towards challenging goals: it would be one which enabled the development of appropriately sited renewable projects. Mr Bell accepted that need should be met from appropriate sites and that there was no presumption that any particular site would be suitable.

152. The UK Renewable Energy Strategy 2009[71] recognised the importance of that regulatory system: *"The planning system plays a central role in delivering the infrastructure we need to reduce our carbon emissions and ensure continued security of energy supply. Equally the planning system plays a vital role in*

[68] HDC/AB/2 Brand Proof paragraph 9.11
[69] CD7.1
[70] CD7.1 Box page 157
[71] CD7.2

safeguarding our landscape and natural heritage and allowing communities and individuals the opportunity to shape where they live and work[72]". Mr Bell accepted that it was an equal balance: renewable energy was not a "trump card". That indicated equal balance is not retracted by subsequent documents.

153. The Strategy identified that there could be up to 30% of electricity supply from renewable sources by 2020[73]. It also recognised that renewable energy has the potential for negative effects on the local environment[74], noting in particular the harm which can arise to landscape from inappropriately sited wind turbines. Mr Bell accepted that although he pointed out that more recent guidance sought 32%.

154. The UK Renewable Energy Roadmap July 2011[75] continued to emphasise the vital role of planning and the concerns of local communities regarding potential for wind farms to harm landscape and local amenity[76]. That vital role was again omitted by Mr Bell in his consideration of the Roadmap's content. Communities should be given a say and a stake in appropriately sited wind farms[77]. Although it was urgent that new renewable energy projects came forward, practical action, such as facilitating access to the grid was required to overcome blocks to deployment, not development of inappropriate sites, as Mr Bell accepted.

155. It described the Government's priority actions to address challenges to renewable energy deployment to ensure that need should be met in a timely manner. Those actions included reforming the planning system to abolish the IPC and providing national policy statements[78]. Even without those reforms and based on historic consent rates it expressed confidence that the 15% target, across all technologies, could be met, and judged the pipeline for renewable electricity healthy[79]. Mr Bell considers that this document should be given significant weight[80] and noted the healthy pipeline[81] but failed to note that confident expectation.

156. It gave indicative ranges for the TWhs expected from various technologies by 2020. Onshore wind was anticipated to provide 24-32TWhs out of an overall target of 234 TWhs[82] (all technologies including heat and transport). Slightly higher numbers were expected to flow from both offshore (33-58) and biomass (32-50) than from onshore wind. Electricity was expected to be a third of the total renewable energy requirements and onshore wind was expected to produce a bit less than a third of that.

157. 22GWs of new renewable generating plant of all kinds were already installed or consented[83] and given previous consenting rates 29GW was anticipated by 2020.

[72] CD7.2 paragraph 4.9
[73] CD7.2 Summary p8
[74] CD7.2 paragraph 7.9
[75] CD7.5 paragraph 3.20
[76] CD7.5 paragraph 3.21
[77] CD7.5 paragraph 3.25
[78] CD7.5 Box p30
[79] CD7.5 paragraph 2.20
[80] Bell proof paragraph 5.2.39
[81] Bell proof paragraph 5.2.34
[82] CD7.5 Fig 2 p14
[83] CD7.5 paragraph 2.20

Of those capacity figures onshore wind had more than 11GW in planning, installed or consented[84]. The central range of the anticipated TWhs figure for onshore wind equated to 13GW installed capacity[85]. It expressed confidence that the necessary amount could be both consented and installed and identifies that the bulk of the pipeline is in Scotland[86]. Again Mr Bell accepted the figures, the confidence and the Scottish anticipation in XX.

158. It identified a series of priority actions: minimise investment risk; reform the planning system; overcome radar difficulties; and address grid connection. Mr Bell accepted that it did not suggest by way of action any watering down of what might be regarded as appropriate siting.

159. As part of those priority actions the energy NPS were issued in July 2011. They set out national policy for applications for development consent for infrastructure projects: their content was likely also to be a material consideration for decision making under the Town and Country Planning Act, although whether and to what degree would be determined on a case by case basis. Following the issue of the Framework they became part of the planning framework and are now automatically material considerations[87].

160. In December 2012 a Roadmap update was issued. It recorded significant progress towards goals – the real progress that the 2007 White Paper considered vital. The update records *"a dramatic growth"*[88] and says *"We are accordingly confident that the UK can deliver around 30% of electricity generation from renewable sources by 2020*[89]*."* There has been a significant increase in operational capacity over the year[90]; the 2011 Roadmap anticipated 13GW by 2020 – the 2012 update records now consented, operational or in the pipeline over 18GW[91] with an anticipated attrition rate of 2.7GW. As a result it concludes that: *"While we cannot be certain which projects will go forward, the current pipeline is likely to represent the appropriate quantity of deployment to fulfil the central estimated range in the 2011 Renewable Energy Roadmap for onshore wind deployment (around 10-13GW capacity).*[92]*"* Mr Bell accepted that he had omitted mention that the desire was to ensure development was well-sited[93] or to consider that the 18.2GW in the pipeline significantly exceeded the 13GW sought by the Roadmap itself or allowed for the numerous actions (72 out of 110 in place, good progress towards remaining 38) to support renewable energy across all sectors.

161. A further update followed in 2013. Although Mr Bell does acknowledge that the update shows *"very good progress"*[94], and quite properly notes that onshore wind

[84] CD7.5 paragraph 2.22
[85] CD7.5 p30
[86] CD7.5 paragraph 3.12
[87] CD3.1 Framework paragraph 3 and footnote 17
[88] CD7.6 Executive summary p8
[89] CD7.6 paragraph 2.7
[90] CD7.6 paragraphs 2.10, 2.22 and 2.24
[91] CD7.6 paragraphs 2.10, 2.31
[92] CD7.6 paragraph 2.33
[93] CD7.6 p5
[94] Bell proof 5.2.77

has an important part to play[95], he fails to note that the government is committed to ensuring that projects are built in the right place with the support of local communities[96]. He records the predicted plateauing of new projects and records the 13.5GW in operation and under construction but fails to note that exceeds the Roadmap expectation for 2020 or record the 6GW additionally in the planning pipeline.

162. It appears, therefore, that confidence has grown significantly since 2006 and that confidence is not misplaced. The anticipated contribution of 13GW from onshore wind (operational, under construction, awaiting construction) has been achieved, allowing for attrition[97], 7 years before the 2020 deadline. There remains a healthy pipeline, albeit one which is plateauing, which allowing for attrition, demonstrates potential for at least a further 3GW. Having gone through the figures Mr Bell accepted that achievement does not indicate that less appropriate sites require development in order to obtain the government's objectives.

163. That is not to say that more appropriately sited renewable energy developments of all technologies will not continue to be needed in the future. It is supportive of the view that government energy policy expectations for this technology are being not only achieved but exceeded. There is no need to develop inappropriate sites or to extend the degree of harm that will be judged acceptable or to add super-weight to the public benefit of energy production when conducting a weighing exercise.

164. Government guidance is now taking on board, to a degree, the need for impact to be related to output. *"With wind turbines the mean wind speed at hub height (along with the statistical distribution of predicted wind speeds about this mean and the wind turbines used) will determine the energy captured at a site.[98]"* It suggests that the simplest way is to use *"capacity factor"*. That is not much of a guide when there has been no decision whether 1.8 or 2.5MW turbines will be used since clearly the capacity factor will differ depending on the size of generator used. Nonetheless it goes without saying that for any particular turbine a higher capacity factor is attainable in a higher wind speed site. There is no evidence that there is anything startlingly good about this sites wind speed which would allow it to outweigh the harms to heritage, landscape and amenity, or the conflicts with HDC's WP SPD, the policies of the development plan or of the Framework. It is a very ordinary wind farm proposal in an area highly valued in the District.

Split Decision.

165. The Inspector asked all the witnesses to consider whether removing 1 or 3 turbines would alter their view. They all accepted that removing turbines would reduce impact to a degree. However the real question is would it remove impact to the same degree as it reduced production? Neither of those scenarios have been presented as part of an EIA. The public and statutory consultees have had no opportunity to comment. Removing the Turbine T3 would reduce the *"valley*

[95] Bell proof 5.2.89
[96] CD7.36 paragraph 116
[97] CD7.36 Fig 16 p48
[98] CD3.6 PPGRLCE paragraph 38

crest" problem but would do little for the other key characteristics offended, harm to the cultural heritage assets or the residential impact. Removing Turbines T2, T4 and T6 would solve the residential impact on Warren Grange but harm, albeit reduced, would remain for landscape and heritage. The layout of scheme which has been considered is for a 6 turbine scheme. Whether the remaining 3 turbines would be laid out to the best advantage within the site so as to best minimise harm to those interests, as would have been done had that been the original proposal, is doubtful.

166. It is HDC's view that the conflicts would remain unacceptable. It is, quite simply, the wrong site.

167. Accordingly HDC respectfully requests that the Secretary of State should dismiss the appeal.

THE CASE FOR STOP MOLESWORTH WIND FARM ACTION GROUP

[These submissions are edited from the Action Group's Closing Statement with some additions from the evidence to the Inquiry]

168. The site here lies within a highly valued landscape. See the description in the HLTA SPD :

"The Northern Wolds Landscape character area generates a very positive response from visitors, and is regarded by many as being amongst the most attractive countryside in the district. This is due to a combination of factors, including the harmonious character and relative tranquillity of much of the area, the varied topography (particularly the sense of enclosure and elevation) and the traditional villages".

169. The key characteristics of this LCA are:

a) A strong topography of ridges bisected by pronounced valleys.

b) Valleys are well vegetated and intimate in scale, while ridges and plateaux feel more open.

c) An historic landscape containing many medieval features.

d) Dispersed pattern of historic villages, with little modern development.

e) Distinctive square church towers topped with spires form distinctive landmarks.

170. This topography gives key views towards a distinctive skyline of ridge tops, villages, church towers and woodland.

171. The words of the local residents who addressed you in such number give you a vivid picture of the way in which this area is valued.

Planning and Policy

Statutory Background

172. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise;

173. Section 38(6) of the Planning and Compulsory Purchase Act 2004. There is a statutory presumption in favour of the development plan. See City of Edinburgh Council v Secretary of State for Scotland [1997] 1 WLR 1447 at 1458 per Lord Clyde [CD 5.8]

174. There is a statutory duty under s 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. In considering whether to grant planning permission for development which affects a listed building or its setting, the Secretary of State *"shall have special regard to the desirability of preserving the building or its setting…"*

Planning Policy

175. The development plan is correctly summarised in the SoCG.

176. Material considerations are also correctly set out, the most important of which is the Framework.

177. The Framework states [para 12]:

"This National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making.

Proposed development that accords with an up to date Local Plan should be approved, and proposed development that conflicts should be refused unless material considerations indicate otherwise.."

178. The Framework is a material consideration which is of lesser initial status than the development plan. See Judge Mackie in the South Northants case (CD 5.6) at para 20:

"I conclude from all this that section [38(6) of the Planning and Compulsory Purchase Act 2004] requires not a simple weighing up of the plan against the material considerations but an exercise that recognizes that while material considerations may outweigh the requirements of the development plan, the starting point is the plan which receives priority. The scales do not start off in even balance."

179. The Framework (CD 3.1) paragraph 14 sets out the presumption in favour of sustainable development and continues:

"For decision taking this means:

- *Approving developments that accord with the development plan without delay; and*
- *Where the development plan is absent, silent or relevant policies are out of date, granting permission unless:*
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - *specific policies in this Framework indicate development should be restricted"*

180. It is important to bear in mind in relation to the presumption in favour of sustainable development that wind energy is not sustainable per se, as is sometimes argued. The correct approach is set out in Batsworthy (CD 6.21) paragraph 23:

"That does not mean however that all renewable energy development is necessarily sustainable; wider considerations need to be taken into account, including the impact of the development on matters such as the natural and historic environments, the living conditions of local people and highway safety."

181. Framework Annex 1 paragraphs 214 and 215 deal with the weight to be attached to development plan policies. Para 215 is the relevant para for this Inquiry. The material part reads as follows:

"..due weight should be given to relevant policies in existing plans according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given"

182. We shall refer to the relevant parts of the development plan and the material considerations in relation to those issues with which we deal.

Energy and Benefit

183. The principal benefit of the proposal is the reduction of CO2 emissions resulting from the generation of electricity from renewable resources at Molesworth wind farm. It is trite learning that a benefit which is small by comparison with national or international figures may still be a benefit. However a development site must still be rigorously examined. If a benefit is minimal or scarcely existent due to lack of wind resource, for instance, or other factors, it will carry correspondingly minimal weight in the planning balance. Just as harm varies in degree, so does benefit. Any Inspector has to calibrate that benefit. See paragraph 021 of the PPG (RLCE):

"How to assess the likely energy output of a wind turbine?

As with any form of energy generation this can vary and for a number of reasons. With wind turbines the mean wind speed at hub height (along with the statistical distribution of predicted wind speeds about this mean and the wind turbines used) will determine the energy captured at a site. The simplest way of expressing the energy capture at a site is by use of the "capacity factor". This though will vary with location and even by turbine on an individual wind farm. This can be useful information in considering the energy contribution to be made by a proposal, particularly when a decision is finely balanced".

184. Need for renewable energy is a given and does not need to be proved - see Framework para 98. Need must not be confused with benefit. The decision maker is not absolved from assessing the weight of the principal benefit, the CO2 savings, to be put into the planning balance.

185. The Appellant made no statement concerning the expected capacity factor in the ES. His annual energy production figures of between *"36,439 and 40,984 MWh per year based on an assumed installed capacity of between 10.8 and 15MW"* give a capacity figure of 31.1%. Bratby says (Proof paragraph 2.6) that the correct capacity factor is no more than 25% and that the correct generation figures are between 23,652 and 32,850 MWh per year. The ES calculates the CO2 offset on these figures as between 14,800 and 37,500 tonnes per year. Using the correct displacement factor this would result in CO2 emissions savings of between 4,800 and 6,700 tonnes per year (Bratby Proof paragraph 2.8). The ES figures are hugely exaggerated.

186. Bell realised that the ES was defective and failed to comply with the advice in PPG (RLCE) para 021. He commissioned a report from RWE which was compiled by one Stephen Etheridge, described as a "TAO", qualifications and experience unknown (Bell Annex 3). This report came out with virtually identical generation figures to those in the ES (Bell Annex 3 Table 7). These were based on capacity figures of 38.5% for the Vestas V90 and 33.9% for the Siemens SWT. The projected CO2 emissions savings are calculated as 5,970 tonnes for the V 90 and 6,720 tonnes for the Siemens A (Bell Annex 3 Table 8 and Proof para 3.13.8).

187. However the story does not end there. Bratby says that it is not enough to take the generation figures, which are in any event based on a false capacity factor, and calculate the displacement figures for CO2 using the correct formula. This fails to account for other factors which reduce the emissions savings figure even further.

188. The Appellant has failed to consider:

a) The payback time of the proposal, which would be at least a year.

b) The impact of degradation of the turbines and consequent reduction in electricity generation. The turbines are unlikely to have an effective life of more than 15 years. This reduces the capacity factor to no more than 18% and reduces the emissions savings figure still further.

c) The impact of CO2 emissions from conventional plant acting as back up.

189. These considerations give a reduction factor of 0.22, thus reducing Bratby's emissions savings figures of 4,800 and 6,700 to 1,050 and 1,450 respectively (Proof paragraph 2.23).

190. There is no evidence before the inquiry to contradict these propositions. Bell is not an expert in this field. All he could do on degradation was to say that he had consulted RWE on the topic and that they apparently disagreed with Bratby. Whether and to what extent they would have disagreed with DECC who say that degradation does take place we do not know. Witnesses and evidence came there none. Neither was he in a position to contradict the evidence of Bratby on the capacity factor. Whether and to what extent it is possible to rely on *"In-house software tools and spreadsheets"* (Bell Annex 3 Table 1), nobody knows and nobody came to tell us.

Landscape and Visual

Landscape

191. Topography is central to the landscape issues, giving rise to the passage in the Huntingdonshire Wind Power SPD (the WP SPD):

"Key sensitivities relate to the more intimate valleys, historic villages and valued elements, particularly with reference to historic features and the distinctive church spires."

192. The site here is located on either side of a ridge running from north to south west (Bolger Proof paragraph 6.3.9). See Bolger Appendix 10 with the turbines imposed on the ES Fig 6.4. and AR VP 1. It thus falls foul of the guidance in the WP SPD.

"(a) Respect existing landmark features such as key views to church spires."

193. The impact of the development on St John the Baptist, Keyston and St Lawrence, Bythorn is considered in detail in the cultural heritage section. AR VP's 2B and 3B give a clear view without further explanation of how the turbines will compete with the church spires and dominate the view. The analogous situation at Bicton, also in the North Wolds, dealing with two church spires some 1.7 km from the turbines, is persuasive. The Inspector concluded:

"Even as stationary objects, the turbines would compete with and diminish their significance, seen in many views but particularly from Castle Hill and Park Farm to the South; and from Tilbrook, the B645 along the valley floor and footpaths rising up to Honeyhill Wood to the west. In the foreshortened view of the valley side from the opposite western slopes, the turbines' precipitous siting would be particularly clearly perceived behind the spire of Tilbrook church. Moving blades would add significantly to a marked distracting and alien impact in an area of recognized landscape quality."

194. The turbines here would: *"diminish the visual prominence of the church in the landscape"* and: *"The consequence would be harm to the wider landscape character because of the diminution of the church as a feature"* .

"(b) Respect the landform and relate turbines to the strong ridges and plateau; avoid locating turbines within the more intimate landscape of the valleys and along the valley crests where they will be out of scale with the landscape and settlements such as Kimbolton."

195. As pointed out above, the turbines are not located on the strong ridges and plateau. They do not relate to them. See AR VP1C and D where turbines 2, 4 and 6 do not relate to the ridge and plateau but dominate and are out of scale with Bythorn village. See also AR VP2A and 2B where none of the turbines relate to the ridge but dominate and are out of scale with Keyston village.

"(d) Respect the site and setting of the historic villages, which characterise the Northern Wolds."

196. The site and setting of Bythorn are compromised when viewed from the south (AR VP 1C and D) and in views from Clack Lane (AR VP3). There is major visual intrusion in views from the village. See for Main Street AR VP4 and the churchyard VP5. The setting of Keyston is not respected as can be seen in views from the south (AR VP2 and SEI AVP8).

197. The Bolger view is that the landscape susceptibility to harm from wind turbines is high and that if that is combined with the value placed on the landscape, it gives the surrounding landscape an overall high sensitivity to change from these proposals.

198. She says that this is in agreement with the WP SPD assessment that the Northern Wolds have a high sensitivity to a wind farm of 6 turbines. For less than 4 turbines, the WP SPD lays out a number of guidance criteria, three of which have been discussed above. The present scheme would fail even if judged by the criteria for a smaller farm.

Landscape Effects

199. The present proposals would result in adverse impacts which would:

a) Cause uneasy contrasts in scale

b) Diminish the appreciation of the valley form

c) Challenge the dominance of the church spires within the valley

d) Diminish the appreciation of the intimate settlements within the valley

e) Diminish the appreciation of the distinctive skyline of ridge tops, church spires and woodland

200. The magnitude of change would be high and the impact on the local landscape character would be major adverse.

201. The removal of turbines 2, 4 and 6 would reduce the impact but would not make it acceptable. The criteria applicable to a 3 turbine farm, set out above would still be breached. The result can be seen for Bythorn in AR VP3. Turbines 1, 3 and 5 would still have an adverse impact on the village in views from the south, with 1 and 5 dominant (AR VP3B).

Visual

202. There is little between the parties on visual effect. There is no doubt that in the historic villages around the site a large number of properties will suffer EIA significant adverse effects. These are as follows

Molesworth

House and garden

- Pease Cottage (SEI p34: SEI/3 Fig 12)
- The Lodge (SEI p 35: SEI/3 Fig 13)
- Turners Oak (SEI p 43: SEI/3 Fig18)

Garden

- Jolly Hills (SEI p 21: SEI Fig 6)
- Mill House (SEI p 26: SEI Figs 8)
- Peacock Cottage (SEI p 42: SEI Figs 17)

Bythorn

House and garden

- Ash Cottage (SEI p 55, 56: SEI Figs 25)
- Warren Grange (SEI p 67: SEI Figs 32)
- Byways (SEI p 72: SEI Figs 33)
- Arlan House (SEI p 77: SEI Figs 35)

House

203. In addition there will be adverse impacts from the public highway (Denney proof para 11.47). See AR VP 4 and views from the churchyard AR VP 5.

Keyston

- 14 Toll Bar Lane (166) (SEI Fig 5)

- The Beeches (200) (SEI p 83: SEI Figs 38)
- 6 properties on northern edge on Toll Bar Lane and Loop road (SEI Figs 5, Denney proof p 89 and xx)

Brington

- 4 properties (6, 7, 8, and 9) on western side of Church Lane (SEI Figs 2)
- 3 properties on Brington Road (1,2, and 3) (SEI Figs 2)
- 5 properties in Hill Close (SEI Figs 2 and Denney proof p 91)

Isolated properties

- There are 5 other properties where the impact will be significant, 23 Fayway, Crows Nest farm, Crows Nest Cottage, Foxholes Farm and 1 Coales Lodge (garden) (Denney proof p 92).

204. In summary a total of 44 properties will suffer adverse effects in the surrounding villages and there will be dramatic impacts on the main street and church yard in Bythorn.

Public Rights of Way

205. There is a network of footpaths, bridleways and minor roads surrounding the site, summarised in Denney's proof. They can be seen with the view points marked on Bolger Appendix 1 Fig 4. There will be major adverse impacts on users of this network. There is again no dispute on this.

206. Walkers on the footpath from Molesworth to Titchmarsh, for instance, would suffer such adverse effects and as they went from Bythorn to Titchmarsh, would pass very close to turbine 3. Bridleways, footpaths and minor roads also run north/south and take you through the site. See, for example the B 663 which becomes Toll Bar Lane and runs between turbines 5 and 4. The bridleway running up Clack Lane takes you across the A14 into Bythorn where you can continue up Warren Lane passing between turbines 2 and 4. Heavy impacts from the turbines would accompany you for most of your journey.

207. In summary there are significant adverse effects on landscape and visual amenity which run contrary to policies En2, En5 and En9 of the Saved Policies Huntingdonshire Local Plan (1995) (CD 1.1), policy LP 31 of the Draft Local Plan to 2036: Stage 3 (CD 2.1) and the WP SPD.

Residential Amenity

208. Warren Grange has been designed to take advantage of the views over the open countryside to the north and north east. The principal rooms have their outlook in this direction, as does the conservatory and surrounding amenity area. It has some outlook to the south and west but this visual focus of the house is in the opposite quadrant. See SEI/3 Figure 32 and Bolger Appendix 1 Figure 9. The relevant north and east elevations are shown in Bolger Appendix 1 Figure 10 and SEI/3 Appendix 5, no 150.

209. There is again hardly any dispute about the major impacts that will be inflicted on this property. Topography is important because the turbines are situated on

rising ground. Warren Grange is 50m AOD whereas T4 is 75m+, T2 75m and T6 60m. T4 from the house is the equivalent of a 150m turbine. T4 is some 892m from the house. That distance does not preclude significant and over dominant visual impact which falls foul of the Lavender test. See last year's decisions of Treading (CD6.30 para 37) (900m) and Standle Farm (CD 6.28) para 36 and 40 (850-900m)

210. From the living room/kitchen there would be clear views of T2, T4 and T6 from the north and east facing windows resulting in substantial impact. The same applies to the conservatory. From the north facing master bedroom windows there would be uninterrupted views of T4, T2 and T6. According to the SEI there would also be views of the upper part of the blades of T1, T3 and T5.

211. The residents of the house disagree. Mr Lambert said that the aerial photograph SEI/3 Figure 32 shows the intervening trees in full leaf. The sight in winter is fundamentally changed. There is a difference of opinion between the experts on the grade of impact. Denney says it would be moderate, grading the sensitivity from bedroom windows as medium instead of high. Bolger says there is no basis for distinguishing between the main rooms of the house. That is a common sense approach particularly bearing in mind that the first thing the owners of the house will do in the morning is to draw the curtains and find the turbines full in their face.

212. There would be major impacts from the north facing ground floor living room with clear views of T4 and T2 and oblique views of T6. From the north facing bedroom windows the views would be the same and, adopting the Bolger common sense approach, the impact would again be substantial.

213. It is agreed that T4, T2 and T6 would be clearly visible from the garden and paddocks; see the photomontages in Bolger Appendix 1 Figure 7 and 8. It is likely that there will be views of some of T1, T3 and T5 when the leaves are off the trees.

214. Having woken up and been confronted with the turbines first thing, attending to the horses before going to work involves an overwhelming view of T4 (Bolger Figure 8). A return to the kitchen and the kitchen sink involves a full on impact. Leaving the house to work and returning in the evening involve further major effects and there is no chance of relaxing with a quiet drink in the conservatory or the garden without being relentlessly bludgeoned by the turbines. See the vivid account given by Dr Lambert.

215. In summary the impact of the turbines will be overwhelming and inescapable both from inside the house and from the garden. Warren Grange will become an unattractive place to live. The proposal is thus in conflict with Policy LP 15 of the Draft Local Plan to 2036: Stage 3.

Cultural Heritage

216. The latest learning on heritage assets and their setting was available to the author of the ES (June 2012) and the SEI (December 2012), one Lucy Jarvis, a partner of Dr Edis, the Appellant's heritage witness. This comprised the Natural England guidance of October 2011 – The Setting of Heritage Assets - (which contains a revision note of June 2012 saying it still contained useful advice), and the Framework which replaced PPS5 whilst adopting much of its terminology.

Both documents are clear on the concept of setting as the: *"Surroundings in which a heritage asset is experienced"* (See Framework glossary and TSHA p5). Both are equally clear that its extent is not fixed and may change as the asset and its surroundings evolve. See Framework glossary and TSHA p5 bullet point 3. Setting is often referred to as *"immediate"* or *"extended"*, terms which have no formal meaning but which, as Dr Edis said were useful and terms he used himself. As he said in his proof p 34 "*I do not circumscribe the extent of the setting of a heritage asset"*.

217. The Setting of Heritage Assets is equally clear on the importance of views;

"The setting of any heritage asset is likely to include a variety of views of, across or including the asset and views of the surroundings from or through the asset".

218. The ES and the SEI contained errors on the extent of the setting of St Lawrence Bythorn and St John the Baptist, Keyston and the visibility of both churches from the south. These factors must have influenced the finding of a minor impact at each location, both in the ES and the SEI. Dr Edis was therefore placed in an awkward position. He said that he had checked both documents for accuracy and on the cover of the SEI there is the legend *"Reviewed by Jonathan Edis"*. He therefore had to arrive at the same result whilst applying a totally different and correct version of extended setting and a corrected version of visibility.

St Lawrence, Bythorn

219. The setting of this church is described in the ES (p 283) as follows:

"The setting of the church is contained, in reality, within the defined square church yard and extending out behind the church to the west and south west, by the main street to the east and properties which enclose it to the north."

That is, it is *"confined to the limits of Bythorn"* (ES p 257).

220. Edis does not agree. He says of a view from the east:

"Figure 5 is taken from beside the stile some 470m east of the church where the truncated spire can be seen in conjunction with the spire of St John Keyston. Views such as this clearly form part of the setting of the church in Bythorn and they contribute positively to its significance."

221. He also accepted that the setting of the church extended to Clack Lane (AR VP 3A and B) and that the turbines would impact on that part of its setting.

222. Saying that there had been changes in the way that setting was assessed since the ES was published is not accepted in view of the chronology. The author of the ES and the SEI had all the relevant guidance when the ES and the SEI were produced.

223. Edis uses the view of Scotts Farmhouse in ES VP 9 to assess the impact on the immediate setting of the church. He draws attention to only one of the turbine blades breaking the roof slope of Scotts and the hub of the turbine being below the ridge line. The effect on the farmhouse will be only a small erosion of significance. He uses this to *"extrapolate"* to the churchyard, saying that *"the entire wind farm would be hidden by the church and by other buildings and by the filtering effect of trees"*.

224. This argument and conclusion are wrong (see AR VP 4). It is plain from AR VP 5 that the turbines will be visible from the footpath and many other areas of the churchyard. You can only achieve invisibility of turbines from the churchyard by taking your picture standing virtually in the hedge [VP AP3]. He tried to defend his view by saying that the view from the churchyard was not attractive in any event, slight consolation to those who were attending an ordinary service, a wedding, a christening or a funeral.

225. He acknowledged that in the wider setting there would be an: *"effect on more distant views of the church when it is seen from the south where the wind turbines will be visible and above the skyline"*. The SEI is to the contrary:

"Given the topography the turbines are unlikely to be visible from outside the immediate setting of the church from the south, the tops of some turbines are likely to be visible behind the church when viewed from the south west".

226. Edis admitted that the setting extended to Clack Lane and that the turbines would have a significant effect on the view from there but that this did not amount to an effect on the setting as a whole.

227. Edis argues that you can see the church in other important views and that therefore the harm to this view does not impact on the setting as a whole. No pictures of other important views were provided except for that from the footpath 470m to the East with its dubious argument that because the turbines would be to your right as you approached the village, they would have no effect.

228. Bolger is quite clear that the views from the south towards Bythorn church are the only ones where you can appreciate the church in its landscape setting and that the turbines would have a major adverse effect on the setting of the church (Proof para 9.2.12). The effect of moving turbines from within the churchyard would be disruptive to the current tranquil nature of the setting (Proof para 9.2.9). The impact on the church and its setting is assessed as close to substantial harm as described in the Framework paragraphs 132 and 133.

St John the Baptist, Keyston

229. The visual influence and presence of this church is much greater from outside the village than from within it. As Bolger says (Proof paragraph 9.3.4) *"The spire of Keyston church, while noticeable from within the village, is best appreciated, both architecturally and historically as a focus of a community, when seen from a distance. This is most apparent from AR VP1 which represents views from the road on the approach from the village from the south east"*.

230. Edis agreed that the main effects of the turbines on the setting of St John would be from the south from the B663 and the footpath leading from the road to Keyston (Proof para 6.9). He said that the predominantly agricultural surroundings at this location were part of the extended setting of the church. As with St Lawrence he agreed that there would be a significant change on this part of the setting of the church. Nevertheless, as with St Lawrence, he said that this would not mean a significant change to the setting as a whole. He found that the effect on setting was acceptable for two reasons, first, as with St Lawrence, that there would be more views that would be preserved by the development than would be affected by it, and, second, that this was not a designed view (Proof para 6.10). However nobody had ever suggested it was. The spire was designed

to be seen in views approaching the village, views were not designed to see the spire.

231. Edis' partner who must have come to her conclusion of minor impact based on a mistaken view of setting and visibility. The ES, p 258 is as follows:

"The setting of St John does not extend beyond the village…its setting is limited to Keyston itself in reality extending little further than the church and the buildings immediately adjoining the site to the north and east".

And ES p 284:

"The development will not be present in any key views towards or of the church"

232. On this unreliable foundation the SEI concluded that it was unlikely that wind turbines would be visible beyond the church from the south west. Turbine blades might be apparent in the distance on clear days but: *"will remain subservient to the prominent and established church spire which rises high above the trees and rooftops associated with Keyston."*

233. The Edis view is that views from the south will have an effect on the setting of the church but they will not be unacceptable. Bolger says that the turbines would have a major adverse impact on the setting of the church. She says that this is a situation highlighted by English Heritage in Wind Energy and the Historic Environment (CD 10.3):

"Visual Dominance: Wind turbines are far greater in vertical scale than most historic features. Where an historic feature (such as a hilltop monument or fortification, a church spire or a plantation belonging to a designed landscape) is the most visually dominant feature in the surrounding landscape, adjacent construction of turbines may be inappropriate."

234. The spire of the Keyston church is clearly the most dominant feature in the landscape, a dominance that has persisted for 500 years. To replace it with the dominance of the turbines would be to create an impact that would be major adverse and close to substantial (Bolger proof p 55-56).

235. Both Edis and Bolger agree that the views of the wind farm will have an effect on the setting of the church. How is that to be calibrated? If the effect is less than substantial in Framework terms, the Inspector is not to be left to calibrate himself without expert assistance. The *"two bins"* argument - either substantial harm or less than substantial harm in accordance with the Framework - and then leave the Inspector to get on with it is not helpful. Plainly there are degrees of harm falling below the Framework substantial harm and the experts must assist the decision maker with their gradation of that harm.

236. The overall conclusion of Edis and partner is that the impacts on the two churches are minor and therefore acceptable. This assessment is based initially on an erroneous assessment of setting and of visibility coupled with a faulty assessment of magnitude of change, classified as "*slight*" or *"negligible"*. Bolger on the other hand says that the impact on both churches is close to substantial harm as described in the Framework.

237. There is thus conflict here with Policies En2, En5, En9 and En11 of the Local Plan and Policy LP 31 of the Draft Local Plan to 2003: Stage 3. The Framework is

central to the assessment here, reproducing as it does much of the terminology of the revoked PPS 5. Special regard must be paid to the desirability of preserving the two churches and their setting by virtue of S66(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990.

Ecology, Birds

238. In October 2006 Dr Percival was commissioned by the Appellant company to do baseline ornithological surveys over three years for the proposed wind farm at Molesworth (Proof p4). 6 surveys were done, two a year for winter and summer for the years 2006/07, 2007/08 and 2008/09.

239. The most important ornithological issue for winter and summer seasons is the red kite. The red kite is not breeding at Molesworth but is observed flying over the area of the site in quantity. For the summer season, in 2007 35 flights were observed, in 2008 84 and in 2009 68. In the winter season the corresponding figures are 12, 132 and 148. See the position summarised at ES p 220.

240. One of the most important data sets collected for a site is that which records the flight of birds of the area and how they use the site at heights where they would possibly collide with the turbine blades. This data should be collected in accordance with guidance laid down by Scottish National Heritage (SNH) and Natural England (NE). SNH has two sets of guidance dated 2005 and 2013 (CD 11.18 and CD 11.27). NE has one, TIN069 (CD 11.250. The burden of these publications is that while the guidance is not written in stone, it should be followed and any deviation from it should be justified and, as TIN069, p6 says, *"agreed beforehand with the relevant consenting authority."*

241. Dr Reed says that the gathering of data from the VP was vitiated by a failure to follow the relevant guidance in the following respects:

a) A 3 hour limit with an hour's gap between sessions should have been applied in summer and winter. These periods were regularly exceeded in the summer-see Reed proof p25-26 and Boxes 2-4. This gives rise to serious acuity issues, the observers tiring with prolonged observation and insufficient rest. See the Scottish report in Stacain (CD 6.46) para 8.40 and 8.41.

b) There was a coincidence of Vantage Point and other bird census fieldwork on site. This is contrary to advice in SNH 2005 p42 para 3 that: *"It is important to minimise the observer's effect on bird behaviour."* The advice is summarised in the latest SNH guidance CD 11.27 p 14, *"VP survey must not take place simultaneously with any other field work on the site, that may cause disturbance and invalidate the VP survey results."* See the summary by Reed at proof p26 and p27 and Box 5.

c) The seasonal hours did not correspond with the SNH guidance. SNH 2005, para 48 states: *"If developers choose to depart from the standard then this should be fully justified."* No such justification was provided. See Reed proof p27-29 for details of shortcomings.

242. The defects in the VP data are summarised by Reed at proof p 29. He says that as a result the data used in the collision risk analysis is totally unreliable.

243. By the time the ES came to be written in June 2012 the survey information was out of date because the application programme had been delayed. SRL had been commissioned to update the data and this had been done by 31.5.12 with a walkover and ecology gap assessment by Laura Gravestock of SRL.

244. On 6.7.12 Laura Gravestock's report which has not seen the light of day in this inquiry was sent to NE saying: *"We have produced the attached document to outline what we have done, where there are shortcomings, and highlight where further surveys may be required."*

245. NE was not happy. It required updated raptor surveys using NE guidelines. RSPB was also unhappy and wanted turbines T1 and T3 removed.

246. In December 2012 the SEI was produced aiming it was said to describe changes to the ES baseline and update the impact assessment on red kites.

247. In October 2013 Percival wrote a supplementary report writing up the results of a survey carried out between 16.7 and 24.9.13 to: *"check if there was evidence of changes to the use of the site with particular focus on the red kite."*

248. Thus, from July 2009 until July 2013 nothing had been done to survey the site and update the red kite position, although it was clear that the Rockingham Forest project was the source of red kites on site.

249. The ES was out of date and based on defective data. The SEI had no red kite survey but based its assessment on what it described as *"a recent data trawl"* that put the population of the Rockingham site and surrounds at 600. The recent data trawl consisted of unpublished figures from the RSPB from 2008. Thus collision risk calculations were based on out of date surveys going back to 2007 and *"recent"* data from the same period. The only additional data available came from a sketchy and defective Winter Roosting Raptor Survey incorporated in the ES and carried out by unknown personnel from SRL between November 2010 and March 2011. The ES was put forward in full knowledge that *"further surveys would be required."* There was no reason why red kite surveys should not have been carried out following TIN069 for the winter and summer season 2011/2012 but nothing was done.

250. The 2013 report by Percival of October 2013 was too little too late. The following defects emerge:

a) There were 27 hours of observation instead of 72. This is contrary to SNH 2013 recommendation that: *"When the proposal is less than 72 hours, this should be fully justified and agreed with SNH prior to the survey commencing."* (CD 11.27 p 17)

b) The VP survey should be for two breeding seasons and non breeding seasons or years since activity varies across the year (CD 11.27 p17)

c) Sessions were taking place at the same time as other fieldwork contrary to the SNH advice (CD 11.27 p14). See Reed proof AG3.1 p38 and Box 8.

d) Some sessions were too long in breach of SNH advice (Reed proof AG3.1 p36 Box 7)

e) Some walkovers were in fact 'carovers' (Reed proof AG3.1 p39)

f) The VP was moved contrary to SNH guidance (Reed proof AG3.1 p35)

g) Night surveys were defective, with many recording locations being too distant from the turbines. (Reed proof AG3.1 p39 and p40 and the map AG3.4)

251. Feeding this defective data into a computer programme for collision risk analysis which is any event fraught with difficulty compounds the problem. Recent research shows that red kite belong to a species with the highest frequencies of rotor blade strikes, foraging as they do in agricultural landscape with a flight level at turbine height as they feed on prey close to the turbines. There are additionally high levels of uncertainty on levels of avoidance.

252. The Reed conclusion is there are problems which undermine the Appellant's data and make them unsuitable basis for a planning decision. This is a verdict on the quality of that data, not an argument that the environmental statement was insufficient for the purpose of the regulations. A planning decision will be made here on the basis of the relevant environmental information of which the ES is a part. The ES was put forward in the full knowledge that further surveys would be required and the decision maker has not only to assess the quality of the data that underlies the ES but also to assess the quality of the SEI, which contains no survey and precious little data, and the Percival report of 2013, which is supported by data which we say is truncated and deficient in the manner outlined above.

Noise Conditions

253. SMWFAG considers that the fact that RenewableUK has commissioned an extensive research programme and growing evidence of wind farm noise problems resulting from AM provide a strong indication that a condition to address wind turbine AM is necessary.

254. In written submissions (Document AG/DC/3) SMWFAG's noise adviser Robert Davis considers that it would be premature to apply the RenewableUK AM condition. It should have been presented as a draft for discussion.

255. Mr Davis was a member of the IoA Working Group that produced the Good Practice Guide. He considers that a condition to control AM is necessary but that the RUK condition has yet to be formalised and validated. He expects that the IoA Working Group will review the RUK research and condition and will make recommendations to industry and Government on how it should be applied. He expects formalisation and validation of the condition to take 12-18 months. In the meantime the only appropriate form of condition that should be applied is in the 'scheme to be agreed' format similar to that imposed by the then Secretary of State at the Swinford appeal (CD6.23). There is suggested wording for such a condition and accompanying guidance note that is similar to that proposed by the Council.

Reversibility

256. Reversibility must be considered in the assessment of impacts and their weight in the planning balance. However the weight to be attached to it is a matter of judgement and, given the time span involved, many Inspectors have given it limited weight. See for a recent expression Benington (CD 6.34 paragraph 49):

"I have taken into account all of the other matters raised including the fact that permission is sought for a period of 25 years after which the turbines would be removed, but this is a very long time during which significant harm to the landscape and heritage interests would pertain."

Conclusion

257. The adverse impacts of this scheme amount to harm which outweighs the comparatively miniscule benefit which it will bring. We invite you to dismiss this appeal.

THE CASE FOR MR WATTERS WHO APPEARED AT THE INQUIRY TO OBJECT TO THE DEVELOPMENT

258. Mr Watters lives in Molesworth about 950m from the nearest proposed turbine (T6). He attended the Public Inquiry, submitted objections on noise and other grounds and asked questions of Mr Arnott the noise witness for the Applicant. Although not registered as a Rule 6 party, Mr Watters submitted initial and closing statements on noise and health matters and a closing statement on noise from which the following material is edited. He was cooperating closely with SMWFAG who had raised noise objections at the application stage but had been unable to fund a professional noise witness as part of their case at the Inquiry. Mr Watters' statements on noise and health were accompanied by copious scientific reference material.

(a) Reliability of Background Noise Data

259. Mr Watters is concerned that the background noise data on which the ES, and the proposed ETSU derived noise limits, are based is unreliable for the following reasons:

(i) Possibility of Data Contamination

260. The background noise monitoring exercise was carried out by the firm AECOM who unfortunately were not present at the Public Inquiry. Instead a Mr Stephen Arnott gave evidence for the applicant. Mr Arnott was not involved with the project when the data monitoring was carried out and admitted to having been given very limited information by AECOM.

261. The issue of data contamination is mentioned in the IoA consultation draft entitled *"Supplementary Guidance Note 2: Data Processing & Derivation Of ETSU-R-97 Background Curves"* November 2013. It suggests background noise data should be filtered to eliminate *"seasonal agricultural activities"* and *"noisy DIY activities"*. Mr Arnott pointed out that this guidance note is only a *"consultation draft"* however the IOA have fully released *"A Good Practice Guide To The Application of ETSU-R-97 For the Assessment And Rating Of Wind Turbine Noise"* and this states that:

"3.1.6 When a measurement location is used to represent locations at which measurements are not undertaken, then removal of site-specific noise sources should be undertaken. See Supplementary Guidance Note 2 for more detail."

262. The background noise data is being used to represent noise locations where measurements were not undertaken, however no analyses of site specific noise

sources (due to seasonal agricultural activities or noisy DIY activities) appears to have been presented to the Public Inquiry.

263. At least two residents (Warren Grange and Byways, immediate neighbours) discussed the issue of data contamination by noisy agricultural working at night with AECOM when the noise monitors were set up. They were told verbally that they should report such events and that data from these nights would be discarded.

264. The background noise data, supplied to myself by NPower, showed that AECOM had received reports of agricultural night working from the owners of Warren Grange and Byways and that AECOM had discarded the related data. Regardless of the status of the Supplementary Guidance Note 2, clearly AECOM felt this was an important issue.

265. The problem is it appears that other residents in other villages hosting noise monitors may not have been advised by AECOM to report agricultural night working, noisy DIY activities or any other extraneous noises. Certainly there is no evidence that any other residents reported such noises in the notes that accompanied the released data. This is surprising given that other monitored locations are close to agricultural land and that it would be in the home owner's interests to ensure that the recorded background noise levels were as low as possible.

266. In his Rebuttal proof Mr Arnott states that:

"I am not aware of any data that erroneously influenced the results and should have been excluded."

267. However he cannot possibly know if any such data was erroneously included or not. In response to questions he confirmed that he did not know what, if anything, AECOM had told residents to report. Nor had AECOM provided him with any log books or other records that would allow him to check what was actually reported, nor what was or wasn't included in the background data.

268. Mr Watters asked Mr Arnott if he believed there is a possible issue here regarding a *"lack of informed consent"*. Before you enter into a contract with a bank for a financial product they have a responsibility to ensure you are informed of the risks and potential consequences, including those that may occur if you fail to carry out certain actions (For example *"Your home maybe at risk if you fail to keep up payments on your mortgage"*).

269. In this case there appears to be no evidence that residents were informed that creating noise near the monitors and/or failing to report extraneous noises from other sources could result in data contamination and higher background noise levels being recorded. Nor is there any evidence they were informed that higher background noise levels could lead to the approval rather than rejection of the planning application and the consequent risk to the value of their property or that of their neighbours. Even if residents were advised to report extraneous noises they may not have been at home when such noise occurred. Is it safe to rely on residents to filter the data for the applicant in this way?

270. In view of the above it appears there is considerable risk that the background noise data was contaminated.

(ii) Lack of directional filtering/Lack of respite

271. Residents of Molesworth and Bythorn have long noticed that when the wind is from some directions the A14 trunk road appears a lot quieter than when the wind is from other directions. This is a well-known effect caused by the combination of wind direction and wind shear. Residents of Bythorn referred to this during the evening session of the Inquiry.

272. In the supplementary EIA dated December 2012 Volume 3 Appendices paragraph 2.18 AECOM also identified this as an issue:

"..it was observed whilst on site that the wind direction had a significant effect on the audibility of the road traffic noise from the A14.."

273. Mr Watters understands that the noise expert from AECOM also discussed this with the owner of Warren Grange. AECOM clearly felt this effect was significant as they carried out a directional filtering exercise. AECOM appear to have started with an assumption that residents living in Bythorn and Molesworth received respite from the A14 when the wind is from the North and filtered the data accordingly. However this exercise appeared to show that wind direction has little or no effect on noise levels. This is very surprising as it appears to contradict what residents experience and what AECOM had observed. Mr Watters asked Mr Arnott if AECOM had produced a plot of noise vs wind direction to confirm if their assumption about Northerly wind directions was correct. He was unable to provide one or confirm that AECOM had even produced one.

274. Looking at a road map it may appear obvious that in Bythorn and Molesworth the A14 would be quietest when the wind is blowing from the north, but remember that both Bythorn and Molesworth are set into the side of small valleys that face east or south east. In Molesworth many of the nearest houses to the development and the noise monitoring location (Mill House) are located at the north end of the village with high ground to the west, south west and even to the south between themselves and the A14.

275. AECOM, having identified that the wind direction had a *"significant effect on the audibility of the road traffic noise from the A14"*, should not simply have given up on the directional filtering exercise when the data showed something unexpected that contradicted their own experience and those of residents. They should have carried out additional work to check the assumptions on which the filtering exercise was based.

276. It is quite possible that residents gain respite from the A14 noise when the wind is from the west rather than the north. If that's the case then the masking effect of the A14 might be low when the wind is blowing from the west eg from the wind turbines towards houses in Molesworth and residents will lose the respite they currently enjoy.

(b) Planning Conditions

277. Mr Watters has reviewed the Noise Planning Conditions proposed by HDC and SMWFAG and has the following comments:

(i) Standard Noise Conditions

278. Mr Watters supports new paragraph "I" drafted by HDC which at the time of writing he understands to read as follows:

> *"(I) Once the Local Planning Authority has received the independent consultant's noise assessment required by this condition, including all noise measurements and any audio recordings, where the Local Planning Authority is satisfied of an established breach of the noise limits set out in the attached tables 1 & 2, upon notification by the Local Planning Authority in writing to the wind farm operator of the said breach, the wind farm operator shall within 21 days propose a scheme for the approval of the Local Planning Authority. The scheme shall be designed to mitigate the breach and to prevent its future recurrence. This scheme shall specify the timescales for implementation. The scheme shall be implemented as reasonably approved by the Local Planning Authority and according to the timescales within it. The scheme as implemented shall be retained thereafter unless otherwise agreed with the Local Planning Authority."*

279. Mr Watters considers the final sentence particularly important and necessary to ensure that other paragraphs and conditions can be enforced.

280. Given the likely cost of this development it appears to Mr Watters that there is a strong financial incentive for an unscrupulous operator to maximise revenue by minimising any curtailment of operation necessary to protect local residents from excess noise.

281. Without this passage an unscrupulous operator is able to modify operation of the turbines at will. For example when they know that a noise monitoring exercise is being carried out they could curtail the operation of the turbines to ensure apparent compliance. Then once a noise monitoring exercise has been completed they could restore normal operation and increase noise output knowing that it will take a further round of complaints and another lengthy monitoring exercise to prove noncompliance. That monitoring exercise would also be subject to the same problem that has been identified. In short without this passage the noise condition could be difficult or impossible to enforce.

282. This passage requires the operator to retain a scheme once one has been identified as necessary to protect residents. At the same time it does not prevent the operator proposing changes to that agreed scheme to maximise energy production.

(ii) EAM Noise Condition

283. Renewable UK (RUK), which is a wind energy industry body, published a long awaited report into the causes of Excess Amplitude Modulated Noise on the 16th December 2013. The report also included work on a penalty scheme and a template planning condition to control EAM. The RUK report makes clear that one cause of EAM is Local Stalling, which is the temporary disruption of the airflow over the blade for part of its rotation. The RUK report also links the occurrence of Local Stalling to the presence of high wind shear (amongst other possible causes which include topography, large scale turbulence, or the wake of other turbines). Mr Watters presented evidence to the Inquiry that very high wind shear occurs on this site virtually all the time and particularly at night. Mr

Arnott, for the Appellant, agreed the site is subject to high wind shear. In the light of the RUK report it appears there is a clear risk that EAM will occur at this site.

284. The RUK report also provides evidence that EAM is more annoying than the normal noises emitted by wind turbines and that a planning condition is necessary to control it and protect local residents. The RUK report contains a considerable volume of work and Mr Watters believes it is too early to conclude that this work should be adopted in its entirety. In particular he believes the criteria for assessing EAM and the penalty system it proposes needs further validation before it can be widely adopted.

285. Mr Robert Davis (MIOA) has made a statement on EAM and the RUK report for SMWFAG. His statement proposes a planning condition of the *"scheme to be agreed"* format that is effectively the same as that imposed by the Secretary of State at Swinford (APP/F2415/A/09/2096369). Mr Watters supports that proposal. Neither support the RenewableUK template planning condition which has not yet been reviewed by experts and as such is likely to undergo changes over time which could create difficulties for a condition imposed now.

(c) Health

286. Mr Watters suffers from incurable Ulcerative Colitis. The NHS website and his doctor advise that successfully managing stress levels (and getting adequate daily sleep) may reduce the frequency of symptoms. The possibility of the wind farm that might impact on his health, house value and living environment has already caused him a lot of stress. Exercise can reduce stress but the development would prevent relaxing walks or exercise in that area. There is already noise from the A14 to the south and the noise from the wind farm to the west would mean that there would be no respite leading to sleep disturbance. Mr Watters considers that the stress and potential loss of sleep would increase the chances of a relapse in his health.

THE CASE FOR OTHER PERSONS APPEARING AT THE INQUIRY TO OBJECT TO THE DEVELOPMENT

Elected representatives.

287. There were appearances from: the Chairman of Bythorn and Keyston Parish Council (pop. 316); the Chairman of Brington and Molesworth Parish Council (pop. 342); a Local Member of Hunts DC; a Local Member of Cambs CC; and the Member for the adjoining ward in East Northants DC. All generally supported the refusal of permission for the reasons given by the Council. However some additional points were also raised.

288. **Bythorn and Keyston PC** (Doc 7) emphasised landscape and heritage impacts and highlighted that there are homes in Bythorn and Molesworth within 1,000m of the turbines. Local opposition to the proposals was stressed. The number of objection letters was overstated by the Parish Council by comparison with the figure in the Panel Report to the Council (see below).

289. **Brington and Molesworth PC** (Doc 8) consulted 201 residents in the two villages of whom overall 53% were against the development and 29% were in favour. Further questioning established that the proportion against the development in Molesworth, the nearest village, was 69% (21% in favour)

whereas in the more distant Brington it was only 37% (33% on favour). The most common reasons for objections were proximity, height, scale, noise, and the effect on amenities including walking, riding and enjoyment of wildlife. The Chairman queried the lack of noise readings at the nearest house in Molesworth (Jolly Hills) and was concerned about the possibility of overhead cabling in Brington (not part of the current application) and the effect of construction traffic movements and road closures.

290. **Councillor Baker (Hunts DC)** suggested that 95% of locally submitted written representations were against the proposal and considered that evidence from the Appellant of support for wind energy from people questioned in Huntingdon High Street should be discounted. Visual amenity is the overwhelming issue. The turbines would dominate Bythorn and blight that and other villages. With reference to localism the Panel decision had been clear and local people should have a large input.

291. **Councillor Bywater (Cambs CC)** (Doc 9) doubts the benefits of wind energy and is concerned about the financial costs of the Inquiry. The Secretary of State must be held to his word when he stated that residents' fears and concerns should be taken into account. The turbines would destroy heritage and countryside, cut off the village and stop children playing nearby. There are health and landscape concerns. Turbines have already been permitted in the wider area.

292. **Councillor Capp (East Northants DC)** (Doc 10) opposes the development on the grounds of: landscape and visual impact; the impact on historic assets in Northants (he refers to the local Barnwell wind farm appeal decision case that was quashed in the High Court and recently so confirmed in the Court of Appeal); highway safety; the aviation lighting; protected wild life including red kites; and noise.

Bythorn residents

293. **Mr J Hunt** (Doc 11) of Doyden Barn objected to the size and proximity of the turbines and especially: the substantial visual impact on views from his home of the 3 western turbines; and sleep and health issues due to the risk of noise and Excess Amplitude Modulation.

294. **Mr C and Mrs V Wood** live at Scotts Farmhouse in Bythorn. Turbine T4 appears above and behind Scotts Farmhouse in some visualisations. Mr Wood (Doc 12) highlighted that the house is listed and of historical value as are other buildings nearby. The building and its setting must be protected from all modern development and especially industrial machinery in the sky. As an engineer Mr Wood considers that turbines are a poor solution to the energy problem. Mrs Wood (Doc 13) is the Chair of SMWFAG. She stressed the local opposition to the proposal and that £70,000 had been raised by 110 households to fight it. SMFWAG could not afford a noise witness. The turbines would harm the tranquillity of the rural landscape and the footpaths and bridleways as a place for recreational amenity. Local villages should be protected from industrialisation. Any development in place for more than 5 years should be assessed as if permanent. 25 years is a generation.

295. **Mr C Lambert and his wife Dr A Lambert** live at Warren Grange on the northern edge of Bythorn which is the only dwelling cited in the Council's reasons

for refusal as becoming an *'unattractive and hence unsatisfactory place to live'* if the development proceeds. Mr Lambert (Doc 14) considers that there would be overwhelming views from the major rooms in the house towards Turbines T2, T4 and T6. Turbines T1, T3 and T5 would also be visible, particularly in winter when the trees are not in leaf. As the screening trees are ash, that may not survive the spread of disease. The turbines would be too close to the house and the village. Mr Lambert is critical of the Appellant's assessment and consultation processes. They have not tried to find willing landowners in a more suitable location. Dr Lambert (Doc 15) considers that the turbines will be an inescapable presence that will harm her recreational amenity and make it dangerous to ride her former racehorse in the area. Although constructing only 3 turbines (T1, T3 and T5) would be preferable to the development of all 6 turbines there would still be a devastating impact on the rural setting and recreational amenity.

296. **Mrs M Tattersall** (Doc 16 and appendices 16/1-16/7) lives in Bythorn and suffers from tinnitus, hyperacusis and other hearing difficulties following a road traffic accident and suffers side effects including sleep deprivation and depression. Supporting medical records were appended. Stress makes her condition worse. She has concerns that turbine noise will prevent sleeping. Even if only 3 turbines were built there could be more added in the future. Her specialist advises that low frequency noise could cause irreparable damage without her being aware of it. An attached paper reports that some individuals are hypersensitive to low frequency noise for psychological reasons and that phobic type reactions can occur.

297. She quotes from an appeal decision where the Inspector stated: *'It is common ground that the potential for an adverse effect on health is a material fact that needs to be given weight. Fear of an adverse effect is also capable of being of material consideration, even if there is no objective evidence.'* (Appeal Refs APP/T5720/A/09/2099306 and /2099836). That appeal decision was appended and it concerns a hearing where an electricity substation was to be relocated to a position close to the bedroom of someone where there had been a previous occurrence of a rare form of cancer. A consultant had submitted evidence that extremely low frequency electric and magnetic fields might contribute to an increase in childhood leukaemia. The Inspector concluded in that case that fear of harmful effects from very close proximity to the electricity substation was a significant factor that would justify the dismissal of the appeal. The turbines would also harm the setting of Bythorn church and intrude into funerals in the churchyard and spoil photos of weddings

298. **Mr J Croke** (Doc 17) has objections to the unacceptable detrimental effect of the turbines on houses, particularly in Bythorn, and on the landscape and recreational amenity of the adjacent countryside. Turbines should be no closer than 2,000m to houses. Whilst he sees a certain majesty in large turbines, as a civil engineer he believes they are an economic and environmental nonsense. The turbines would also compromise any future uses of the RAF Molesworth Air Base, should it close.

299. **Ms Z Woods** (Doc 18) considers 25 years is too long a period and that it is likely that the turbines would be replaced with others at the end of that period. The surveys under-represent the number of red kites which she has observed to use the area. The effects on birds are uncertain in relation to collision risk. If

the birds avoid the area, then the enjoyment of seeing them will be lost. She supports the need for post construction bird and bat monitoring.

300. **Mrs M Malt** (Doc 19) is concerned mainly about construction traffic. The A14 is busy and accident prone. There is a dangerous cross roads at Junction 15 between Keyston and Bythorn. Most people avoid this but might have to use it during road works to accommodate the highway alterations at Junction 16. Construction movements should also be halted a drop off and pick up times for the primary school in Brington.

301. **Mr K Adamson** (Doc 20) is retired and enjoys the unspoilt character of Bythorn and its surroundings, which would be harmed by this industrial development. He considers that the economic benefits to the local community would be minimal. He is concerned about TV reception following reported problems at the nearby Chelveston wind farm and at Middlemoor (Northumberland) and in Lancashire.

302. **Mr I Churcher** (Doc 21) and **Mrs J Churcher** (Doc 22) live on Warren Lane at the north end of Bythorn. Together with the A14 to the south the 6 turbines to the north would create a ring of steel around Bythorn. Mr Churcher agrees with Dr Bratby for SMWFAG that the energy benefits are exaggerated. The local economic benefits are also negligible. He quotes that David Cameron on a visit to Lancashire on 9 August 2013 reportedly said: *'there is limited potential for onshore wind. So … I wouldn't expect to see a lot more wind power onshore in the UK.'* With Hinkley C and other large projects being approved, Mr Churcher questions the need for smaller schemes of this type. He welcomes the Secretary of State taking a more active role in interpreting Government guidance. The developers have cut corners with their ecology surveys and visualisations. The scheme is at odds with current government energy strategy, has virtually no local support and will cause practically irreversible harm that outweighs any benefit. Mrs Churcher says their home was designed to be outward looking over the countryside and their amenity will be significantly affected by visually obtrusive turbines within 1,000m. She is particularly concerned that local public footpaths may be closed for several months during construction. This should not be allowed.

303. **Ms S Line** (Doc 23) is a healer and holistic practitioner. A wind turbine emits energy in the form of vibration, frequency and movement and this will no doubt have an affect on our energy somewhere on the sliding scale between negative and positive. Sleep interference could affect emotional well-being over a prolonged period of time. The technology is far too new to experiment with people's health and well-being. There should be a minimum 1.5km separation distance.

304. **Mrs Lorna Lane-Ley** (Doc 24) is concerned about health effects and that reduced property values will prevent people moving away to avoid them. She also considers that consultation by the Appellant has been inadequate.

305. **Mr M Everett** is firstly concerned about reduced property values as evidenced he says by a successful claim to reduce Council Tax for a property near a wind farm in 2008. In Scotland he suggests that estate agents estimate a 30% reduction in value and *'many estate agents say the reduction would be 10-20%'*. In Denmark there is financial compensation. [No supporting evidence was provided for these assertions]. Secondly his company is an internet service

provider and is investigating providing rural broadband using church towers but has stopped testing and will not progress further until it is known whether the wind farm will be developed and what impact it would have on signals. The financial viability of the scheme depends upon the number of subscribers.

306. **Mr D Hickey** (Doc 25) points to minimum separation distances between homes and turbines of 1.4 miles suggested in Lincolnshire and 2kms in Quebec and Ontario, which he supports. A German turbine manufacturer is also said to recommend 2km separation. These turbines would all be within 1.6km of the middle of Bythorn and thus too close. Mr Hickey is concerned about: wind shear leading to Other Amplitude Modulation; low frequency sound; infrasound; and interference with mobile phone, radio and TV signals

307. **Mr N Edwards** (Doc 26) lives opposite the proposed site access and the control building on Thrapston Road. He objects to the landscape and visual impact of the turbines and to the construction traffic with up to 168 vehicle movements per day. The construction traffic will disturb the horses that his family breeds and it will be impossible to use the bridleways once the turbines are in operation due to noise, shadows and movement which would disturb the horses.

308. **Mr A and Mrs M McEwan** (Doc 27) have lived in various countries and moved to Bythorn to live in a rural location but with good access to airports. If the windfarm is developed the conservation status of Bythorn would be negated. If it is withdrawn then there is the possibility of further substantial development. He acknowledges that there are some issues with the wording of local guidance but its intention is clear. The Northern Wolds already have more than there fair share of turbines with the ones already built and the others that have permission. This is a Tory county and local residents believed that the Government was committed to localism and greater local decision-making in planning. The local community is against this development.

309. **Ms P Scott** (Doc 28). If the turbines are built then the footpaths and bye-roads may be closed during construction and will be unpleasant places to be afterwards due to noise, light and shadow. People will use their cars to go elsewhere which is not very green. Wind from the north will mean that residents have no respite from noise and it will be continuous, whether from the A14 or the turbines.

***Molesworth residents**:*

310. **Mr C Watters** (see above)

311. **Ms S Scott** (Doc 29) has a son with autism who has acute hearing and is a poor sleeper who can be upset by unpredictable things. She considers that the turbine may have a negative impact on his new found independence when walking or cycling in the area.

312. **Mrs M Telford** (Doc 30) supports green energy and fully understands the need for alternative sources of power but current plans are unsustainable and need to be reviewed. The site is wholly inappropriate and now seems superfluous based on the latest Government pronouncements. The turbines would not respect the sensitivities of these historic villages and site. The proposal is contrary to public opinion and cuts across local democracy.

313. **Ms J Ward** has lived in the listed farmhouse at Manor Farm since the 1960s. The farm was divided by the A14 dual carriageway. She is aware of the restrictions on the alteration of her property. Buildings must be sympathetic and in proportion but the turbines would be totally out of proportion with the landscape and buildings and disruptive in a quiet rural spot. They would deter use of the footpaths. She would not have turbines on her farm.

314. **Mr H Triance** (Doc 31) is a land surveyor. He has criticisms of whether the visualisations can accurately represent what will be seen for various technical reasons. He advised SMWFAG when preparing their alternative visualisations. Turbines do not look out of place in an industrial setting but would not be sympathetic to this rural setting close to listed buildings and churches. The choice of site appears to be based on the co-operation of landowners rather than anything more scientific. The benefits would not outweigh the disadvantages.

Keyston Residents:

315. **Mr W Ford** (Doc 33) is a student of history and philosophy and has grave concerns as to the impact on the area's historic character and heritage with 4 church spires within 1 mile including the Grade 1 listed Keyston Church. 25 years would be a lifetime for some people. The development would change the area's character to a more industrial setting and encourage more proposals for inappropriate development. He was shocked to see the incongruous Chelveston turbines to the south of Keyston, which village will become sandwiched between 2 wind farms.

316. **Mrs J Rolfe** (Doc 34). The local area has few amenities but has a rich landscape with beautiful historic buildings and a network of footpaths and bridleways. She lives in a converted barn with views north from Keyston towards the wind farm site. That view would become severely blighted. She considers that the development: would cause major harm to Keyston Conservation Area, be out of character and scale with the landscape; and be an industrialisation of a predominantly farming and rural community. Views south from Keyston have already been blighted by the Chelveston wind farm.

317. **Ms C McArthur** (Doc 35) has objections in relation to: the proximity to houses in Bythorn and Molesworth; landscape and visual harm including cumulative visual impact with Chelveston wind farm; intrusion on the setting of the Grade 1 Keyston Church; and detriment to users of public rights of way, especially Warren Lane north of Bythorn.

318. **Mr D Woodward** considers the area to be quintessentially English and unspoilt. The churches are wonderful assets. The scale of the turbines would be monstrous. They would distract drivers at the dangerous A14 junction 15. He regularly walks and cycles in the area and does not want to go through 'wind farm alley' along Warren Lane. They would be too close to dwellings. Local democracy should not be overturned.

319. **Mr I Patterson** says he speaks for residents on the north side of Keyston. He has a view of open fields from his house in Keyston. Bythorn would be ringed by turbines in this view and would be seen from parts of Keyston and from all of Bythorn. This would be a totally misplaced development.

Brington Residents:

320. **Mr J Watkinson** is a passionate believer in renewable energy and the non-executive director of a utility company which develops renewable energy schemes of different types. However whilst he accepts that it is not the policy of that company (for which he does not speak) and has no legal basis, he believes that there is a strong moral argument for maintaining 2km separation from dwellings when turbines are more than 100m tall. He had supported schemes with greater separation distances but could not recall where.

321. **Mrs J Watkinson** is also in favour of renewable energy but is concerned about the sequential cumulative impact of several schemes that will be visible from their home north of Brington. In particular the Molesworth site would be too close to Chelveston and the turbines would replace church spires as the dominant structures in the landscape.

Others:

322. **Mr S Bernstein** of Titchmarsh (Doc 36) is a long time resident of Titchmarsh. The road to the east of the village towards Clopton is the gateway to delightful countryside and is much used for recreation. It would be totally dominated by the turbines, as would the popular network of footpaths and bridleways.

323. **Mr S Chobrzynski** of Old Weston would see the turbines from his home as will half the homes in his village. He is concerned about the sequential cumulative impact with the Woolley Hill wind farm and other turbines developments including 2 recent small turbines in Old Weston. Reducing the number of turbines would still have the same effect.

WRITTEN REPRESENTATIONS OBJECTING TO THE DEVELOPMENT

324. At the planning application stage there were two rounds of public consultation. The second was required due to the submission of requested supplementary environmental information. There were objections from the **Parish Councils** for: Bythorn and Keyston; Brington and Molesworth; Catworth; Old Weston; Winwick; Clopton; Titchmarsh; and Lilford cum Wigsthorpe and Thorpe Achurch. The reasons mainly related to: landscape and visual impact; heritage impacts; loss of recreational amenity; proximity to dwellings; and impact on wildlife. **East Northamptonshire District Council** objected on the grounds of: landscape and visual impact; impact on the setting of the conservation areas and heritage assets of Titchmarsh, Thrapston and Woodford; traffic concerns; potential wildlife impacts; and TV/radio reception (which could be mitigated by condition).

325. **English Heritage** (East of England) initially doubted that there would be *'sufficient public benefit to outweigh the harm'* . They subsequently concluded that the harm to heritage assets would be *'less than substantial'*. **Natural England** did not object subject to the implementation of a habitat management plan but requested post construction red kite monitoring, as did the **RSPB**. Commenting on rights of way impacts, **Cambridgeshire County Council** noted that the bridleways were at least 200m from any turbine but would prefer that Turbine 3 be relocated to beyond fallover distance of Public Footpath 30.

326. The Officer's Panel Report recorded written objections from **324** other persons (not 450 as claimed by one parish council). The number appears to have been boosted by the two rounds of consultation such that some persons submitted

representations more than once. The letters include representations from SMWFAG and from many of those who subsequently appeared at the Inquiry. A number of letters use a form that was apparently circulated by SMWFAG. The reasons for objection (where given) are summarised in the Officer's Panel Report of 17 June 2013 which however did not provide separate analysis for the two rounds of consultation.

327. Most representations reflect the case presented to the Inquiry by the Council and SMWFAG. Other matters raised by some persons, but which were not supported by the Council or included as reasons for refusal, include: opposition to wind energy in general; noise and health concerns; air safety (not raised by relevant authorities except that MoD has requested safety lighting); visual effect of aviation lighting; shadow flicker; construction traffic; TV and radio reception; an abandoned dwelling near the site at Titchmarsh Lodge East may be re-inhabited; effects on horses; wildlife impacts; effects on property values; and claimed practical difficulties in making underground cable connections to the substation at Brington.

328. **CPRE** (Cambs and Peterborough) objected on landscape and heritage grounds and considered that the harm would outweigh the benefits.

329. **Shailesh Vara MP** objected on the basis of: conflict with HDC policy; heritage asset impacts; risk to walkers and horses using rights of way; significant noise impact, accentuated by the number of turbines proposed; wildlife impacts, especially birds and bats; loss of residential amenity including visual, noise and health impacts and 'wind turbine syndrome'; shadow flicker; construction traffic impacts on A14 and B663; and cumulative impacts with other wind farms in this part of Huntingdonshire.

330. At the appeal stage there were written objections from **41** persons, of whom many had submitted previous objections. 16 subsequently appeared at the Inquiry. The letters are in a folder on the main appeal file. Most reiterate previous written objections submitted by the writer or others and do not raise significant new matters. **East Northants DC** refined their representations on heritage impact, concluding that the effects on Titchmarsh Conservation Area would be moderate (less than substantial) and on the Thrapston and Woodford Conservation Areas the effects would respectively be negligible and nil. No other heritage assets are cited. **English Heritage** defended criticisms by the Appellant's witness that they had not had regard to the duration and reversibility of the development, which they deny and conclude that there would be (less than substantial) harm to heritage assets during the life of the windfarm.

331. Several further written submissions were accepted at the Inquiry. These included another letter (Doc 3) from **Shailesh Vara MP** who considers that the development would be completely inappropriate for the area and that the level of opposition is a firm indicator of the concern of the local population.

332. **Ms P Peacock** (Doc 32) moved to Molesworth from London 17 years ago. There would be clear views of the turbines from the rear of her property which would take away her ability to enjoy her home and garden and distract her husband who works from home. The proposal has caused severe anxiety. She is baffled that the proposal is even being considered given the strict controls which prevent her altering her listed home.

333. **Mr N Frost** (Doc 37) did not include an address with his statement but considers himself fortunate that the local geography and rolling landscape means that he will not be affected by the development or the noise and flicker it will create. However he is concerned about potential health effects and considers that planning permission should not be given: if the development could medically affect local inhabitants; or if there were any possible effects by flicker or noise on local residents; or if anyone in the local area could be affected by symptoms of 'wind turbine syndrome'. There should be a minimum 2,000m separation distance from residential properties although he acknowledges that his is not in UK Government policy or guidance. [Mr Frost included one website link in that regard and another link to a Board of Health Hearing in Massachusetts. However he did not provide relevant papers and thus the Appellant could not address or respond to those matters at the Inquiry. Accordingly they have not been taken into account].

334. **Mr M Horrell** (Doc 38) of Bythorn is a commercial helicopter pilot. He considers that average wind speeds in this area of 3-4.5m/s are amongst the lowest in the country and would result in lower energy outputs than on sites over 150m or in exposed coastal areas, particularly in the west. Subsidy should be allocated according to wind speed and not as a blanket subsidy. It is unfortunate that this site would allow low cost delivery of components via the A14 from Felixstowe and that landowners are happy to take the rewards in spite of local opposition. The development would have a major affect not only on Bythorn but also on Molesworth and Brington. He believes that the Appellant's only interest is in profit 'via EEC grants'. [The statement does not record which grants he is referring to. The EEC has been replaced by the EU and I am not aware that any EU grants are available for this type of development.].

335. **Ms L Audigier** (Doc 39) lives in Molesworth and cannot drive so goes everywhere in foot. She walks to Bythorn at least once a week to see friends. The Thrapston Road has no footway and is hazardous to walk. The direct footpath linking the village to Bythorn is on clay and only passable in dry weather and is rarely reinstated after ploughing. She therefore prefers to walk via the airbase and the Warren Lane by-way which is a viable, tranquil and pretty route on grass taking half an hour. However that would cease to be a viable, safe option because of the possibility of a turbine exploding (as happened recently in the north) or their blades shearing off and flying into the countryside. Her family would not then let her use this route and the connection between the two villages on foot would be severed and Ms Audigier would lose her friendships.

336. **Mrs L Ford** (Doc 40) of Keyston is a local historian. She considers that the Chelveston wind farm has already scarred the landscape and is particularly concerned about the effect of the proposed turbines on the setting of Keyston's Grade I church in views from the B663 and Bythorn's Grade II* church in views from Clack Lane. If a meaningful context for heritage is not retained there is the danger of stealing the cultural appreciation and understanding from the next generation. With reference to the possibility of a split decision she considers that this would inevitably result in future wind turbine applications whilst removing the opportunity for local residents to understand and debate issues which could arise from the scaled down interim development such as different access routes, building programmes and disruption. Nobody would proposal to build a village within 1,000m of a wind farm. This is the wrong rural landscape for such a highly industrialised scheme.

337. **Mr D Burnett** (Doc 41) and his wife own a group of 3 self contained holiday cottages at Wigsthorpe [a hamlet about 4-5km directly north of the appeal site - or further by road]. The Burnetts have also invested in other tourism businesses including cycle and kayak hire and a proposed restaurant and bar. The turbines would be visible from the cottages and Mr Burnett estimates that they would equate to a series of 7m tall structures built 200m away. Guests would be asked to swap unspoilt country views for that of a flickering industrial landscape. The loss of only a small proportion of customers would make the business unprofitable and the cottage would then have to be rented out as housing with a loss of over £60,000 per annum to the local tourist economy [no supporting financial evidence was provided for these assertions]. Tourism is important to the rural economy and is supported by the North Northamptonshire Core Strategy (2008) and the Rural North Oundle and Thrapston Plan (2011) [extracts enclosed]. The wind farm would kill the tourist industry.

338. **Mr H Malt** (Doc 42) cites the local opposition to the wind farm and has concerns as to whether the Appellant Company's withdrawal from an offshore scheme in the Bristol Channel meant that it is financially unstable and that the subject windfarm could be left half built. Also RWE are likely to sell the development on, as they have with other schemes including Cotton Farm, Cambridgeshire. If the new owner became bankrupt then the local authority might be left with the decommissioning costs which Mr Malt estimates at £5m.

THE CASE FOR RWE NPOWER RENEWABLES LTD

[These submissions are edited from the Appellant Company's Closing Statement with some additions from the evidence to the Inquiry]

Introduction

339. The proposed development would accord with those policies of the adopted development plan which are themselves up to date and consistent with the Framework. The proposed development is in accordance with the relevant policies of the adopted development plan when it is read as a whole. Planning permission should be granted without delay.

340. Where there is judged to be an element of non-accordance with cultural heritage policy En5 of the Huntingdonshire Local Plan 1995, any such breach would be tempered by reason of the absence of a balancing provision required by the approach now set out in the Framework, as expressly agreed by Mr Brand for the Council. This would also apply to the heritage criterion in Policy CS1 of the Huntingdonshire Local Development Framework Core Strategy. The second limb of the second part of paragraph 14 of the Framework bites on these policies.

341. The proposed development will be visible and would inevitably involve change. to local landscape character and views within the local and wider environment, including some views which involve cultural heritage assets. However, visibility does not equate to unacceptable harm to either landscape or visual amenity. Change in and of itself is not unacceptable.

342. The benefits in favour of the proposed development are

a) The supply of a material amount of renewable energy and contribution to the achievement of the national target of meeting 15% of the United

Kingdom's energy demand from renewable resources by 2020. This is an important material consideration in its own right

b) The contribution that the scheme would make to mitigating climate change

c) Energy security through contributing to a mix of renewable resources in Huntingdonshire

d) Provision of renewable energy at lowest cost to the consumer

e) Direct economic benefit in terms of some local new employment

f) Indirect economic benefits which are recognised by the Coalition Government

g) Local community benefits in the form of tangible community projects which can be enabled through 25 years of local community funding support

h) The proposed development is a wholly reversible form of development which will leave the landscape character and visual resource intact

343. In his Ministerial Statement of 6th June 2013 (CD3.4), Secretary of State Davey 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".

344. The Molesworth wind farm is appropriately sited and can and should play its part in our low carbon future.

The SMWFAG representations

345. Much has been made of local opinion by SMWFAG and individual local objectors at the evening session on 18th December 2013. Some of that was based on basic misunderstandings and misinformation of the sort suggested by County Councillor Simon Bywater. The PPG (RLCE) is nothing like a local community veto of the sort which had been ventilated by those opposing wind farms prior to its publication. Whilst members of SWMFAG are articulate and forthright, vocal opposition is limited to a relatively small number of local people. Nor is opposition universal; for instance, Mr Burn from Brington and Molesworth Parish Council confirmed that support for and opposition to the scheme in Brington was almost equally split (33 votes for and 37 votes against with 27 abstentions).

346. It is important to disentangle the material planning concerns raised by local objectors from representations aimed at fending off change of any sort to the local environment. Mr Watters and Mr Everett indicated that diminution in house prices was a main concern of theirs and no doubt of others. Of course local residents identify the local landscape as unique and as valued by them. The Appellant does not doubt the sincerity with which they express that view. Just like everywhere else, the local countryside is valued highly at a local level as it has been in the past and as it will be in the future. There is nothing unusual or unique in this situation.

347. However, modern commercial wind turbines are large structures that always bring with them significant change in the open countryside, and it is unrealistic to expect otherwise. The key is to ensure that the location and design of the wind farm are such that such inevitable effects do not give rise to unacceptable impacts. In this case:

a) residential amenity has been protected through the use of *"stand-off"* distances to nearest residences that exceed those that have previously been found to be acceptable;

b) noise levels are all well within ETSU limits by a considerable margin;

c) access for construction and maintenance completely avoids passing through the local villages; and

d) grid connection is proposed to be entirely underground.

348. So far as impacts on local communities are concerned, guidance and standards have been fully complied with. That might well be why, as is noted above, opposition is by no means as universal as the objectors would like to portray. To argue that such impacts are unacceptable is to say that onshore wind should not, as a matter of principle, play any significant role in renewable energy provision – and that runs counter to express Government policy, reiterated again in the recent Ministerial Statements and in the PPG (RLCE) and in the Renewable Energy Roadmap Update 2013.

349. Unlike the Council, there is no implicit or explicit requirement for third party objectors to take account of all relevant factors and come to a balanced decision on the basis of national and development plan policies. This is not to criticise their role in the inquiry system, but rather to acknowledge the limits of that role. The reasons for objection raised by such third party objectors, where they are of substance, must of course be given due weight in the decision making process. This has always been done by Inspectors and the Secretary of State and the PPG (RLCE) says nothing new in this regard. But such objections have to be subjected to the rigours of careful and robust evidential testing, and their planning merit assessed.

Split decision

350. The proposed development is policy compliant and acceptable. However, the Appellant accepts that different views may and have been taken of the scheme as a whole. In the event that the decision maker concluded that a part of the scheme would be acceptable but that part would not, the Appellant submits that there is sufficient environmental information before this inquiry to enable a split decision or partial grant of planning permission to be made. For the reasons given by Mr Bell, the capacity factor for the proposed development is note worthily high and a reduced scheme would be commercially viable.

351. The Council makes no substantive case against the proposed development on cumulative grounds. It is the acceptability or otherwise of the solus effects which should be judged against national advice in the Framework, PPG (RLCE), the NPSs and renewable energy policy. If the decision maker were to conclude that the sum total of the harm outweighs the benefits then the question would arise as to whether a reduced scheme might be acceptable and achievable. The harm alleged relates to: (1) landscape character and visual amenity (judged against

the WP SPD but remembering that the SPD does not have development plan status); (2) cultural heritage, where the consensus is that the most significant effects are upon Bythorn church and Bythorn Conservation Area; and (3) residential amenity, where a single property is at issue.

352. Which turbine or turbines ought not to be built comes down to a question of relative priorities. As Mr Denney indicated, if the view is taken that the turbines satisfactorily respect the character of the local settlements and satisfactorily preserve residential amenity then the most obvious way to 'tighten' compliance of the scheme with criterion (b) of the WP SPD would be deletion of Turbine 3. During the landscape and visual evidence, this was identified as the turbine most likely to be seen as slipping off the plateau landscape.

353. Alternatively, were the decision maker to decide that the greater priority was to 'tighten' compliance of the scheme with criterion (d) of the WP SPD then deletion of Turbines 2, 4 and 6 would be logical. By its own admission, the Council accepted that this would result in acceptable living standards at Warren Grange, and would "markedly" reduce impacts on the heritage significance of (1) Bythorn Church (2) Bythorn Conservation Area and (3) Keyston Church.

Principal Issues

354. Between the Appellant and the Council, the principal issues for this inquiry are agreed to be:

a) Whether the proposed development is in accordance with relevant policies contained in the adopted Development Plan and, should conflicts with the Development Plan be identified, whether these are outweighed by material considerations (including the Framework) in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004

b) The effects of the proposed development on landscape character and the amenity of the area

c) The effects of the proposed development on the amenity of the occupants of the property known as Warren Grange

d) The effects of the proposed development on the heritage significance of cultural heritage assets within the area

355. At the Pre-Inquiry Meeting, to this list, the Inspector added the following:

e) The effect on wildlife, particularly birds

and expert evidence at this inquiry has been heard on this topic.

356. The Appellant will submit that there is nothing that would independently justify refusal of planning permission in any of the myriad points disclosed by SMWFAG or individual local residents. Unlike the Council, there is no implicit or explicit requirement for a third party objector group to take account of all relevant factors and come to a balanced decision on the basis of national and development plan policies.

Planning Policy Framework

357. The East of England Plan was revoked on 4 January 2013, several months prior to the consideration of the planning application for the proposed development by the Council's Development Management Panel. Accordingly, for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act"), the adopted Development Plan currently comprises:

a) Saved Policies of the Huntingdonshire Local Plan (adopted December 1995);

b) Saved Policies of the Huntingdonshire Local Plan Alteration (adopted December 2002);

c) The Huntingdonshire Local Development Framework Core Strategy (adopted September 2009);

d) Huntingdon West Area Action Plan (adopted February 2011); and

e) The Cambridgeshire and Peterborough Minerals and Waste Development Plan Core Strategy Development Plan Document (adopted July 2011).

a) Within the Huntingdonshire Local Plan, the most relevant policies are: En2; En5; En9; En11; En12; En17; En18; En20; En22; En23; En25; R15; and T18.

358. The saved policies of the Huntingdonshire Local Plan Alteration 2002 and the Huntingdon West Area Action Plan 2011 are not relevant.

359. Within the Cambridgeshire and Peterborough Minerals and Waste Development Core Strategy Development Plan Document, the most relevant policies are:

a) Policy CS1-Strategic Vision and Objectives for Sustainable Minerals Development

b) Policy CS26-Mineral Safeguarding Areas

Compliance with adopted development plan policies

360. For each and every other potentially relevant policy a decision about (1) consistency with the Framework (2) weight to be attached pursuant to paragraph 215 of the Framework and (3) compliance or otherwise of the proposed development will need to be made. As set out above, the Appellant submits that the proposed development would comply with all elements of the adopted development plan with exception of those cultural heritage policies which are in themselves inconsistent with the Framework.

361. In relation to mineral safeguarding, the Council appears to have vacillated. In paragraph 7.162 of his officer report to committee, Mr Brand indicated that:

"The Mineral Safeguarding Area policy would [though] be satisfied as, in principle, there is a need for renewable energy as stipulated in paragraph 98 of the Framework"

362. This changed in paragraph 9.10 of his proof of evidence when he found planning harm on the basis of a failure to protect Mineral Safeguarding Areas and Mr Brand was unprepared to accept that the policy was satisfied in cross-

examination. It was left by the Council on the basis that this issue was not a '*showstopper'* but was simply a point to be raised with the decision maker.

363. Following decommissioning of the scheme, it would be possible for any mineral deposit to be worked. In accordance with criterion 3, the proposed development would not inhibit extraction if required in the future. Mr Brand accepted Mr Bell's view that the policy would be satisfied in terms of this criterion. Whilst there might not be an overriding need for the development on this particular site, the MCS in its supporting text makes clear that there is no shortfall in brickclay reserves. Currently, the landowners have no intention of seeking to extract brickclay in any event. There is no conflict with Policy CS26.

Other material considerations:-

National Planning Policy Framework

364. The Framework makes clear its support for renewable energy proposals:

a) Encouraging the deployment of renewable energy is explicitly included within the Core Principles at paragraph 17

b) Paragraph 93 urges that the planning system play *"a key role"* in supporting the delivery of renewable energy; delivery of renewable energy is *"central to the economic, social and environmental dimensions of sustainable development"*. This paragraph "*operationalises"* the concept of sustainable development in the case of a renewable energy development such as this wind farm

c) Paragraph 96 states the responsibility on *"all communities to contribute to"* renewable and low carbon energy

d) Paragraph 98 provides that need for renewable generation projects does not need to be demonstrated by the appellant and all applications should be granted permission provided only that the impacts are (or can be made) acceptable

e) The decision maker should follow the approach set out in EN-1 and EN-3

Ministerial Statements and the Planning Guidance

365. In terms of the Ministerial Statement from DCLG dated 6th June 2013 and the PPG (RLCE) it is very important to actually read the product rather than just focus on the Ministerial aspirations that pre-dated the finalising of the product. In respect of the PPG (RLCE), the final wording must be the definitive document for policy purposes, and not the prior indications of what it was hoped might be included within the new guidance. It is important not to read words and motives into the PPG (RLCE) which aren't there. Other elements of the Ministerial Statements, of course, have not been superseded by new policy documents in this way, and remain highly relevant including the parallel statement from Ed Davey.

366. The 6th June 2013 Ministerial Statement by Ed Davey makes clear that on-shore wind remains central to renewable energy policy as the most mature, least cost option. Both Ministerial Statements were published together with the Government Response to the Onshore Wind Call for Evidence. The table on page 31 of this document makes plain that the updated and streamlined advice now in

the PPG (RLCE) was being prepared according to the Taylor Review. It is also the case that it was a useful place to gather together legal principles from the various High Court cases, all of which were known and being acted on anyway but usefully be translated in to policy.

367. As was accepted by Mr Brand, taken together and properly understood, the Ministerial Statements did not constitute a change in Government planning policy in relation to onshore wind development and deployment. Nor did the Ministerial Statements direct the decision maker to actually do anything. They gave notice of and looked forward to the policy guidance itself which was being prepared.

368. In the PPG(RLCE), the four bullet points identified within the Ministerial Statements as being matters that need to be carefully considered were carried forward with the addition of two more: (1) the need case; (2) cumulative matters; (3) topography; (4) heritage assets; (5) national designations; and (6) amenity. However, all these points were already addressed in national planning policy and guidance and well known decided case law and they gain no greater weight from being repeated. The Appellant agrees that each and every issue raised demands careful attention.

369. There is nothing in the PPG(RLCE) that does or could be taken to imply a recalibration of the threshold of acceptable change and does not say that any greater weight should be afforded to local concerns. There is no reference in the text of the PPG (RLCE) which suggests that a recalibration of harm, explicit or implicit had taken place.

370. True, there is reference at paragraph 5 to local concerns but the wording is explicit that it is the *"planning concerns of local communities"* that need to be *"properly heard in matters that directly affect them"*. This reinforces the need to distinguish between planning concerns that genuinely affect the local community and generalised objections; and it seeks to ensure that such concerns are *"properly heard"* as should always be the case. There is no exhortation to give such concerns any special or extra weight, indeed it would not be lawful to do so. Such concerns are to be *"properly heard"* and, it might be added, *"properly weighed in the balance"*.

371. Paragraph 6 of the PPG (RLCE), meanwhile, exhorts local authorities to design their policies – and, by extension, interpret them when making planning decisions – in a way that maximises renewable energy development (subject, as always, to the caveat of the impacts being acceptable). This is an important sentence to remember when dealing in detail with the interpretation of documents such as the SPD.

372. In this appeal:

a) Whilst the need case does not automatically override environmental protection and the concerns of the community, it is an important material consideration in this case which should be afforded significant weight in the planning balance. This was established in the Sea Land and Power case in the High Court (CD5.5); and

b) The Appellant has taken full account in its supporting information for the application of cumulative matters and local topographic considerations as

part of the LVIA, and the Council does not object on cumulative grounds; and

c) The Appellant has properly assessed the potential effects on heritage assets in line with national planning policy and guidance, taking account of the East Northamptonshire and Nuon v Bedford Borough Council cases (CD5.9 and CD5.11); and

d) Residential amenity has been assessed in line with the bench mark case of Burnthouse Farm, decided by the Secretary of State (CD6.2)

373. In summary, the considerations set out in the Ministerial Statements were those that would already be applied under the Framework and in environmental impact assessment procedures and were considerations properly addressed by the Appellant in its evidence. Whilst helpful and welcome, the PPG (RLCE) does not require the Appellant or decision maker to do anything more or different.

Energy policy context

374. Energy policy is clear. When the following documents are read together:

a) Climate Change: The UK Programme

b) EU Climate Change and Energy Package

c) Planning for a Sustainable Future

d) The UK Renewable Energy Strategy (2009) (CD7.2)

e) The Planning Act 2008

f) The Energy Act 2008 (CD7.9)

g) The Climate Change Act 2008 (CD7.10)

h) UK Low Carbon Transition Plan (2009) (CD7.18)

i) National Policy Statement on Energy Infrastructure (CD7.3)

j) National Policy Statement on Renewable Energy (CD7.4)

k) The Renewable Energy Action Plan

l) The Annual Energy Statement of July 2010

m) Ministerial Statement of 18 October 2010

n) Renewable Energy Review of May 2011 (CD7.5)

o) Presumption in Favour of Sustainable Development of 16 June 2011

p) White Paper on Energy Market Reform of July 2011 (CD7.27)

q) UK Renewable Energy Roadmap of July 2011 (CD7.5)

r) The Carbon Plan: Delivering our Low Carbon Future (December 2011)(CD7.23)

s) Energy Bill of 2012 (CD7.11)

t) Annual Energy Statement of November 2012 (CD7.7)

u) Renewable Energy Roadmap Update of November 2013 (CD7.36)

there is no reasonable room for dispute regarding: (1) the seriousness of climate change and its potential effects; (2) the seriousness of the need to cut carbon dioxide emissions; or (3) the seriousness of the Coalition Government's intentions regarding deployment of renewable energy generation.

375. The Roadmap Update, (November 2013) confirms that on-shore wind continues to have an important role to play in UK energy policy and a long term investment programme underpins that commitment. As with the 2012 Update, the document emphasises the economic benefits presented by renewable energy. In summary, the document:

a) Emphasises that renewable energy offers the UK a wide range of benefits from an economic growth, energy security and climate change perspective (introduction, page 11)

b) 4.1% of energy consumption came from renewable sources in 2012 against a target of 15% by 2020

c) On shore wind is one of the most cost effective and proven renewable energy technologies and has an important part to play in a responsible and balanced UK energy policy (paragraph 114)

d) Renewable energy helps the UK achieve challenging decarbonisation targets and a key benefit of deploying renewable energy technologies is the potential reduction in carbon emissions (paragraph 91)

376. It is erroneous to suggest that somehow the need case for onshore wind has abated and that it is necessary that a scheme should do less harm than in circumstances when need was more urgent. There are now no regional renewable energy targets but need at the national level has not lessened. NPS EN-1 makes it clear that the need for renewable energy remains urgent and unabated.

377. Nor is it correct to suggest that because the Framework does not repeat the specific language of PPS 22 in terms of significant weight to benefits that this represents a policy shift; the Framework specifically cross-refers to EN-1 and EN-3 and when taken together with the PPG (RLCE) and other policy documents, it is clear that the wider environmental benefits are very important factors indeed. This submission was specifically addressed and rejected by the Inspector in the Chelveston decision. The Appellant would also specifically refer the decision maker to the comments of Inspector Pinner in the recent decision at Gayton-Le-Marsh on exactly these issues (CD6.9). Most recently, the Secretary of State was explicit in recognising that there has been no lessening in the need for renewable energy development in the very recent Treading Bank appeal decision (CD6.30) and that it remained a *"very important"* factor.

378. The Council does not take a performance related case against the proposed development; in other words, there is nothing relating to available wind speed, commercial viability, predicted output, carbon payback or emissions savings which specifically weigh against the scheme in the planning balance.

379. Mr Bratby's evidence is a challenge to national energy policy. It is based on misunderstandings and unsupported assertions relating to such matters as turbine degradation, energy payback and base load requirements. Any recalculations of the likely benefits of the scheme are on the basis of revised assumptions which would be common to all commercial scale wind farms; indeed all renewable energy developments in general. It is not that this wind farm proposal has suddenly become a certain percentage less beneficial. In terms of paragraph 021 of the PPG (RLCE), the capacity factor for all three candidate turbines at Molesworth would be ahead of the 5 year average of 26.06% as set out in the recently published DECC Dukes Report. This would be a strongly performing wind farm and could be delivered quickly. A range of quantitative benefits has been put before the inquiry. Whatever the precise numerical figure, any amount of emissions savings is valuable, a conclusion reached in the Batsworthy Cross appeal at which Mr Bratby also appeared (CD6.21).

Huntingdonshire Draft Local Plan to 2036

380. The Appellant accepts that the emerging draft Local Plan is a material consideration but it does not form part of the adopted development plan at this time. Accordingly, it should only be afforded limited weight at this stage. The Council is of the view that it should be afforded moderate weight.

381. Reason for Refusal 3 relates specifically to residential visual amenity and refers to draft policy LP15 in the Draft Local Plan. The requirement in the policy for a "high standard" of amenity is inconsistent with paragraph 98 of the Framework and goes beyond Core Planning Principle 4 in paragraph 17 of the Framework. This inconsistency was recognised by Mr Brand. The wording of the policy seems very likely to be changed. Further, whilst the objectives of the policy are laudable, the policy is generic and not specific to proposals for renewable energy development.

382. Draft policy LP 5 is significantly inconsistent with the Framework, in particular, its requirement for all potential adverse impacts to be avoided or minimised as far as possible and thereafter for residual effects that remain after such actions to be addressed by way of alternative enhancement and/or compensation.

Huntingdonshire Landscape and Townscape Assessment (2007)

383. Adopted as a Supplementary Planning Document in 2007, the document has been used by the Council to provide it with an understanding of the natural and built environment. The appeal site lies within the Northern Wold Landscape Character Area 6. In summary, the proposed development would not be out of scale with the broad and open higher ground and would read appropriately in the Wolds landscape. Nor would it alter the perception of the intimate valleys of the Northern Wolds.

384. In terms of protection of "key views" there would be several locations within the landscape context of the site from which there would be views of church spires in conjunction with the proposed turbines. Whilst some may be deemed to be key views, at none of these locations would there be an unacceptable visual relationship such that the turbines would prevent an appreciation of the church spires or would significantly affect their role as landmark features.

Wind Turbine Development in Huntingdonshire (2005)

385. The basis of this study is important in that it was intended to provide strategic guidance on the landscape factors influencing the location of wind turbines; and it identified local variations in character (within a landscape type) as a factor to be considered in relation to individual applications. Assessment of key characteristics within the LUC prepared WTD Report concludes with a landscape sensitivity overview, noting that the Northern Wolds generally has a low sensitivity to a small scale development of up to 5 turbines and consequently a high capacity to accommodate it, subject to the consideration of accompanying guidance on siting and design. Inexplicably, that guidance reduces the conclusion drawn in that it defines a small scale group as "up to 4 or 5 turbines"; and when the summary table is reached for the Northern Wolds is recorded as having a "high" landscape capacity for 2-3 turbines and a low capacity for anything more, albeit that the summary is intended as a quick guide which should not be read in isolation. Mr Brand accepted that a summary which did not reflect the body of the text was 'unusual'; the Appellant might suggest 'flawed' or 'plainly wrong'.

386. Whilst the WTD report does not have the formal status of the Wind Power SPD, as Inspector Rose concluded at the Woolley Hill inquiry (CD6.1), it would be wrong to confine it to history.

Huntingdonshire Wind Power SPD (2006)

387. The summary table at the end of the WTD report was then carried forward into the early part of the Wind Power SPD. The 'quick guide' warning was repeated and it was made plain that the table should be read with the background material including the full detail of the WTD report. There are apparent anomalies and a seeming lack of transparent explanation and justification in the WTD Report and the manner in which such conclusions were carried forward in to the WP SPD. Resultant ambiguity is compounded by the inherent link between the two documents made plain by the instruction in the WP SPD to refer to research material in the preceding report.

388. The WP SPD was approved in February 2006. It states that decisions will need to be taken on a case by case basis and it does not preclude multiple wind farms in the Northern Wolds.

389. The Council alleges conflict with criteria (a), (b) and (d). For the reasons set out above, the Appellant submits:

a) Key views have not been defined within the SPD or LCA documents

b) Key views would not be significantly harmed

c) The proposed development would be consistent with the aims and objectives of criteria (a), (b) and (d)

390. In any event, the Appellant would agree with the conclusions of Inspector Rose at the Woolley Hill inquiry where he decided that:

"For my part, neither the Supplementary Planning Document, nor the [WTD] report, provides anything more than a starting point in decision making. Irrespective of whether there might be high capacity for 2-3 turbines in a

particular landscape type, and a low capacity for 4 turbines in that general area, the tipping point is abrupt; and, in any event, proposals should be assessed against site specific considerations in light of the key characteristics of the landscape type."

391. The WP SPD is only one of a number of material considerations. It is only guidance. It does not and cannot set definitive development management tests. Failure to comply with the guidance is not necessarily harmful in and of itself; it is important to concentrate on actual harm caused to an interest of acknowledged importance as a consequence. It was specifically agreed by the Council that the guidance criteria within the WP SPD should not be interpreted in an absolute way; rather, interpretation should be a matter of fact and degree and each scheme should be assessed on its merits. On this important point, there is consensus across all parties to the appeal.

Draft Huntingdonshire Landscape Sensitivity to Wind Turbine Development SPD (2012)

392. The draft SPD is intended as a replacement for the current WP SPD. It reclassifies the scale of wind energy developments but suggests that the Northern Wolds has a moderate capacity for 2-5 turbines and that this more accurately reflects the WTD Report. Given that this document has no formal status, Mr Brand indicated that it should be given very limited weight and the Appellant agrees.

Cumulative Landscape and Visual Impact of Wind Turbines in Huntingdonshire: A Position Statement (final draft)(July 2013)

393. The Position Statement has not been subject to any public consultation and has not been adopted by the Council. Again, Mr Brand indicated that it should be given very limited weight. Mr Denney is very critical of the methodology used and conclusions regarding the actual effects of existing and consented wind farms.

Principal issues

(1) Landscape character and visual amenity

394. The appeal site comprises a series of medium to large scale arable fields divided by broken hedgerow lines. The landscape is open with longer distance views available to the south and west across the adjacent valley landscapes. The landform on which the turbines is located is characterised by a central linear plateau on a north west to south east axis with gently falling slopes to the south east, south and north west. It is clear that Ms Bolger's view of what was a plateau was too restrictive; if she was right in her view, the plateaux landscape of Huntingdonshire would have no plateaux within it.

a) The landscape to the north of the appeal site is gently undulating across a wide area of higher ground. The landscape is predominantly medium to large scale arable land with scattered copses. The landscape is open with distant views to the south, west and north-west. To the immediate north east of the appeal site is RAF Molesworth

b) The landscape to the south is transitionary in nature. The character of the landscape gradually changes to one of smaller scale, well vegetated

pastoral land within the shallow and broad valley in which the A14 runs. The villages of Bythorn, Molesworth and Brington are set within the South facing valley side to the north of the A14

c) The local landscape does not exhibit a noticeably strong historic character and is not devoid of modern development. The landscape to the south and east of the appeal site is primarily a contemporary agricultural landscape, much influenced by modern farming practice

d) The HLTA SPD describes the Northern Wolds as an area of attractive countryside with relative tranquillity. However, the HLTA SPD does recognise that the A14 reduces the tranquillity of the landscape which it clearly does on the ground

e) When viewing the appeal site from the North, the perception of the landscape is one of openness

f) When viewing the appeal site from higher ground to the South of the A14, the landscape is again perceived as larger scale, open arable land with the appeal site occupying higher ground beyond the intervening broad and shallow valley

g) Significant effects on landscape character would occur up to a distance of 3.5 km from the nearest turbine

h) The Farmed Claylands landscape is similar to that of the Northern Wolds within and to the North of the appeal site. It is open, large scale and thinly populated and satisfactorily accommodates the Chelveston wind farm

i) The Limestone Valley Slopes landscape character type would not be unacceptably affected and would not form prominent features within the townscape of settlements such as Titchmarsh

395. The underlying characteristics of the landscape in which the turbines would be located mean that it is of medium sensitivity to wind energy development. The Northern Wolds has the capacity to satisfactorily accommodate the proposed development. The proposed development performs well against the key characteristics and would not cause significant harm to landscape character.

396. As set out above, the WP SPD is simply a starting point for discussion of effects upon the receiving landscape. The Council's case is limited to alleged non-compliance with criteria (a), (b) and (d). Mr. Brand confirmed that the Council no longer pursued a case based on criterion (e). In this regard, the criteria referred to within the reasons for refusal should be considered as guiding principles rather than strict criteria against which a scheme can be judged.

Criterion (a)

a) The wording of criterion (a) is curious in that it seems to identify 'key views to church spires' as an 'existing landmark feature'. Mr. Denney took a pragmatic view towards interpretation.

b) The WP SPD does not contain any definition of what constitutes a 'key view'. Due to the frequency of church spires across the Northern Wolds, it is common ground that it cannot be the case that if proposed turbines are

seen in conjunction with church spires that a wind farm development would automatically be rendered unacceptable in principle.

c) In the Woolley Hill appeal, Inspector Rose considered this question and recognised a number of locations where both church spires and turbines would be seen in the same view from a range of viewpoints. However, he went on to conclude that:

"In summary, the proposed turbines would manifestly contrast in scale with the valley churches and their presence would be reinforced by the movement of their blades and the manner in which they would sometimes stand entirely above Ellington Church. However, for the most-part, they would be perceived as separate and dissimilar elements emphasised by the distinction of their hill-top setting and the valley location of the churches. All in all, I firmly believe that the proposal would have limited impacts on the perception of church spires in the landscape and in this regard, conflict with criterion (a) of the Supplementary Planning Document would be minimal."

d) At Chelveston (CD6.6), Inspector Griffiths noted the importance of church spires in landscape character terms:

"The wind turbines proposed would be much higher than the towers and spires of the Churches. Notwithstanding that, those Church towers and spires would still remain present in the landscape. Anyone travelling through the landscape would not be prevented from using them as wayfaring landmarks by the presence of the wind turbines proposed. Neither would the punctuation provided by the Church towers and spires be lost."

e) It was agreed by both Mr Thompson and Ms Bolger that criterion (a) focuses on views of church spires from the surrounding landscape. It is concerned with church spires as a landscape characteristic and not as cultural heritage features or close-up views. A key view might properly be defined as a view of the landscape containing a landmark structure which is visible on the skyline available from a publicly accessible, well known or well used vantage point or location which affords a view of particular note, quality, distinctiveness or composition.

f) No other professional witness to the inquiry suggested any other key views beyond those identified and assessed by Mr Denney; they agreed with his rationale and his choice of key views.

g) In this case, the degree of visual juxtaposition is such that for the detailed reasons set out by Mr Denney, the key views of Brington Church, Molesworth Church, Bythorn Church or Keyston Church would not be significantly harmed and would be satisfactorily 'respected'. Accordingly, whilst there would be several locations where there would be views of church spires in conjunction with the proposed turbines and a small number of these might properly be identified as key view. At none of these would the new visual relationship be unacceptable.

Criterion (b)

a) The appeal site is not on a completely flat plateau landscape and the turbines would not all be located at exactly the same height above sea

level. The variation in height is 17 m over a horizontal distance of 1.77km.

b) In his report to committee, Mr Brand accepted that from the south, the turbines would appear to be spread along *"the top of the valley side"*. In other words, they appear to occupy the top of a legible crest. From the south, the turbines appear to occupy the same location along the top of the valley side.

c) At the Bicton inquiry (CD6.26) , Inspector Jackson concluded:

"There was a debate about what a 'crest means where, as in this case, there is frequently a gradual change between ridges, plateaux and valleys. I consider the word should be understood in its normal sense as the top part of something that slopes or rises upwards. Thus a slope would have a distinct horizon, the position of the crest changing depending on the position of the viewer"

d) At the Woolley Hill inquiry, Inspector Rose concluded that Woolley Hill would be most appropriately categorised as a valley crest and that:

"Inevitably, turbines on the crest of Woolley Hill, some 2.5 times higher than the landform itself, would be perceived as evidently out of scale with the small rolling hill when seen from near vantages. However, in the wider landscape Woolley Hill itself is not particularly distinct in that it forms part of a much more expansive landscape with an open character and broad views"

e) The appeal site is similar in nature to the Woolley Hill site, recognised to be on the same ridge by Inspector Jackson at Bicton and a similar approach can be reasonably applied.

f) The appeal site forms part of a much wider, broad and open landscape. There is no direct relationship with the valley landscape to the south. The proposed development would not be out of scale with the broad and open higher ground of the site and would read appropriately in the Wolds landscape. It would not alter the perception of the intimate valleys of the Northern Wolds. The turbines would not be out of scale with the landscape and settlements

g) The only turbine that could be conceived as being "just off the edge" of the plateau is turbine 3; but even there no-one has identified any views where that effect would be both visible from public vantage points and unacceptably harmful in such views.

Criterion (d)

a) Criterion (d) does not state that wind turbines should be seen from a historic village. Rather, it states that wind turbine development should respect the site and setting of such a village. The Appellant submits that again this is primarily a landscape character based criterion and is not aimed at amenity for those living within a historic village.

b) Witnesses for the Council seemed unsure as to what was meant by *"setting of a village"* in the context of this criterion, and if they did allege harm it was not clear on what grounds such harm would be caused, to

what interests, and how the quantum of harm might be judged. In essence, there was no reasoned evidence from the Council to support an allegation of harm to setting of historic villages.

c) The Appellant also submits that it would be impossible to site a single or small group of commercial turbines anywhere in the Northern Wolds in such a way that they would never be seen from within or near historic villages. However, for all of the detailed reasons set out by Mr Denney in respect of Brington, Molesworth, Bythorn, Keyston and Titchmarsh, the proposed development is sufficiently set back from the villages identified that it would satisfactorily respect their respective sites and settings

397. Inevitable effects on landscape character and visual amenity of modern commercial wind turbines are understood and written into all policy documents. These turbines will be seen; but it cannot be the case that those who have established encouraging and enabling policies have done so without a clear awareness that in doing so as part and parcel of tackling climate change, this will give rise to significant landscape change and with it, visual change which will give rise to perceptions of visual and landscape harm for a proportion of the local and wider community.

Cumulative landscape character and visual effects

398. The Appellant has provided updated information regarding cumulative landscape and character visual effects. Neither the Council nor the SMWFAG make a substantive case for refusal on the basis of cumulative effects. The Council puts it no higher than that the decision maker should be aware of any additive harm to the existing baseline caused by the proposed development.

Visual component of residential amenity

399. The separation between what is a private interest and what should be protected in the public interest is tolerably clear; it has been the subject of particular focus in wind farm cases since the decision at Enifer Downs in April 2009 (CD6.13). It is acknowledged that the approach adumbrated by Inspector Lavender, articulated in its fullest form at Carland Cross (CD6.4) should not be regarded as a mechanistic 'test' and has no status in terms of being part of statutory documentation or planning policy or guidance; however as the Secretary of State confirmed at Burnt House Farm (CD6.2), it is most welcome to adopt a logical, transparent and objective approach and was recognised by the High Court as a wholly suitable way of determining a policy compliance threshold. Burnt House Farm is an important decision because it comes from the Secretary of State himself after proper consideration of the way in which the public interest test had been developing at inquiry.

400. There can be no substitute for site visits to individual properties so that any likely impacts can be judged in the particular and unique circumstances of each. Nevertheless, it is helpful to consider the factors and thresholds of acceptability which have guided decision-makers in other cases:

a) No individual has the right to a particular view but there comes a point when, by virtue of the proximity, size and scale of a given development, a residential property would be rendered so unattractive a place to live that planning permission should be refused. The public interest is engaged

because it would not be right in a civil society to force persons to live in a property, which, viewed objectively, the majority of citizens would consider to be unattractive. The test is concerned with an assessment of living conditions as they would pertain with the wind farm built, irrespective of the starting point. At Burnt House Farm, the Secretary of State found it useful to pose the question whether *"would the proposal affect the outlook of these residents to such an extent i.e. be so unpleasant, overwhelming and oppressive that this would become an unattractive place to live?"*

b) The test of what would be unacceptably unattractive should be an objective test, albeit that judgement is required in its application in the circumstances of a particular case

c) There needs to be a degree of harm over and above an identified substantial adverse effect on a private interest to take a case into the category of refusal in the public interest. This was expressly endorsed by the Secretary of State in paragraph 10 of his decision letter at Burnt House Farm dated 6 July 2011. Changing the outlook from a property is not sufficient. Indeed, even a fundamental change in outlook is not necessarily unacceptable

d) The visual component of residential amenity should be assessed "in the round" taking into account factors such as distance from the turbines, the orientation, size and layout of the dwelling, internal circulation, division between primary and secondary rooms, garden and other amenity space, arc of view occupied by the wind farm, views through the turbines and the availability of screening

e) Each case has to be decided on its own merits but other appeal cases provide a useful benchmarking exercise. Granting permission here would be entirely in line with such decisions. In this case, the nearest turbine would be located 892 from Warren Grange (T4) with the next nearest turbine located 954m away (T5). Mr Brand referred to two cases in which Inspectors have found unacceptable impacts at distances close to 900m - but in both cases, these turbines were part of groups of turbines that came very much closer to the properties in question - in the case of Berkeley Vale as close as 433m. In both those cases, houses at 900m were at the extreme fringe of the zone of unacceptable impact; here at Molesworth, harm doesn't start until the closest distance of 892m. As Ms Bolger was prepared to accept, in no decided English appeal decision has an individual residential dwelling being found to sustain unacceptable impacts on the visual component of residential amenity at this sort of distance. If planning permission were to be refused here at Molesworth then it would be beyond anything previously decided

f) Mr Brand accepted that the proposed development demonstrated no 'aggravating' features; in the view from Warren Grange, the turbines would be well spaced, rhythmical, would not clash and would preserve visual permeability through to the landscape beyond

g) The full detail of the Residential Visual Amenity Survey is specifically incorporated in to these Closing Submissions and it is not necessary to repeat it here. At no individual residential property, including Warren

Grange, would the turbines be visually overbearing, overwhelming or oppressive. Given the scale of the development, spacing of the turbines, distances involved, orientation of properties and amenity space and openness of view, any effects on outlook would not cross the public interest line here at Molesworth

(2) Cultural heritage

401. The two main heritage assets over which the Appellant and the Council disagree are (1) Bythorn Church and (2) Bythorn Conservation Area. In both cases, the Council submits that the proposed development would result in substantial harm; that is, the Council believes that the proposed development would result in very much if not all of the heritage significance of the two assets draining away by reason of the turbines.

402. English Heritage does not agree with the Council and accepts that less than substantial harm would be caused in all cases.

403. There is agreement between the Council, English Heritage and the Appellant that in 8 other cases, harm to significance would be less than substantial.

404. The Appellant submits that all of the harmful effects on heritage significance are acceptable and should be addressed in the planning balance.

Statutory and policy framework

a) With regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990, notwithstanding misgivings about it expressed in the Bedford BC case, the Barnwell Manor litigation has made plain, the statutory duty is separate to the planning policy position. Laborious as it may be, each and every heritage asset within the study area has to be considered separately under both regimes

b) Saved Policy En5 is relevant. It is inconsistent with the Framework because it lacks any balancing provision and accordingly, breach of its strict wording should be accorded limited weight

c) The Framework supersedes most previous national policy in this area although considerable continuity is apparent. One of the core planning principles in paragraph 17 is the conservation of heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations. Significance is something that is experienced through an understanding of the heritage asset and which should be expressed in terms of archaeological, architectural, artistic or historic interest

d) This is an exhaustive list of the special interests which go towards significance, drawn from the definition in Annex 2 to the Framework. In failing to accept this basic principle, Ms Bolger was in error.

e) The hierarchy of (1) primary legislation in the Listed Building and Conservation Area Act 1990 (2) national planning policy (3) Practice Guide and then below those three (4) English Heritage guidance (which includes Conservation Principles) is clear and set out in Figure 1 of the Guidance on Setting of Heritage Assets

f) Significance is not the same thing as general visitor amenity; nor is it the same as a contemporary landscape and visual amenity assessment

g) Any assessment of the significance of a heritage asset should include the contribution of its setting. Any assessment should recognise that elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

h) The setting of a heritage asset is not designated in any way, nor is it significant for its own sake. Its importance lies only in the contribution that it might make to the four components of significance of the asset itself. So much was agreed by Ms Brown, but not entirely by Ms Bolger, who has clearly infected her assessment by the addition of impacts "to setting" that are little more than contemporary visual effects, and not cultural heritage impacts.

i) The Framework, Practice Guide to PPS 5 and the EH TSHA Guidance on Setting do not use terms like 'wider setting' or 'landscape setting'. These are simply working terms and are neither required nor should be used in place of the policy definition in Annex 2 to the Framework when properly applied

j) When an asset is likely to be affected, significance must be assessed in its entirety. This involves looking at setting 'in the round'. Particular views may be more important (because they were designed or because they convey more heritage relevant information) than others but an assessment must not be restricted merely to views in which a development may have an effect. This proposition lies at the heart of the differences between Dr Edis, Ms Brown and Ms Bolger

Substantial harm

405. Current policy guidance does not provide clear guidance on where the line between *"substantial harm"* and *"less than substantial harm"* should be drawn. The draft on-line beta version of the planning practice guidance makes plain that the threshold is a high one.

406. Importantly, Jay J concluded in the very recent decision of Bedford Borough Council v (1) SSCLG and (2) Nuon UK Limited [2013] EWHC 4344 that the Inspector was correct in saying that

"24…..for harm to be substantial, the impact on significance was required to be serious such that very much, if not all, of the significance was drained away.

407. Plainly in the context of physical harm, this would apply in the case of demolition or destruction, being a case of total loss. It would also apply to a case of serious damage to the structure of the building. In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced"

408. This definition was accepted by Ms Brown and Ms Bolger. English Heritage appear to have picked up on this decision in its consultation response to the definition of substantial harm in the on-line advice; what English Heritage says is

consistent with the judgement, making clear that harm does not need to get to the point of de-listing but does need to be very serious.

409. Development within setting of a heritage asset can harm significance but based on the case law, to get to a point of *"substantial harm"* so much of the heritage significance of the asset would have to be held in its setting that a wind farm could cause it to be vitiated altogether or very much reduced. Properly analysed, it simply isn't credible in this case to suggest that substantial harm would be caused to the significance of any of the various heritage assets by reason of the turbines. Less than substantial harm to significance, yes. Substantial harm, no.

Reversibility

410. Paragraph 2.7.17 of NPS EN-3 directs that when undertaking an assessment of the likely impacts of wind turbines on both the landscape and cultural heritage assets, the decision maker should take reversibility into account. This echoes English Heritage's own guidance on Wind Energy and the Historic Environment which provides in the last bullet point on the Checklist that consideration should always be given to the reversibility of wind turbines. Reversibility can only serve to mitigate any harm arising and militate in favour of the grant of planning permission.

411. In summary, Ms Brown is *"out on her own"* in arguing that the impact on Bythorn Church and Conservation area constitutes *"substantial harm"*. No other professional, including English Heritage, reaches that conclusion. Ms Bolger has inflated her assessment of harm by including visual effects to the setting itself (which are not impacts on heritage significance, and so should not be included in the "harm" side of the cultural heritage balance), but even so she does not believe the harm reaches as high as substantial harm. Dr Edis, who has not made the errors of Ms Bolger and so has properly assessed the extent of harm as being somewhat less than does Ms Bolger, reaches the conclusion that the harm is limited and is outweighed by the benefits. Reversibility is a relevant consideration which, even if it is of only limited weight, militates in favour of the proposal.

(3) Ecology

412. The Council does not object on grounds of impacts on ecology. It does not believe that the proposed development would result in any significant ornithological impacts.

413. Neither Natural England nor the RSPB objected provided that the Habitat Management Plan and a post-construction bird monitoring programme are implemented in relation to red kites.

414. Dr Reed's case was professionally pedantic, concentrating almost entirely on process, attempting to pick holes in survey efforts or methodology without ever asking himself if and why such things mattered overall. Moreover he accepted during cross-examination that as matters currently stand, there was sufficient ecology related environmental information before the Inspector and Secretary of State to comply with the Environmental Impact Assessment Regulations 2011 and upon which the Secretary of State could make a lawful planning determination. This should be an end of the matter. Dr Reed well understands

that the concept of 'sufficiency' relates to both quantity and quality of information notwithstanding his attempt to resile from his answer, freely given.

415. The purpose of the EIA process is to identify likely significant environmental effects; that is, a realistic assessment of environmental effects which are likely to result from the subject development going ahead. It is not necessary to identify every single bird flight or to slavishly adhere to every sentence contained with multiple guidance notes. The objective is to provide the decision maker with sufficient accurate, robust and representative information to enable him to make a decision. On any rational basis, this threshold has been passed in this case.

416. A key theme running through Dr Reed's case is that consultees were not fully informed about baseline surveys. This is not right. Consultees were able to make their own informed judgement on the information available and did not find it necessary to request any further detail. What was done in terms of methodology and survey effort was clearly defined and set out. No request for further information beyond what was in the Environmental Statement and the Supplementary Environmental Information was ever made. Natural England can be taken to know its own guidance in TIN069 relating to matters such as sufficiency of data, age of data, presentation of findings and transparency.

417. Given that Dr. Reed accepts the sufficiency of environmental information before the decision maker, it is not necessary to consider every slight criticism raised. However, in summary:

a) Each site is different, as are the likely impacts of a wind energy development on each site. Survey effort and methodology should be proportionate and there is no 'cookbook' guidance

b) Departure from elements of guidance does not necessarily mean that survey methods are deficient

c) Surveys were carried out in accordance with good practice available at the time in the form of the SNH Guidance from 2005. It is neither fair nor reasonable to retrospectively apply later written guidance

d) The 2013 survey work was never intended to be a baseline ecological survey. It was a three month checking survey to determine if there had been change in the red kite population. Pointing out various shortfalls against the new guidance was time consuming and fruitless

e) SNH Guidance from 2005 recommended that three breeding bird surveys should be carried out. This three survey per year effort was clearly set out in the ES. Even the revised 2013 SNH Guidance only refers to four surveys for moorland birds and states that in many cases, farmland birds do not need to be surveyed at all

f) Field count methods provide a much better and less disturbing survey method than walkover surveys

g) Field counts were undertaken by experienced ecologists using binoculars and a telescope

h) Dr Reed accepted that he had misunderstood that the field surveys undertaken outside the breeding season were not walkover surveys but

rather a series of snapshot counts over each field taken from a series of vantage points. Undertaking a field count survey would not have affected the quality of the data collected during any VP survey

i) Given the spatial scale of the appeal site, species involved, habitats present and the generally low densities of birds spotted, no 'settling down' protocol was required between walkover and VP surveys

j) Whilst there was some overlap of walkover breeding bird and VP surveys, Dr Percival's analysis shows that these were carried out in such a way that they would not have caused any disturbance that could have invalidated the VP results

k) Analysis also demonstrates that in the small number of cases were watches were extended, this had no consequence for the quality of the data

l) SNH Guidance from 2005 suggested a maximum viewing distance of 2 km and indeed the 2013 guidance recommends the same. The furthest distance of 1.2 km from the VP to the furthest turbine was clearly set out. The whole of the collision risk zone was clearly visible from the VP

m) The VP was moved in the 2013 surveys 150m from its previous location to bring it towards the 1km mark. This is of no practical consequence because the viewshed of the VP was exactly the same; the entire turbine collision risk area could be observed

n) Additional hours of VP survey during the autumn migration period would normally only be undertaken where there is a clearly defined migration period/route through the appeal site and this is not the case here. Even so, there was substantial surveying through this period

418. In short, it was concluded in the ES and SEI, further supplemented by the July-September 2013 bird surveys in Dr Percival's Report of September 2013 (CD11.10) that the proposed development would not have a significant adverse effect on the ornithological interest on the appeal site. No significant ornithological problems have occurred at any wind farms in the United Kingdom and none at any similar scale wind farms to that proposed here at Molesworth with similar bird species or numbers. All of the evidence available points to Molesworth being an appropriate site with regard to nature conservation issues. There is nothing whatever in this objection from the Action Group.

Further material considerations

419. In paragraph 11 of the Statement of Common Ground it is agreed between the Appellant and the Council that there are no objections to the proposed development in relation to any of the following issues that would be sufficient on their own to justify withholding planning permission

a) Infrasound, low frequency noise, amplitude modulation, the effects of wind shear and overall noise impacts during construction, operation and decommissioning

b) Ecology including impacts on protected species and designated sites

c) Impact on the local highway network including construction traffic routing and any disturbance to other road users arising therefrom

d) Impact on the living conditions of the occupiers of residential properties (save for Warren Grange)

e) Impact on tourism

f) Physical impacts on public rights of way

g) Shadow flicker effects on properties

h) Public safety, ice throw or driver distraction

i) Loss of agricultural land

j) Human rights under Article 8 and Article 1 of the First Protocol to the ECHR and the Human Rights Act 1998, including diminution in the value of residential property

k) Hydrology and hydrogeology, including flood risk and surface run off from the site during construction and operation

l) Contamination

m) The effects of electro-magnetic interference and telecommunications and public broadcast services

Noise

420. The Council does not object to the proposed development on the basis of noise impacts, subject to the imposition of suitable conditions. Pursuant to NPS EN-3, the Framework, PPG (RLCE), IoA Bulletin and IoA Good Practice Guide, assessment of noise from commercial wind farm developments in England is to be made through the application of ETSU-R-97.

421. The assessment demonstrates that predicted wind turbine immission levels using a candidate turbine will meet the ETSU-R-97 derived noise limits under all conditions and at all locations for both quiet daytime and night-time periods.

422. Mr Watters has no professional qualifications or experience in the field of acoustics or wind turbine engineering. He raised a number of points, all of which were dealt with by Mr Arnott in his rebuttal evidence. In summary:

a) AECOM carried out the background monitoring exercise to the satisfaction of the Council

b) ISO 9613-II is intended to predict broadband noise, to provide overall dBA levels. The methodology used here is the methodology recommended by the IoA Bulletin of March/April 2008 but more importantly the IoA Good Practice Guidance. The IoA recommendation is not arbitrary but is based upon a number of field studies which have validated its suitability

c) Neither ETSU-R-97 nor the IoA GPG requires monitoring from every compass point or unreasonable extension to a survey to enable this to be achieved

d) Limited data points at higher wind speeds were shown but this is not so unusual

e) In terms of rush hour traffic noise, there is no requirement to filter this should it be observed. Where an event occurs regularly, it is part of the background noise and should be included

(Excess or) Other Amplitude Modulation

423. On this issue, these closings reflect the position reached in evidence at the inquiry. As requested by the Inspector, further written submissions on behalf of the Appellant have addressed the material on Amplitude Modulation that was published by Renewable UK towards the end of the inquiry session.

424. Excess or Other Amplitude Modulation ("OAM") has been discussed at length in a number of inquiries. The only condition imposed by an Inspector was at Den Brook and by the Secretary of State at Swinford. There remains no consensus amongst the acoustic community regarding the causes or mechanics of amplitude modulation. It was interesting to demonstrate Mr Watter's confusion between causal mechanism and factors such as conditions of high wind shear which would influence propagation of the phenomenon to a receptor. Government policy and guidance, notwithstanding a number of opportunities to change tack by its authors has not changed. As recorded in the very recently published IoA Good Practice Guidance, current best practice is not to attempt to impose an amplitude modulation condition.

425. The Lee paper expressly states that wind shear is not the cause of amplitude modulation, a position which even Professor Van den Berg has moved away from.

426. Interesting though the collection of research papers put together by Mr. Watters is, at best it adds another dot or so on the "dot to dot" drawing; the evidence before this inquiry does not join up the dots such that there has been any step change in understanding. Indeed, a very real danger is that, based upon what increased knowledge may show very quickly to be a mistaken understanding of causal mechanisms, a condition with country wide precedential value might become attached to this scheme for 25 years. A condition based upon a misapprehension could serve to render this otherwise good scheme unbankable by a financial institution because of what would be an unquantifiable risk and threatens to drive a coach and horses through the commercial on-shore wind farm sector because, if he is right, virtually every commercial scheme would be snared. Of course, this isn't reason enough to avoid a condition by itself but the real life evidence is that vast numbers of wind farms have operated perfectly satisfactorily and without unacceptable impacts.

427. The Appellant submits that it is not possible, given the current state of play to construct a lawful condition to control OAM. Precisely because the causal mechanism is not known, it is not simply not possible to devise a scheme to predict and abate it. The condition would likely dissolve in to a blunt tool requiring turbines to be switched off, at least every night which is neither proportionate nor workable. Particular reference should be made to the detailed discussions in the recent appeals at Woolley Hill, Jacks Lane/Chiplow and Batsworthy Cross and the conclusions reached therein, all of which remain sound:

- In terms of Circular 11/95, because the likelihood of OAM itself cannot be predicted and there is nothing to suggest that the appeal site would be particularly prone, or even likely to such tendencies, the imposition of a condition cannot be claimed to be necessary in the sense of mitigating foreseeable impacts. Similarly, asking the question "whether planning permission would have to be refused if the condition were not imposed", the answer would be 'no' because there is no evidence of demonstrable harm

- Because there is so little understanding of OAM, any condition set would be arbitrary

428. The Court of Appeal decision in Hulme concerned the construction of the specific wording of Conditions 20 and 21. The Court did not consider the science of Other Amplitude Modulation and clearly was not deciding on the need for an OAM condition in any given case.

429. There are almost 400 operational wind farms in the UK. Although every turbine produces normal amplitude modulated noise (NAM) as a consequence of the blade rotating through the air, the majority of wind farms have operated perfectly satisfactorily and without unacceptable impacts.

430. The RenewableUK research does not provide any particular evidence of demonstrable harm. The proposed RenewableUK planning condition is untested and it would be premature to adopt such an approach. Mr Davis who has advised SMWFAG and is a member of the relevant IoA working Group takes the same view (See Document AG/DC/3). The alternative Swinford style condition suggested by Mr Watter and Mr Lewis has been rejected several times at public inquiries and remains flawed.

431. The Appellant does not consider the 2 legal authorities cited by Mr Lewis (Feeney and Champion) to be relevant. The condition imposed in the Feeney case was a way of dealing with uncertainty as to whether NOx deposition on a special area of conservation would have significant effects or less than significant effects. It did not mean that significant effects were anticipated. In the Champion case a planning permission was quashed because it was irrational to impose a planning condition due to a risk of contamination with significant effects but not in those circumstances to require an Environmental Impact Assessment.

432. In all the circumstances, Mr Arnott was clear that an OAM condition would be (1) unnecessary (2) imprecise (3) unenforceable and (4) unreasonable and therefore outside Circular 11/95 and unlawful. Mr Arnott's further response was included as a written statement accompanying the Appellant's final comments and dated 13 January 2014 (Document RWE/DH/3). Those conclusions would apply whether the condition was in the form proposed in the RenewableUK template or in the Swinford appeal form preferred by SMWFAG and Mr Watters. Contrary to what is suggested by Mr Watters, this does not then mean that planning permission should be refused. The unquantifiable risk of OAM occurring at Molesworth at levels which would be unacceptable and which might justify refusal of planning permission in the public interest does not lead to this conclusion.

Health

433. Mr Watters, Mrs Tattersall and others have made detailed submissions on health matters. The common thread is that none of the medical conditions are correlated with noise from wind turbines but more generally with stress. Great care has to be taken to tease out what are genuinely public interest concerns with which the planning system should be concerned and unfortunate private health interests which are not.

434. The noise levels associated with the proposed development are less than the Lowest Observable Adverse Effects Levels at all residential receptors and they present the worst case scenario. When the wind blows in other directions, the noise levels could be 10dB or even more below this level in some directions. Whilst the Appellant accepts the sincerity with which local people raise health concerns, the proposed development would meet objectively met criteria and planning policy and planning permission should not be refused on this ground. The Appellant can do no more than exceed threshold standards designed to offer a good standard of amenity.

Concluding remarks

435. The Appellant submits that the Council's putative reasons for refusal are stated to be separate and distinct reasons and should be treated as such. The Council has failed to make good on them.

436. The harm alleged by the Council falls into the categories of harm to (1) landscape character (including key views of church spires) (2) residential amenity at a single property and (3) harm to cultural heritage assets at Bythorn.

437. Landscape character has chiefly been analysed against the WP SPD but it must be remembered that the document does not contain prescriptive or definitive "pass/fail" criteria and is not part of the adopted development plan. The evidence presented by the Appellant has demonstrated that the proposed development fits with the objectives of the WP SPD and that no unacceptable harm will be caused to any interests of acknowledged importance. Mr. Brand was unable to explain why the WP SPD concluded that there was unlikely to be scope for more than one wind farm in the Northern Wolds. In the circumstances, it is difficult to see how the Council can say that it takes such a conclusion into account as development management policy or has formed such a view in this particular appeal.

438. The issue of residential amenity centres around the single property of Warren Grange. It is agreed that there are no special or unusual aspects to the views of turbines from the property. The distance is agreed to be one that is beyond the distance at which unacceptable effects on residential amenity have previously been found for an individual dwelling. The Appellant has provided a detailed assessment and the conclusion is that the effects, whilst significant, are not unacceptable.

439. Regarding harm to cultural heritage, again the issue is fairly tightly drawn, focusing on Bythorn Church and Bythorn Conservation Area. When contemporary visual effects are stripped away (as they must for a cultural heritage assessment) and the analysis conducted in terms of impacts on the significance of the heritage assets then it is clear that the Council's view of substantial harm is extreme and

unjustified. It is not supported by any of the other professional assessors who have examined the issues. The fact that the Action Group's analysis has been contaminated by contemporary visual effects explains why they place the degree of harm rather higher in the spectrum of 'less than substantial harm' than does Dr Edis. The balance of the evidence before the inquiry is therefore clear; harm to the significance of the designated heritage assets, properly understood is (1) less than substantial harm and (2) is quite limited within the less than substantial category. It is clearly outweighed by the benefits of the proposal.

440. SMWFAG has raised additional issues relating to a quantification of the clean energy benefits. This argument goes nowhere, especially given the unusually high capacity factor for this scheme, the only aspect of benefits which the PPG (RLCE) indicates might be a useful quantification. It also raises minor points relating to ecological survey methodologies. Mr Watters has raised many points on noise, most seemingly borrowed from internet or other sources. He arrived at the inquiry with questions to assist his own understanding of turbine noise effects rather than evidence of material planning harm related to noise.

441. Whilst some sections of the local community expressed concerns with a high degree of vocalism and coordination, it was difficult to identify any relevant planning matters amongst the house price concerns and a concern for their village to be left completely unaffected by change of any kind.

442. In this case, the full force of paragraph 14 of the Framework is engaged and the presumption in favour of sustainable development bites. Planning permission should be granted without delay. There is nothing so special or out of the ordinary here at Molesworth to suggest that the likely significant environmental effects would be unacceptable in the public interest which the planning system is there to preserve.

443. In the evidence it has called, the Appellant has demonstrated that the environmental, economic and social impacts of the proposed development would be acceptable and that planning permission should be granted in the form in which it has been sought.

THE CASE FOR OTHER PERSONS APPEARING AT THE INQUIRY TO SUPPORT THE DEVELOPMENT

444. **Mr A Heath** of **Friends of the Earth** (Doc 5) considers that the UK faces devastating impacts from future climate change. Weather events such as recent floods will become more frequent and extreme. Greenhouse gas emissions must be stabilised in the next 10 years to hopefully avoid catastrophic consequences of rising temperatures. Every community needs to participate to meet the UK Government supported EU target of 20% renewable energy by 2020. EN-1 highlights the urgency in brining forward new renewable energy projects and states that onshore wind is the most well established and economically viable source of renewable electricity for large scale deployment. The wind farm could meet the needs of 8,000 households and inject £6 million into the local economy.

445. **Mr T Wand** of Thrapston (Doc 6) has no doubt that man's effect on climate change is real. Nuclear generation is not viable, produces waste and is not sustainable in the long term. When local major river levels rise [due to climate change and associated weather events] there will be flooding. Wind turbines are

a positive step to a greener future and will enhance the countryside. Man has harvested wind power for millennia and its time we did it again.

WRITTEN REPRESENTATIONS IN SUPPORT OF THE DEVELOPMENT

446. At the application stage Leighton Bromswold Parish Council recommended approval on the basis that no objections had been recorded. There were **151** other representations of support for the application during the two rounds of consultation. Most representations came from the Huntingdon area rather than from the nearest villages. Some use a standard form that was apparently distributed by the Appellant. Reasons given for support set out the environmental and economic benefits of wind energy. These are summarised more fully in the Council's Panel Report of 17 June 2013 which was submitted with the appeal questionnaire.

447. At the appeal stage there were **10** written representations of support.

448. A letter of support (Doc 4) from **Mr P and Ms S Ledger** of Molesworth was forwarded by Shailesh Vara MP shortly before the Inquiry opened. The Ledgers live in one of the nearest villages and are supporters of green energy for its environmental benefits and the economic benefits for the local community and to ensure that there is energy security to 'avoid another 3 day week'. As there are already other wind farm developments along the A14 they consider that this is a good area for a wind farm.

ENVIRONMENTAL STATEMENT

449. The application was accompanied by an Environmental Statement (ES) prepared in accord with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011, as amended, and comments from statutory consultation bodies and representations duly made about the ES and the likely environmental effects of the proposed development. During the consideration of the application Supplementary Environmental Information was sought by the Council, submitted and subject to further consultation.

450. The standing of the ES/SEI and the procedure followed has not been challenged exception in relation to some assessments of cultural heritage impacts and detailed criticism of bird surveys which were addressed by evidence at the Inquiry. Account has been taken of that and all other environmental information submitted in connection with the appeal including that arising from written and oral evidence and questioning at the Inquiry.

CONDITIONS

451. In the event that the appeal is allowed by the Secretary of State a draft set of planning conditions was discussed at the Inquiry. Further minor changes have been made to reflect advice in Circular 11/95 '*The Use of Conditions in Planning Permissions*'. A final set is included as a Schedule to this Report that also includes reasons for individual conditions. Particular disputed matters are addressed in the Inspector's Conclusions below. These include a request by Natural England and the RSPB for post construction ecology monitoring which is supported by SMWFAG but is not supported by the Council and is considered unlawful by the Appellant. In general the same conditions could be applied whether the appeal were to be allowed in respect of all 6 turbines or if a split decision were to be issued to allow only 3 turbines.

INSPECTOR'S CONCLUSIONS

Figures in square brackets [ ] *refer to other paragraphs in the report.*

The Main Considerations

452. The application was recovered for the decision of the Secretary of State for Communities and Local Government (SoS) because it involves a renewable energy development. The SoS is required to determine the application in accordance with the development plan unless material considerations indicate otherwise. National policy is an important material consideration.

453. At the Inquiry, and having regard to the reasons for refusal and to local and national policy, I identified the main considerations to be the effect of the proposed development having particular regard to:

a) the landscape character and visual impact (including the residential amenity of local residents in respect of outlook);

b) the effect of the development on heritage assets such as the setting of conservation areas and listed buildings;

c) the effect on wildlife, particularly birds;

d) the effect of the development on the living conditions of residents in respect of noise; and

e) whether any identified harm in these respects is outweighed by economic or wider environmental benefits of the wind farm development.

Other additional matters have been raised in written representations and orally at the Inquiry and should be taken into account. Some of these can be addressed by the application of planning conditions as discussed [451].

Policy Context

454. There are policies of relevance to the above considerations in the current development plan (the Huntingdonshire LDF Core Strategy 2009 – CS, and the Huntingdonshire Local Plan 1995 – LP) and in the National Planning Policy Framework (the Framework) [22-28; 43-46].

455. The saved LP policies were originally adopted some 19 years ago and do not specifically address renewable energy. However the more up-to-date CS Policy CS1 does seek to maximise the opportunities for renewable energy whilst also seeking (amongst other things) to preserve and enhance the diversity and distinctiveness of Huntingdonshire's villages and landscapes [25]. In those regards it is more closely aligned with the Framework, notwithstanding that it predates that document.

456. The emerging Huntingdonshire Draft Local Plan to 2036 (the Draft LP) is at an early stage. The relevant draft policies have been subject to objection and have yet to be examined [29-30]. It thus merits only limited weight as a material consideration.

Landscape Character

Landscape Guidance

457. The Council and the neighbouring Northamptonshire authorities have followed national policy in carrying out local assessments of landscape character. In Huntingdonshire the results of this work have informed the Huntingdonshire Landscape and Townscape Assessment SPD (2007) (the HLTA SPD) which has been adopted as part of the Local Development Framework [31]. The appeal site is within the defined Northern Wolds Landscape Character Area but is also close to the border with Northamptonshire where the areas are separately classified [34].

458. The original character assessment work which informed the HLTA SPD has also informed the WTD Report [36] which in turn led to the Wind Power SPD (2006) (the WP SPD) that has also been adopted as part of the Local Development Framework and which is cross referenced in the supporting text to CS Policy CS1. The WP SPD includes advice on the capacity of the District's landscape character areas in Huntingdonshire to accommodate wind turbine development [36-40]. It stops short of indentifying specific 'suitable areas' for renewable energy as recommended by paragraph 99 of the national Framework, but it does identify which character areas have more or less capacity for this type of development.

459. The WP SPD is clearly an important material consideration. Its key conclusions of relevance to this appeal are that the Northern Wolds has: a '*high*' capacity for single turbines or for a '*small scale group*' of 2-3 turbines; but a low capacity for any larger groups; and '*there is very little scope for the Northern Wolds to accommodate more than one small scale group*' [38-39]. This may be contrasted with other Huntingdonshire landscape character areas in that 5 of the 9 LCAs were assessed as having capacity for groups of up to 12 turbines [128]. However the WP SPD conclusions are undermined to some degree by inconsistencies in the WTD Report that underpins it, particularly as the WP SPD stated that its summary Table 2.1 (copied from the WTD Report) should be read in conjunction with the background material in WTD Report [40].

460. Whilst the WP SPD does not entirely preclude groups of more than 3 turbines from the Northern Wolds, its advice that the area only has high capacity for a group of that size suggests a conflict with the appeal proposal for 6 turbines.

461. At Bicton (which is also within the Northern Wolds LCA) a proposal for 4 turbines was dismissed at appeal [59]. The Inspector there considered that the WP SPD provides most useful and relevant guidance as a starting point in decision-making. He noted the unexplained discrepancies in the definition of group size in the background material but did not consider them of great moment. He did not cite an excess number of turbines as of itself in conflict with the WP SPD. However he noted that the locations of 2 of the turbines on a valley crest would conflict with advice in the WP SPD. That was the most important factor in the dismissal of the appeal. The revised application currently under consideration by the Council at Bicton is for a reduced group of 3 turbines with revised locations [59].

462. The WP SPD was interpreted flexibly when a group of 4 turbines was allowed on appeal at Woolley Hill which is also just within the Northern Wolds [58]. In that case the Inspector did give consideration to whether the group size should

be reduced to 3 turbines. However he also concluded that the WP SPD and the WTD Report that preceded it only provide a starting point in decision-making. Their suggestion that there is a high capacity for 3 turbines and a low capacity for 4 or more turbines was described by the Inspector as an abrupt tipping point [390]. In any event he considered proposals should be assessed against site specific considerations in the light of key characteristics of the landscape type.

463. The Council's publication of the draft *Landscape Sensitivity to Wind Power Development SPD* (the Landscape Sensitivity SPD) is in part a response to criticisms of inconsistencies in the WTD Report. It sought to define the Northern Wolds as having moderate capacity for a group of up to 5 turbines but it has been subject to objections and has not been adopted [41]. It merits little weight.

464. In the present appeal, the proposal for 6 turbines is larger than either the Woolley Hill or Bicton development proposals. In the above documents it would exceed all definitions of a small scale group for the Northern Wolds. 6 turbines would be twice the maximum 3 turbines normally advised in the adopted WP SPD [38]. However it remains necessary to consider the site specific landscape character impacts of the 6 turbine scheme against the detailed WP SPD criteria and to have regard to the key landscape characteristics of this and adjoining landscape character areas, including those in Northamptonshire. Also it is necessary to consider the landscape effects of a scheme with fewer turbine numbers in the event of a split decision to allow either 3 or 5 turbines, as canvassed at the Inquiry [67-68].

465. The Inquiry debate centred on claimed conflict with 3 landscape criteria of the WP SPD [38] which are:

> *(a) Respect existing landmark features such as key views to church spires*
>
> *(b) Respect the landform and relate turbines to the strong ridges and plateau; avoid locating turbines within the more intimate landscape of valleys and along valley crests where they will be out of scale with the landscape and settlements such as Kimbolton*
>
> *(d) Respect the site and setting of the historic villages which characterise the Northern Wolds*

Criterion (a) Key Views to Church Spires

466. Church spires are a characteristic landscape feature of this part of Huntingdonshire and also of adjoining parts of Northamptonshire. Key views are not defined in the SPD but most debate at the Inquiry concerned the impact of the turbines on views of Keyston Church which has an intact tall spire, and Bythorn Church, which has a truncated spire following alterations in the 1950s [13].

467. Whilst these churches can be seen from a number of points in the surrounding landscape, one key view of Keyston Church has been assessed as that from the south west of the village, both from the B663 and from a public footpath across the fields towards the village (SMWFAG Viewpoint 2A and 2B). In those views the proposed 6 turbines would appear behind and on both sides of the spire. The turbine blades would briefly appear directly behind the spire when moving along the road. In SEI Viewpoint AP 5 Ref 6.67, which is taken from the footpath, the

church spire is concealed by a tree but it would be visible from other points on this route.

468. The spire would remain clearly visible and the tallest element in the view. Viewed from the south west the spread of 6 rotating turbines across the background would not be tall enough to dominate the church. Their number, spread and movement would be a significant distraction and they would undermine the pre-eminent status of the spire above the village. However from other directions from the north, east or west they would not intrude into views of the spire. In those views the spire would continue to identify the church and settlement in the landscape. The spire would also would contribute to the succession of views of spires seen when travelling through the area from east to west and vice versa. In a split appeal decision, were only turbines T1, T3 and T5 to be erected, then from Viewpoint 2 and the footpath these would only appear to the left of the spire rather than on both sides. That would reduce the impact on views from the south west.

469. Key views of the Bythorn Church spire (or tower) would include that from Clack Lane, a public footpath to the south of the village (SMWFAG Viewpoint 3, 3A and 3B and SEI Viewpoint AP 4 Ref 6.68). Here again the 6 turbines would be seen on both sides of the church spire and would rise to a significantly higher level due to the raised ground level and the truncation of the spire. The truncation of the spire has already reduced its former impact in the landscape compared to taller spires such as Keyston and it only just maintains its role as an identifier of the church and village in the wider landscape. The 6 turbine scheme would become dominant in this view from Clack Lane. The turbines would at best diminish and at worst usurp the role of the tower in the landscape as an identifier of the church and the village. However those impacts would be much reduced if only T1, T3 and T5 were erected. All 3 turbines would then be to the left side of the church in this view from Clack Lane and the church and village would be seen as distinct from the wind farm.

470. Whilst the Council also refers to a view of the church from the south west corner of Bythorn village at the junction of Warren Lane and Thrapston Road (ES Viewpoint 6.48) the effect there relates more to heritage matters and the setting of the church rather than to landscape and is considered below.

471. The church spires are also seen when approaching the villages from the north west and east along roads and footpaths. However, whilst these also include key views of the spires, in those views the spires would not be closely juxtaposed with the turbines.

472. In the Bicton appeal the Inspector concluded that the turbines: '*precipitous siting would be particularly clearly perceived behind the spire of Tilbrook Church'* where they would *'diminish the visual prominence of the church in the landscape'* and *'the consequence would be harm to the wider landscape character because of the diminution of the church as a feature'*. However in that case the main landscape objection related to the position of the turbines on the hillside. That would not here be a compounding factor in the above key views where the turbine bases and the landform are not readily apparent in views of Keyston and Bythorn from the south. However I consider that the 6 turbine scheme would similarly diminish the visual prominence of both church spires and their role as a landscape feature.

473. Criterion (a) also featured in the Woolley Hill appeal [58] in relation to several church spires and especially at Ellington (the nearest), Easton, Spaldwick and Alconbury. The Inspector considered these from a number of locations before concluding that the proposal would have '*limited impacts on the perception of church spires in the landscape'* and there would be '*minimal conflict'* with criterion (a). Most of those spires are more distant from the Woolley Hill turbines than would be the case at Bythorn. However the Inspector's conclusions concerning Ellington are similar to mine in relation to the 3 turbine scheme.

Criterion (b) Ridges, Plateaux, Valleys and Valley Crests

474. Criterion (b) expresses a clear preference that any turbine group should be located on open arable land on ridges or plateaux and away from the more intimate valleys [38]. In this case the western half of the appeal site is mainly open arable land that has been described variously as a broad ridge or a narrow plateau [131, 394] (see ES Viewpoint 14 Old Toll Bar Ref 6.33). This part of the site accords most closely with the location preference of the SPD as to where turbines could be best accommodated in this large scale landscape. Indeed the appearance of the three western turbine in the landscape would closely resemble the sketch of three turbines included in the WP SPD as an example of appropriate development in the Northern Wolds [38]. Two turbines (T1 and T5) would be firmly located on this ridge/plateau. A third (T3) would be on lower land to the west that is gradually descending into a broad open valley which, however, lacks 'intimate qualities' (See SEI Viewpoint 16 Ref 6.35A). That turbine would also be seen in close association with the nearby high voltage overhead power lines and pylons. Having regard to the Bicton decision to dismiss an appeal because turbines would be located on a valley crest, consideration was given at this Inquiry as to whether to delete turbine T3 [396(b)(g)]. However I do not consider that T3 would occupy a valley crest and neither would it affect an intimate valley. Its deletion would thus not provide any clear benefit.

475. Turning to the eastern half of the appeal site, turbines T2, T4 and T6 would occupy higher ground than T3 but would be more closely associated with the more intimate and steeper-sided small valleys to the north of Bythorn. Whilst the turbines would be just outside these valleys they would be close to the valley crests and T6 would be on such a crest. The impacts can be seen at ES Viewpoint 10 (Ref 6.29). Here the turbines would dominate a smaller scale landscape. A split decision that deleted T2, T4, and T6 and permitted T1, T3, and T5 in a 3 turbine scheme would thus be more consistent with this criterion of the WP SPD and have a reduced landscape impact, albeit still with an adverse effect on established local landscape character, as with any development of large turbines in the countryside.

Criterion (d) Respect setting of historic villages

476. Heritage considerations are considered below. However each of the 4 nearest villages qualifies as historic by reason variously of their longevity, the designation of conservation areas and the presence of listed churches and other listed buildings.

477. The WTD Report advises that a small group of turbines would dominate the scale and historic character of the villages in the Northern Wolds if sited in close proximity but considers that there is sufficient space between villages to avoid impacts [36]. However most parts of the area are within view of one or more

villages. Thus respect for setting does not require that a windfarm cannot be seen from, or in the same view as, a historic village.

478. This proposed group of 6 turbines would be larger than the WP SPD definition of a small group (up to 3 turbines). It would be within 1km of the historic villages of Bythorn and Molesworth and within about 1.3km and 1.5km respectively of the historic villages of Keyston and Brington.

479. Already tall structures at 125m, the 6 turbines would occupy high ground to the north and north west of Bythorn. In views from the south such as from SMWFAG Viewpoints 1 and 3 they would spread across the horizon behind and to either side of this small village and could not fail to dominate the village by reason of their scale whilst also detracting from its historic character. The effect on its heritage including views within and out of the conservation area is considered further below. However these landscape effects would be much reduced if turbines T2, T4 and T6 were not erected. Turbines T1, T3 and T5 would then be seen as a distinct group to the north west of the settlement and not as the larger group wrapping around behind the village. Whilst turbine T5 is equally close to the nearest houses in Bythorn, it would not be seen directly behind the village in the main views across the landscape from the south.

480. In the 6 turbine scheme, whilst the nearest eastern turbines would be as close to Molesworth as to Bythorn, there are few important viewpoints from where the turbines would be seen in conjunction with Molesworth and its setting. Moreover the angle of view westwards from Molesworth towards the turbines would be much narrower than in views from the south towards Bythorn. There would be some adverse impacts in that views westwards out of the village would change from a traditional agricultural landscape. However the 6 turbines would not dominate Molesworth as they would Bythorn. Moreover these reduced effects would be further reduced if the turbines nearest to Molesworth were not erected (T6, T4 and T2).

481. Keyston is further from the proposed turbine positions than are Bythorn and Molesworth. Like Bythorn, its historic setting has already been altered by the construction of the intervening A14 dual carriageway in a shallow cutting. This is both a visual and aural presence. Keyston is also the nearest of the 4 villages to the Chelveston wind farm. However, whilst the latter development can be seen on the skyline in some outward views south from parts of Keyston, it is not a dominating presence in the village. The main effect of the Molesworth turbines would be on views of the village setting from the south including that referred to above which includes the Keyston church spire. However the impact would be much reduced compared to that on Bythorn. The 6 turbines would be prominent behind the village and a distraction but would not dominate the village in their scale. Whilst turbines T1, T3 and T5 are the closest turbines to the village the deletion of turbines T2, T4 and T6 would halve the number of turbines visible in association with Keyston. As at Bythorn they would cease to be spread across the horizon behind the village and would appear as a more distinct and isolated group.

482. Brington is further still from the turbines. The impact of the 6 turbine scheme would be similar to that at Molesworth but further reduced by distance. There would also be similar benefits of deleting the 3 eastern turbines which would

further increase that separation to more than 2km such that the landscape effects on the setting of Brington would become negligible.

483. There are other historic villages further from the appeal site both within the Northern Wolds and in Northamptonshire. However the turbines would not be so close to any other historic village as to have a significant adverse effect on their landscape setting.

484. My overall conclusion on this criterion is that the 6 turbines would dominate the scale and historic character of Bythorn in particular. They would have lesser but still adverse landscape effects on the setting of the other 3 nearest villages. However those impacts would be much reduced in a 3 turbine scheme if turbines T2, T4 and T6 were not erected.

Cumulative Effects

485. The Framework at paragraph 97 seeks that local policies have regard to any cumulative landscape and visual impacts and PPG (RLCE) advises on their assessment. The WP SPD concluded that there is 'very little scope' for more than one small scale group of turbines in the Northern Wolds [39]. However the term does not necessarily preclude the development of more than one group in the Area. The WP SPD itself provides that decisions concerning cumulative development should be taken on a case-by-case basis.

486. The Council's putative reasons for refusal included that there 'could' be unacceptable cumulative impacts but did not specify with which other developments they were concerned. Whilst the Council's closing statement still highlights cumulative impact as a serious concern [132] this is only supported in relation to the 'increasing number of turbines' rather than any specific developments.

487. The ES and SEI included a cumulative impact assessment which had suitable regard to the other wind farm schemes in the area. The ES included both the first Bicton scheme (later dismissed at appeal) and also the Barnwell Manor scheme where the permission has been quashed. Those schemes should be disregarded. However should the Barnwell Manor approval be restored following a redetermination of the appeal, or should the second revised Bicton scheme before the Council be approved before this appeal is determined, then the assessment would provide a useful means of comparison, allowing for the detailed amendments to the Bicton scheme since the appeal was dismissed.

488. There is already permission for one small turbine group within the Northern Wolds on its eastern edge at Woolley Hill. The Woolley Hill turbines would be about 10km to the east of the appeal site. The appeal site is located just within the western edge of the Northern Wolds LCA. The relative positions are shown on a map at Figure 11 of Document SMWFAG 1.2 which also shows the permitted Chelveston scheme and the dismissed Bicton scheme. There are a small number of locations on the valley side between the Molesworth and Woolley Hill sites where it might be possible to see both schemes from one position. However that would mean turning through 180 degrees and each group would be only distantly seen. The tips of the Molesworth turbines would also just be distantly visible from Graffham Water, from which the Woolley Hill turbine would be more readily visible (SEI Viewpoint 7 Ref 6.26A). The 2 schemes would be seen in succession when travelling along the A14 but only at an interval of several minutes and at

opposite sides of the Northern Wolds. Although outside the Northern Wolds, the 3 turbines at Common Barn would also be visible from the A14 but closer to Woolley Hill than to the current appeal site. However those travelling at speed through the area on the A14 would be less sensitive to views than, say, a recreational footpath user and their experience of the landscape would be affected by the scale of the dual carriageway road and its junctions, noise, and heavy moving traffic on the road, including numerous HGVs.

489. Of more concern to a number of local people is the potential for cumulative impact with the Chelveston Wind Farm which is also outside the Northern Wolds and within Northamptonshire. There are a few locations to the north and east of the appeal site from where both development would be seen in the same view but where the Chelveston turbines would be much further away and would appear much smaller. An example is at ES Viewpoint 1 Cumulative View B Ref 6.20. There are also some locations from where both schemes might be seen by turning one's head. However the wind farms would generally appear well separated and of different apparent scale. Certainly there would be no merger of wind farm landscapes. From Keyston it is possible to see Chelveston in views south from the village. However views north of the Molesworth turbines would be scarce from within the village (see SEI Viewpoint AP4 Ref 6.66) and mainly available from private properties which are unlikely to also have simultaneous open views south towards Chelveston.

490. The WP SPD reference to the scope for small groups is to the number of such groups rather than to a combination of small groups with single turbines. A number of single turbines have been permitted within the Northern Wolds. However these are well away from the appeal site and each smaller turbine only has only a very local impact on landscape character.

491. It is concluded that there would be mainly sequential slight adverse cumulative impacts from this and other wind farm developments, including in a wider area extending beyond the Northern Wolds, but these would not of themselves be so significant as to warrant a recommendation of dismissal on landscape grounds were the proposal otherwise acceptable in terms of its landscape effects.

Summary of Landscape Effects

492. Overall it is concluded that the 6 turbine schemes would have significant adverse landscape effects when assessed against the WP SPD criteria and especially in relation to the impacts upon the setting of Bythorn and its church spire and on the intimate scale of the small valleys to the north of Bythorn. They would create a new area of windfarm landscape and would dominate the setting of Bythorn. There would also be a lesser adverse effect on the setting of Keyston. Whilst there would be no significant benefit in removing turbine T3 from the scheme, the deletion of turbines T2, T4 and T6 would remove the adverse effect on the small valleys and would markedly reduce the adverse effect on the setting of the church spires of Bythorn and Keyston and on the landscape setting of Bythorn village in particular.

Visual Amenity

493. Views of the turbines from locations within the village conservation areas are considered below in the context of cultural heritage.

494. The appeal site is criss-crossed by a number of public rights of way, some of which pass between the turbines [6]. These routes are an important and valued local recreational resource for walkers, horseriders and cyclists and especially for local residents in villages which have few other amenities [289, 294, 295, 298, 302, 307, 309, 311, 313, 317, 318, 322, 335]. If all 6 turbines are erected then some routes would pass through the newly created windfarm landscape. The turbines would affect the highly sensitive recreational users' perception of the landscape's character. The visual impact would be greatest along routes such as Warren Lane which have an intimate scale bordered by hedgerows. There would be reduced visual impacts on the footpath between Molesworth and Bythorn and more especially on the more open routes across the plateau to the west (See ES Viewpoint 14 Ref 6.33 and SEI Viewpoint AP9 Ref 6.71). Subject to any variation in the final turbine position due to micro-siting, the turbines would be set far enough from most routes to avoid an overbearing visual impact. However turbine T3 would be close enough to the footpath to the south to have an overbearing impact over a short length and would be within fallover distance of that path [325]. Nevertheless that does not appear to be a well used route by comparison with others in the area and there would be negligible risk of physical harm to users of these routes.

495. Were turbines T2, T4 and T6 to be deleted in a 3 turbine scheme, there would be a much reduced impact on Warren Lane in particular. Neither would any public rights of way pass between the remaining 3 turbines: T1, T3 and T5.

496. In relation to residential visual amenity, the Council, SMWFAG and the occupiers consider that there would be an unacceptable impact on the occupiers of one property in Bythorn - Warren Grange and conclude that this would become an unattractive place and thus unsatisfactory place to live, contrary to the public interest [133, 208-215, 295]. The Appellant disputes this [400(e-g)].

497. Lesser but still significant adverse effects are also claimed by SMWFAG at a number of other dwellings, some of which are closer to the nearest turbine than is Warren Grange [201]. Other individual occupiers have also made representations about adverse visual effects on their own property [eg 293, 316, 319, 332, 337]. The Council's putative reasons for refusal did not refer to any other properties but nevertheless in closing they asked that significant adverse effects on other properties also be taken into account [134].

498. The nearest dwelling to any turbine would be Old Tollbar House which is an isolated Keyston dwelling. The main house is 773m from the nearest turbine T5 and 882m from T3. However most main rooms have windows towards the south west and the views from some northeast facing windows are restricted by trees or an annex. There are some north east facing ground floor windows in that annex. However there is some potential to screen views should the occupiers not wish to see the turbines. The SEI concluded that there would be moderate effects on some views. Boundary House on the south side of the A14 is another isolated Keyston dwelling that is 819m from T3. However views to T3 and the other turbines would be oblique or at least partially screened by mature vegetation and that dwelling has windows providing views in other direction away from the turbines. Neither the Council nor SMWFAG consider that these dwellings would become unsatisfactory places to live and I agree.

499. In relation to Warren Grange, that is a modern detached house on the northern edge of Bythorn with a large garden mainly to the north and east of the house. Beyond that is a paddock with stables. A number of typically small kitchen and bedroom windows would provide views north towards the turbines. There is also a large conservatory entered from the living room and kitchen with more open views which could also be experienced from those two inner rooms. Only a few windows provide views that would not include the turbines, contributing to an 'ever-present' perception. Open views towards the turbines would be available from most of the garden. The most prominent turbines in the outlook from the property would be turbines T2 (1137m), T4 (892m) and T6 (966m). These can be seen in visualisations from Viewpoint R1 in Document SMWFAG 1.2. There is a drawing showing the positions of the turbines at Figure 9 of that document and photographs of the house at Figure 10. These 3 turbines would be situated on ground 10-25m higher than Warren Grange which would add to their perceived height. However views westward from the house and garden are more oblique and filtered by trees such that the impact of turbines T5 (954m), T1, (1358m) and T3 (1368m) would be much less.

500. At 892m, even the most visually prominent T4 is acknowledged as being close to the maximum distance at which other appeal decisions have concluded that there is an unacceptable visual impact on residential visual amenity. SMWFAG could only cite two examples of appeal decisions where a turbine at greater distances had been found to have an unacceptably harmful impact on residential amenity [209]. The first case relates to a recent Secretary of State decision in October 2013 concerning Treading Wind Farm. However it is notable that only one of the example turbines there was as far as the quoted 900m from a dwelling. There was another turbine at only 690m from the same dwelling. The impact was also found unacceptable on 2 other dwellings at distances of only 695-720m. It is likely that the conclusion on this issue would have been more marginal had the nearest turbine to any dwelling been at a distance of 900m. In the second case at Standle Farm, whilst a significant harmful impact was recorded by the Inspector at one property with turbines at distances of 850-900m, there were again other turbines closer to dwellings including one at only 433m which was specifically judged to have an unavoidable overbearing impact there.

501. Deleting turbines T2, T4 and T6 would certainly reduce the impact on Warren Grange significantly, whether or not the existing trees remain to filter views of the other turbines. In particular turbines would only be seen in 1 direction rather than 2 and the distances would be increased. Deleting T2, T4 and T6 would also benefit other nearby north facing dwellings in Bythorn (including Scotts Farmhouse) and all west facing dwellings in Brington and Molesworth including the nearest dwelling, Jolly Hills. At present the latter dwelling is the closest in Molesworth to any turbine at 890m from T6. However if only T1, T3 and T5 were erected then all dwellings within the built up areas of Molesworth and Brington including Jolly Hills would be over 2km from the nearest turbine.

502. There are other dwellings in Bythorn including Doyden Barn [293], Ash Cottage [202] and The Forge for which the nearest turbine is T5 at distances of just under 1km. However views from windows in main rooms towards that and other turbines are typically oblique and/or are at least partially restricted by landform or vegetation. There would be a more direct view from Doyden Barn towards Turbine T3 which is however more distant. The SEI concluded that there

would be substantial effects on some views and especially those from Ash Cottage. Whilst views of the turbines would result in some loss of amenity for these dwellings and for other dwellings at greater distances (such as those in Keyston with northward outlooks), neither the Council nor SMWFAG considers that these or other dwellings would fail the Lavender Test by becoming an unsatisfactory place to live and I agree.

503. The turbines would not be seen during darkness, however the Ministry of Defence has requested that they be fitted with lighting because of their height. Conventional 25 candela lighting would appear to flash as the blades turned and would detract from what is mainly a dark rural area except for the street lighting and vehicles on the A14 and at Molesworth airbase. However alternative infra red lighting would be acceptable to the MoD whose pilots use night vision goggles and would be generally invisible from the ground without such goggles.

Summary of Visual Effects

504. The 6 turbine scheme would cause significant harm to visual amenity for recreational users of public rights of way, particularly to the north of Bythorn and also to a short stretch of public footpath near to turbine T3. There would also be significant harm to the visual amenity of residents and particularly those living on the north and west sides of Bythorn, the west side of Molesworth, and (to a lesser extent) on the north side of Keyston. Warren Grange would experience the greatest harm due mainly to ever-present open views from most main room windows of turbines T2, T4 and T6, exacerbated by filtered views of T1, T3 and T5 in other directions. Whilst in some circumstances the nearest separation distance of 892m would be sufficient to avoid unacceptable harm, here the extra elevation of the turbines relative to the house and their spread across the view are aggravating factors such that Warren Grange would just fail the Lavender Test by becoming an unsatisfactory place to live. Nevertheless, were turbines T2, T4 and T6 deleted from the scheme then Warren Grange would remain as a satisfactory place to live and the visual impact on the most sensitive public rights of way including Warren Lane would also be substantially mitigated.

Cultural Heritage

505. S66 of the Planning (Listed Buildings & Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural interest it possesses [56]. National and local policies also require regard to be had to the setting and significance of heritage assets including listed buildings, conservation areas and scheduled ancient monuments when determining planning applications [26,46].

506. The main matters in dispute at the Inquiry concerned the potential impact on the setting and heritage significance of the Grade II* listed Bythorn Church, the Bythorn Conservation Area (which also includes other listed buildings), and the Grade I listed Keyston Church [13].

507. Evidence on these matters included the Environmental Statement, written consultation comments from English Heritage, and evidence at the Inquiry from one professional witness for each of the 3 main parties [84-118, 216-237, 401-411]. Views of the effect of the proposed wind turbine development on the setting and significance of these assets varied. However the main difference concerned whether there would be ‘substantial’ or ‘less than substantial’ harm to

the Bythorn Church and Conservation Area. This relates to the policy test expressed in the Framework at paragraphs 132-134 which provides that great weight should be given to the conservation of heritage assets and that substantial harm to heritage assets of the highest significance (including Grade I and Grade II* buildings) should be wholly exceptional. Also, where there is substantial harm then permission should be refused unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 134 provides that: '*Where the development proposal would lead to less than substantial harm, … this harm should be weighed against the public benefits of the proposal*'.

508. The Council's heritage witness is alone amongst the professional witnesses in maintaining that the 6 turbine scheme would cause 'substantial' harm to the setting and significance of Bythorn Church and Conservation Area [109]. For these two assets English Heritage concluded that there would be a *'very significant degree of harm…falling just below the level of substantial harm'.* The SMWFAG witness reached a similar conclusion [228]. In each case the ES had concluded that the assets were of high sensitivity but that the magnitude of change would be negligible and hence the effect on heritage significance would be minor. However this was based in part on a constrained definition of the setting of these assets which did not extend as far as the nearest turbine [219]. EH and the other parties disagree [100, 225]. At the Inquiry the Appellant's witness Dr Edis took a modified position which allowed that the turbines would have an effect on a more widely defined setting [220-221, 225]. However whilst acknowledging some (less than substantial) harm, the witness declined to grade this further.

509. The English Heritage definition in its document *'The Setting of Heritage Assets'* of setting as embracing *'all of the surroundings … from which the heritage asset can be experienced or that can be experienced from or within the asset'* would suggest that a wider definition is appropriate than that adopted by the ES. In particular a church with a tower or spire has a symbolic purpose and is intended to be seen from a distance. In this case that would include from positions outside the village where the church at Bythorn (and that at Keyston) would be seen in juxtaposition with the 6 turbines, as discussed above in relation to landscape impact. The adverse effect on setting is most clearly seen in the visualisations. The English Heritage document *'Wind Energy and the Historic Environment'* warns that the construction of turbines 'adjacent' to visually dominant church spires may be inappropriate [233].

510. Whilst the truncated spire of Bythorn church is no longer as visually dominant as it would have been in the past, I consider that the 6 turbine scheme would harm the setting and heritage significance of Bythorn church. The turbines would dominate the church in some views from the south such as from Clack Lane (SMWFAG 1.3 Viewpoint 3A and 3B), and also in closer views within the conservation area such as from the Thrapston Road, Clack Lane junction. This latter view can be seen over a succession of visualisations at ES Viewpoint Ref 6.48. These have also been stitched together into one smaller scale photograph at Appendix 6 to Document HDC/LB/3. This is a key view of the church and the conservation area in which the 6 turbines would be spread across the skyline and behind the church, diminishing both the open character of the conservation area and also the status of the church as still the tallest structure in that conservation area. That 6 turbine scheme would also intrude into views out from the

churchyard (SMWFAG 1.3 Viewpoint 5) harming the experience of visiting and appreciating this historic medieval church in its mainly traditional village setting [224].

511. Another key view within the conservation area is that looking north towards the Grade II listed Scotts Farmhouse (SMWFAG Viewpoint 4). This is currently an enclosed view with listed thatched cottages on each side and the imposing gabled façade of the farmhouse to close the vista. The ES visualisations had wrongly suggested that the turbines would be mainly hidden in such views. The ES concluded for both the farmhouse and the conservation area that there would be a minor magnitude of change with moderate significance effect. However the SMWFAG visualisation (from a slightly different viewpoint) shows that turbine T4 would appear directly behind and above the farmhouse, radically altering the view of the historic centre of the conservation area and marring appreciation of the medieval form and layout of the village and the setting of the farmhouse.

512. I share the view of English Heritage that the harm to the significance of Bythorn church and conservation area falls just below the level of substantial harm but is nonetheless significant and would require convincing justification. However that harm could be considerably mitigated were turbines T2, T4 and T6 to be deleted from the scheme. It is these 3 turbines which intrude most significantly into the backdrop of northward views of the church and on views north from the conservation area including behind the listed Scotts Farmhouse. The Council's witness accepted that the removal of those turbines would reduce the harm to these heritage assets to less than substantial.

513. In relation to Keyston Church, and in common with the landscape impacts, the impact on its setting again relates mainly to the juxtaposition of the turbines in views of the spire from the south of the village (see above). Whilst the turbines would not appear to be taller than the spire in these views, the spread of 6 turbines to either side of the spire in the key views from the south west would challenge the role of the spire in marking the location of the Grade I church and for its historic and spiritual symbolism. The ES again assessed the significance effect as minor. English Heritage concluded that there would be harm but did not assess this as substantial and did not grade this harm further. Neither have the several professional witnesses assessed the harm as substantial. The harm to significance would be reduced were the number of turbines to be reduced and especially if the 3 eastern turbines (T2, T4 and T6) were deleted such that the 3 remaining turbines would usually be seen only to one side of the spire.

514. Consideration was also given to the effects on the Keyston Conservation Area, which includes other listed buildings and also the ground level remains of a scheduled ancient monument. However apart from the above general views of the village from the south there would be no important views of, within or from the conservation area or the monument where the turbines would have a significant impact on heritage significance.

515. A relatively narrow view of the 6 turbine group would be available from parts of the churchyard of the Grade II* listed Molesworth Church (which has no spire) and from parts of the Molesworth Conservation Area. The turbines would not usually appear in the same view as the church or other buildings in the conservation area. An exception is a view from Millenium Green in the village where for example some harm would arise from seeing the moving modern

turbine blades incongruously above the roof of a listed thatched cottage in a typically traditional rural village setting (See SEI Viewpoint AP1 Ref 6.63). However that view would not be available if turbines T2, T4 and T6 were deleted leaving only turbines T1, T3 and T5. That amendment would also reduce the impact on outward views from the conservation area with the nearest turbine over 2km away and the field of view narrowed further.

516. There are other cultural heritage assets in the wider area which were also assessed in the Environmental Statement with at most minor significance effects. These conclusions have not been materially challenged and no professional witness alleges substantial harm to the significance of these or any other heritage assets including those in East Northamptonshire [330].

Summary of Cultural Heritage Effects

517. The S66 statutory duty applies to listed buildings but not to other heritage assets such as conservation areas and ancient monuments. The courts have interpreted the words 'special regard' to mean that considerable weight and importance should be accorded to the desirability of preserving the settings of listed buildings and that to preserve a setting is equivalent to doing no harm. It is concluded in this regard that the 6 turbine scheme would result in just less than substantial harm to the setting of some listed buildings and in particular to the setting of Bythorn Church and Scotts Farmhouse. It would also result in some but lesser harm to Keyston Church and to the setting of other listed buildings within the Bythorn Conservation Area. There would be minor harm to the setting of Molesworth Church, and minor or negligible harm to the setting of other listed buildings.

518. In a split decision the 3 turbine scheme of T1, T3 and T5 alone would result in some, but in each case significantly reduced, levels of harm to the setting of the above listed buildings. In particular it would have a negligible effect on the setting of Scotts Farmhouse and Molesworth Church and much reduced albeit still harmful effects on the setting of Bythorn and Keyston Churches.

519. In each case, the acknowledged harm to setting would need to be accorded considerable weight and importance, but moderated according to the amount of harm in each case. Just less than substantial harm to a Grade II* listed church would not merit equal weight to minor harm to the setting of a listed milestone or telephone box. Whilst the avoidance of all harm would be desirable, as S66 confirms, it does not follow that permission must be refused as it would still remain necessary to weigh the harm with any benefits of the development. The English Heritage document *'Wind Energy and the Historic Environment'* (CD10.3) acknowledges that change within the setting of historic sites may often be acceptable although in certain instances development will be considered inappropriate.

520. In Framework policy terms the harm of the 6 turbines to the setting and heritage significance of Bythorn Church and Conservation Area (including Scotts Farm and other listed buildings within the conservation area) would fall just short of substantial. The harm would be substantially reduced in the 3 turbine scheme if turbines T2, T4 and T6 were not erected. There would be some other lesser harm to the setting and heritage significance of the churches, conservation areas and other heritage assets of Keyston and Molesworth. That harm would be further reduced if turbines T2, T4 and T6 were not erected. All other identified

heritage assets would experience only minor, negligible or nil effects on their heritage significance. Any such harm to the setting of assets to the east of Bythorn would also be reduced were turbines T2, T4 and T6 not erected, having regard to the increased separation distance.

Ecology

521. The Council has agreed that the ES included appropriate assessment of ecological impacts and that species protection can be adequately secured by condition [69]. Accordingly there was no related putative reason for refusal [2].

522. Natural England in their consultation comments did not object to the development but requested post-construction red kite and bat monitoring [325]. The RSPB initially requested the deletion of turbines T1 and T3 which are the nearest to an identified red kite roost but did not pursue this in their subsequent consultation response and did not object to the development subject to a habitat management plan and post-construction red kite monitoring [325].

523. The ES is a part of the environmental information for the planning decision which also includes the SEI, and an updated Bird Survey report of September 2013 by the Appellant's ecology witness [450]. In closing SMWFAG clarified that they do not argue that the ES was insufficient for the purposes of the EIA Regulations. Their witness nevertheless considers that there are qualitative problems with the Appellant's data [241-252]. The Appellant has made a rebuttal of the points raised [412-418].

524. SMWFAG contend that NE and the RSPB may have taken a different view on the ES survey results had they been provided with all the data that had since been supplied by the Appellant. However NE and the RSPB were provided with the SEI information and they do not appear to have considered it necessary to request any further data [416].

525. The East Midlands regional population of red kites has increased steadily since reintroduction in 1996 with 149 breeding pairs recorded in 2011. There is some risk of collision between the turbines and red kites and one fatality has been recorded at the larger Burton wind farm. At the appeal site there is an estimated 2.9% increase over baseline mortality or 3.18 collisions each year assuming a worst case 98% avoidance rate. Whilst any such loss would result in some harm, that is reasonably assessed as a low magnitude of impact on this high sensitivity receptor and not likely to have a significant effect in EIA terms. Whilst turbines T1 and T3 would be the nearest turbines to a roost, red kites have been observed to fly in all parts of the wind farm area. Were only 3 turbines to be erected rather than 6 then some reduction in collision risk can be expected.

526. The proposed Habitat Management and Enhancement Plan (HMEP) described in the ES and agreed to be necessary by the Appellant, the Council, Natural England and the RSPB would include hedgerow replacement, bio-diversity enhancement measures, and management of the areas around the base of each turbine to make it less attractive as a habitat for species on which raptors such as the red kite prey. The hedgerow replacement is important to maintain or enhance habitat for bats and hedgerow birds.

527. A planning condition to require post construction wildlife monitoring has been requested by Natural England and the RSPB. However, notwithstanding

representations from both bodies the Council does not consider that the condition passes the tests in Circular 11/95 (which derive from case law) and the Appellant considers that its application would be unlawful. SMWFAG does support the monitoring condition if that monitoring could lead to further mitigation. However no wording has suggested that would be adequately precise about what mitigation would be triggered by what outcomes of monitoring. In those circumstances the condition would not satisfy the requirement of necessity and would only be of benefit to the assessment of future developments rather than the scheme under consideration here.

Summary of Ecology Effects

528. In summary the evidence confirms that there is no rigid method for carrying out surveys and that departures from particular guidance documents have been justified. The criticisms raised by SMFWAG are not such as to materially undermine the ES conclusions (as supported by further survey work) or to render the data insufficient to form the basis for the planning decision. The surveys indicate that there is some risk of collision of red kites with the turbines but that the numbers would not have a significant impact on the population. The impacts can be mitigated by measures that can be secured by condition.

Noise

529. The Council did not include noise impacts in its putative reasons for refusal [2]. The Council had agreed in the SoCG that ETSU-R-97 and the IoA Good Practice Guide are appropriate methodology and have been properly applied [69]. The Council also agreed then it had no objection on construction or operational noise grounds and agreed that noise can be controlled by condition and that no amplitude modulation condition is appropriate [69]. However, at a late stage in the Inquiry and following the publication in December 2013 of new research and a template planning condition by the trade body RenewableUK (RUK), the Council's Environmental Protection Officer presented evidence in relation to the application of planning conditions to control Excess (or Other) Amplitude Modulation (EAM/OAM). This initially sought the application of the new template condition recommended by Renewable UK. The Council subsequently suggested an alternative condition similar to that used in the Swinford appeal (CD6.23) [135-144].

530. Whereas SMWFAG had raised a noise objection during the consultation stages. SMWFAG did not pursue this objection at the Inquiry, apparently owing to a lack of resources to employ a professional witness [294]. However noise concerns have been raised by other interested persons and were a central part of Mr Watters' evidence [259-285]. SMFWAG and Mr Watters support the Council in requesting a Swinford type condition. Mr Watters also supports the Council's requested condition requiring a mitigation scheme in the event of a breach [278].

531. Mr Watters main evidence raised two concerns with the survey of background noise levels [259]. The first was whether the background noise level recordings had been contaminated by extraneous noise events such as night-time agricultural operations which are known to have occurred at two locations (where the data was adjusted). However, and notwithstanding that the noise survey locations are known and that there has been extensive involvement by local people in the appeal, there is no submitted evidence to indicate that other noise evidence at other locations was contaminated. If, as Mr Watters suggests, it

would have been in the homeowners' interest to ensure recorded noise levels were as low as possible, then they might have been expected to report such incidents, as two homeowners did. The Council's Environmental Protection Officer was content with the survey methodology and results.

532. Secondly, Mr Watters queries whether additional work should have been carried out to address an apparent anomaly. His local experience is that background noise levels from the A14 dual carriageway are lower in Bythorn and Molesworth when the wind is in the north. That was also noted by the recording team and yet it did not show up in the survey results [273]. Indeed, as recorded in the SEI the survey figures on both sides of the A14 suggested that background noise levels would actually be higher, and not lower, when the dwellings are upwind of the A14 when compared with average noise levels from all wind directions. However this conclusion appears to have been based on smaller data samples. Whilst the anomaly remains unexplained, the Council's Environmental Protection Officer has not objected to the survey methodology or results.

533. The A14 does generate significant background noise in the nearby villages. The survey shows that ETSU noise limits can be satisfied at all occupied dwellings that were surveyed in that noise immissions at the nearest properties would not exceed background levels by more than 5dB and would normally be significantly less than that ceiling.

534. There is no prediction of the noise effect of a reduction in the number of turbines from 6 to 3 but it would be more likely to reduce overall noise emissions than to increase them. More especially, where the separation distance from a dwelling to the nearest turbine increased, a reduction in noise immissions would be almost certain owing to the attenuating effects of distance. In particular, deleting turbines T2, T4 and T6 would be certain to reduce noise immissions for all dwellings in Molesworth, including that of Mr Watters, as well as having some more marginal benefit for dwellings in Bythorn. Any effects elsewhere are likely to be more neutral.

535. The Council and Mr Watters also seek a condition to the effect that in the event of a proven breach of the noise limits, the operator would be required to produce a scheme for the Council's approval for the mitigation of the breach and to prevent its reoccurrence [143]. However that is a departure from the standard condition recommended in the IoA Good Practice Guide. It is objected to be the Appellant and has not been adequately justified. It would still remain necessary for the wind farm to be operated in accordance with the noise limit condition.

Amplitude Modulation

536. Amplitude Modulation (AM) (blade swish or blade thump) is a recognised characteristic of all wind turbines. A degree of AM was taken into account in ETSU-R-97 when setting recommended noise limits. However, in a minority of situations increased amounts of AM from wind turbines known as (Excess or) Other AM have resulted in complaints. The prediction and remedying of OAM has long been difficult, particularly as the causes have not been well understood. That hampers the use of planning conditions to control OAM. Reliance has instead been placed on environmental legislation to identify whether a nuisance

has been created. However the Council considers that the statutory nuisance regime is highly complex, time consuming and expensive to apply.

537. The issue of an AM condition was addressed at some length by the Inspector in the nearby Woolley Hill appeal in 2012 (CD6.2). The same Council was then promoting a condition similar to that used at the Den Brook appeal (Appeal Ref APP/Q1153/A/06/2017162) and which apparently sought to define unacceptable levels of AM. The Appellant at Woolley Hill (RES UK) was the same as at Den Brook. At Woolley Hill the Appellant proposed an alternative AM condition with a series of time-related steps. However the Woolley Hill Inspector was critical of aspects of both suggested conditions, concluding that the RES UK suggested condition was imprecise, that an OAM condition would not be necessary, and that it would be unreasonable to apply one given the then limited knowledge and understanding of the condition and a lack of consensus beyond the guidance in ETSU-R-97. Whilst the wording of the conditions before that Inspector is not before me, I agree with his general conclusions which have been broadly shared in other appeal decisions by a number of other Inspectors and the Secretary of State. The effect of those conclusions is that the suggested conditions would not have satisfied the tests for conditions set out in Circular 11/95 and in the Framework at paragraph 206. The tests derive in part from legal precedent.

538. Nevertheless the Woolley Hill appeal decision preceded the recent publication of research by the trade body RenewableUK (RUK). The RUK research suggests that *'Enhanced Amplitude Modulation'* [EAM or OAM] can occur when the wind flow becomes detached from the turbine blades in what is described as a local stall. A number of potential causes have been identified including wind shear, topography, large scale turbulence, or the wake of other turbines. This is described as a: *"plausible explanation for EAM"*. However it remains the case that EAM/OAM cannot be predicted at a particular location. When it does occur its infrequency and intermittent character also make it difficult to measure. However it is becoming more likely that the condition may be controlled by software to mitigate impacts and minimise the onset of stall during the particular conditions where EAM/OAM arises (once they have been identified). That would likely mean some loss of energy output at those times.

539. The template planning condition suggested by RUK is based on the standard IoA Good Practice Guidance noise condition but it includes a decibel penalty to be added to individual $L_{A90,\ 10\text{-minute}}$ measurements as a result of amplitude modulation.

540. However, the RUK publications have not been subject to consultation. Neither the IoA nor the Government have so far endorsed the approach now recommended by RUK and they have not modified the published guidance or policy. The IoA Good Practice Guidance (May 2013) (CD9.3) still states at paragraph 7.2.1 that: *"The evidence in relation to 'Excess' or 'Other' Amplitude Modulation is still developing. At the time of writing, current practice is not to assign a planning condition to deal with AM."* The issue is thus whether the subsequent publication of the RUK research in December 2013 means that the policy tests for planning conditions can now be met in respect of a condition to control OAM.

541. In the SoCG for this appeal the Council and the Appellant company had agreed that no amplitude condition would be appropriate [69(9)]. However the

Council has since proposed that the RUK condition should be applied here. Before the Inquiry closed the Council also suggested as an alternative to the RUK condition that an OAM condition be imposed that would be similar to one previously applied by the Secretary of State in 2009 in the Swinford Appeal (CD6.23) [137]. In summary a noise complaint which the Council agreed to be related to amplitude modulation would trigger a requirement for an independent noise assessment according to an agreed scheme. If the assessment confirms that amplitude modulation is excessive then a mitigation scheme would need to be agreed with the Council and implemented. The Council considers that this wording would allow for any agreed changes to the RUK recommended condition that may occur after the appeal decision is made to be taken into account in the agreement of an appropriate scheme. In relation to necessity the Council considers that it should at least be applied on a precautionary basis.

542. The Swinford condition has not been regarded as good practice by the IoA. The Council's suggested wording for such a condition makes no explicit reference to the RUK template condition or its provision for a decibel penalty. It does not itself define what would qualify as unacceptable OAM or EAM or indicate what criteria would determine whether the assessment method is acceptable. The design of a mitigation scheme would require that not only was the occurrence of OAM/EAM identified, but that the cause was also known in terms of the conditions that give rise to it. The RUK research indicates that there may be different causes. The intermittent and infrequent occurrence of OAM would make that diagnosis difficult.

543. SMWFAG and Mr Watter do not support the RUK condition but do support the Swinford style condition [285]. However the Appellant's view is that whether the condition was in the form proposed in the RUK template or in the Swinford appeal form, an OAM condition would be (1) unnecessary (2) imprecise (3) unenforceable and (4) unreasonable and therefore outside Circular 11/95[99] and unlawful [432].

544. The RUK template condition has yet to be validated and it may change following the considered response of the IoA and Government. It would be premature to impose it now. Nevertheless the RUK research does assist in identifying the nature of the OAM problem that may arise in some, albeit rare, cases and how it might be mitigated. That provides some support for the imposition of a condition to require a scheme of investigation and mitigation in the event of a complaint which the Council identifies as OAM related. As it would take some time to implement a permission and for the wind turbines to become operational there would be time for the debate generated by the RUK research to inform such a scheme.

545. The conclusion on OAM is that the imposition of the Council's suggested Swinford type condition is justified as necessary and reasonable. In itself it would be enforceable and it is adequately precise about what is required should the process be triggered although the details would be reserved for subsequent determination. One necessary change is that the schemes should be subject to the Council's approval rather than for agreement between the parties.

[99] The Circular has recently been replaced by the Planning Practice Guidance which applies similar tests

Summary of Noise Effects

546. It is concluded on the noise issue that, subject to the imposition of a noise limit condition and a Swinford type OAM paragraph to that condition, the 6 turbine wind farm may result in some increases above current background noise levels in some conditions but would not cause unacceptable harm to residential amenity by reason of noise immissions at dwellings.

547. Omitting turbines T2, T4 and T6 would likely reduce noise immissions, particularly for residents in Molesworth and on the east side of Bythorn.

Benefits

548. The Council does not dispute variously: that the proposal would provide a useful amount of renewable energy; that the UK needs renewable energy to assist in alleviating climate change, to give security of supply and for economic reasons; that the UK has entered into international agreements and enacted legislation which commits it to significantly decarbonise its energy supply across all sectors, with 15% of total energy consumption to come from renewable sources by 2020; or that the Government expects renewable electricity generation to come from a mix of technologies, including onshore wind [71].

549. The national target can only be met by local provision and it currently remains unmet. The UK Renewable Energy Strategy 2009 estimated that 30% of electricity would need to come from renewable energy to meet the overall 2020 target [52]. However 30% is not a target or a ceiling. Even though the 2013 update predicts that it will be achieved by 2020, achievement of the overriding 15% target for all forms of renewable energy also depends on sectors other than domestic and commercial electricity consumption. This includes transport energy for which renewable electricity would also be needed to power railways and electric cars. Even if the interim targets for preceding years in that figure are met (which is not assured), that would still require a combined increase from all sectors of more than 70TWh in the last 2 years (2018-2020). That increase would represent more than the total renewable energy generated in 2012 which has come from renewable capacity that has been developed over a much longer period than 2 years. In other words the rate of provision would need to increase [52]. However the 2013 update predicts that the growth of onshore wind will actually slow after 2015 [53].

550. The Council is incorrect in suggesting that a 2020 target of 13GW from onshore wind has been met 7 years early [162]. Firstly because there is no individual 2020 target for onshore wind energy. Secondly because the 2020 15% target requires capacity to be <u>installed</u> by that date. Only 7GW had been installed by June 2013 with 1.3GW then under construction. Thirdly because the UK Renewable Energy Roadmap Update 2013 in Fig16 at p48 based its assumption of future capacity on the contribution of onshore wind energy from a continuation of the past success rate of proposals in the planning system. However it also acknowledged at paragraphs 135-139 that this rate may fall for a number of stated reasons and that this may impact on the overall deployment of onshore wind in England and Wales [53]. Neither is the 2020 target a ceiling or the final destination. Even if the 2020 target is met, the appeal proposal would also contribute to the continued and increased need for low carbon energy after 2020.

551. SMWFAG draws attention to what has since become PPG (RLCE) paragraph 021 in relation to the capacity factor of the scheme and claims that this should be 25% rather than the 31.1% claimed by the Appellant [185]. However even if that is correct, the Appellant responds that the 5 year average capacity figure in a recently published DECC Report is 26.06% [379]. There is thus nothing unusual about this scheme.

552. Mr Bratby for SMWFAG also claims that other factors should be taken into account including: his higher estimate of payback time in relation to the carbon embodied in the construction; a claimed reduced effective life of 15 years for the turbines due to degradation; and the claimed impact of CO2 emissions from conventional back up plant [183-190]. These matters are all contested by the Appellant, but in any event they are an argument about national energy policy and the role of wind energy [379]. The appeal proposal is a typical lowland windfarm development and there is nothing unusual about the technology or its operation in this location which materially reduces the benefits by comparison with other onshore wind energy development.

553. The Appellant company cites a number of Government policy documents in support of their claim that there is no reasonable room for dispute regarding: the seriousness of climate change and its potential effects; the seriousness of the need to cut carbon emissions; and the seriousness of the Coalition Government's intentions regarding deployment of renewable energy generation [374-377]. The SoS explicitly reaffirmed in the recent Treading Bank appeal decision that there is no lessening in the need for renewable energy development and that it remains a very important factor [377].

Summary of Benefits

554. Were a split decision to be issued, to reduce the size of the scheme from 6 turbines to 3 turbines would, inevitably, half the renewable energy capacity and the associated benefits. Nevertheless whether the scheme is one for 3 or 6 turbines it would make an important contribution towards the national need for renewable energy to meet national targets and reduce greenhouse gas emissions. This merits considerable weight in favour of the proposal.

Other Matters

555. Several objectors to the development are concerned about potential health effects [286, 293, 296, 303, 304, 306, 311, 333]. However to the extent that these are associated with noise, the Appellant has shown that the turbines are predicted to be compliant with guidance in ETSU-R-97 that seeks to ensure that satisfactory living conditions are maintained in that regard and to avoid sleep disturbance. The turbines would be much further from residents than the electricity substation referred to at one appeal [296] and no direct comparisons are possible. To the extent that any feared health effects would be associated with proximity to homes in Molesworth and some parts of Bythorn, or to public rights of way, the deletion of Turbines T2, T4 and T6 would reduce such impacts.

556. Having regard to the temporary and reversible nature of the development and the lack of an identified current need for the minerals on site, the Council does not dispute that the mineral safeguarding policy would be satisfied if the need for renewable energy is accepted [146].

557. That wind farms have been developed or proposed in similar locations in Cambridgeshire and Northamptonshire indicates that such developments are commercially viable with the available wind resource whether or not that is due to financial incentives. There is no evidence that the need for wind energy can be met solely by off-shore developments or by on-shore development on higher ground or on coasts with greater wind speeds [334].

558. There are already some wind turbine developments in the wider area and there is a lack of evidence to substantiate claims that an additional wind turbine development of 6 or 3 turbines would deter visitors to a degree that would render tourism businesses in Northamptonshire unviable [337]. Neither is there substantive evidence to support fears that the development might be left half built [338] or that a decommissioning bond is necessary. Moreover there is no evidence as to what size of bond would be necessary or how it would be managed. A planning condition should not be used to require undefined payments.

Planning Balance and Conclusions

559. As explained above [67-68], consideration was given at the Inquiry both to the development of the submitted 6 turbine scheme and also to the possibility of a split decision whereby some but not all of the turbines would be permitted. A 3 turbine scheme which included the western turbines T1, T3 and T5 but which excluded the eastern turbines T2, T4 and T6 would produce only half the energy of the 6 turbine scheme, however the adverse environmental effects of such a scheme would also be much reduced. Whilst there was brief consideration at the Inquiry of a 5 turbine scheme (omitting turbine T3) [67(b)] that would have very limited advantages over the 6 turbine scheme to offset the associated loss of energy capacity.

560. I agree with the Appellant that there is sufficient environmental information before the inquiry to enable a decision to be made either in relation to the 6 turbine scheme or a split decision with a partial grant of planning permission for 3 turbines [67]. The Appellant considers that such a reduced scheme would still be commercially viable [350-353]. The access arrangements would be the same as for the 6 turbine scheme. Whilst the Council [165] and some persons at the Inquiry suggested that they would prefer the consideration of unspecified alternative access arrangements and siting for a 3 turbine scheme, that would be beyond the scope of the current environmental information. But in any event the current ES demonstrates that the options for re-siting the turbines within the landholding would be limited without affecting other environmental constraints [6]. Moreover to seek to create a vehicular access for construction vehicles to the west of Bythorn would either mean that construction traffic would have to pass through the village or that it would use the hazardous Junction 15 crossroads on the A14 [300], neither or which are likely to be preferable to the access arrangements for the appeal proposals.

561. The following conclusions have therefore been presented separately in relation to both the full 6 turbine scheme and a reduced scheme involving only the 3 western turbines (T1, T3 and T5).

The 6 turbine scheme

Landscape

562. The 6 turbine scheme would have significant adverse landscape effects when assessed against the WP SPD criteria and especially in relation to the impacts upon the setting of Bythorn and its (truncated) church spire and on the intimate scale of the small valleys to the north of Bythorn. They would create a new area of windfarm landscape and would dominate the setting of Bythorn in the landscape. They would also intrude on key views of the spire of Keyston church from the south west.

563. The WP SPD is an important material consideration in relation to landscape. Whilst it does not positively identify suitable areas for wind turbine development as encouraged in the Framework at paragraph 97, it usefully seeks to identify which landscape character areas are more or less suitable for wind turbine development of different types. That does not exclude the Northern Wolds LCA which is considered to have high capacity for a small group of up to 3 turbines and some (albeit 'very little') scope for more than one such group. It contains criteria that are useful in applying Policy CS 1 which is the most relevant adopted development plan policy. The SPD criteria are broadly consistent with Framework objectives and the PPG (RLCE). There are identified flaws in the Wind Turbine Development Report by Land Use Consultants that underpinned the WP SPD. In particular the final key conclusion of that report as to appropriate size for a turbine group in the Northern Wolds (2-3 turbines) does not directly follow from the earlier detailed analysis in the Report which indicated that up to 5 turbines might be acceptable. That matter influenced the Inspector for the Woolley Hill appeal when he allowed a development of 4 turbines within the Northern Wolds.

564. The 6 turbine scheme would be a still larger group which is not supported by either the WP SPD or that preceding WTD report. In relation to the disputed WP SPD detailed criteria (a), (b) and (d):

- (a) There would be significant harm to key views of Bythorn and Keyston church spires, contrary to the WP SPD guidance.
- (b) One turbine would be sited on a valley crest and it and other turbines would dominate the intimate valleys north of Bythorn, contrary in both respects to the WP SPD guidance.
- (d) The 6 turbines would not respect the settings of historic villages because they would dominate the scale and historic character of Bythorn in particular, and would have lesser but still adverse effects on the setting of the other 3 villages, contrary to the WP SPD guidance.
- There would also be only slight sequential adverse cumulative impacts with other existing and consented wind farm developments, however the SPD does not entirely preclude the development of more than one group of turbines within the Northern Wolds.

Visual Effects

565. The 6 turbine scheme would cause significant harm to visual amenity for recreational users of public rights of way, particularly to the north of Bythorn and also to a short stretch of public footpath near to turbine T3. There would also be significant harm to the visual amenity of residents and particularly those living on the north and west sides of Bythorn and the west side of Molesworth. There

would be lesser harm to those living further from the turbines on the north side of Keyston and in Northamptonshire. The occupiers of Warren Grange in Bythorn would experience the greatest harm due mainly to ever-present open views from most main room windows of turbines T2, T4 and T6, exacerbated by filtered views of T1, T3 and T5 in other directions. Whilst in other circumstances the nearest separation distance of 892m would be sufficient to avoid unacceptable harm, here the extra elevation of the turbines relative to the house and their spread across a wide field of view are aggravating factors such that Warren Grange alone would just fail the Lavender Test by becoming an unsatisfactory place to live.

Cultural Heritage Effects

566. In relation to the S66 duty concerning listed buildings, the 6 turbine scheme would result in just less than substantial harm to the setting of some listed buildings and in particular to the setting of Bythorn Church and Scotts Farmhouse. It would also result in some lesser harm to the setting and significance of Keyston Church and to the setting and significance of other listed buildings within the Bythorn Conservation Area. There would be minor harm to the setting and significance of Molesworth Church, and minor or negligible harm to the setting and significance of other listed buildings. Where harm to setting is identified, the setting would not be preserved and considerable weight and importance is to be accorded to that effect.

567. In policy terms the harm of the 6 turbines to the setting and heritage significance of Bythorn Church and Conservation Area (including Scotts Farm and other listed buildings within the conservation area) would again fall just short of substantial harm as defined in the Framework and the PPS5 Practice Guide. There would be some other lesser harm to the setting and heritage significance of the churches, conservation areas and other heritage assets of Keyston and Molesworth.

568. In both respects the identified harm does not necessarily preclude development but it requires that sufficient public benefit is identified to outweigh that and any other harm. Greater benefit would be needed where the harm is close to substantial than when it is minor.

Ecology Effects

569. The surveys indicate that there is some risk of collision of red kites with the turbines but that the numbers would not have a significant impact on the population. The impacts can be mitigated by measures that can be secured by condition. No other protected species are likely to be significantly affected but conditions should be imposed to update the species surveys before construction commences. In these circumstances the identified harm would not attract significant weight.

Noise Effects

570. The 6 turbine wind farm may result in some increases above current background noise levels in some conditions but should remain within the noise limits which ETSU-R-97 defines as acceptable. However, subject to the imposition of an ETSU compliant noise limit condition together with a Swinford type Other Amplitude Modulation paragraph to that condition, it would not cause

significant harm to residential amenity by reason of noise immissions at dwellings.

Benefits

571. The 6 turbine scheme would make an important contribution towards what the Secretary of State recently described as the 'very important' need for renewable energy to meet national targets and reduce greenhouse gas emissions. This would support the CS1 objective to maximise renewable energy and similar national policy objectives as well as a contribution to meeting the statutory 15% renewable energy target by 2020. The achievement of that target will be challenging and is not assured. The contribution of the scheme therefore merits considerable weight.

The 3 turbine scheme

Landscape Effects

572. The deletion of turbines T2, T4 and T6 would remove the adverse effect on the crest and the small valleys and would markedly reduce the adverse effect on the setting of the church spires and the villages, especially in Bythorn and to a lesser extent in the other 3 nearest historic villages. In relation to the SPD criteria:

- (a) There would be some harm to key views of Bythorn and Keyston church spires as the 3 turbines would sometimes appear in these views albeit usually set apart and to one side of the spires.
- (b) The 3 turbines would be generally compliant with the SPD criteria relating to hills, crests and valleys and would closely resemble a pictorial example of a suitable group which was included in the SPD and its underpinning report. That turbine T3 would be sited on lower sloping ground would not result in significant harm to the landscape.
- (d) The 3 turbines would be more respectful of the settings of historic villages owing particularly to their reduced number, particularly in views from the Keyston and the south, their setting to one side of Bythorn and Keyston in key views and the greater separation distances from Molesworth and Brington. This would accord more closely with SPD guidance that small turbine groups can be acceptable in the landscape of the Northern Wolds if set far enough from villages.

573. There would again be mainly sequential slight adverse cumulative impacts with other existing and consented wind farm developments, however the SPD does not entirely preclude more than one group of turbines within the Northern Wolds. The impact would be reduced by comparison with the 6 turbine group owing to the smaller scale of the development and the slightly greater separation from the Woolley Hill scheme, particularly for those travelling along the A14.

Visual Effects

574. Whilst a number of dwellings would still experience changes to their outlook which residents may consider to be adverse, neither Warren Grange nor any other dwelling would become an unsatisfactory place to live.

575. The effects on outlook from Molesworth would be much reduced to minor as no turbine would be within 2km of that village.

576. The number of turbines seen from Keyston would also be halved and their visual effects reduced to minor.

577. The visual impact on the most sensitive public rights of way including Warren Lane would be substantially mitigated in that no public rights of way would pass between the turbines. The close proximity of turbine T3 to a lightly-used public footpath would remain overbearing but would only be experienced for brief periods by a likely small number of users.

Cultural Heritage Effects

578. The 3 turbine scheme would result in some levels of harm to the setting of the listed buildings referred to above. However the harm would be much reduced. In particular it would have a negligible effect on the setting of Scotts Farmhouse and Molesworth Church and only minor harmful effects on the setting of Bythorn and Keyston Churches. Nevertheless, in S66 terms, where harm to setting is identified, the setting would not be preserved and the harm thus still merits considerable weight albeit that the harm would be significantly reduced compared to the 6 turbine scheme.

579. In policy terms the 3 turbine scheme would cause minor harm to the setting and significance of Bythorn Church, Bythorn Conservation Area, Scotts Farmhouse, Keyston Church and other heritage assets to the south and east of the development. In no case would this be substantial or close to substantial.

Ecology Effects

580. The surveys indicate that there is some risk of collision of red kites with the turbines but that the numbers would not have a significant impact on their population. The erection of 3 turbines rather than 6 should reduce the collision risk. The impacts can be mitigated by measures that can be secured by condition. No other protected species are likely to be significantly affected but conditions should be imposed to update the species surveys before construction commences. In these circumstances the identified harm would not attract significant weight.

Noise Effects

581. By comparison with the 6 turbine scheme the 3 turbine scheme would have noise impacts only within a reduced area. In particular it would result in reduced noise immissions on the east side of Bythorn and more especially in Molesworth. Subject to the imposition of an ETSU-compliant noise limit condition together with the addition of a Swinford type Other Amplitude Modulation paragraph to that condition, it would not cause unacceptable harm to residential amenity by reason of noise immissions at dwellings.

Benefits

582. The 3 turbine scheme would still make an important contribution towards the ‘very important’ need for renewable energy to meet national targets and reduce greenhouse gas emissions but would only generate half as much energy as the 6

turbine scheme, thereby halving the benefits, but still contributing towards national statutory targets. This merits considerable weight.

Overall Conclusions

583. The 6 turbine scheme would create the most renewable energy and thus the most associated environmental and economic benefits. Whereas noise and ecology effects and other minor matters could be controlled to an acceptable level by the application of conditions, the identified benefits must be weighed with: significant adverse landscape effects and associated conflict with the adopted WPD SPD including: excessive group size; slight adverse sequential cumulative landscape impacts; significant harm to visual amenity and especially to recreational users of public rights of way passing between the turbines, and to the occupiers of Warren Grange which would become an unsatisfactory place to live; a failure to preserve the setting of numerous listed buildings including just less than substantial harm to the setting of Bythorn Church and Scotts Farmhouse together with just less than substantial harm to the setting and significance of Bythorn Conservation Area and lesser harm to the setting and significance of other heritage assets. It is concluded that the cumulative harm to these interests would clearly outweigh the benefits.

584. Whilst the weight to associated conflict with relevant LP policies should be moderated according to their consistency with the Framework or otherwise, the 6 turbine development would overall be in conflict with relevant and overriding objectives of the more recent CS Policy CS 1. That policy is generally consistent with the Framework which adds to its weight. The 6 turbine proposal would thereby contravene the development plan and would not be a sustainable development in the terms of the Framework. For these reasons and having regard to all other matters it is recommended that the appeal should be dismissed in respect of the full 6 turbine scheme.

585. The 3 turbine scheme comprising only the 3 western turbines (T1, T3 and T5) would generate only half as much energy as the full 6 turbine scheme, with a commensurate reduction in the environmental benefits, but would still make an important contribution towards meeting statutory targets which merits considerable weight. Noise and ecology effects would be reduced compared to the 6 turbine scheme. These and other more minor matters could be controlled to an acceptable level by the application of conditions. The considerable benefits must nevertheless be weighed with other identified harm comprising: some (reduced) harm to the landscape in respect of key views to the spires of Bythorn and Keyston churches, contrary to Criterion (a) of the SPD (but otherwise in broad accordance with that guidance) and slight adverse sequential cumulative landscape effects when passing through the Northern Wolds; reduced and consequentially minor adverse visual effects, but including an overbearing visual impact of turbine T3 on one short stretch of lightly used public footpath; the failure to avoid all harm to the setting of the listed Bythorn and Keyston Churches and other listed buildings; some harm to the heritage significance of those buildings and of the Bythorn Conservation Area; and minor harm to the significance and setting of other heritage assets.

586. The 3 turbine scheme would consequently be in limited conflict with some objectives of CS Policy CS 1 but it would accord with another important objective of that policy to maximise opportunities for renewable energy. It would also

broadly accord in most respects with the SPD landscape guidance which seeks to give effect to the CS support for renewable energy whilst also protecting the landscape. Having regard also to the considerable weight to be accorded to any failure to preserve the setting of listed buildings, as required by S66 of the 1990 Act (which however should also be related to the degree of harm), it is concluded overall that the considerable benefits of the 3 turbine scheme do outweigh the identified harm and that this is a sustainable development in the terms of the Framework and in broad accordance with those development plan policies that are consistent with the Framework. Whilst the benefits are halved by comparison with the 6 turbine scheme, the degree of harm is reduced by more than half which tips the balance in favour of issuing a split decision and it is recommended that the 3 turbine scheme be allowed.

Recommendation

587. For the above reasons and having regard to all other matters raised, I recommend that the appeal be dismissed in respect of turbines T2, T4 and T6. However the appeal should be allowed in respect of: the erection of 3 x three bladed horizontal axis wind turbines (T1, T3 and T5), 126m high to blade tip with associated infrastructure including: new vehicle access, on-site access tracks, foundations, external transformers (if required), crane hardstanding areas, one permanent anemometry mast, one temporary anemometry mast, temporary construction compound, control building and compound and underground cabling, and subject to the conditions set out in the attached schedule.

R P E Mellor

INSPECTOR

Schedule of Conditions

The Scope of the Permission

1) The development hereby permitted shall begin not later than three years from the date of this decision. Written confirmation of the commencement of development shall be provided to the Local Planning Authority no later than one week after the event.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

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.

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

3) The development hereby permitted shall be carried out in accordance with the following approved plans:

60156409/FIGURE 1 Planning Application Boundary

60156409/FIGURE 2 Proposed Site Layout Plan

60145824/FIGURE 3 Proposed Site Access

And development shall not commence until the following additional details with drawings have been submitted to and approved in writing by the local planning authority:

Turbine Elevation

Transformer Kiosk

Control Building and Compound

Construction Compound

Reason: In the interest of certainty as to what is permitted and because some submitted drawings are annotated as only illustrative

Site Restoration

4) Not later than 12 months before the expiry of the 25 year period referred to in condition 2, a decommissioning and site restoration scheme shall be submitted to the Local Planning Authority for its written approval. 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, hardstandings and access tracks. 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 either the expiry of the 25 year

period referred to in condition 2 or the Local Planning Authority's approval of the scheme, whichever is the later.

Reason: To ensure the development is decommissioned and the site restored at the expiry of the permission

5) If any wind turbine hereby permitted ceases to export electricity to the grid for a continuous period of 9 months, a scheme for the repair or removal of that turbine shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 9 month period. 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 and the removal of the turbine foundation to a depth of at least 1 metre below ground and for site restoration measures following the removal of the relevant turbine. The scheme shall thereafter be implemented in accordance with the approved details and programme.

Reason: To ensure the development is decommissioned and the site restored at the expiry of the permission

Construction Method Statement

6) No development shall commence on site until a construction method statement (CMS) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved CMS. The CMS 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) Dust management;

d) Pollution control: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;

e) Temporary site illumination during the construction period;

f) Details of the proposed storage of materials and soils and disposal of surplus materials;

g) Details of timing of works;

h) Details of surface treatments and the construction of all hard surfaces and tracks, including routing of onsite cabling;

i) Details of emergency procedures and pollution response plans;

j) Siting and details of wheel washing facilities and details of when they will be used;

k) 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;

l) A site construction environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats;

m) Details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound and the temporary narrowing of the surface of the access tracks following construction and prior to their re-use to dismantle the turbines ;

n) Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009;

o) Details of safety arrangements for crossing public rights of way and bridleways during construction; and

p) Areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles.

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

Construction Hours

7) Construction work shall only take place between the hours of 0700 – 1900 hours Monday to Friday inclusive and 0700 – 1300 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 in 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) where they concern dust suppression.

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

8) The delivery of any construction materials or equipment for the construction of the development, other than turbine blades, nacelles and towers and crane components, shall only take place between the hours of 0700 – 1900 on Monday to Friday inclusive, or 0700 to 1300 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 abnormal loads including turbine blades, nacelles and towers and crane components, may take place outside these hours, subject to not less than 2 working days prior notice of any such deliveries and the associated traffic movements being given to the Local Planning Authority in writing.

Reason: In the interests of minimising disturbance to local residents during the construction process

Highways

9) No development shall commence on site until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP 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 in the CTMP. 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 approved CTMP shall be carried out as approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety

10) No development shall commence on site until the details of the site access and the timetabling of the works to provide the site access have been submitted to and approved in writing by the Local Planning Authority. The site access shall be constructed in accordance with the approved details and timetable.

Reason: To ensure a satisfactory means of access is provided and maintained in the interests of highway safety

Blade Rotation

11) The blades of the wind turbines hereby permitted shall rotate in the same direction. The overall height of the wind turbines shall not exceed 126m 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.

Reason: In the interests of the character and appearance of the area

Micro-Siting

12) The turbines and meteorological mast hereby permitted shall be erected at the following grid co-ordinates[100]:

Turbine	Easting	Northing
1	505415	277407
2*	506320	277074
3	504784	277068
4*	505812	276979
5	505276	276922
6*	506499	276702

Meteorological Mast – E 504676 N 276898

Notwithstanding the terms of this condition but subject to the restriction set out below, the wind turbines and other infrastructure hereby permitted may be micro-sited within 30 metres of the above-mentioned gird co-ordinates. A plan showing the as built 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.

[100] *Delete references to T2, T4 and T6 if only turbines T1, T3 and T5 are included in the planning permission

The restrictions which apply to this condition are as follows:

- Turbines [T4*], T5 and [T6*][101] shall not be micro-sited in any direction so that the turbines shall be taken closer to the villages of Bythorn and Molesworth.
- The turbines hereby permitted shall not be micro-sited in any direction so that the turbine bases shall be sited closer than 200m from any bridleway or byway (measured from the centre of each base to the edge of the bridleway or byway).
- The turbines hereby permitted shall not be micro-sited in any direction so that the turbine blade tips shall oversail any public footpath.
- The turbines hereby permitted shall not be micro-sited in any direction so that the separation distance between each turbine and the nearest feature of ecological interest (which shall mean any tree or hedgerow) within the site to the relevant turbine is less than 50m (measured in accordance with Natural England Technical Information Note TIN051: Bats and onshore wind turbines).

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

Colour and Finishes

13) No wind turbine shall be erected until, 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 required to meet health and safety requirements. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area

Design Details

14) The construction of the substation building shall not commence until 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 have been submitted to and approved in writing by the Local Planning Authority. The development of the substation building and any associated compound or parking area shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area

15) All electrical cabling between the individual turbines and between the turbines and the substation building on the site shall be installed underground. No cabling shall be laid except alongside the approved access tracks unless a scheme has been submitted to and approved in writing by the Local Planning Authority and such works shall only be carried out in accordance with the approved scheme.

[101] *Delete references to T4 and T6 if only turbines T1, T3 and T5 are included in the planning permission.

Reason: In order to ensure a satisfactory appearance in the landscape and to ensure ecological impacts are acceptable

16) There shall be no permanent illumination on the site other than lighting required during the construction period (as approved through the CMS referred to in condition 5), lighting required during planned or unplanned maintenance or emergency lighting, a movement sensor-operated external door light for the substation building door to allow safe access, and aviation safety lighting as provided for by another condition of this permission. The development shall be carried out in accordance with the approved scheme.

Reason: In order to prevent unnecessary light pollution

Ecology

17) No development shall take place until a specification for protected species surveys has 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 be 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.

Reason: In the interests of nature conservation and to safeguard protected species

18) No development shall take place until a specification for checking surveys for nests of breeding birds on the site to be carried out by a qualified ecologist has been submitted to and approved in writing by the Local Planning Authority. The specification shall include the methodology for the surveys and include checks for species listed under Schedule 1 of the Wildlife and Countryside Act that may be nesting in areas adjacent to the site. The specification shall include a timetable for the commission of the checking surveys and the submission of a report detailing the results of the surveys. No site preparation and construction work shall commence until a report detailing the survey reports and identifying any mitigation measures required as a result of the surveys for any construction works or clearance of vegetation between 1 March and 31 August has been submitted to and approved in writing by the Local Planning Authority. The specification and mitigation measures shall be implemented as approved under the supervision of a qualified ecologist.

Reason: In the interests of nature conservation and to safeguard protected species

19) No development shall commence until an on-site Habitat Management and Enhancement Plan (HMEP), including a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The HMEP shall include (but not be limited to) details of the habitat management and enhancement measures contained in paragraphs 8.8.3, 8.8.21, 8.9.1 – 8.9.13, 9.11.5* and 9.11.7 of Volume 1 of the Environmental Statement (dated June 2012). The HEMP shall be implemented in accordance with the approved details and timetable.

*[9.11.5 not required if turbine T4 is not erected]

Reason: In the interests of nature conservation and enhancement

Shadow Flicker

20) No wind turbine shall be erected until a written scheme has 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 alleging shadow flicker effects to the Local Planning Authority from the owner or occupier of any dwelling (defined for the purposes of this condition as 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 permission. The written scheme shall include remedial measures to alleviate any effects of shadow flicker attributable to the development. Operation of the turbines shall take place in accordance with the approved scheme.

Reason: In the interests of amenity for nearby residents

Electro Magnetic Signals

21) No wind turbine shall be erected until a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to terrestrial television caused by the operation of the turbines has 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 (defined for the purposes of this condition as a building within Use Class C3 and C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission, where such complaint is notified to the developer by the Local Planning Authority within 12 months of the First Export Date. Where impairment is determined by the qualified television engineer to be attributable to the development, mitigation works shall be carried out in accordance with the scheme which has been approved in writing by the Local Planning Authority.

Reason: In the interests of amenity for nearby residents

Aviation

22) The developer shall provide written confirmation of the following details to the Local Planning Authority at least 1 month prior to the date of commencement of development:

a) final grid co-ordinates and tip height AOD of the wind turbines and meteorological mast;

b) proposed date for the commencement of development; and

c) the maximum extension height of any construction equipment.

Within 1 month of the First Export Date, the developer shall provide written confirmation of the following details to the Ministry of Defence, the Civil Aviation Authority and the Local Planning Authority:

a) as built grid co-ordinates and tip height AOD of the wind turbines and meteorological mast

b) date of completion of construction; and

c) the position of that structure in latitude and longitude.

Reason: In the interests of aeronautical safety

23) No development shall take place on site until a scheme of infra-red aviation obstruction lighting to be installed on all of the wind turbines has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and the lighting will remain operational until the respective turbine is decommissioned in accordance with condition 4.

Reason: In the interests of aviation safeguarding

Point of Contact

24) No development shall take place on site until the details of a nominated representative who is appointed to act as a point of contact for local residents in respect of the development, together with details of the procedure to be followed should the identity of the nominated representative need to change during the lifetime of the development, have been submitted to and approved in writing by the Local Planning Authority.

Reasons: In the interests of keeping local residents informed about the development

Noise

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:] Where any or all of the installed turbines require to be operated in noise constrained modes in order to meet the daytime noise limits at any given wind speed or wind direction, these same noise constrained modes shall be retained for the operation of the turbines under these same wind speed and wind direction conditions during all daytime hours and shall also be operated in the same mode under those same conditions of wind during night hours (2300-0700), unless otherwise required for reasons of maintenance, safety or grid requirements. In fulfilment of this condition the following notes (a) to (i) shall also be complied with:

(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, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component. 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; and

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 (including data logged on the fast setting and audio files [2 out of every 10 minutes]) to the Local Planning Authority 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.

(I) On the written request of the Local Planning Authority, following a complaint to it considered by the Local Planning Authority to relate to regular fluctuation in the wind turbine noise level (amplitude modulation), the wind farm operator shall at its expense employ an independent consultant approved in writing by the LPA to undertake a noise assessment in accordance with a scheme to be submitted to and agreed in writing by the LPA. In the event that the investigation confirms that the amplitude modulation is excessive according to the agreed assessment procedure then a scheme of mitigation, to be submitted to and approved in writing by the LPA, shall be put into effect on approval and subsequently retained for the life of this planning permission. The factors to be incorporated in the assessment and mitigation schemes are set out in Guidance Note 5.

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 - Noise level dB $L_{A90,\ 10\text{-minute}}$

Location (easting, northing grid coordinates)	Measured wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
	L_{A90} Decibel Levels									
20 Fayways (506636,278786)	35	36	37	39	42	44	46	48	49	49
Ash Tree Cottage (504311,275596)	45	46	47	48	49	50	50	51	52	52
Byways (505615,276075)	41	41	41	42	43	44	46	47	49	51
Clover Court (504243,275455)	40	41	42	43	45	45	45	45	45	45
Fieldbarn Farm (506987,279226)	35	35	36	37	39	41	43	46	48	51
Mill House (507143,276085)	41	41	41	42	43	43	45	46	47	48
Warren Grange (505623,276106)	46	46	46	47	47	48	48	48	48	48
Wood Lodge Farm (503362,277701)	46	46	46	47	48	50	52	54	55	57
Boundary House (504147,276555)	46	46	46	47	48	50	52	54	55	57
Coales Lodge (503415,277044)	46	46	46	47	48	50	52	54	55	57
Jolly Hills Farm (507009,276272)	41	41	41	42	43	43	45	46	47	48
Old Toll Bar House (505036,276244)	41	41	41	42	43	44	46	47	49	51
15 Toll Bar Lane (504798,275654)	44	46	47	48	49	49	50	50	50	52

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

Location (easting, northing grid coordinates)	Measured wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
	L_{A90} Decibel Levels									
20 Fayways (506636,278786)	43	43	43	43	43	45	46	46	46	46
Ash Tree Cottage (504311,275596)	43	43	43	44	45	47	49	50	52	53
Byways (505615,276075)	43	43	43	43	43	43	44	45	45	46
Clover Court (504243,275455)	43	43	43	43	43	43	43	43	44	46
Fieldbarn Farm	43	43	43	43	43	43	43	44	46	47

(506987,279226)										
Mill House (507143,276085)	43	43	43	43	43	44	46	46	47	47
Warren Grange (505623,276106)	43	43	43	44	45	46	47	47	47	47
Wood Lodge Farm (503362,277701)	43	43	44	46	48	49	50	51	52	52
Boundary House (504147,276555)	43	43	44	46	48	49	50	51	52	52
Coales Lodge (503415,277044)	43	43	44	46	48	49	50	51	52	52
Jolly Hills Farm (507009,276272)	43	43	43	43	43	44	46	46	47	47
Old Toll Bar House (505036,276244)	43	43	43	43	43	43	44	45	45	46
15 Toll Bar Lane (504798,275654)	43	43	43	44	45	47	49	50	52	53

Note to Tables 1 & 2: The geographical coordinate 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 wind speed at 10 metres height within the site refers to wind speed measured directly at 10 metres height.

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 degrees from north in each successive 10-minutes period at the permanent meteorological mast erected in accordance with the planning permission on the site. Unless an alternative procedure is previously agreed in writing with the Planning Authority, wind speed data measured directly at a height of 10 metres by the meteorological mast shall be used as the basis for the analysis. It is this 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 also 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 a suitable electronic format. All noise measurement data and audio files shall be presented as raw data files to enable further analysis.

(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 measured 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.

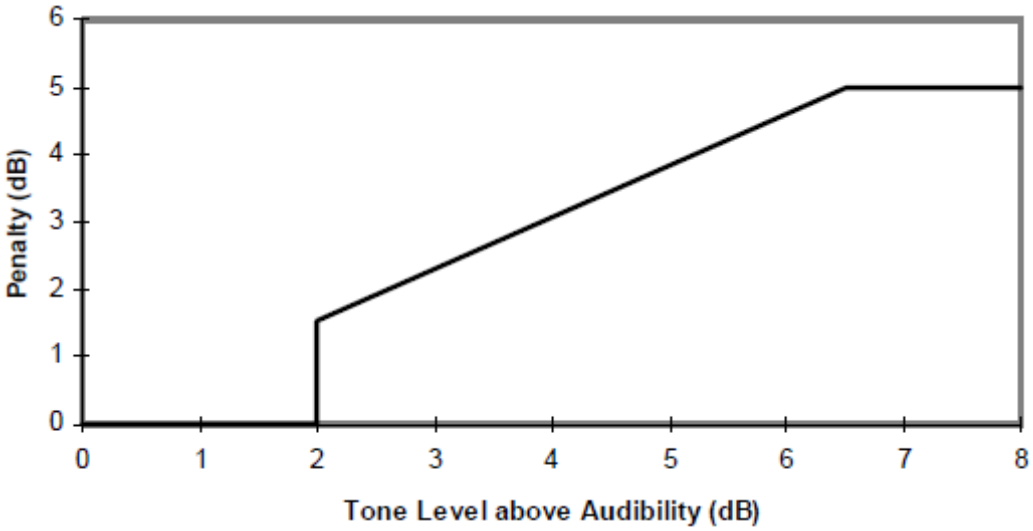
(b) For each 10-minute interval for which LA90,10-minute data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted 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 or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

(e) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



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.

Note 5

(a) Amplitude modulation (AM) is the periodic variation in the level of the aerodynamic noise created by the turbine, the frequency of the modulation (Hertz) being given by

(rotor rpm/60) x number of rotor blades).

(b) Paragraph I of the condition addresses the situation where the level of AM as perceived at a dwelling is judged to be a contributor to a complaint concerning noise. In the event that the local planning authority considers it to

be justified, paragraph I requires the wind farm operator to put forward a scheme for investigating and assessing the noise at a complaint location, and, if mitigation is shown to be necessary, a further scheme for mitigating the effects of AM.

(c) The investigation and assessment scheme shall take account of good practice and all information available at the time of the complaint relating to the assessment and control of the amplitude modulation of wind turbine noise.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms T Douglass	Of Counsel
She called	
Mr C Thompson MA (Cantab) MA CMLI	Landscape Officer, Huntingdonshire DC
Ms L Brown BSc (Arch) BArch MTP	Conservation Team Leader Huntingdonshire DC
Mr A Brand BSc (Hons) MA	Development Management Team Leader Huntingdonshire DC
Mr T Lewis BTEC HNC	Environmental Protection Team Leader, Huntingdonshire DC [participated in Conditions discussion and submitted written evidence on noise conditions but did not appear for formal presentation of evidence or cross examination]

FOR THE APPELLANT:

Mr D Hardy	Of Counsel and a Solicitor, Partner in Eversheds
He called	
Mr B Denney BA(Hons) DipLA CMLI CEnv MIEMA	Landscape Architect, Director of Pegasus Planning Group
Dr J Edis BA MA PhD MIFA IHBC	Heritage Consultant, Partner in Heritage Collective LLP
Mr D Bell Dip UD MRTPI MCIHT	Planning Consultant, Director Planning & Development - Jones Lang Lasalle
Dr S Percival BSc(Hons PhD MCIEEM	Ecology Consultant, Principal of Ecology Consulting
Mr S Arnott BSC(Hons) MSc MIOA	Acoustics Consultant, Principal Associate Consultant TNEI Services Ltd

FOR STOP MOLESWORTH WIND FARM ACTION GROUP:

Mr D Cocks	Of Queen's Counsel
He called	
Ms M Bolger CMLI DipLA BA PGCE BA	Landscape Architect, Senior Associate Gillespies LLP
Dr P Bratby BSc PhD	Retired Energy Consultant
Dr T Reed BA MA DPhil MBOU CBiol MSB	Ornithology Consultant

INTERESTED PERSONS OPPOSING THE DEVELOPMENT:

Mr A Ford	Chairman of Bythorn and Keyston Parish Council
Mr G Burn	Chairman of Brington and Molesworth Parish Council
Cllr M Baker	Member of Hunts DC – Ellington Ward
County Cllr S Bywater	Member Cambs CC – Sawtry and Ellington Ward
Cllr D Capp	Member of E Northants DC – Barnwell Ward
Mr J Hunt	Bythorn Resident

Mrs V Wood	Bythorn Resident
Mr C Wood	Bythorn Resident
Mr C Lambert	Bythorn Resident
Dr A Lambert	Bythorn Resident
Mrs M Tattersall	Bythorn Resident
Mr J Croke	Bythorn Resident
Ms Z Woods	Bythorn Resident
Mrs M Malt	Bythorn Resident
Mr K Adamson	Bythorn Resident
Mr I Churcher	Bythorn Resident
Mrs J Churcher	Bythorn Resident
Ms S Line	Bythorn Resident
Ms Lorna Lane-Ley	Bythorn Resident
Mr M Everett	Bythorn Resident
Mr D Hickey	Bythorn Resident
Mr N Edwards	Bythorn Resident
Mr A McEwan	Bythorn Resident
Ms P Scott	Bythorn Resident
Mr C Watters	Molesworth Resident
Ms S Scott	Molesworth Resident
Ms M Telford	Molesworth Resident
Ms J Ward	Molesworth Resident
Mr H Triance	Molesworth Resident
Mr W Ford	Keyston Resident
Ms J Rolfe	Keyston Resident
Mrs C McArthur	Keyston Resident
Mr D Woodward	Keyston Resident
Mr I Patterson	Keyston Resident
Mr J Watkinson	Brington Resident
Mr J Cutting	Brington Resident
Ms J Watkinson	Brington Resident
Mr S Bernstein	Titchmarsh Resident
Mr S Chobrzynski	Old Weston Resident

INTERESTED PERSONS SUPPORTING THE DEVELOPMENT:

Mr A Heath	Coordinator of Friends of the Earth, Northants
Mr T Wand	Thrapston Resident

Huntingdonshire DC Inquiry Documents

HDC/TD/1	Opening Statement for Huntingdonshire DC (HDC)
HDC/TD/2	Closing Statement for HDC
	Brand Summary
HDC/AB/1	
HDC/AB/2	Brand Proof
HDC/AB/3	Brand Rebuttal
HDC/AB/4	Draft Non Noise Conditions (HDC)
HDC/AB/5	Draft Micro-Siting Condition (HDC)
HDC/AB/6	RSPB Justification for Post Construction Ecology Monitoring (HDC)
HDC/AB/7	Natural England Justification for Post Construction Ecology Monitoring (HDC)
HDC/CT/1	Thompson Summary
HDC/CT/2	Thompson Proof
HDC/CT/3	Thompson Appendices
HDC/LB/1	Brown Summary
HDC/LB/2	Brown Proof
HDC/LB/3	Brown Appendices
HDC/LB/4	Inspection Report on Bythorn Church 1959
HDC/LB/5	English Heritage Comments on PPG Beta Version
HDC/LB/6	Places of Worship Listing Selection Guide – English Heritage
HDC/TL/1	Lewis Written Proof and appendices
HDC/TL/2	Renewable UK The Development of a Penalty Scheme for Amplitude Modulated Wind Farm Noise
HDC/TL/3	RenewableUK Template Planning Conditions for Amplitude Modulation
HDC/TL/4	RenewableUK Wind Turbine Amplitude Modulation Research (Extracts)
HDC/TL/5	Correspondence on draft Noise Condition 27 November to 12 December
HDC/TL/6	Revised draft noise conditions based on RenewableUK model

SMWFAG Inquiry Documents

AG/DC/1	Opening Statement for Stop Molesworth Wind Farm Action Group (SMWFAG)
AG/DC/2	Closing Statement for SMWFAG
AG/DC/3	Email from SMWFAG dated 7 January 2014 enclosing statement by RA Davis on AM Condition
AG1.1	Bolger Proof
AG1.2	Bolger Appendix 1
AG1.3	Bolger Appendix 2 Architech Photomontages (A3 format)
AG1.4	Bolger Appendices 3-12
AG1.5	Bolger Summary
AG3.1	Reed Proof
AG3.2	Reed Appendices
AG3.3	Reed Summary
AG3.4	Figure 9.2 Winter Raptoring Survey Results with roosts marked (AG1)
AG3.5	Extract from Raptors a field guide to survey and monitoring - Hardey et al (AG2)
AG3.6	Annotated Winter Raptor Survey Results (AG3)
AG3.7	Woolley Hill Appeal Decision Extracts (AG4)

AG4.1	Bratby Proof
AG4.3	Bratby Summary

Mr C Watter Inquiry Documents

CW1	Statement of Objection on Health Grounds with accompanying documents
CW2	Statement of Objection on Noise Grounds with accompanying documents
CW3	List of references dated 10 December 2013
CW4	Closing Statement – Noise (7 January 2014)

Appellant Inquiry Documents

RWE/DH/1	Opening Statement for RWE NPower Renewables Ltd (APP)
RWE/DH/2	Closing Statement for Appellant
RWE/DH/3	Eversheds Final Comments dated 13 January 2014 with Appendix 1 response to RUK research on Amplitude Modulation
RWE/BD/1	Denney Summary
RWE/BD/2	Denney Proof
RWE/BD/3	Denney Appendices
RWE/JE/1	Edis Summary
RWE/JE/2	Edis Proof
RWE/JE/3	Edis A3 Appendices
RWE/JE/4	Edis A4 Appendices
RWE/DB/1	Bell Summary
RWE/DB/2	Bell Proof
RWE/DB/3	Bell Appendices
RWE/SA/1	Arnott Summary
RWE/SA/2	Arnott Proof
RWE/SA/3	Arnott Rebuttal
RWE/SA/4	DBERR Salford Report
RWE/SA/5	Development of a wind farm noise propagation prediction model. Bass et al
RWE/SA/6	Aalborg Third International Meeting on Wind Turbine Noise Wind Farm Noise Precitions and Comparison with Measurements. Bullmore et al
RWE/SA/7	Low frequency noise from large turbines. Moller and Pedersen
RWE/SA/8	5th International Conference on wind turbine noise The variability factor in wind turbine noise. Cummings
RWE/SA/9	Numerical modelling of wind turbine aerodynamic noise in the time domain. Lee and Lee
RWE/SA/10	Comparison of predicted and measured wind farm noise levels and implications for assessments of wind farms. Evans and Cooper
RWE/SA/11	Mechanisms of amplitude modulation in wind turbine noise. Smith, Bullmore et al
RWE/SP/1	Percival Summary
RWE/SP/2	Percival Proof
RWE/SP/3	Percival Rebuttal

OTHER INQUIRY DOCUMENTS

1 List of Core Documents
2 Statement of Common Ground
3 Letter of Objection by Shailesh Vara MP dated 6 December 2013
4 Statement of Support by Mr P and Ms S Ledger forwarded by Shailesh Vara MP on 6 December 2013
5 Statement of Support by Mr A Heath Northants FoE
6 Statement of Support by Mr T Wand
7 Statement of Objection by Mr A Ford
8 Statement of Objection by Mr G Burn
9 Statement of Objection by County Cllr S Bywater
10 Statement of Objection by Cllr D Capp
11 Statement of Objection by Mr J Hunt
12 Statement of Objection by Mr C Wood
13 Statement of Objection by Ms V Wood
14 Statement of Objection by Mr C Lambert
15 Statement of Objection by Dr A Lambert
16 Statement of Objection and appendices by Mrs M Tattersall
17 Statement of Objection by Mr J Croke
18 Statement of Objection by Ms Z Woods
19 Statement of Objection by Mrs M Malt
20 Statement of Objection by Mr K Adamson
21 Statement of Objection by Dr I Churcher
22 Statement of Objection by Mrs J Churcher
23 Statement of Objection by Ms S Line
24 Statement of Objection by Ms Lorna Lane-Ley
25 Statement of Objection by Mr D Hickey
26 Statement of Objection by Mr N Edwards
27 Statement of Objection by Mr A and Mrs M McEwan
28 Statement of Objection by Ms P Scott
29 Statement of Objection by Ms S Scott
30 Statement of Objection by Ms M Telford
31 Statement of Objection by Mr H Triance
32 Statement of Objection by Ms P Peacock
33 Statement of Objection by Mr W Ford
34 Statement of Objection by Ms J Rolfe
35 Email note of oral statement at Inquiry by Mrs C McArthur
36 Statement of Objection by Mr S Bernstein
37 Statement of Objection by Mr N Frost
38 Statement of Objection by Mr M Horrell
39 Statement of Objection by Ms L Audigier
40 Statement of Objection by Mrs L Ford
41 Statement of Objection by Mr D Burnett
42 Statement of Objection by Mr H Malt

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.