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# Appeal Decision

Inquiry held on 15 – 18 and 22 - 24 May 2012

Site visit made on 21, 24 and 28 May 2012

**by Elizabeth Fieldhouse DipTP DipUD MRTPI**

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

**Decision date: 12 July 2012**

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**Appeal Ref: APP/Z2830/A/11/2165035**

**Spring Farm Ridge, land to the north of Welsh Lane between Greatworth and Helmdon**

- 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 Broadview Energy Developments Limited against the decision of South Northamptonshire Council.
  - The application Ref S/2010/1437/MAF, dated 18 October 2010, was refused by notice dated 11 July 2011.
  - The development proposed is the erection of five wind turbines plus underground cabling, meteorological mast, access tracks, control building, temporary site compound and ancillary development.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of five wind turbines plus underground cabling, meteorological mast, access tracks, control building, temporary site compound and ancillary development at Spring Farm Ridge, land to the north of Welsh Lane between Greatworth and Helmdon in accordance with the terms of the application, Ref S/2010/1437/MAF, dated 18 October 2010, and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

## Procedural matters

2. The application was accompanied by an Environmental Statement (ES) dated October 2010 produced in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, as amended. In the light of consultee responses received by the Council during the planning application determination period and after the Appellant had reviewed the reasons for refusal of the application, Broadview Energy Developments Limited commissioned further survey and assessment work in order to address a number of issues prior to the appeal against the refusal of planning permission being heard. The Further Environmental Information (FEI) dated February 2012 was prepared to supplement the ES and included:
  - the micro-siting of four of the five proposed wind turbines;
  - any related alterations to the ES to fully address the impacts of the revised proposals; and

- information to address the concerns of the Council and Natural England raised during the determination of the planning application

The appeal is determined on the basis of the revised turbine locations in, and contents of the FEI.

3. As a result of the FEI submitted after the appeal was lodged and having consulted consultees, the Council no longer sought to contest the reasons for refusal relating to ecology, noise and highway matters. In the event of planning permission being granted, it was considered that any effects in relation to these matters could be dealt with by appropriate conditions. In coming to a decision all environmental information and comments from statutory consultees and other duly made representations have been taken into account.

### **Main Issues**

4. Therefore the main issues in this appeal are:
  - the impact of the proposal on the surrounding area in terms of landscape character and visual effects;
  - the effect of the development on the setting of heritage assets;
  - the effect on the amenity of nearby occupiers both during construction and in operation, particularly with respect to visual intrusion, shadow flicker and noise and general disturbance;
  - whether as a result of the proposed turbine siting, there would be an unacceptable perception of harm to the safety of users of the local public rights of way network and the byway open to all traffic; and

Finally I consider whether any harm which may result from the above issues would be sufficient to outweigh the benefits, particularly in terms of climate change, which flow from renewable energy generation.

### **Reasons**

#### ***Policy framework in respect of renewable energy***

5. The Government is committed to achieving 15% of its total energy supplies from renewable sources by 2020. The Government's UK Renewable Energy Strategy raised the expectation to 30% and this has been reiterated in subsequent documents like the Overarching National Policy Statement for Energy (EN-1) (July 2011). The UK Renewable Energy Roadmap (July 2011) explains that at 2010 3.3% of the country's total energy demand had been provided from renewable sources. The Carbon Plan (December 2011) acknowledges that there is a need for a dramatic increase in the amount of renewable electricity generation.
6. On 27 March 2012 the National Planning Policy Framework (the Framework) was issued. Annex 3 gives a list of documents replaced by the Framework that include Planning Policy Guidance and Statements. Nevertheless, as advised in the Government response to the Communities and Local Government Select Committee Report: National Planning Policy Framework dated March 2012 until such time as the guidance review is complete, the existing supporting guidance where relevant can still be used. Therefore the

Companion Guide to Planning Policy Statement 22 *Planning for Renewable Energy* (CG PPS22) is relevant. In determining this appeal I have considered the most up-to-date and extant Government policy.

7. In relation to meeting the challenge of climate change, the Framework states that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change. Renewable and low carbon energy and associated infrastructure are supported and considered central to the economic, social and environmental dimensions of sustainable development. Local planning authorities should have a positive strategy to promote energy from renewable and low carbon sources, maximise renewable and low carbon energy while ensuring that adverse impacts are addressed satisfactorily. The overall need for renewable or low carbon energy does not need to be demonstrated. Applications should be approved unless material considerations indicate otherwise.
8. The Framework provides that the planning system should contribute to, and enhance the natural and local environment. There should be a positive strategy for the conservation and enjoyment of the historic environment. In doing so, there should be recognition that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.
9. The relevant development plan is the East Midlands Regional Plan March 2006 (RSS) and the saved policies in the South Northamptonshire Local Plan 1997 (LP). RSS policies 39 and 40 provide the regional priorities for energy reduction, efficiency and low carbon energy generation. Policy 39 aims to promote a reduction in energy usage. In relation to low carbon energy generation, policy 40 sets out factors that should be considered by local planning authorities when establishing criteria for onshore wind energy. Factors for consideration cover the landscape and visual impact; the natural and cultural environment; the built environment; and the number and size of turbines proposed; as well as any cumulative impact and the contribution to regional, national and international targets/environmental objectives.
10. Policy 40 refers to Appendix 5 to the RSS that sets regional targets for the production of renewable energy. The 2010 target for onshore wind is 122MW installed rising to 175MW by 2020. The 2010 target has been met and, if all the permitted schemes are implemented before 2020 that target would also be met. Nevertheless, the onshore target for all renewable energy was missed in 2010 and limited progress has been made on micro-generation to bring forward the installed capacity in the volume to meet its expected delivery in the RSS. It is likely that more established commercial renewable technologies will have to help in making up the shortfall. In any event, the Government's Renewable Energy Strategy expects that 30% of the energy consumption would come from renewable sources rather than the 20% target that was relevant when the 2020 regional target was set.
11. The revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the RSS is formally revoked by Order, limited weight is attributed to the proposed revocation in determining this appeal.

12. The LP does not refer to renewable energy but the Council adopted the South Northamptonshire Wind Turbines in the Open Countryside Supplementary Planning Document in December 2010 (SPD). The SPD is afforded some weight as a material consideration. This guide sets out a positive approach to wind energy but does not set targets. However, the Low Carbon Energy Opportunities and Heat Mapping for Local Planning Areas Across the East Midlands: Final Report March 2011 identifies South Northamptonshire as one of only four districts in which on-shore wind has the greatest potential. On-shore wind is likely to provide the overwhelming contribution to capacity. The appeal site is in a location which is identified as one of the areas having the greatest technical resource for onshore wind energy production.
13. Since the Framework came into force, the saved policies of the adopted RSS and the LP should be given due weight according to the degree of consistency with the Framework, as advised in paragraph 215 of the Framework. In the absence of any local plan policies on renewable energy, the policies in the Framework in relation to renewable energy are afforded considerable weight. The other relevant policies considered in the body of this decision are found to be consistent with the broad policy principles of the Framework.
14. The West Northamptonshire Joint Core Strategy - Pre Submission - February 2011 is at a fairly early stage in its preparation and could be subject to change. Therefore the policies in the emerging Core Strategy can only be afforded very limited weight.

### ***Landscape character and visual effects***

15. The proposed wind farm would be in an agricultural area with the gentle undulations formed where streams have eroded broad gently sloping valleys. The immediate land use consists of medium sized arable fields and smaller scale pastureland, particularly on the northern side of the valley. Hedgerows and hedgerow trees define the boundaries and there are small areas of mainly deciduous woodland. The majority of the appeal site is on the southern side of a shallow valley that rises up from about 120m above ordnance datum (AOD) in Helmdon to the east to about 170m AOD near the B4525. The proposed 125m to blade tip wind turbines would be set below the highest part of the area with four turbines sited between 155m and 165m AOD and turbine T5 lower in the valley at around 145m AOD. Within the immediate area including the appeal site there are several public rights of way (PRoW) and a byway open to all traffic (BOAT).
16. The appeal site is at the border of Character Areas (CA) 95 Northamptonshire Uplands, 89 and 94 Northamptonshire and Leicestershire Vales and 91 Yardley-Whittlewood Ridge, as published in Countryside Character of England Volume 5: East Midlands and Volume 7: South East and London published by the Countryside Commission (now Natural England). The majority of the proposed turbines would be in CA 95 the key characteristics of which include many low ridgelines, abundant and prominent ridge and furrow with frequent deserted and shrunken settlements. Mixed farming with the open arable contrasts with pasture enclosed by hedges with frequent hedgerow trees. There are wide views from the edges and across the ridge tops.
17. The East Midlands Regional Landscape Character Assessment April 2010 shows the appeal site as lying within Group 5: Village Farmlands and subsection 5C: Undulating Mixed Farmlands, the key characteristics of which

are the varied landform of broad rolling ridges, steep sided valleys, rounded hills and undulating lowlands. The area is described as being well treed arising from abundant hedgerow trees, copses and woodlands. Intact hedgerows are associated with pastoral land uses. Again there is a reference to frequent and prominent ridge and furrow and evidence of deserted or shrunken medieval settlements.

18. A County-wide landscape character study Northamptonshire Current Landscape Character Assessment 2003 identifies the appeal site as falling within the Undulating Claylands Landscape Character Type (LCT) in 6a The Tove Catchment LCT. The description refers to the land cover being typically arable and pasture farming with a more intricate and intimate pattern prevailing in pastoral fields. The streams have eroded broad, gentle convex sloped valleys resulting in the undulating landform. The landscape is relatively well settled with numerous mainly small villages scattered throughout the area. Areas of ridge and furrow may generally be found in close proximity to villages.
19. The Council carried out a local landscape and visual assessment of the appeal site and immediate surroundings. Two distinct landscape types were identified; the higher ridge or interfluvies and the intervening stream valley. The Council identified the boundaries on landform, topography and features such as spring lines. Mainly to the north of the appeal site the valley is said to be characterised by springs, minor water course, grazed pasture and was evocative of the medieval landscape around Stuchbury. The intimate gently undulating valley landform had high levels of tranquillity and a strong undisturbed rural character. The interfluvies towards the ridges which border the B4525 are more open with an arable landscape and ridges that set a strong skyline. Hedgerow trees are clearly evident. The Appellant does not dispute this local landscape and visual assessment but did not agree with the boundaries.
20. The Council advises that it was the characteristics of the area that determined the boundary but to the north of the appeal site the Helmdon valley area is roughly defined by the 150m AOD contour whereas through the appeal site it rises to the 155m AOD contour. From my site visit, having regard to the springs noted on the base map, the gradient and characteristics of the landscape, and the tranquillity of the area, I found that proposed turbines T3 and T4, shown to be on the border between the two areas would be within the interfluvies area like turbines T1 and T2. As agreed by all parties, turbine T5 would be in the Helmdon valley area. Due to its smaller scale and sense of enclosure the Helmdon valley area would be more vulnerable and have a higher sensitivity to change than the interfluvies. The interfluvies form a backdrop or setting to the valley with their intact settlements. The sensitivity to change of the interfluvies would be medium although tempered by the width of the ridge and the proximity to settlements.
21. The appeal site lies within an area with no specific landscape designation although within about 15 km there are special landscape areas and areas of high landscape value with a spur of the Cotswolds Area of Outstanding Natural Beauty (AONB) near Warmington just over 15 km away but the majority of the AONB would be more than 30 km from the appeal site. In view of the distance, intervening topography and trees, I find that the proposal would not

impact harmfully on views from the AONB or its character or other special or high landscape value areas.

22. Residents advised that there were proposals to try and have the landscape of the area, which has great natural charm, given a specific designation but there was no evidence that this had been formally considered by the Council. The area lacks dramatic or prominent landform but the gently undulating landform has strength of character. Cultural aspects determined by the history of human activity are reflected in the patterns of settlements, field enclosures and communications.
23. Modern wind turbines will inevitably have an impact on the landscape and visual environment. In view of the scale and number of wind turbines proposed, the development cannot have anything other than a major impact on the landscape as it currently exists. The Appellant pointed out that the wind turbines would create a theoretical wind farm landscape within 800m of the turbines, a probable theoretical local landscape with wind farm sub-type up to 1.5 km and a possible theoretical local landscape with wind farm subtype up to 2.5 km. Nevertheless, by reason of their form, the wind turbines would remove little physically from the landscape and allow a degree of permeability to be retained. However, as shown on the zones of theoretical visibility (ZVT) to both blade tip and hub, the magnitude of visibility of the blade tips of all five turbines would be great within a 10 km radius, gradually lessening to 30 km distance with views of the hubs of all five turbines being limited between 15 and 30 km away from the proposal. However, the ZVT are based on a 'bare earth' model of landform and, as I saw at the site visits, landscape form and features dramatically reduce visibility with distance away from the proposal. Reference to some viewpoints aids the assessment.
24. There were four visualisations from the Helmdon Road into Greatworth and its environs, the Appellant's viewpoints/visualisation 2 and OV-1a and Helmdon Stuchbury and Greatworth Windfarm Action Group (HSGWAG) views 9 and 10. From these viewpoints all 5 wind turbines and the meteorological mast would be visible beyond the ridge along which the B4525 runs. Due to the gentle rise and intervening trees and hedges the amount of turbine visible would vary with much of the tower and rotating blades of turbine T1 visible but the lower parts of the blades of turbine T5 would be filtered or screened. The nearest turbine would be between 850m (HSGWAG) and 930m (Appellant) away but the proposal would only span around 30° of the overall view. The turbines would be dominant and clearly visible but, in view of the width of view, large skies and sizeable fields, the proposal would not be overbearing.
25. The Appellant's viewpoint 3 was taken looking south west from Helmdon village green, with the nearby HSGWAG view 7 taken on slightly more elevated land on the road towards Sulgrave. From both viewpoints the viaduct of the disused railway is a key feature in the fore/mid distance and forms the skyline with only tree tops visible beyond. The foreground is dominated by small scale pasture fields interspersed with hedgerow trees or small copses with the bank that leads onto the viaduct vegetated with large bushes typical of many hedgerows plants in the area. The proposed turbines, some 1300m to 1350m away, would be conspicuously out of scale with the intimate river valley landscape and become a dominant feature with adverse impacts on the perceived small scale landscape. They would contrast

harmfully with the viaduct over which they would visually dominate and tower.

26. Moving around to the countryside within which Sulgrave and the proposal would be viewed. HSGWAG view 1 to the south east of Sulgrave Farm demonstrates the wide sweep of countryside to the trees on the ridge beyond the appeal site with the intervening undulations absorbed into the wider landscape. From this view point Sulgrave is set below the horizon, and although it would be viewed with the full height of the turbines beyond, at about 3.2 km to the nearest turbine, the expansive views of pastureland, copses and hedgerow trees would reasonably accommodate the wind farm without it appearing to be at odds with the foreground landscape or the setting of Sulgrave.
27. However, from HSGWAG view 2 to the southern side of the access to the old windmill Sulgrave which is a PRoW and the Appellant's visualisation OV-2b, the church tower of Sulgrave church breaks the skyline. The turbines would occupy about 30° of the view but turbine T4 would be viewed close to or behind the Church. It is likely that the whole or at least part of the rotating blades of all five turbines would be visible, dominating the skyline. The nearest turbine would be some 2.8 km away but from this particular view the proposed turbines would become a key feature at odds with the scale of the settlement and the prominence of the church tower. However, from other parts of the PRoW, the juxtaposition of the turbines and church tower would change and although striking elements on the skyline, the proposal would be sufficiently divorced from the settlement as not to conflict with the 'beacon' of the church tower.
28. To the north of the appeal site the Appellant's viewpoints 8 and 9 between 3.7 km and 3.9 km from the nearest turbine offer wide expansive views over mainly fairly small scale pastureland. Although the proposed turbines would be clearly visible and striking elements on the skyline, they would be sufficiently divorced from the settlements of Weston and Milthorpe so as not to be at conflict with, or dominate the landscape.
29. Radstone lies around 2.9 km to the south east of the nearest proposed turbine which would be viewed as a group spaced out over about 20° of the view. From viewpoint 6 the wide sweep of the arable fields, the hedges with hedgerow trees and larger woodland copses would break up/filter views of some of the turbines which in any event would not appear at odds with the overall width of view and expansive skies.
30. From the network of PRoWs and the BOAT that pass though the appeal site, the proposed wind turbines with moving blades would be a marked distraction and create features that would be alien to the rural character. Turbines T1-T4 would be well spaced but roughly in a line with T5 set lower down the slope. From footpath AP14/AN15/AN16 that rises up from Helmdon to Stuchbury Hall Farm, the visibility of the turbines would depend on the proximity of nearby trees and the elevation of the footpath. Nevertheless, from Helmdon as it crosses over the viaduct and rises through arable fields, the turbines would be prominent on the opposite valley side. A similar but closer view would be gained from AP15/AN32 the bridleway which passes through the valley before rising up to Stuchbury Hall Farm.

31. When approaching the turbines along the BOAT (AN36), the PRowS AN7, AN8, and AN9 or crossing through the wind farm on PRowS AN8, AN10 and AN36, the scale of the turbines would be very keenly perceived and dominant. Nevertheless, the number and visibility of the turbines would vary with direction of route and the proximity of any hedgerows and hedgerow trees. Though the scale of the proposal would be dominating, it would not necessarily be overpowering. However, the peaceful tranquillity of the area would be changed by the rotating blades that would contrast harmfully with the modest scale of parts of the landscape, its patterns, undulations and textures. Overall the turbines would be a palpable feature in the landscape but by their continuous presence would be unlikely to be unnerving unless the blades over-sail the footpath.
32. The viewpoints identified are just a few of those I visited. As noted, generally the more expansive views of a wide landscape and skyscape could accommodate the proposal without unacceptably adverse impact. Nevertheless, from some viewpoints, particularly along parts of the PRowS and BOAT, the proposed turbines would become a key feature at odds with the scale of the landscape on which the proposal would have an adverse impact. All the relevant parts of RSS policies 1(g) and 26, LP policies G3 and EV2 and CS policy S11 that broadly aim to protect and enhance the natural landscape and restrict development in the countryside would not be met.
33. Drawing together the points on the landscape character and visual effects, the wind turbines and associated meteorological mast would bring about a significant change to the landscape particularly up to 2.5 km away. Trees and hedgerows constrain wider views in the Helmdon valley within which turbine T5 would form a stark contrast. However, the more open interfluves have a perceived scale with wide views and skies that would, to some extent, offset the scale of the turbines. Views within the theoretical wind farm landscape would benefit from the filtering of nearby trees and hedgerows but the turbines would be dominant elements in the landscape and are not one of the exceptions in LP policy EV2 to the presumption against development in open countryside or areas for the distribution of development in CS policy S1.

### ***Heritage assets***

34. The siting of the proposed turbines and meteorological mast would not directly impact on any heritage assets with any potential impact limited to their settings. The Framework defines setting of a heritage asset as the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, and may affect the ability to appreciate the significance or may be neutral. Significance is defined as the value of a heritage asset to this and future generations because of its heritage interest. Significance derives not only from a heritage asset's physical presence, but also from its setting.
35. The Framework requires local plans to set out a positive strategy for the conservation and enjoyment of the historic environment. It recognises that heritage assets are an irreplaceable resource and they should be conserved in a manner appropriate to their significance. The significance of a heritage asset can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.



36. English Heritage guidance *The Setting of Heritage Assets* (2011) advises that 'setting embraces all the surroundings 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 construction of a distant but a high building may extend what was previously understood to comprise setting. Development within the immediate or extended setting may affect significance, particularly where it is large-scale, prominent or intrusive. The English Heritage document *Conservation Principles: policies and guidance for the sustainable management of the historic environment* articulates the value of heritage for its evidential, historical, aesthetic and communal value. However, the importance of aesthetic and communal value is not taken through into recent Government policy in the Framework.
37. There are many designated heritage assets within 5 km of the appeal site including 8 scheduled ancient monuments, 319 listed buildings, 8 conservation areas and one registered park and garden. There are also undesignated assets in the deserted medieval village at Stuchbury, adjacent to but outside the appeal site, and the ridge and furrow adjacent to some settlements.
38. The fact that modern high structures such as turbines might be visible in the same view as a listed building or would be seen from, towards or across a conservation area does not necessarily make them unacceptable. In considering whether a proposed development would lead to substantial or less than substantial harm to the significance of a designated heritage asset, paragraphs 133 and 134 of the Framework, put simply, require the harm to be weighed against any public benefits – the greater the negative impact the greater the benefit required to justify approval.
39. A large part of Sulgrave village lies within the conservation area. The Castle Hill ringwork, a scheduled ancient monument, and the Church of St James the Less, a grade II\* listed building, lie towards the western end of the village. Sulgrave Manor, a grade I listed building within a grade II registered park and garden, lies towards the eastern end of the village.
40. The main parties agreed that the proposal would have a moderate adverse impact on both the Church and Castle Hill. The elevated Castle Hill ringwork would command greater views of the proposed turbines than the adjoining Church. From the photomontages of both HSGWAG (view 3) and the Appellant (viewpoint 4), it is evident that the full extent of the blades of at least four of the turbines would be clearly visible on the skyline beyond the nearest rise with the fifth turbine and blades largely masked by nearby houses and vegetation. However, due to the nearby houses and intervening vegetation, the amount of the proposal that would be visible would vary depending on where on Castle Hill ringwork or its associated Castle Green the observer stood. From the porch to the church and much of the churchyard, the nearby houses would largely mask views of the wind turbines some 2.1 km away.
41. Castle Green, the former bailey area, adjoins Castle Hill ringwork and, nationally, they are a fairly rare example of such development from the late Anglo-Saxon period. Castle Hill ringwork would have been sited to command views and to be viewed. Nevertheless, unless from the elevated land to the

north of Sulgrave, views of the ancient monument and its more immediate setting would be unlikely to include turbines or their rotor blades. In any event, the wind farm development would be sufficiently divorced in distance and form from the village so as not to result in confusion or loss of significance to Castle Hill ringwork that would retain its panoramic views out. I concur with the parties that the impact of the proposal on Castle Hill and associated elements and the Church would be moderately adverse but less than substantial.

42. Turning to Sulgrave Manor and its registered garden; the actual building is set behind and below garden walls with the garden stepping up to the south. The Appellant's viewpoint A from outside the south east entrance to Sulgrave Manor demonstrates that the proposed wind farm some 2.3 km away would not be visible from the ground floor or the lower parts of the garden. However, from the great bedroom on the first floor, it was agreed that at least some of the blade sweep of turbine T1 and parts of the blades of turbine T4 would be visible. From the higher parts of the garden described as the orchard and the 'Tudor' vegetable garden, it was agreed that there would be views of some wind turbines. The view provided on behalf of the Sulgrave Manor Board included the full rotor sweep of turbines but the Appellant considered only the upper part of the sweep would be visible. In any event, parts of the blade sweep of rotors, to a greater or lesser extent, would be visible from the upper parts of the garden and could be evident from the usual route along which visitors access Sulgrave Manor.
43. The Appellant's viewpoint 5 in the adjoining field to the east is taken from a ground level comparable to that of the Manor building, from where only the upper parts of the blade sweep would be visible with much of the proposal filtered by nearby trees. From a slightly more elevated position to the north of Sulgrave, the Manor would be viewed adjoining the field and nestling in the surrounding trees and vegetation with five turbines on the skyline beyond. However, the proposed development would be sufficiently divorced from the settlement so as not to compete with the Manor. Although visible, the proposal would not constrict an understanding of, or act as a major distraction from the significance of the Manor and its associated garden. As such, the proposed wind farm would have a very limited adverse impact on the setting of the listed house and registered garden.
44. There was concern that views of wind turbines from all access routes to Sulgrave Manor would deter visitors many of whom are from America. The property relies entirely on income from visitors and donations. The Sulgrave Manor Board has many on-going restoration costs and was concerned that a development which could impair the appreciation of the Manor and its setting would deter visitors. This was an assertion and not a matter that could be confirmed by reference to any comparable developments elsewhere. I acknowledge that a loss of revenue that impaired the ability to maintain the Manor and its setting would harmfully impact on its significance as a heritage asset. Nevertheless, in the absence of evidence to demonstrate that harm would result from the proposal, the overall harm to Sulgrave Manor and its setting is considered to be less than substantial.
45. The assets already described lie within Sulgrave Conservation Area which, although it is adjoined by some twentieth century development, is closely linked to its setting. To the south of the built up area, key elements of the

medieval and post-medieval landscape are legible with ridge and furrow evident in the fields adjoining the settlement. The limited views in, particularly from the north, would be seen against striking elements on the skyline. However, any reasonable observer would understand the differing functions of a wind turbine, a church, a manor or a settlement and they would have significance in themselves as landmarks. Sulgrave is separated from the proposal and the presence of wind turbines in views would act as a distraction but not erode an understanding or appreciation of the significance of the designated heritage asset. Therefore the harm would be less than substantial.

46. Culworth lies to the north west of Sulgrave and, like Sulgrave has a ringwork and church complex within a conservation area. The ringwork is behind the church and therefore would not afford views of the proposal. Views of the proposed wind turbines from the churchyard, which is elevated above the road, would be very limited due to the line of trees along the sports field opposite (Cultural heritage visualisation 3a). The proposed wind farm some 3.5 km away would not impact on the significance of the heritage assets or their setting.
47. There would be very limited views of the proposal from Greatworth Conservation Area. However, there are three paths leading out of the Church of St Peter churchyard which, at present, is a quiet secluded spot. The visible and sometimes moving presence of part or all of the blades of at least four of the proposed wind turbines over hedges and hedgerow trees in the adjoining pastureland (Cultural heritage visualisation 1a) would affect the perceived tranquillity. The array, some 1.3 km away, would act as a distraction and impact on the setting of the churchyard within the conservation area but not to such an extent as to cause substantial harm.
48. Greatworth Hall, a grade II listed building lies to the north east of the conservation area, with the nearest turbine some 500m to the north. The principal views are to the south-east across its garden with the adjacent farm buildings and existing trees between the Hall and the turbines. However, along the main approach to the house from the south, the wind turbines would be visually dominant and their movement and noise a distraction. In this respect, the proposal would have moderate adverse impact on the setting of the Hall but the harm would be less than substantial.
49. Astwell Castle is a grade II\* listed building with the uninhabited part a scheduled ancient monument. It was originally a 15th century fortified manor house that would have commanded extensive views to the west, north and east. It lies about 3.2 km to the east of the nearest wind turbine. Although it is difficult to appreciate the asset with the proposal in the same view from the road, views west have a sense of tranquillity and remoteness that allows attention to be focused on the asset. The kinetic nature of the proposal would attract attention to the man-made features of significant scale on the skyline. However, the turbines would not be close or fill the field of view but a peripheral part of views across and out of the asset. Therefore, the understanding and appreciation of the asset would not be substantially harmed.
50. Canons Ashby is a house dating from the 16th and 17th centuries within a grade II\* registered historic park and garden. It lies about 7 km north of the appeal site. The proposed wind turbines would be seen in long-distance views

from a number of locations around Canons Ashby (Appellant's Cultural heritage visualisations Ca and Da) while planting would obscure other views (Appellant's Cultural heritage visualisations Ba, Ea and Fa). Views with turbines would be predominately from the upper floors of the house, higher ground within the park and the tower of the church. From those views the gentle undulations in the countryside intervening hedgerows, hedgerow trees and small copses as well as settlements would partially mask/break up the lower parts of the proposal. The proposed wind farm development would not be visible from axial views through the gardens. Overall, due to its separation from the house and gardens, intervening landscape and settlements, the proposal would not impact harmfully on the significance or wider setting of the property.

51. The wireframe and photomontage from the Appellant's viewpoint 18 demonstrate that the tips of the turbine blades would be visible against the sky in long distance views from the grounds of Stowe which are included in the English Heritage Register of Historic Parks and Gardens at grade I. There are also a large number of listed buildings/structures within the park but mainly within the lower parts of the 'pleasure gardens'. The turbine blades would not be visible from the main pleasure grounds nor in any axial view out from the north front of the house or other axial views. However, from the road that passes the northern side of the house and the northern section of the park, the upper parts of the turbine blades could be visible. The relocation of the public parking and access to the grounds to the south east of the park affords views of the house through the Corinthian Arch. However, as no horizon landscape was visible over the house in that axial view, it is unlikely that the turbines would be visible. As the turbine blades would form a very small part of the overall view to the north and be about 11.4 km from the park, their impact would be slight on the significance of the heritage assets and less than substantial.
52. Helmdon Church of St Mary Magdalene is a grade II\* listed building and is sited towards the upper part of the village at about 150m AOD. It would be possible therefore to have clear views over the lower parts of the settlement to the proposed wind farm. Nevertheless, the planting within the churchyard and intervening hedges would largely obscure views and the entrance to the church on the side had no direct views. Therefore, the proposal would not result in harm to its significance and any impact would be less than substantial.
53. There are other heritage assets within 5 km from some of which the proposed wind turbines would be a conspicuous feature. However, the proposal would not be so imposing or dominant as to seriously detract from or diminish the experience of them. There would be no significant adverse impact on them or their setting.
54. The English Heritage publication Wind Energy and the Historic Environment (2005) acknowledges that reversibility is an important feature of wind energy developments. The proposal is intended to endure for 25 years and is reversible. Concern was raised that permission might be renewed or the turbines replaced. Such scenarios are likely to require planning permission and any proposal would be considered on its merits and the material considerations at that time. The proposal, the subject of this appeal, is for a period of 25 years and thereby the harm would be transient. That must, to

some extent, reduce the degree of harm that would be caused. In terms of the period during which a designated heritage asset would reasonably be expected to endure, 25 years is relatively short but is a period that really spans the growing up of a generation.

55. Whilst in some instances considerable, the adverse impact of the proposed wind turbines would be reversible and there would remain areas from which the turbines would not be seen. Overall, the proposal would cause harm to the setting of a range of designated heritage assets and therefore fail to accord with the relevant parts of RSS policy 26, LP policies G3, EV11 and EV12 and CS policy S11 that aim to preserve or enhance the character, appearance and setting of heritage assets. However, in no case has the impact of the proposal been found to be 'substantial harm' in terms of paragraph 133 of the Framework. Therefore the impact would fall within the policy in paragraph 134 of the Framework and this harm should be weighed against the public benefits of the proposal.

### ***Residential amenity – visual intrusion***

56. The planning system exists to regulate the use and development of land in the public interest and there is public interest in avoiding the effects of climate change. The outlook from private property is a private interest not a public one. However, where the visual impact of a proposal is such as to cause unreasonable living conditions/amenity for the occupants of individual homes, and might be widely regarded as making the property an unattractive place in which to live, that is a legitimate matter of public interest.
57. Visual effects are one element of residential amenity and must be judged having regard to, in particular, the layout of the dwelling, the aspect and use of its garden and entrances to, and exits from the property. Therefore not all those properties identified would have harm to their residential visual amenity as a result of the turbines being visible.
58. The residential surveys by the Appellant and the Council considered views from residential properties within 2 km to determine whether the proposed turbines would be overbearing or overwhelming, dominate the outlook to the extent that the proposal would be oppressive or adversely affect the living conditions. The Appellant found no overbearing or overwhelming effects from the proposal on any property although accepted that houses that fell within 0.8 km of the nearest wind turbine would fall within the 'dominant' range of the proposal. The conclusions were not disputed by the Council for the majority of properties except Stuchbury Hall Farm from where the Council considered the wind turbine(s) would be a noticeably overwhelming and an unavoidable presence.
59. Stuchbury Hall Farm lies on the opposite side of the valley to the proposal at a similar AOD level to turbines T1-T4. Apart from occupying the house, the residents manage a small livestock farm that runs down to the valley bottom. The nearest proposed turbine (T5) would be just under 800m from the dwelling but it would be screened from the dwelling entrance by existing mature evergreen trees and outside the field of vision from the private amenity space, lounge and principal south facing bedroom.
60. Photomontages prepared by HSGWAG, views 4 and 5, give an idea of the position and visibility of the proposed wind turbines from both the garden and

a field adjoining the farm buildings. Nevertheless, the position of turbine T4 and therefore turbines T3 and T2 were considered slightly inaccurate by the Appellant although the use of Google Earth images to assess the accuracy of HSGWAG visualisations was disputed by the Council. In any event photomontages are only a guide as to how turbines would appear in the landscape and by its nature a viewpoint is static whilst views tend to be experienced on the move as well as when stationary.

61. It was accepted that, at the most, only turbines T1-T4 would be visible from the garden and the south facing elevation of the farmhouse. The garden faces a line of farm buildings beyond which there are mature deciduous trees in three groups. The blades of four wind turbines could be evident from the garden and potentially from the dwelling although few would be completely exposed, rather views would be filtered through the trees. Turbine T4 would be approximately 1.1 km away with the spread of potentially visible wind turbines filling a 75° view. Without the mature trees, the southern aspect of the house would be dominated by the rotating blades of the wind turbines. Nevertheless, having regard to the existing mature trees and the other aspects that the property enjoys, the proposal would not be overwhelming or inescapable in the overall views from the property.
62. However, within the fields, it was evident that virtually the full extent of the wind turbines array would dominate the outlook although, due to the width of the full array, it would be unlikely to be in an observer's single view. Turbines would also be visible as the house is approached along the drive from the Helmdon/Sulgrave road although, nearer the dwelling, farm buildings would obscure views. The spacing between turbines would retain views through to the landscape beyond. The proposed development would be unpleasantly imposing and pervasive, but it would not be so overwhelming as to make the property unattractive and/or an unsatisfactory place in which to live.
63. Grange Farm and nearby properties would be about 860m from the nearest wind turbine with turbines T1-T4 roughly in a line or at least likely to be viewed with blades overlapping. There are reasonably dense hedgerows and trees around the nearby pastureland. Nevertheless, the upper parts of the turbines and full extent of the blades are likely to be viewed from the edge of the field adjoining the properties (Appellant's viewpoint 1). However, with the main aspect of one of the properties to the south and garden planting within both properties nearest the proposal, views would be filtered or indirect. There would be visual harm from rotating blades that overlap that would be unlikely to rotate at exactly the same rate. The turbines would dominate a narrow arc in the overall view. Nevertheless, in view of the aspect, planting and width of view, the visibility of the turbines would not be overwhelming or inescapable. I was unable to visit the property to the rear but it was set behind the two properties already identified. Therefore, it would be unlikely to suffer any greater effects particularly as its main private amenity space seemed to face away from the proposal.
64. From other curtilages and/or properties visited in the area, some have limited screening that would help break up views but the attractiveness of some of the properties would be diminished. The impact on some properties would be likely to be substantial and unpleasantly imposing. Nevertheless, the majority would have other aspects or are well separated from the proposal so that the wind turbines would not be overwhelming nor make them unattractive and /or

unsatisfactory places in which to live. The relevant provisions of LP policy G3 and CS policy S11 would not be contravened in this respect.

***Residential amenity – shadow flicker***

65. The predicted shadow flicker duration (astronomic worst case) identified that six dwellings could potentially suffer shadow flicker. The maximum theoretical occurrence would amount to 36.4 hours per year at Stuchbury Hall Farm. In relation to the proposed development, the ES identifies that it is possible to mitigate flicker and a Shadow Flicker Mitigation Protocol can be required by planning condition to mitigate this nuisance.

***Residential amenity – noise and general disturbance***

66. CG PPS22 indicates that the report *The Assessment and Rating of Noise from Wind Farms* (ETSU-R-97) should be used when assessing and rating noise from wind energy developments. This is carried through to more recent Government advice with the footnote to paragraph 97 of the Framework advising that in assessing the likely impacts of potential wind energy development, the approach in EN-3 read with EN-1 should be followed. Paragraph 2.7.55 of EN-3 provides that the 1997 report by ETSU for the Department of Trade and Industry should be used for assessing the impact of noise from a wind farm. The Government promotes good health and good quality of life through effective noise management. ETSU-R-97 gives indicative noise levels calculated to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on wind farm development.
67. Background noise measurements were taken at 9 residential properties in the area selected in agreement with the Council as the most sensitive or representative of other nearby dwellings. In addition, two other noise sensitive receptors were included but there was no noise monitoring at these receptors and they were assessed using data gathered at proximate representative locations. In view of the limited data for higher wind speeds, the Appellant has applied conservative background noise data for higher wind speeds by using the background noise derived at lower wind speeds. In the absence of any competing background noise data and having regard to all the evidence, the background noise evidence is accepted.
68. Some local residents have found that, due to the 'Helmdon bowl', sound echoes with noise propagated in the west appearing at the receptor property to come from the east. In the ES and attached to the written response from the Appellant to questions on noise, the predicted noise contours would roughly extend in concentric rings that reflect the proposed layout with small allowances for the undulations in the area. The modelling assumes a steady slope. However, no matter from which direction a noise is received, any noise emanating from the operation of the wind farm would be subject to the maximum noise levels controlled by condition. These would reflect background noise levels as adjusted by the levels provided for in ETSU-R-97. There was no evidence that the direction from which noise was received would lead to greater noise levels or that those provided for, having regard to ETSU-R-97, would not be met. This matter carries limited weight in the overall balance.

69. The projected noise levels were established using the methodology in ETSU-R-97. The proposed rating of noise immission levels that should not be exceeded during the daytime are based on the lower daytime limit in ETSU-R-97 of 35dB(A) or background noise levels plus 5dB(A). Although the measured background noise levels between 23.00 and 07.00 hours were low, ETSU-R-97 provides for noise immission levels to be 43dB(A) or 5dB(A) above background during those hours. This would be well over some night-time background noise levels, particularly at lower wind speeds. The suggested condition would accord with the maximum day and night time noise immission levels in ETSU-R-97. No harm is found in respect of noise immission levels suggested in the condition and there would be no conflict with the advice in CG PPS22, EN-1, EN-3 and the Framework in this respect. Subject to the proposed condition there would be no conflict with LP policy G3 (D) or emerging CS policy S11 (3) in respect of noise.
70. Amplitude Modulation (AM), sometimes referred to as blade swish or thump, is a phenomenon, the occurrence and effect of which are difficult to predict. Nevertheless, the recommended maximum noise levels in ETSU-R-97 take account of character of noise that is described as blade swish. The Salford University Report Research into Aerodynamic Modulation of Wind Turbine Noise concludes that AM was not generally a factor in noise complaints. There was no conclusive evidence that excess AM would occur, therefore possible excess AM does not carry much weight in my determination of this appeal. However, maximum noise levels could be controlled by condition.
71. There may be noise and disturbance during the construction period associated with construction vehicles, turbine delivery and on-site working. The hours during which delivery and construction can take place can be controlled by conditions so that the amenities of residents in the vicinity would not be harmed by reason of noise associated with construction at unsocial hours. Subject to appropriate controls through conditions, residential amenity would not change to such an extent during the limited period of construction as to cause harm.

### ***Residential amenity - overall conclusion***

72. Overall in relation to the effect on the living conditions of residents, it has been found that the proposed development may be dominant but would not be overwhelming and inescapable for residential occupiers. There may be unsettling stacking of turbines or at least blades visible from some properties and a considerable number of residents would see the turbines as prominent and uncharacteristic structures. Such impacts would diminish with distance and there is nothing to suggest that such effects would be experienced in relation to the house and garden as a whole of the affected properties. The properties would not become unattractive and/or unsuitable places in which to live. Subject to appropriate controls through conditions, there would be no harm by reason of shadow flicker and any noise as a result of the proposal could be controlled to accord with Government policy.

### ***Public footpaths, bridleways and byway***

73. The appeal site is crossed and in an area traversed by many PRoWs and a BOAT. Of the PRoWs, one is a bridleway that links Helmdon with Stuchbury Hall Farm (AP15/AN32) from where the BOAT provides a link south to the bridleways on the opposite side of the B4525. Footpath route AN10 links



Greatworth and Helmdon in an east-west direction, as well as other footpaths and the BOAT. Although there are several PRoWs in the area, from the condition of the footpaths, I have no reason to doubt that the majority in the vicinity of, and crossing the appeal site are well used with several included in promoted routes.

74. The proposed FEI siting of turbine T3 would be 41m from the definitive line of footpath AN10 and therefore the blades of the turbine could over-sail the footpath. Turbine T1 would be 84.2m away from footpath AN9, Turbine T2 75.5m from footpath AN10 and turbine T4 95.6m from footpath AN10. Therefore the siting of all the turbines, other than turbine T5, would be within a fall over distance of a public footpath with the over-sail of turbine T3 the most problematic and unnerving for pedestrians, potentially deterring use of this important link.
75. 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.
76. CG PPS22 advises that experience indicates properly designed and maintained wind turbines are a safe technology. The guidance goes on to indicate that it may be advisable to provide a set-back from roads and railways of at least fall over distance so as to achieve maximum safety. The siting of all of the proposed wind turbines would accord with this advice in relation to roads and railways but PRoWs would remain within the fall over distance.
77. CG PPS22 published in 2004 notes that the British Horse Society had suggested a 200m minimum exclusion zone around bridleways to avoid wind turbines frightening horses. In April 2010 the British Horse Society reviewed its wind farm policy in respect of separation distances and proposed a distance of three times the overall height with the 200m recommended in the CG PPS22 a minimum. The greater separation distance has not been incorporated into current Government advice. While the nearest bridleway (AN32/AP15 would be a minimum of 326m away from the nearest turbine (T5), both turbines T2 and T3 would be under 200m from the BOAT that forms the important link between the limited number of bridleways in the area. Turbine T2 would be 183m away from the BOAT and turbine T3 196m.
78. CG PPS22 advises that the 200m separation distance is deemed desirable but it is not a statutory requirement. If the BOAT is used by horses where the separation distance is below that desirable, they would already have been travelling in a 'wind farm landscape' and the wind turbines would not appear suddenly. The Appellant advises, and as found by a previous Inspector (APP/E2001/A/10/2137617 and 2139965), turbines start very slowly and gradually pick up speed. Therefore, to all but the most highly strung horse the wind turbines are unlikely to be a surprise or frightening. The proposed micro-siting condition would prevent any micro-siting of turbines T2 or T3 closer to the BOAT, so the maximum shortfall on the desirable separation would be 17m. The shortfall on the separation distance from the BOAT carries limited weight.

79. 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 tranquillity 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.

### **Other matters**

#### **Ecology**

80. The Council does not raise ecological concerns in respect of the proposal as a result of the FEI submitted in February 2012 including the micro-siting of four of the proposed wind turbines. Natural England has also withdrawn its holding objection. Suitable conditions would be required in any grant of planning permission.

#### **Aviation**

81. In the Statement of Common Ground the main parties agreed that there were no issues in relation to aviation. The Turweston airfield operator had advised that he would rather the wind farm was not constructed but its presence would not stop the operations. At the inquiry, the Light Aircraft Association and Turweston Flight Centre (the airfield operator) raised concerns that the wind farm could present a significant increase in risk to safety particularly in poor weather conditions. The objectors stated that the Turweston airfield circuit is larger and higher, at 396m above ground level, than the normal circuit. The more common height would be 305m or occasionally 243m above ground level. The proposed wind farm is not within the circuit pattern and the concerns raised relate to possible human error and the adoption of the other circuit heights or routes. The Appellant accepts that a GPS approach procedure would enhance operations at Turweston airfield but I am not convinced that such a measure is necessary to mitigate any harm from the development proposed. An unnecessary condition relating to this matter would not meet the tests in Circular 11/95 *The use of conditions in planning permissions*.

#### **Grid connection**

82. Section 4.9 in EN-1 advises that the Government envisages that wherever possible the related infrastructure necessary to make a grid connection should be prepared in an integrated way with the electricity generating plant. Therefore it is advised that developers should provide information on the most likely route and method from the grid connection to the wind farm with their planning application and as part of any Environmental Impact Assessment. All cabling within the site would be underground with the exception of the control room. Three alternative grid connection options have been identified. The final grid connection point would be confirmed later and subject of a separate application under section 37 of the Electricity Act 1989 if it utilises a

new overhead line. However, an underground connection would be subject of a separate application for planning permission or use of a permitted development order by the statutory undertaker.

### ***Highway safety***

83. The Council raises no issue in respect of highway safety but third parties are concerned that the wind farm would be a distraction to drivers close to the turnings for Greatworth off the B4525. At the site visit, because of the horizontal alignment of the B4525, the blimp that was flying near the position of turbine T1 first appeared to be on the southern side of the road. However, it gradually appeared to be on the northern side as it was approached. In view of the scale of the proposed development approaching drivers would be aware of a wind farm development in the vicinity. While I do not underestimate the concerns of local residents, the local highway authority raised no objection in principle and did not consider distraction to be a cause for concern. I have had regard to the accident statistics submitted but no substantive reason is found to take a different view to the County Highway Authority regarding possible distraction to drivers.

### ***Human rights***

84. I have also had regard to the implications of the proposed development in relation to Article 1 and Article 8 of the First Protocol to the European Convention on Human Rights, with particular reference to property values, noise and quality of life. However, no material interference has been established and I do not consider the matter further.

### ***Overall balance and conclusions***

85. There is a clear national and regional need for renewable energy which weighs heavily in favour of the development and is supported by Government and regional policy and a local SPD. Wide economic and environmental benefits attach to all renewable energy proposals and are significant material considerations which have to be given substantial weight. The UK Renewable Energy Roadmap sets out actions that are intended to accelerate the delivery of renewable energy including onshore wind. Nevertheless, the Government's intention is not that all renewable energy schemes should be supported irrespective of any harm that might be caused. The Framework advises that planning plays a key role in helping to shape places to secure radical reductions in greenhouse gas emissions. The delivery of renewable and low carbon energy and associated infrastructure is identified as being central to the economic, social and environmental dimensions of sustainable development. However, the Framework advises that it is necessary to ensure that the impact of development is acceptable.

86. LP policy EV2 and CS policy S1 aim to prevent development in the countryside/rural areas that does not fit into the identified categories. Wind turbines do not fall into the accepted and identified uses. However, due to the size and number of turbines, the proposal would be likely to have to be located in the countryside rather than in a settlement. Turbines of appropriate size and number could be accommodated in urban areas but wind turbines in rural areas away from densely populated areas would reduce the potential for impact on residential amenity.

87. The benefits of producing renewable energy and assisting in meeting national obligations, aspirations and helping to reduce the impact of climate change have to be set against the identified harm. Any wind farm is likely to bring change to the landscape and outlook of people living nearby but the fact that the development would be for a period of 25 years and is reversible has to be borne in mind. However, such a period would be a long time for any perceived harm and therefore the fact that the development would be for a temporary period carries little weight. The question is whether any harm would be so serious as to significantly damage interests of acknowledged importance.
88. In this particular case, the proposal would bring about a significant change to the landscape and from some viewpoints the proposed wind farm would become a key feature at odds with the scale of the landscape with a subsequent adverse impact. There would be harm to the setting of a range of heritage assets but the level of harm would be less than substantial.
89. Residential amenity could be protected from shadow flicker and the noise immission levels controlled by the imposition of conditions. The proposal would change the outlook from many homes and could be unpleasantly imposing and pervasive to the occupiers of Stuchbury Hall Farm, who work the adjoining land. Turbine blade stacking could be visible from some properties. However, the proposal would not be so overwhelming as to make any property an unattractive and/or unsatisfactory place in which to live.
90. Turbine T3 could be micro-sited to overcome blade over-sail of the PRow and a permissive path could be required by the imposition of a condition. The enjoyment of the countryside by horse riders and walkers could potentially change but it would not be so marked as to count significantly against the project. Conditions can address other matters including ecology, highway safety at the access, noise and shadow flicker.
91. Taking account of the statutory duties imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 and the harm identified to the setting of heritage assets, the balance indicates that the wider benefits attributable to the project contribute to the case for approval.
92. National policy seeks to secure well-planned developments in appropriate locations and the drive to provide renewable energy should not be at the expense of the environment and cultural heritage. Overall the totality of the impact of the proposal, including conflict with development and emerging plan policies, is not sufficient to outweigh the wider economic and environmental benefits of the proposal. The LP policies do not address renewable energy. However, the Framework provides the most up to date expression of national renewable energy policy. This is a material consideration to which I give significant weight. Having carried out the balancing exercise, I have concluded that the proposal is acceptable in planning terms.

**Conditions** [Numbers in ( ) relate to relevant condition]

93. The conditions largely agreed between the parties and discussed at the inquiry have been considered in the light of Circular 11/95. In relation to the time within which development should commence, there would be additional consents necessary prior to commencement. Nonetheless, there is a process for extending time limits and I find no reason to allow more time than was

- considered appropriate in section 91 of the Town and Country Planning Act (as amended). The early implementation of the planning permission would best serve the objective of bringing renewable energy on stream. Notification of the commencement date is reasonable in view of the scale of the operation and the matters to be agreed prior to the commencement of development (1).
94. For the avoidance of doubt and the interests of proper planning, it is necessary to specify the approved drawings (2). It is necessary to establish the commencement date for the limited operational life of the proposal and therefore the first export of electricity - 'operational date' - should be notified to the Council. (3)
95. In the interests of the visual amenities, there should be agreement on decommissioning and restoration at the end of the permission (4) and the protocol for the repair or removal of a turbine that ceases to export electricity (5). In the interests of the generation of renewable energy, it seems reasonable to me to allow time and scope to deal with any operational difficulties and therefore condition 5 should refer to 12 months. Also in the interests of the visual amenities, any on-site electrical cabling should be underground (14); details of the meteorological mast provided (12); external visible illumination controlled (15); the temporary compounds restored (8); the scale and appearance agreed (11); turbines should rotate in the same direction (11); colour, materials and finish of all structures agreed (12 and 13); and no name, sign or logo displayed other than those necessary to meet health and safety requirements (12).
96. In the interests of highway safety, details of the access from the B4525 (6) and a plan for the management of construction traffic (7) should be agreed. In the interests of the local environment and residents' amenities, a construction method statement (8) should be agreed.
97. In the interests of residents' amenities and to allow turbine location to respect local conditions, any micro-siting should not result in the turbines being positioned closer to public rights of way or permissive paths or any existing dwelling other than provided for in the condition (16). The proposed turbines were micro-sited in the FEI. The proposed condition would allow for some further micro-siting but, in view of the proximity of the BOAT and the location of residential properties in the area, additional micro-siting of turbines T2 and T3 could result in harm. Therefore, with the micro-siting of all the proposed turbines covered within the proposed condition, any additional general allowance would be unnecessary and result in the loss of precision.
98. Also in the interests of residents' amenities, there should be restoration of any temporary construction areas (8) and in areas where turbines have ceased to operate and are removed (5); the hours of construction controlled (9); turbine delivery times agreed (10); a shadow flicker protocol agreed (26); any electromagnetic interference controlled (25); and day and night time operational noise immission levels controlled (27). In relation to any excess AM, the operational noise condition would allow AM to be addressed by the Council if it exceeded the noise immission levels covered by the condition.
99. In the interests of recreational amenity, the permissive path should be provided (17). In the interests of nature conservation, there should be pre-construction surveys of protected species and breeding birds (18) and a habitat enhancement plan (19) agreed. A condition requiring a scheme of

post-construction monitoring was suggested by Natural England. Such monitoring could be useful but akin to information gathering rather than planning. The condition would not be necessary to make the development acceptable in planning terms. Therefore, it would fail to accord with all the tests in Circular 11/95.

100. To ensure adequate recording of archaeological remains and to comply with section 12 of the Framework, an implementation programme of archaeological work should be agreed (20).
101. In the interest of aviation safety, there should be a scheme of aviation lighting for each turbine (21); confirmation of commencement date and height of construction equipment (22) and confirmation of construction completion, highest potential obstacle and exact positions (23).
102. For flood protection and to improve water quality, a surface water drainage scheme should be agreed (24).

### **Conclusion**

103. Many appeal decisions have been referred to in the evidence and produced as core documents. They are noted and regard has been paid to them but ultimately the decision on this proposal is made in the light of the particular circumstances pertaining to it.
104. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed subject to the conditions set out in the following schedule.

*Elizabeth Fieldhouse*

INSPECTOR

## **Conditions Schedule – APP/Z2830/A/11/2165035**

### ***Time Limits and Site Restoration***

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

2 The development hereby permitted shall be carried out in accordance with the following approved plans (1) Figure 1.1-Location Plan-Environmental Statement Volume 2 (October 2010) (2) Figure 5.1-Further Environmental Information (February 2012).

3 This permission shall endure 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 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.

5 If any 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 a programme for removal of the relevant turbine and associated above ground works approved under this permission, details of the depth to which the wind turbine foundations will be removed 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 timetable.

6 No development shall take place until details of the proposed construction, materials and surfacing of the site access road and its junction with the public highway have been submitted to and approved in writing by the Local Planning Authority. These details shall include confirmation of visibility splays in both directions along the B4525, details of proposed boundary treatments (including any gates), swept path diagrams for turbine delivery vehicles using the site entrance and reinstatement of the land after decommissioning of the development hereby approved. The development shall then be carried out and maintained in accordance with the approved details.

**Construction Traffic Management Plan and Construction Method Statement**

7 No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall include proposals for the routing of construction traffic, scheduling and timing of movements, the management of junctions to and crossings of the public highway and other public rights of way, details of escorts for abnormal loads, temporary warning signs, temporary removal and replacement of highway infrastructure/street furniture, reinstatement of any signs, verges or other items displaced by construction traffic, details of the site access and banksman/escort details. The approved Construction Traffic Management Plan including any agreed improvements or works to accommodate construction traffic where required along the route, shall be carried out as approved

8 Prior to the commencement of construction, a Construction Method Statement shall be 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. The Construction Method Statement shall include:

- a) 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;
- b) Details of the proposed storage of materials and disposal of surplus materials;
- c) Dust management;
- d) Pollution control measures in respect of:
  - Water courses and ground water
  - Bunding of storage areas
  - Foul sewerage;
- e) Temporary site illumination during the construction period including proposed lighting levels together with the specification of any lighting;
- f) Details of the phasing of construction works;
- g) Details of surface treatments and the construction of all hard surfaces and tracks to include their decommissioning and subsequent reinstatement of the land and any remediation required if damage is caused to any Public Right of Way or any Permissive Footpath by their construction;
- h) Details of emergency procedures and pollution response plans;
- i) Siting and details of wheel washing facilities;
- j) 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;
- k) A site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats;
- l) Areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
- m) Details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound;
- 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.



**Construction Hours**

9 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.

10 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, 07:00 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.

**Appearance**

11 All wind turbine generators shall be of three bladed construction. The blades of all wind turbine generators shall rotate in the same direction. The overall height of the wind turbines shall not exceed 125m to the tip of the blades when the uppermost blade of the turbine is in the vertical position, and the hub height shall not exceed 80m, as measured from natural ground conditions immediately adjacent to the turbine base.

12 Prior to the erection of any wind turbine, details of the colour and finish of the towers, nacelles and blades including measures to minimise the risk of ice throw and any external transformer units and for the finish and colour of the meteorological mast 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 or any external transformer units or the meteorological mast other than those required to meet statutory health and safety requirements. The approved colour and finish of the wind turbines and any external transformer units 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.

13 Prior to the commencement of construction of the electricity substation, details of the design and the external appearance, dimensions and materials for the building and any associated compound or parking area and details of surface and foul water drainage from the substation building shall be 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.

14 All electrical cabling between (1) the individual turbines (2) the turbines and the on-site electricity substation and (3) the on-site electricity substation and the boundary of the application site 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.

**Micro-siting**

16 The turbines hereby permitted shall be erected at the following coordinates (British National Grid):

TI	456246	243261
T2	456623	243211
T3	457093	243239
T4	457401	243123
T5	457463	243556

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 turbine blades over-sail any Public Right of Way or any Permissive Footpath:-

- (a) Turbine T1 shall not be micro sited greater than a distance of 14m and not to the west or south of the permitted coordinates;
- (b) Turbine T2 shall not be micro-sited;
- (c) Turbine T3 shall not be micro-sited;
- (d) Turbine T4 shall not be micro-sited greater than a distance of 28m and not to the south of the permitted coordinates;
- (e) Turbine T5 shall not be micro-sited;
- (f) No turbine shall be moved so that the blade tips pass closer than 45 metres from any public footpath.

The consequential realignment of the associated infrastructure is also permitted. A plan showing the position of the turbines and tracks established on the site shall be submitted to the Local Planning Authority within one month of the First Export Date.

17 Prior to commencement of development a scheme for the construction, implementation, maintenance and retention of a permissive footpath shall be submitted to and approved in writing by the Local Planning Authority. The permissive footpath shall follow the route as indicatively shown on plan 1 and labelled "Permissive Path Route" between grid co-ordinates 456894, 243314 and 457749, 243251. The scheme shall be implemented as approved for the duration of the permission.

**Ecology**

18 Prior to the commencement of development a specification for pre-construction checking surveys for great crested newts, badgers and breeding birds shall be submitted to and approved in writing by the Local Planning Authority. The survey results and a programme of any mitigation required as a consequence shall be submitted to and approved in writing by the Local Planning Authority prior to any works associated with the construction of the development taking place. The programme of mitigation work shall be implemented as approved.

19 Prior to the commencement of development, a Habitat Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The Habitat Enhancement Plan shall include:

- a) the details of the construction of five new ponds to provide for great crested newt mitigation measures;

b) the details of the provision of log and rubble piles on site to provide for great crested newt mitigation measures; and  
c) the details of the tree and hedgerow planting necessary to offset any unavoidable removal of existing hedgerow habitat and to enhance retained hedgerows (including details of replacement hedging on either side of the site entrance onto the B4525) including details of replacement planting for plants which become diseased or are destroyed or die within 5 years of the date of planting. The Habitat Enhancement Plan shall be implemented as approved.

20 No development shall take place until the applicant or its agents or successors in title has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation including a timetable which has previously been submitted to and approved in writing by the Local Planning Authority. Work shall be carried out in accordance with the approved programme of archaeological work.

### **Aviation**

21 No development shall take place until a scheme for the provision of Ministry of Defence accredited aviation lighting for each of the turbines 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.

22 The Appellant/developer shall provide written confirmation of the following details to the Local Planning Authority, Ministry of Defence and Civil Aviation 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; and
- ii) The maximum extension height of any construction equipment.

No development shall commence until this confirmation has been given.

23 Within 14 days of the commissioning of any of the turbines hereby approved, the Appellant/developer shall provide written confirmation of the following details to the Local Planning Authority, Ministry of Defence and Civil Aviation Authority:

- i) Date of completion of construction;
- ii) The height above ground level of the highest potential obstacle; and
- iii) The exact position of that structure in latitude and longitude.

### **Flood Risk/ Drainage**

24 Prior to the commencement of development a surface water drainage scheme for the site, based on the sustainable drainage principles contained within the Flood Risk Assessment ("FRA") produced by Wardell Armstrong and dated January 2012 and with reference SH1-40-/RPT-008a shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the completion of the development. The scheme shall specifically include:

- detailed design information on the proposed surface water drainage system for the site, using the agreed rates of runoff contained with the FRA, and containing details for all elements such as swales, pipes, attenuation facilities and flow control devices;
- full details of the proposed maintenance programme for the entire drainage system;

- details of overland flood flow routes and depths in the case of design event exceedance or system failure; and
- details of measures intended to mitigate and manage flood risk during the construction of the scheme.

**Television Interference**

25 Prior to the First Export Date a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to television caused by the operation of the turbines shall be 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 wind farm, mitigation works shall be carried out in accordance with the scheme which has been submitted to and approved in writing by the Local Planning Authority.

**Shadow flicker**

26 Prior to the First Export Date a written scheme shall be submitted to and approved in writing by the Local Planning Authority setting out a shadow flicker protocol for the assessment of shadow flicker in the event of any complaint from the owner or occupier of a 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. The written scheme shall include remedial measures. Operation of the turbines shall take place in accordance with the approved protocol unless the Local Planning Authority gives its prior written consent to any variations.

**Operational Noise**

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

- (A) Prior to the First Export Date, the wind farm operator shall submit to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.
- (B) Within 7 days from receipt of a written request of the Local Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location

that the complaint relates to. Within 14 days of receipt of the written request of the Local Planning Authority made under this paragraph (B), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the Local Planning Authority in the format set out in Guidance Note 1(e).

- (C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Local Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.
- (D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the Local Planning Authority pursuant to paragraph (C) of this condition shall be undertaken at the measurement location approved in writing by the Local Planning Authority.
- (E) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions, 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 likely to result in a breach of the noise limits. 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.

- (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 1 month of the date of the written request of the Local Planning Authority made under paragraph (B) of this condition unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- (G) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (F) above unless the time limit for the submission of the further assessment has been extended in writing by the Local Planning Authority.
- (H) The wind farm operator shall continuously log nacelle wind speed, nacelle orientation, power generation and nacelle wind direction for each turbine in accordance with this consent, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine shall be retained for a period of not less than 12 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the Local Planning Authority on its request within 14 days of receipt in writing of such a request.

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

**Table 1 - Between 07:00 and 23:00 - Noise level dB L<sub>A90</sub>, 10-minute**

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	L <sub>A90</sub> Decibel Levels											
Peter's Farm (457860,244535 )	36	35	35	35	36	37	39	42	45	49	49	49
Property on Station Road (458499,243509)	39	39	39	38	37	37	38	39	42	46	46	46
Grange Farm (458271,243265)	37	38	38	38	38	39	40	42	46	51	51	51
Spring Farm (457629,242682)	40	40	40	40	40	41	42	44	48	53	53	53
Bungalow Farm (457124,242579)	40	40	40	40	40	40	41	43	46	50	50	50
Greatworth Hall (456265,242731)	40	40	40	40	40	40	41	43	46	50	50	50
Greatworth (455486,243028)	37	37	37	38	38	39	40	41	42	44	44	44
Manor Farm (456129,244089)	39	38	38	38	38	39	41	44	47	52	52	52
Stuchbury Hall Farm (456912,244024)	37	37	38	38	38	38	40	42	45	50	50	50
Stuchbury Manor Farm (455689,243641)	39	38	38	38	38	39	41	44	47	52	52	52
Ash Vale (457862,242621)	40	40	40	40	40	41	42	44	48	53	53	53

**Table 2 - Between 23:00 and 07:00 - Noise level dB L<sub>A90</sub>, 10-minute**

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
	L <sub>A90</sub> Decibel Levels											
Peter's Farm (457860,244535 )	43	43	43	43	43	43	43	43	44	44	44	44
Property on Station Road (458499,243509)	43	43	43	43	43	43	43	43	43	43	43	43
Grange Farm (458271,243265)	43	43	43	43	43	43	43	43	44	44	44	44
Spring Farm (457629,242682)	43	43	43	43	43	43	43	43	44	44	44	44
Bungalow Farm (457124,242579)	43	43	43	43	43	43	43	43	43	43	43	43
Greatworth Hall (456265,242731)	43	43	43	43	43	43	43	43	43	43	43	43
Greatworth (455486,243028)	43	43	43	43	43	43	43	43	43	43	43	43
Manor Farm (456129,244089)	43	43	43	43	43	43	43	43	45	45	45	45
Stuchbury Hall Farm (456912,244024)	43	43	43	43	43	43	43	43	44	44	44	44
Stuchbury Manor Farm (455689,243641)	43	43	43	43	43	43	43	43	45	45	45	45
Ash Vale (457862,242621)	43	43	43	43	43	43	43	43	44	44	44	44

Note to Tables 1 & 2: The geographical coordinates references set out in these tables are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies. The standardised wind speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

## Guidance Notes for Noise Condition

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

### Note 1

- (a) Values of the  $L_{A90,10\text{-minute}}$  noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting IEC 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 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 and be not more than 35 metres from it. 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 nacelle wind



speed (duly corrected for the presence of the rotating blades) arithmetic mean nacelle orientation, nacelle wind direction and arithmetic mean power generated during each successive 10-minute periods for each wind turbine on the site. The hub height wind speeds recorded from the nacelle anemometers or as calculated from the power output of each turbine shall be supplemented by standardised ten metre height wind speed data calculated for each 10-minute period from those measured at hub height assuming a reference roughness length of 0.05 metres and using the equation given on page 120 of ETSU-R-97. 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. Standardised 10 metre height wind speed data shall be 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).

- (e) Data provided to the Local Planning Authority in accordance with paragraphs (E) (F) (G) and (H) of the noise condition shall be provided in comma separated values in electronic format.
- (f) A data logging rain gauge shall be installed within 3m of any sound level meter 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).

### **Note 2**

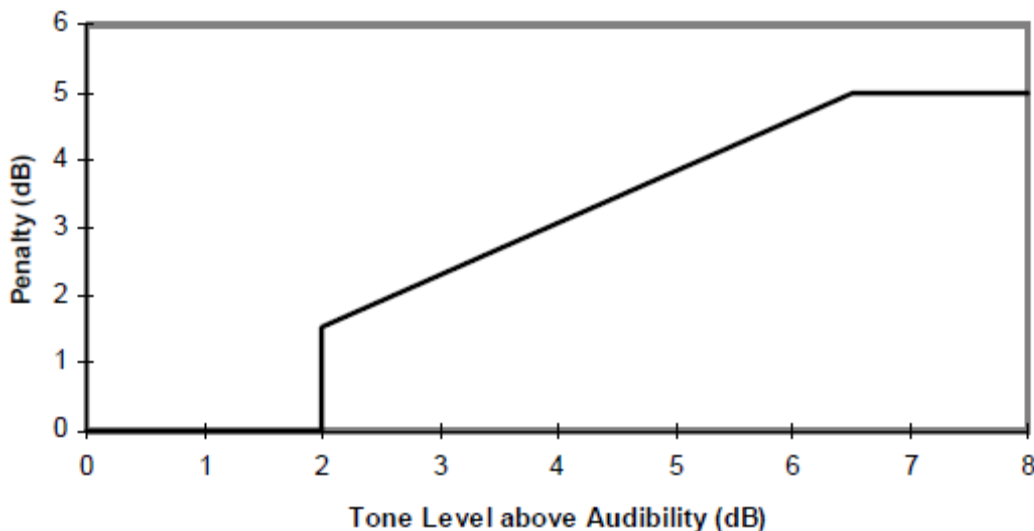
- (a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).
- (b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Local Planning Authority under paragraph (E) of the noise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

### **Note 3**

- (a) Where, in accordance with the approved assessment protocol under paragraph (E) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.
- (b) For each 10-minute interval for which  $L_{A90,10\text{-minute}}$  data have been determined as valid in accordance with Note 2, a tonal assessment

shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

- (c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.
- (d) The 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 substituted.
- (e) A least squares "best fit" linear regression 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 fitted to values. 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 Note 2.
- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



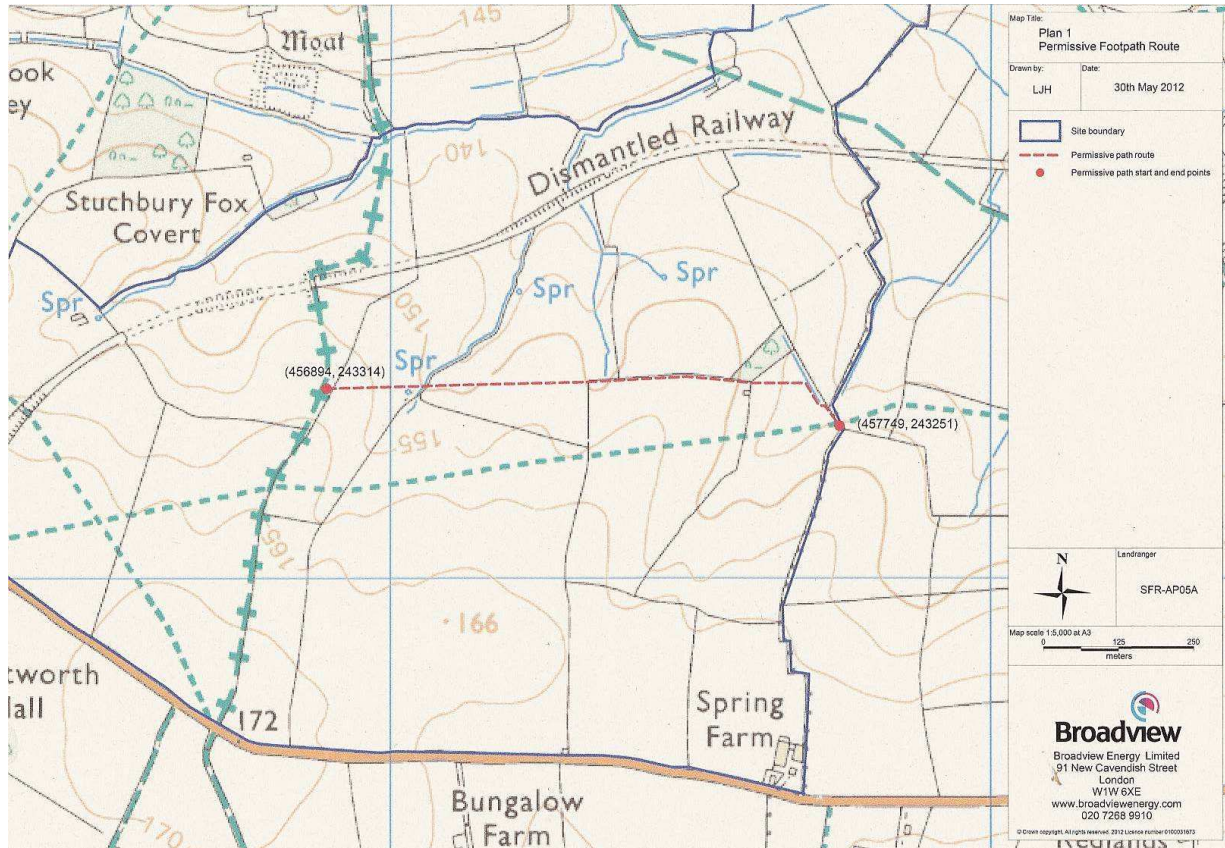
**Note 4**

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

- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Note 2.
- (c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (C) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.
- (d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
- i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise ( $L_3$ ) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (E) of this condition.
  - ii. The wind farm noise ( $L_1$ ) at this speed shall then be calculated as follows where  $L_2$  is the measured level with turbines running but without the addition of any tonal penalty:
$$L_1 = 10 \log \left[ 10^{L_2/10} - 10^{L_3/10} \right]$$
  - iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise  $L_1$  at that integer wind speed.
  - iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then the development fails to comply with the conditions.

## Plan 1

### Permissive Footpath Route



## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Asitha Ranatunga	Of Counsel instructed by Chetna Nathasingh, Solicitor for South Northamptonshire Council
He called	
Kate Ahern BSc MSc CMLI	Principal, Land Use Consultants
Naomi Archer BA(Hons) PGDipUS PGCertHC	Conservation Officer, South Northamptonshire Council
Richard Hall BSc(Hons)	Principal Engineer, Development Management, Northamptonshire County Council
Daniel Callis MSc BSc MRTPI	Senior Planning Officer, South Northamptonshire Council

### FOR THE APPELLANT:

David Hardy	Of Counsel, Partner in Eversheds LLP
He called	
Jeffrey Stevenson MA MPhil CMLI MRTPI MInstEnvSci FRGS	Principal, JSA Limited
Andrew Brown BA BArch MSc MRTPI RIBA IHBC	Principal, Woodall Planning and Conservation` ` `
David Bell BSc(Hons) DipUD MRTPI MIHT	National Director, Jones Lang Lasaille
To discuss possible noise condition	
Stephen Arnott BSc(Hons) MSc MIOA	Principal Associate Consultant, TNEI Services Limited
Rebuttal proof on public rights of way but no appearance	
Oliver Buck BA(Hons) DipTP MRTPI	Development Manager, Broadview Energy Limited

### INTERESTED PERSONS:

David Powell	Interested person
Hugh Walmsley	Friends of St Mary Magdalene Church, Helmdon
Will Lovell	Ramblers' Association Northamptonshire Area
Veronica Ward	Interested person
Veronica Ward	Interested person for Rob Cross
Edward Tims	Interested person for Mr and Mrs Tims
Nicholas Peart	Chair, Greatworth Parish Council
Roger Miles	Helmdon Parish Paths Warden
Richard Chamberlayne	Interested person
Fiona Davies	Interested person, member HSGWAG
Bob Haynes	Interested person
Colin Wootton	Sulgrave Parish Council
Natalie Atkins	Interested person for Grange Farm

Nicholas Ward	Chairman, Sulgrave Manor Board
Cllr Peter Burns	Chairman, Helmdon Parish Council
Andrew Rimmer	Interested person
Mrs Davies	Interested person
Natasha Douglas	Interested person
Mr Haynes	Interested person
Emma Deverall	Interested person
Mrs Breese	Interested person
Mrs Atkins	Interested person
Mr Hooper	Greatworth Parish Council
Dr Fiona Mason	Interested person (statement read by K Christy)
Paul Sandilands	Interested person
Ken Christy	Interested person
Carrie Smith	Interested person
Francis Donaldson	For the Light Aircraft Association and Turweston Flight Centre

## **DOCUMENTS**

- 1 Appearances for the Appellant
- 2 Statement of Common Ground – Update Note on Relevant Planning Policy
- 3 Additional Statement of Common Ground – Footpaths
- 4 Letter dated 11 May 2012 from Eversheds
- 5 Rebuttal Proof from Jeffrey Stevenson
- 6 Opening submissions on behalf of the Appellant
- 7 Opening submissions on behalf of the Council
- 8 Helmdon Parish Paths leaflet – Circular Walk no.2
- 9 Initial draft planning conditions –v1
- 10 Draft noise condition attached to email dated 11 May 2012
- 11 Letter dated 15 December 2010 from Natural England
- 12 Email from planning Inspectorate re. third party wishing to speak
- 13 Government response to the Communities and local Government Select Committee Report: National Planning Policy Framework, March 2012
- 14 Submission from the Northamptonshire British Horse Society
- 15 Site visits requested by the Helmdon, Stuchbury and Greatworth Windfarm Action Group
- 16 Accidents statistics for the B5425 in vicinity of appeal site
- 17 Letter dated 19 May 2012 from Mr Rimmer
- 18 Written response to questions from Stephen Arnott on behalf of Broadview Energy Developments Limited
- 19 Second Rebuttal Proof of Evidence of Jeffrey Stevenson
- 20 Agreed noise condition
- 21 Email trail regarding the legal line of Footpath AN10 on the Definitive map
- 22 Statement of Mr Donaldson regarding Turweston Aerodrome
- 23 Speaking notes of Nicholas Ward on behalf of Sulgrave Manor Board
- 24 Audited Financial Statements for the year ended 31 December 2011 for The Sulgrave Manor Board
- 25 Comparison between the appeal proposal and Brightenber Hill appeal decision from David Bell
- 26 Statement from Ken Christy
- 27 Comments on the second rebuttal proof of evidence provided by Jeffrey

Stevenson

- 28 Letter dated 16 May 2012 from Mr Woolley
- 29 Letter from David Owen, Turweston Flight Centre Limited
- 30 Notes of agreed viewpoints in Canons Ashby and Stowe
- 31 Letter dated 24 May 2012 from Osprey Consulting Services Limited in response to the statements re. Turweston Aerodrome
- 32 Site visit route for 21 May 2012
- 33 Site visit route for 28 May 2012
- 34 Draft list of Planning Conditions -v2
- 35 Draft list of Planning Conditions -v3 (discussed at inquiry in detail)
- 36 Closing for the Council
- 37 Closing for the Appellant

## **PLANS**

- A Sulgrave Conservation Area
- B Errata maps to Richard Hall's evidence
- C Noise Abatement Procedures – Turweston Aerodrome (Circuit Height 1300 FT QEF)

## **PHOTOGRAPHS**

- 1 View south from Church of St James, Sulgrave
- 2 HSGWAG Photomontages - Pack A Version 2
- 3 HSGWAG Photomontages - Pack B Version 2
- 4 Aerial photographs of Footpath AN10