



Department for  
Communities and  
Local Government

Mr Duncan Tilney  
Bond Dickinson Llp  
Ballard House  
West Hoe Road  
Plymouth  
PL1 3AE

Our Ref: APP/Z2830/W/15/3013875

23 June 2016

Dear Mr Tilney

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY MR TOM FROMANT  
AT LAND NORTH-EAST OF BUGBROOKE, KISLINGBURY, NORTHAMPTONSHIRE  
APPLICATION REFERENCE S/2014/1119/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Simon Hand MA, who made a site visit on 26 August 2015, into your client's appeal against the decision of South Northamptonshire District Council ('the Council') to refuse planning permission for a single wind turbine measuring up to 87m with ancillary equipment and associated infrastructure at land north-east of Bugbrooke, Kislingbury, Northamptonshire in accordance with application reference S/2014/1119/FUL.

2. On 3 February 2015 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 it raises important issues for the application of wind farm policy.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, but disagrees with his recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

**Policy and statutory considerations**

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

In this case the development plan consists of the saved policies of the 1997 adopted South Northamptonshire Local Plan and the adopted West Northamptonshire Joint Core Strategy Local Plan (Part 1) which was adopted in December 2014. The Secretary of State considers that the development plan policies of most relevance to this appeal are those set out in IR3, along with Joint Core Strategy policies S1, S10 and S11. It should be noted that the Inspector incorrectly refers to the West Northamptonshire Joint Core Strategy Policy S11 rather than Policy S10 when talking about the Council's sustainable development principles in IR4. As S11 is a policy dealing with low carbon and renewable energy, which explicitly deals with the location of wind energy proposals, the Inspector is incorrect when he states at IR5 that the Council's only directly applicable policies for wind turbines are to be found in the SPD.

5. Other material considerations which the Secretary of State has taken into account include National Planning Policy Framework ('the Framework'); the National Planning Practice Guidance ('the guidance') and the Written Ministerial Statement ('WMS') of 18 June 2015 which concerns wind farms.

### **Main Issues**

6. The Secretary of State considers that the main issues in this case are those identified by the Inspector at IR8.

#### *Impact of the proposal on the countryside*

7. The Secretary of State has carefully considered the Inspector's assessment of the impact of the proposal on the countryside at IR9-15.

8. The Secretary of State notes that the Inspector has examined the site from various viewpoints and shares his view that an 87m turbine would stand out in this relatively flat landscape, and that from the road between Kislingbury and Bugbrooke, and from the footpath to the east of Bugbrooke, the turbine would be prominent (IR10).

9. However, he further agrees that from even these close up views the turbine would not appear dominant given the open landscape with wide views all around, and that from further away distance would reduce its scale and impact (IR10). He agrees with the Inspector's view that the area around the site is typical of a gently undulating, working agricultural landscape where man-made intrusions such as flour mills, power lines, tall buildings and the motorway are easily accommodated, and that the proposed turbine would similarly be absorbed into the landscape (IR11).

10. For the reasons given at IR9-15, the Secretary of State agrees with the Inspector's assessment at IR15 that the proposed wind turbine does not harm the character and appearance of the countryside and is not an intrusive and alien feature. He considers that it is in accordance with the development plan and the Framework.

#### *Further issues raised by local objectors*

11. The Secretary of State notes the issues raised by local people and Chris Heaton-Harris MP, that the wind turbine would impact on the Grade II listed Northampton Express Lift Tower and on drivers on the M1 motorway (IR16). However, for the reasons given at IR16-17, he agrees with the Inspector that there would be no impact on the setting of the Northampton Express Lift Tower, and no impact on highway safety.

12. The Secretary of State notes the Inspector's comments in IR6 that the Council accept that the site is remote from any residential properties. He further notes that no evidence

was put forward to counter the appellant's noise evidence that establishes there would be no noise disturbance to local residents, and there is no evidence to counter the appellant's ecology report that establishes there would be no harmful impact on habitats or the nearby Site of Special Scientific Interest. For these reasons he agrees with the Inspector's conclusions that there is no evidence that the turbine would cause a noise nuisance or have a harmful impact on local habitats (IR23).

#### *The Written Ministerial Statement*

13. As the planning application was already in the system when the WMS was made, and the development plan does not identify suitable sites, the transitional arrangements of the Secretary of State's WMS dated 18 June 2015 apply. In such circumstances the WMS indicates an application can be approved where it 'has addressed the planning impacts identified by affected local communities and therefore has their backing'.

14. In the Inspector's judgement, the proposal has addressed all the reasonable concerns of local people and accordingly, he considers that to allow the appeal would not be contrary to the WMS. For the reasons given above, the Secretary of State considers that the siting of the turbine means that there are no impacts in respect of heritage assets, highway safety, noise and ecology. He considers that these elements are in accordance with the WMS.

15. However, although he agrees that overall the turbine does not harm the character and appearance of the countryside, he considers, for the reasons given at paragraph 8 above, that siting the turbine at this location would inevitably have a visual impact which would be apparent to local communities. He has carefully considered the representations on visual impact and other evidence before him in this case, and finds no evidence that local concerns about visual impact have been addressed, or that they are no longer present. He therefore concludes that the proposal does not have the backing of the local community in this respect. It is therefore contrary to the WMS.

#### **Conditions**

16. The Secretary of State has had regard to the Inspector's remarks on conditions at IR25-27, the schedule of suggested conditions in the IR and paragraphs 203 and 206 of the Framework and the Guidance. Save for suggested condition number 6, he is satisfied that the proposed conditions are reasonable and necessary and meet the tests of paragraph 206 of the Framework. He is not satisfied that suggested condition 6 is acceptable as it is unclear whether the proposed fund is intended to serve a planning purpose or whether it is reasonably related to the proposed development. In any event he does not consider that the imposition of the suggested conditions (whether or not including a condition in respect of the fund) would overcome his reasons for dismissing this appeal.

#### **Conclusions**

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out above, the Secretary of State concludes that the appeal proposal would be in accordance with the development plan. He has gone on to consider whether there are any material considerations which indicate that the appeal should be decided other than in accordance with the development plan.

18. The Secretary of State considers that the proposal is in accordance with national policy as set out in the Framework. He attaches significant weight to the contribution of the scheme in tackling climate change. The benefits include an estimated 1640MWh/yr, the

equivalent of the energy consumption of 313 Northamptonshire homes or the saving of 705 tonnes of CO<sub>2</sub> a year. He also agrees with the Inspector that the proposal offers economic benefits to the appellant and would secure the long term future of the agricultural business and contribute to the local economy (IR24). The Secretary of State attaches limited weight to these benefits. He gives no weight to the proposed community fund of £5000 a year.

19. However, the Secretary of State has concluded that in terms of visual impacts the proposal is not in accordance with the WMS of 18 June 2015. This indicates that applications can be approved where they have addressed the planning impacts identified by affected local communities and therefore have their backing. In the circumstances of this case the Secretary of State concludes that the conflict with the WMS is a material consideration which indicates that the appeal should be decided other than in accordance with the development plan. He has therefore decided to dismiss the appeal and refuse planning permission.

### **Formal decision**

20. For the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your appeal and refuses planning permission for a single wind turbine measuring up to 87m with ancillary equipment and associated infrastructure in a field north-east of Bugbrooke, Kislingbury, Northamptonshire in accordance with application reference S/2014/1119/FUL dated 7 July 2014.

### **Right to challenge the decision**

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

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

Yours sincerely

*Maria Stasiak*

**Maria Stasiak**

Authorised by the Secretary of State to sign in that behalf

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# **Report to the Secretary of State for Communities and Local Government**

**by Simon Hand MA**

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

**Date: 1 March 2016**

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**Town and Country Planning Act 1990**

**Appeal by Mr Tom Fromant**

**South Northamptonshire District Council**

Site visit made on 26 August 2015

Land North-East of Bugbrooke, Kislingbury, Northamptonshire

File Ref: APP/Z2830/W/15/3013875

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## **Appeal Ref: APP/Z2830/W/15/3013875**

### **Land North-East of Bugbrooke, Kislingbury, Northamptonshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Tom Fromant against the decision of South Northants District Council.
- The application Ref: S/2014/1119/FUL, dated 11 July 2014, was refused by notice dated 27 October 2014.
- The development proposed is a single wind turbine measuring up to 87m with ancillary equipment and associated infrastructure.

### **Summary of Recommendation – The appeal be allowed**

#### **Procedural Matters**

1. The appeal was recovered for determination by the Secretary of State on 3 February 2015 because it gave rise to important issues for the application of wind farm policy.

#### **The Site and Surroundings**

2. A single turbine is proposed with a blade tip height of 87m. It would stand in fields to the south of the M1 just to the east of a minor road running from Kislingbury to Bugbrooke. A full description is given in the landscape consideration below.

#### **Planning Policy**

3. The Council's local plan was adopted in 1997 and is now considerably out of date. The Council mention four policies from the local plan, G2, G3(A), EV1 and EV2. Policy G2 restricts development to local towns and G3A is concerned with development being compatible with the scale of the locality. EV1 is a general design policy and EV2 states that planning permission will not be granted for development in the countryside, but says "*although exceptions may include....*" but the list does not include wind turbines. In my view none of these policies are directly relevant to wind turbines and the Council appeared to recognise this when they drew up their own "Wind Turbines in the Open Countryside" supplementary planning document in 2010. Paragraph 5.4 of this says that the Council will support renewable energy developments if a number of requirements are met; these include the effect on landscape character. It also requires the energy benefits to be given significant weight. Paragraph 17.5 has site selection criteria including landscape capacity and closeness to dwellings.
4. The West Northamptonshire Joint Core Strategy is dated December 2014 and so is very much up to date. Objective one encourages renewable energy, but policies S1 and S11 are quoted in the reason for refusal. S1 is a general distribution of development policy which suggests any development in the countryside would be limited. S11 sets out the Council's sustainable development principles for development proposals. As such it is also not directly related to wind turbines but does require a development to maximise the generation of its own energy needs from "renewable or low carbon sources".

5. In my view until a new local plan is drawn up the Council's only directly applicable policies for wind turbines are to be found in the SPD and these encourage wind turbines as long their impact on the landscape is acceptable, along with other matters not relevant to this appeal. This is in accord with the Framework, which lists development of renewable energy as one of the core planning principles in paragraph 17 and in section 10 is strongly supportive of renewable energy proposals "as long as the impacts are (or can be made) acceptable" (paragraph 98).

### **Matters of Agreement Between the Parties**

6. The Council accept that the site is remote from any residential properties and nothing has been put before me to counter the appellant's noise evidence that establishes there would be no noise disturbance to local residents. Similarly there is no evidence to counter the appellant's ecology report which establishes there would be no harmful impact on habitats or the nearby Site of Special Scientific Interest. The Council accept there would be no impact on heritage assets and no distraction to drivers on the M1.
7. All these issues are disputed by third parties.

### **The Main Considerations**

8. In my view there are two main considerations, firstly the impact of the proposal on the countryside and secondly whether the proposal meets the requirements of the Written Ministerial Statement (WMS) "Giving Local People the Final Say over Onshore Windfarms", published on 18 June 2015.

### **Impact of the proposal on the Countryside**

9. The appellant has provided a detailed Landscape and Visual Impact Assessment (LVIA). This identifies the site as lying in the Bugbrooke and Daventry Landscape Character Area (LCA), and close to the Nene-Weedon Bec to Dunston Mill LCA. Essentially this landscape is rural, with gently undulating fields broken by hedgerows and scattered trees. In the distance are taller hills to the north and south. The area is also settled with numerous villages and agricultural buildings, as well as the town of Northampton lying beyond the M1 to the north within 5km of the site. The countryside is attractive and I saw it looking close to its best on a sunny afternoon with fields of ripening corn surrounding the appeal site. However, the M1 and the large concrete structures at Bugbrooke Mill are dominant features, as well as a new housing estate on the edge of Bugbrooke close to the site and the large and intrusive buildings of the school nearby. There are no other turbines visible in the immediate area, but the tops of a group of turbines can be seen some distance away above the hills to the north. There are two other 24.5m turbines to the south, but these were not readily visible in views from beyond the site, and so the four that have been granted consent at 'The Old Wilds' and 'Harefield Farm' are unlikely to be seen as they too are below 25m in height and lie roughly the same distance away in the same direction.
10. Photomontages have been provided by the appellant and I was able to see the landscape in views from the same vantage points on the site visit. It was immediately obvious that an 87m turbine would stand out in this relatively flat landscape. From the road between Kislingbury and Bugbrooke (near to viewpoint 1) and from the footpath to the east of Bugbrooke (viewpoint B) the turbine

would be prominent. However, from even these close up views (about 400m from the site), the turbine would not appear dominant set as it would be in this open landscape with wide views all around. From the viewpoints further away, such as on the edge of the housing in Bugbrooke (viewpoint C) or from the bridges over the M1 (viewpoint A) and the canal (not a viewpoint) the turbine would be noticeable, but distance would already have reduced the scale and impact. From the higher ground to south and north it might be possible to see the turbine, but this would be in distant views and mostly against the backdrop of the surrounding land, rather than cutting the horizon.

11. I note there are no special designations protecting the area but this does not mean that anything is permissible. Nevertheless, there is clearly a difference between being able to see a turbine, which is inevitable in all cases, and such views being harmful. The latter depends on the quality of the landscape within which the turbine is seen, how capable it is of absorbing the impact of the turbine and how sensitive it is to change and intrusion. In my view the area around the site is typical of a gently undulating, working, agricultural landscape, where man-made intrusions such as the flour mills, power lines, tall buildings and the motorway are all easily accommodated. The proposed turbine would similarly be absorbed into the landscape.
12. This is the same view that the LVIA came to, whereby the landscape was assessed as of medium sensitivity to change and the effect of the turbine as "at worst moderate". Relatively few visual receptors would have a close up view of the turbine and the impact would diminish rapidly with distance, especially as many views would be screened by the numerous hedgerows and tree-belts in the area. I agree with this assessment.
13. The Council argue that the field where the turbine would be located makes an important contribution to the rural setting of Bugbrooke and that the turbine would be intrusive in the countryside beyond the M1 which forms an established development barrier. I agree that the fields between Bugbrooke and Kislingbury are important for their rural setting, but I do not see why a single turbine should have a negative impact on that setting. They are still quite clearly rural villages separated by open fields. Similarly whilst the M1 operates as an effective development barrier, that does not mean that no buildings or structures can be erected beyond it, otherwise the housing estate in Bugbrooke would not have been allowed. Nor do I consider that wind turbines can be considered to be 'alien features' in the countryside. In many parts of the Country they are a numerous and typical rural development. I note that the area around the appeal site has a number of smaller turbines and several of a similar or larger size further away, so turbines are not novel or unusual in the wider area.
14. There was considerable concern amongst those who objected to the proposal about the setting of a precedent and a fear that there would inevitably be more turbines allowed. One objector thought the proposal itself was for several turbines. There is no reason why allowing one turbine should encourage others to be allowed as each case has to be looked at on its merits. Indeed there is a strong argument that adding another turbine in a different location would be more harmful due to the cumulative impact on the landscape and its capacity to absorb more than one turbine, but that would be a matter for the decision maker in any future case.



15. In my view the proposed wind turbine does not harm the character and appearance of the countryside and is not an intrusive and alien feature. It is thus in accord with the Council's SPD on wind turbines and the Framework.

### **Further Issues Raised by Local Objectors**

16. Further issues raised by local people and Chris Heaton-Harris the local MP include the impact of the proposal on the listed Northampton Express Lift Tower and on drivers on the M1. The Express Lift Tower is a tall structure, located in Northampton roughly 5.5km away from the site measured in a straight line. It is a massive concrete tower designed for testing lifts and stands 127m tall. However, from the site it is only visible as a very distant structure. The Council considered its significance lay in its uniqueness as a built structure and its wider landscape setting was not considered to make an important contribution to its heritage significance. In my view there would be little or no visual relationship between the two structures and no impact on its setting.
17. The relevant highway authority has raised no objection to the turbine which would stand about half a kilometre to the south of the motorway. There is no evidence that wind turbines are a distraction to drivers. The nearest junction is several kilometres away and the M1 is straight with good visibility in both directions. In my view the proposal would have no impact on highway safety.

### **The Written Ministerial Statement**

18. Both parties have commented on the Written Ministerial Statement (WMS) "Giving Local People the Final Say over Onshore Windfarms", published on 18 June 2015. As the application was made before the WMS the transitional arrangements should apply. These state that *"In such instances, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing"*.
19. The Council argue the site is not in an area that has been identified as being suitable for wind energy and does not have the backing of local people. The appellant argues, in essence that the WMS is unlawful as it attempts to provide a blanket ban on onshore windfarms irrespective of adopted local policies and that a similar approach was found to be unlawful in the case of *West Berkshire DC v DCLG [2015] EWHC 2222 (Admin)*, which dealt with the WMS on affordable housing contributions. However, a recent judicial review of the windfarm WMS has failed and there is to be no appeal. Therefore the WMS should be given full weight as an up to date statement of government policy.
20. However the transitional arrangements require the decision maker to approve the application only where it *"has addressed the planning impacts identified by affected local communities and therefore has their backing"*. In this case I consider the appeal proposal does address the planning concerns of the local community. As I concluded above it would not cause any significant harm to the local landscape and I and the Council agree that it would cause no other harm. Whether it has local backing is a difficult matter to gauge. In terms of simple numbers four local people, Bugbrooke PC and the local MP objected at application stage. Of those objections several were because of concerns over noise or traffic or matters not relevant to the appeal such as the reliability of wind turbines or

the relatively small contribution it would make to the UKs renewable energy targets as a whole. One also assumed more than 1 turbine was involved.

21. At the same time 7 local people sent letters of support and Kislingbury PC had no objection. The objectors tended to live closer to the site than the supporters, but none of the supporters were more than 8 miles away, and so would all have the potential to be affected by the turbine. In particular the Parish Council for Kislingbury, in whose area the site is located withdrew their opposition and so could be said to be tacit supporters. No-one wrote at appeal stage.
22. The PPG at paragraph 033 says that "Whether the proposal has the backing of the affected local community is a planning judgement for the local planning authority". It is my planning judgment that the proposal has addressed all the reasonable concerns of local people and, given the number of letters of support and the lack of opposition from the local Parish Council it does have local backing. Therefore to allow the appeal would not be contrary to the WMS.

### **Conclusions**

23. It is my conclusion that the proposed turbine would not harm the countryside. There is no evidence that it would cause a noise nuisance or have a harmful impact on local habitats. It would not harm the setting of the Northampton Express Lift nor cause a distraction to drivers on the M1. It should not set a precedent to allow other turbines. Finally I consider it is in accord with the WMS on onshore wind farms.
24. If the Secretary of State is minded not to agree with these conclusions he will need to balance any harm against the proposed benefits. These include an estimated 1640MWh/yr, the equivalent of the energy consumption of 313 Northamptonshire homes or the saving of 705 tonnes of CO2 a year. Income for the appellant, who is a local farmer, will secure the long term future of the agricultural business and contribute to the local economy. A community fund of £5000 a year will be made available to Kislingbury Parish Council.

### **Conditions**

25. The recommended conditions are in Annex A below. Those designed to limit the permission to the plans and the wind turbine to 25 years, to require its removal after that period, to control the exact size of the tower and blades and to control the decommissioning process reflect a standard approach designed to protect the character and appearance of the area in the longer term when such sources of renewable energy may not be needed. A condition preventing site clearance from taking place during bird nesting season is reasonable and I agree with the appellant that should run from 1 March to 1 August.
26. The MoD required aviation lighting to be provided but I agree this can be timed to be prior to the erection of the turbine itself not before any development on site commences. The suggested condition dealing with lengthy periods of downtime seems perfectly adequate. The appellant suggests that what constitutes reasonable grounds for an extension of time beyond the 12 month limit should be specified in the condition itself, but I consider this would make it more onerous and unhelpful as a general provision for any alteration is included in the wording.
27. I agree that three conditions concerning access to the site by HGVs carrying the turbine parts and permanent visibility splays are excessive for a single turbine.

This can all be dealt with in the traffic management plan. I do not think specific examples of when working or delivering parts outside of hours should be included in the working time or parts delivery conditions as they include an opportunity to agree any such times with the Council within their wording. Conditions regarding illumination, colour and finish of the turbine and underground cabling are also required. Six noise conditions were also suggested and are necessary to protect residential amenity. Finally a condition requiring the community fund to set up is required.

### **Recommendation**

28. I recommend that the appeal is allowed and planning permission is granted for a single wind turbine measuring up to 87m with ancillary equipment and associated infrastructure at Land North-East of Bugbrooke, Kislingbury, Northamptonshire, in accordance with the terms of the application, Ref: S/2014/1119/FUL, dated 11 July 2014, subject to the conditions in Annex A.

*Simon Hand*

Inspector

## **Annex A – 21 Recommended Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 14-05-15 Location Plan\_MGE63 V1; 14-05-15 Block Plan\_MGE63 V1; Enercon E53 elevation drawings; 14-07-04 Switchgear Plan\_MGE63 V1.
- 3) This permission shall enure for a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid ("First Export Date"). Written notification of the First Export Date shall be given to the Local Planning Authority no later than 14 days after the event.
- 4) All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being from 1 March until 1 August inclusive.
- 5) The turbine hereby approved shall not be erected until a scheme for the provision of Ministry of Defence accredited aviation lighting for the turbine has been submitted to and approved in writing by the Local Planning Authority. Aviation lighting shall be carried out in accordance with the approved scheme.
- 6) Generation of electricity from the turbine hereby granted approval shall not begin until a scheme to facilitate the local community fund has been agreed in writing with the local planning authority. The agreed scheme shall enure for the lifetime of the turbine.
- 7) The Appellant/developer shall provide written confirmation of the following details to the Local Planning Authority, not less than 42 days prior to the commencement of development on site:
  - i) Proposed date of commencement of the erection of the turbines;
  - ii) the maximum extension height of any construction equipment; and
  - iii) the latitude and longitude of the turbine

The turbine hereby approved shall not be erected until this confirmation has been given.

- 8) No later than 12 months prior to the end of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the wind turbines and associated above ground works approved under this permission and details of the depth to which the wind turbine foundations will be removed. The scheme shall also include the management and timing of any works and a traffic management plan to address potential traffic impact issues during the decommissioning period, location of material laydown areas, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats and details of site restoration measures. The approved scheme shall be fully implemented within 12 months of the expiry of this permission, unless an alternative timescale is first agreed in writing with the Local Planning Authority.

- 9) If the wind turbine generator hereby permitted ceases to export electricity to the grid for a continuous period of 12 months, unless otherwise agreed in writing with the Local Planning Authority, then a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 12 month period for the repair or removal of that turbine. The scheme shall include, as relevant, a programme of remedial works where repairs to the relevant turbine are required. Where removal is necessary the scheme shall include similar details to those required by condition 8 above and shall thereafter be implemented in accordance with the approved details and timetable.
- 10) No development shall take place until a Construction and Traffic Management Plan 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 Statement, subject to any variations approved in writing by the Local Planning Authority. The Construction Method Plan shall address at least the following matters:
- (a) details of the phasing of construction works;
  - (b) details of the construction of temporary and permanent access arrangements to the site;
  - (c) Traffic Management Plan;
  - (d) details of the construction and surface treatment of hard surfaces and tracks;
  - (e) details of the proposed storage of materials;
  - (f) dust management, including the siting and details of wheel washing facilities;
  - (g) details of the proposed temporary site compound for storage of materials, machinery (including areas designated for car parking), if applicable;
  - (h) 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 and mud on the highway;
  - (i) pollution control, protection of water courses, bunding of fuel storage areas, surface water drainage, flood risk, sewage disposal and discharge of foul drainage;
  - (j) details and timetable for post construction restoration/reinstatement of the temporary working areas;
  - (k) noise and vibration during construction; and
  - (l) storage and disposal of excavated material.
- 11) Prior to the erection of the wind turbine hereby approved, details of the colour and finish of the tower, hub and blades and any external transformer units/cabinets, 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 turbine or any external cabinets other than those required to meet statutory health and safety requirements. The approved

colour and finish of the wind turbine and any external cabinets shall be implemented prior to the turbines becoming operational and shall not be changed without the prior consent in writing of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

- 12) All construction and decommissioning works shall only take place between the hours of 07:00 to 19:00 Monday to Friday inclusive and 08:00-13:00 Saturdays. No construction or decommissioning works shall take place on a Sunday or a Public Holiday. Exceptions for work outside these hours, including turbine erection because of weather dependence, may be carried out only with the prior written approval of the Local Planning Authority. Emergency works may be carried out at any time provided that the operator retrospectively notifies the Local Planning Authority in writing of the emergency works undertaken within 24 hours.
- 13) The delivery of any construction materials or equipment for the construction of the development, other than turbine blades, nacelles and towers, shall be restricted to the hours of 07:00 to 19:00 on Monday to Friday inclusive, 08:00 to 13:00 on Saturdays with no such deliveries on a Sunday or Public Holiday unless otherwise approved in writing by the Local Planning Authority having been given a minimum of two working days' notice of the proposed delivery.
- 14) All electrical cabling shall be installed underground only.
- 15) There shall be no permanent illumination on the site other than a passive infra red operated external door light for the substation building door to allow safe access; temporary lighting required during the construction period or during maintenance; or emergency lighting; and infra-red aviation lighting.
- 16) Only the approved single wind turbine ENERCON 5-53 shall be installed and operated at the site. Any subsequent replacement, repair or modification to this equipment which will affect its rated noise output, as measured in accordance with the latest edition of IEC 6140-11, such that it is likely to exceed the noise limit in condition 17 at the nearest noise sensitive dwellings will be notified to the local planning authority prior to the works taking place and their written approval obtained for such works.
- 17) The rating level of noise from the wind turbine (including the application of any tonal penalty), when determined in accordance with the "Guidance Notes" (obtainable from the Local Planning Authority) and procedures detailed ETSU-R-97, shall not exceed 35 dB(A) up to wind speeds of 10m/s at 10m height at any time.
- 18) Within 28 days from receipt of a written request from the Local Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind turbine operator shall, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise emissions from the wind turbine at the complainant's property in accordance with the procedures described in the "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 if possible, any information they may have on identified, atmospheric conditions, including wind direction, and, if possible, 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.

- 19) The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Local Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the "Guidance Notes" where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (c) of the "Guidance Notes", and such others as the independent consultant considers likely to result in a breach of the noise limits.
- 20) The wind turbine operator shall continuously log power production, wind speed and wind direction, all in accordance with the "Guidance Notes". These data shall be retained for a period of not less than 24 months. The wind turbine operator shall provide this information in the format set out in the "Guidance Notes" to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.
- 21) In the event that any of the noise conditions 16, 17, 18, 19 and 20 are not met then the wind turbine operator shall within 28 days propose a scheme to the Local Planning Authority to mitigate any breaches and prevent their future occurrence. The scheme shall specify the timescale for implementation. If the scheme is approved by the Local Planning Authority it shall be implemented in accordance with the approved timescale. If the scheme is rejected by the Local Planning Authority, then the wind turbine operator shall revise the scheme and resubmit it within seven days for approval, and the approved scheme shall be implemented.