



*Real value in a changing world*

Section 78 Town & Country Planning Act 1990

**BEL/DB/4**

PINS Ref: APP/Z2830/A/11/2165035

Rebuttal Proof of Evidence of

**David C Bell BSc (Hons) DipUD MRTPI MCIHT**

In respect of an Application under Section 78 of the Town & Country Planning Act 1990 for the erection of and 25 year operation of five wind turbines and associated infrastructure and services, at Spring Farm Ridge, on land to the north of Welsh Lane between Greatworth and Helmdon

in relation to:

**Footpaths and micro-siting provisions**

prepared for

**Broadview Energy Developments Limited**

September 2013



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# 1 Rebuttal

## 1.1 Scope

1.1.1 Following the evidence submitted by Richard Hall on behalf of the Council, and for the purpose of clarity, I set out in this Rebuttal Proof of Evidence, the Appellant's position in relation to public rights of way (PRoW) with particular reference to:

- the agreed Statement of Common Ground (SoCG) between the Council and the Appellant;
- micro-siting in light of agreed distances of turbines to footpaths on the 1955 Definitive Map; and
- a proposed permissive footpath to be secured by way of a planning condition.

1.1.2 I also set out the position agreed by Inspector Fieldhouse when her decision was issued following the previous Public Inquiry with particular focus on the position of Turbine 3 (T3) in relation to footpath AN10.

## 1.2 Background

1.2.1 Following exchange of Proofs of Evidence ahead of the last Inquiry there was dispute regarding the distances of the proposed turbine locations to PRoW that cross the Appeal site. After the submission of a Rebuttal Proof of Evidence by Mr Oliver Buck of Broadview Energy, and as detailed within the current SoCG before this inquiry, a meeting was held with Mr Richard Hall of Northamptonshire County Council on 9<sup>th</sup> May 2012. Following this meeting, it was agreed that there were discrepancies between the alignment of the footpath as measured on the Appeal site and the correct alignment as detailed on the original 1955 Definitive Map. In light of this, an Addendum to the originally agreed SoCG for the last inquiry was submitted to the inspector.

1.2.2 Following submission of the Addendum SoCG to the last inquiry, the Appellant requested that consideration be given to the micro-siting of Turbine 3 to the north and east of the position as proposed within the FEI, such that the turbine would be 56m from the legal line as shown on the Definitive Map. In addition, the Appellant proposed by way of a planning condition, a permissive footpath to the north of T3 to allow a choice for users of the rights of way network if they preferred an increased separation distance from T3.

## 1.3 Conclusions of Inspector Fieldhouse

1.3.1 In issuing a decision on the previous Appeal, Inspector Fieldhouse acknowledged the proposed approach to micro-siting and the permissive footpath at paragraph 75 of her decision letter where she stated:

*"On the ground the route of footpath AN10 does not coincide with the route on the definitive map. The Council advises that the landowners have agreed to reinstate the footpath along the definitive route after harvest this year. The suggested micro-siting of turbine T3 would prevent any blade over-sail of the definitive footpath and could be required by condition. In addition, the Appellant has proposed the creation of a permissive path to the north that would not be over-sailed by any wind turbine blade. This could also be subject of a condition."*

1.3.2 In concluding on PRoW, the Inspector stated at paragraph 79 of the decision:

*"The turbines would be visible in the landscape but views would depend on the direction of travel and any hedgerows, hedgerow trees and woodland in the vicinity. The proposed wind farm would not result in the loss of any PRoW or BOAT and would provide an alternative permissive path to part of the length of footpath AN10 that would be outside any blade over-sail distance. The proposed development would be a visible presence in the area and result in the loss of a perception of tranquility contrary to the aims of RSS policy 1, LP policy G3 and CS policy S1. Nevertheless, with the intermittent filtering/screening effect of vegetation and any twists and turns along routes, the ever changing views would not necessarily always include turbines. The proposal would not result in PRoWs or the BOAT being inaccessible or unavailable and no significant harm is found in relation to the usage of public rights of way."*

1.3.3 In light of the conclusions above, Inspector Fieldhouse included within Condition 16 the suggested micro-sited coordinate of T3 and also a separate condition to secure provision of the proposed permissive footpath. For completeness, the proposed permissive footpath plan was attached to the Appeal decision and this plan can be found at **Appendix 1** of this Proof.

#### **1.4 Proposed Approach regarding Micro-siting and Permissive Footpath Strategy**

1.4.1 It is common ground between the Council and the Appellant, as stated at paragraph 15.4 of the SoCG that:

*"It is agreed that micro-siting of Turbine 3 to the north and east of the current location could allow for a distance to be achieved that would avoid the blades of Turbine 3 over-sailing Public Footpath AN10. The turbine location can be micro-sited such that it is 56m from the legal line shown on the Definitive Map. It is further agreed that turbine 3, at its micro-sited position, would be at the previously approved co-ordinate of 457093,243239"*

1.4.2 The Appellant would therefore like to make it clear that it wishes for the starting point, when considering impacts on the PRoW network, especially the relationship between AN10 and T3, to be the position that was agreed at the previous Inquiry and therefore with T3 at the coordinates in the position detailed in paragraph 1.4.1 above. In addition, the Appellant is seeking to secure the implementation of a permissive footpath strategy by way of planning condition in the same form as approved following the last Inquiry.

1.4.3 For this Inquiry a draft set of planning conditions has been worked up between the Appellant and the Council which demonstrate that there is no dispute between the two parties and that the micro-siting condition should have the revised coordinate for T3 of 457093, 243239.

1.4.4 In addition, the Council thus far has raised no objection to the inclusion of the condition previously agreed at the last Inquiry which makes provision for a permissive footpath strategy.

#### **1.5 The Evidence of Mr Hall**

1.5.1 Mr Hall recognises the possibility of the proposed micro-siting provisions and permissive footpath strategy within his Proof. However, there is some misunderstanding regarding the previously agreed Condition 16 and in particular part f) which is the same as that presently agreed by the Council as part of the current draft conditions which are the subject of the current Appeal.

1.5.2 At paragraph 7.14 of his Proof Mr Hall states:

*"However a far more onerous part of Condition 16 described in sub point (f) appears to require a set-back distance from any public footpath of the length of the blades plus 45 metres, if any of the turbines are required to be moved."*

1.5.3 Part f) of the previously approved condition 16 and that currently proposed reads as follows:

*"(f) No turbine shall be moved so that the blade tips pass closer than 45 metres from any public footpath."*

1.5.4 Mr Hall has misunderstood this part of the condition and wrongly concludes that this would mean that set back distances would be a minimum of 90 metres, i.e. 45m (blade length) plus a further 45m. This is not correct as the condition clearly reads such that the blade tips do not pass closer than 45 metres from any public footpath. There is no ambiguity in part f) which could lead one to conclude, as Mr Hall has done, that set back distances should be blade length plus 45 metres.

1.5.5 The requirement that no turbine blades shall over-sail any PRoW was also set out by Inspector Fieldhouse at the beginning of condition 16 where it is stated:

*"Notwithstanding the terms of this condition, the turbines and meteorological mast may be micro-sited subject to the following restrictions and subject to an absolute requirement that in no case would turbines blades over-sail any Public Right of Way or any Permissive Footpath [my emphasis]"*

1.5.6 Read simply, this part of the wording allows micro-siting in accordance with, for example, parts (a) to (f) subject to an absolute requirement that no turbine blade shall over-sail a PRoW or permissive path. Whilst it could be argued that in light of this wording there is no requirement for part (f) of Condition 16, it should be recognised that both parts of the condition convey a clear and consistent requirement that no part of any wind turbine blade shall over-sail a public or permissive right of way.

1.5.7 Mr Hall has requested at his paragraph 7.15 in his Proof, that the perceived inconsistencies in the micro-siting condition should be the subject of consideration at the forthcoming Inquiry. With this in mind, attached at **Appendix 2** are two constraints plans which will assist the Inquiry in understanding the requested micro-siting provisions of the suggested conditions, inclusive of the proposed permissive footpath to the north of T3.

1.5.8 **Figure 1** of **Appendix 2** includes the following:

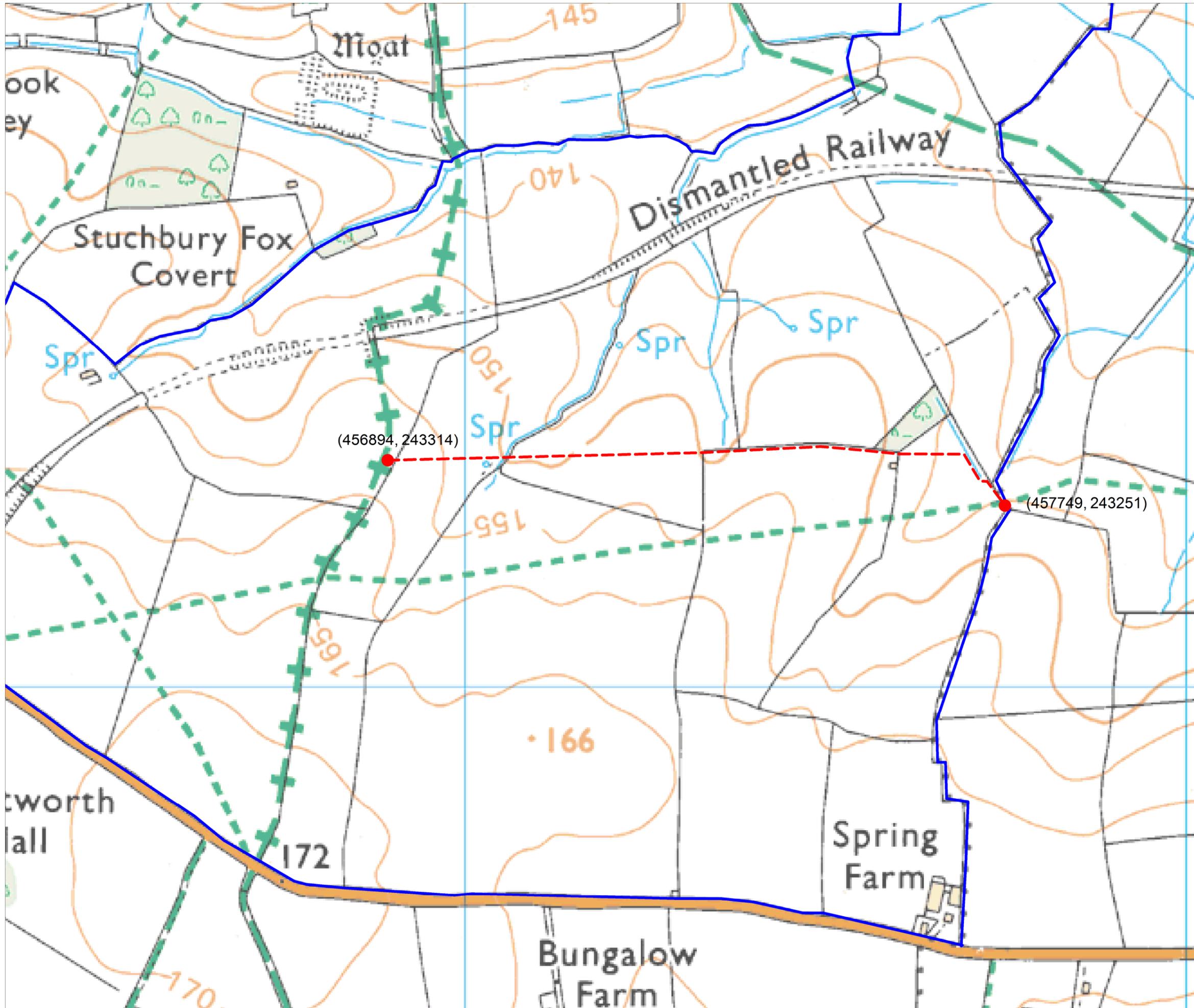
- FEI turbine positions;
- Updated constraints;
- Correct alignment of Definitive Map footpaths;
- Proposed permissive footpath with buffer; and
- Requested micro-siting provisions

1.5.9 In addition, **Figure 2 of Appendix 2** illustrates zoomed in segments of the constraints plan for the three turbines where a micro-siting provision is requested. For Turbine 3 the FEI position and the suggested micro-sited position are shown in accordance with the coordinate detailed at paragraph 1.4.3.

## 1.6 Overall Conclusion

1.6.1 In conclusion, the Appellant wishes for the impact upon users of PRow to be considered on the basis of the micro-sited position of T3 as set out in the SoCG at paragraph 15.4 and in light of the proposed permissive footpath strategy as set out in the SoCG at para 15.2, both of which can be secured by way of planning condition.

# Appendix 1



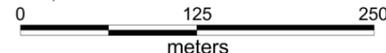
Map Title:  
**Plan 1**  
**Permissive Footpath Route**

Drawn by: L J H      Date: 30th May 2012

-  Site boundary
-  Permissive path route
-  Permissive path start and end points

Landranger  
SFR-AP05A

Map scale 1:5,000 at A3



0      125      250  
meters



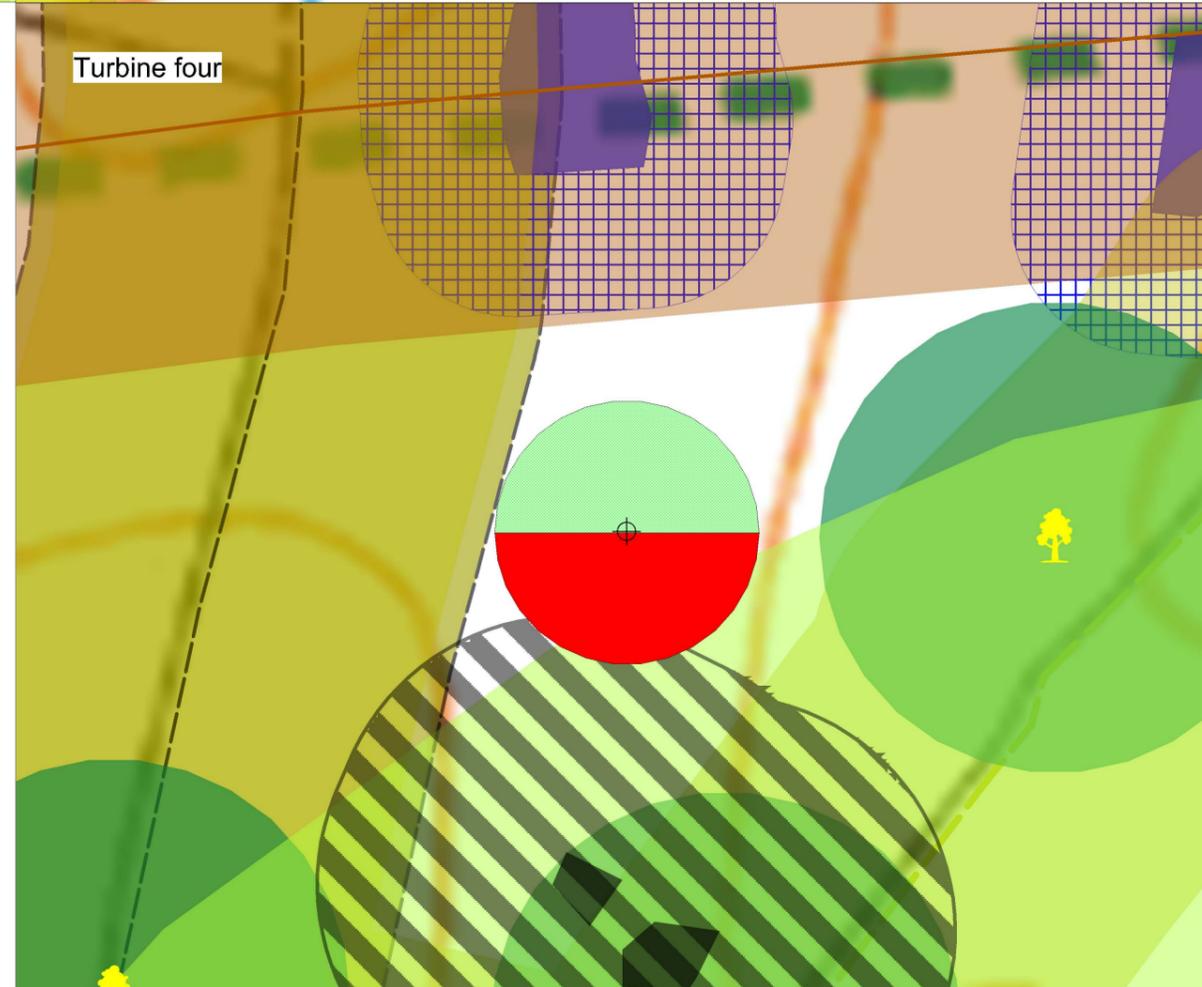
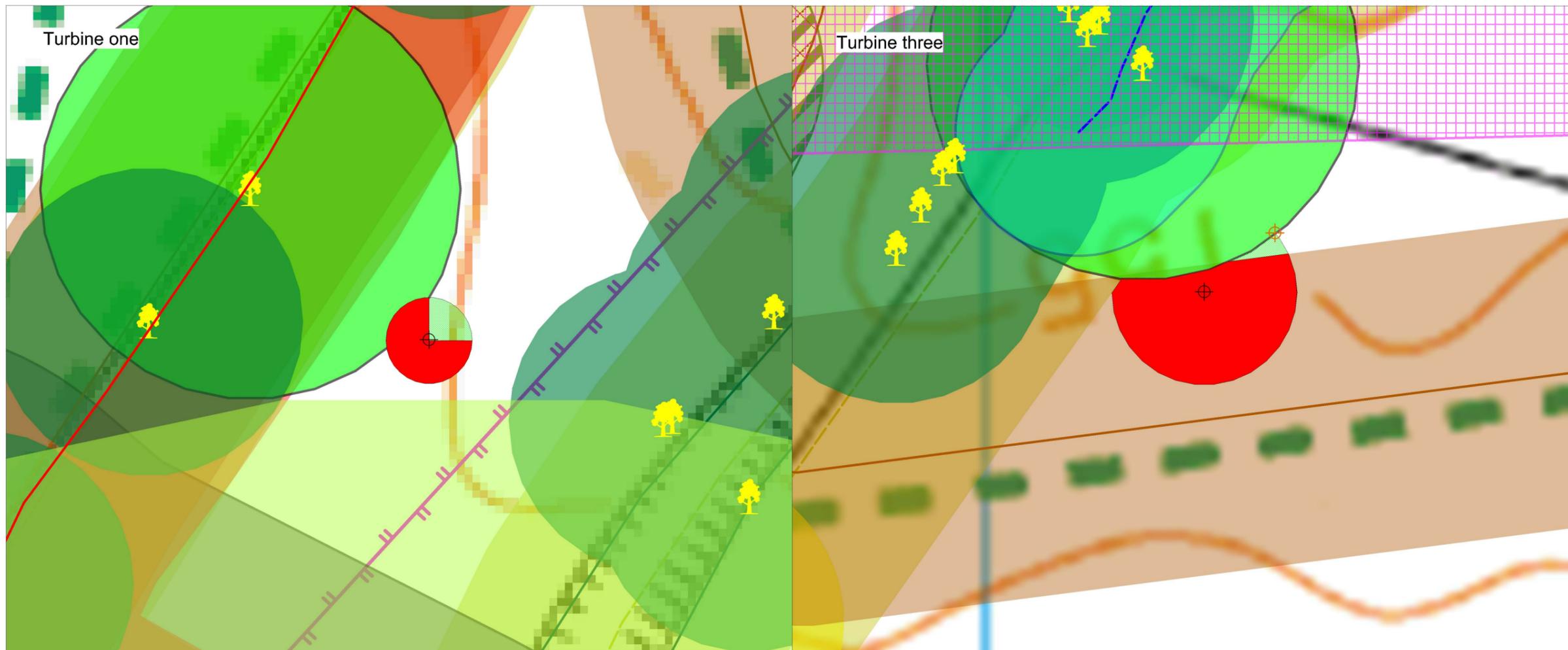
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# Appendix 2





-  Microsited turbine location
-  Turbine location
-  Turbine micrositing not permitted
-  Turbine micrositing permitted
-  Site boundary
-  Site boundary 50m buffer
-  Dwelling
-  Dwelling 500m buffer
-  Tree
-  Ash tree 67m buffer
-  Tree 50m buffer
-  TIN 051 tree separation
-  Bridleway
-  Bridleway 200m buffer
-  Byway open to all traffic
-  Byway open to all traffic 50m buffer
-  Footpath
-  Footpath 50m buffer
-  Permissive footpath
-  Permissive footpath 50m buffer
-  Road
-  Road buffer 105m
-  Powerline
-  Radcom link
-  Radcom link 100m buffer
-  Woodland
-  Hedgerow with very low or nil importance
-  Hedgerow with very low or nil importance 50m buffer
-  Hedgerow with low importance
-  Hedgerow with low importance 50m buffer
-  Hedgerow with moderate importance
-  Hedgerow with moderate importance 55m buffer
-  Hedgerow with high importance
-  Hedgerow with high importance 55m buffer
-  Current pond
-  Current pond 30m buffer
-  Historic pond
-  Historic pond 30m buffer
-  Pond with GCN potential
-  Pond with GCN potential 50m buffer
-  Spring
-  Spring 30m buffer
-  Watercourse
-  Watercourse 40m buffer

**Spring Farm Ridge Wind Farm**  
**Turbine micrositing provision**  
 Date: 17th September 2013  
 Drawn by: MPH

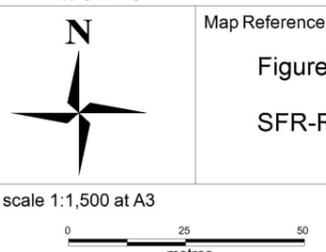
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Map Reference:  
**Figure 2**  
**SFR-R08**

Map scale 1:1,500 at A3





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The evidence which I have prepared and provide for this Appeal reference APP/Z2830/A/11/2165035 (in this Proof of Evidence) is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

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