The Planning Inspectorate

Appeal Decision

Inquiry opened on 13 December 2011
Site visits made on 12 and 26 January 2012

by Paul Griffiths BSc(Hons) BArch IHBC

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

Decision date: 13 August 2012

Appeal Ref: APP/K0235/A/09/2108506
Land at Airfield Farm, Podington

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Nuon UK Ltd against Bedford Borough Council.
- The application Ref.08/02692/MAF is dated 25 September 2008.
- The development proposed is described as '3 no. wind turbines and associated infrastructure'.
- This decision supersedes that issued on 23 February 2010. That decision on the appeal was quashed by order of the High Court.

Preliminary Matters

1. The Inquiry sat on 13, 14, 15 and 16 December 2011 and was closed on 6 January 2012. I carried out a series of accompanied site visits on 12 January 2012 in accordance with a schedule prepared by the parties. After those visits were completed I took in the Harrold Odell Country Park and the walk around the lake in particular, on an unaccompanied basis. I returned to the area on 26 January 2012 when I took in the various walks, including part of the Three Shires Way, as suggested by the parties, again on an unaccompanied basis.

2. The SoCG[1] sets out that the development proposed is the erection of three wind turbines; crane hard standings; new and upgraded on-site access tracks; an on-site control building; underground electrical cabling; and a temporary construction compound. This describes more fully the nature of the proposal and I have adopted it for the purposes of the appeal.

3. The proposal is EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended). The originating application was accompanied by an ES[2] dated September 2008. SEI[3], dated November 2011, was submitted to amplify, or take account of changes that have arisen since the original Inquiry. The SEI covers several areas, notably noise and vibration, bats, and the cumulative landscape and visual impact assessment.

4. There has been no sustained suggestion that the ES, as supplemented, does not meet the needs of the relevant Regulations. On my analysis, it meets those needs and, along with all the other material presented to the Inquiry, I have taken it into account in determining the appeals.

[1] Statement of Common Ground agreed between the Council and the appellant
[2] Environmental Statement
[3] Supplementary Environmental Information

5. Since the Inquiry closed, a series of matters has arisen that rendered it necessary to revert to the main parties for comment. These included the implications of the High Court Challenge to the Nun Wood decision[4], the upshot of the Secretary of State's decision on the Biogen Power Ltd appeal[5], the veracity of the revised figures submitted as a result, and, finally, the implications of the National Planning Policy Framework[6]. I have taken all the post-Inquiry comments into account in reaching my decision on the appeal.

Decision

6. The appeal is allowed and planning permission is granted for the erection of three wind turbines; crane hard standings; new and upgraded on-site access tracks; an on-site control building; underground electrical cabling; and a temporary construction compound on Land at Airfield Farm, Podington, in accordance with the terms of the application, Ref.08/02692/MAF, dated 25 September 2008, subject to the conditions set out in Annex A to this decision.

Main Issue

7. At the first Inquiry the Council proceeded on the basis of putative reasons for refusal relating to the effect of the proposal on the landscape and the living conditions of nearby residents through noise and visual impact. The Council maintains its position on landscape impact but now takes the stance that there would be no unduly harmful impact on the living conditions of local residents in terms of noise or visual impact, subject to suitable conditions. CLOWD[7] take a different stance to the Council in several areas. Against that background the main issue to be considered is whether any benefits of the proposal are sufficient to outweigh any harm it might cause to the character and appearance of the surrounding landscape, the setting of heritage assets, the living conditions of nearby residents through visual impact and/or noise, the enjoyment of riders and other users of PRoW[8], ecology, and other matters.

Reasons

Benefits

8. It is agreed in the SoCG that subject to the final model of wind turbine that might be chosen, the proposal would have a minimum installed capacity of around 6 MW. This means that the proposal could deliver between 13,670 and 14,200 MW hours of electricity from a renewable source, per year of operation. Based on the figures presented by the appellant, the need for a shut-down protocol, to address potential effects on bats, that I deal with below, would have no significant impact on those potential outputs.

9. While the Localism Act has received royal assent and the Government intends revocation, the RSS[9] remains part of the development plan. RSS Policy ENG2 sets out that the development of new facilities for renewable power generation should be supported, with the aim that by 2010, 10%, and by 2020, 17% of the region's energy should come from renewable sources. These targets exclude energy from offshore wind.

[4] APP/Y0435/A/10/2140401, APP/K0235/A/11/2149434 and APP/H2835/A/11/2149437
[5] APP/K0235/A/10/2141593
[6] Referred to hereafter as the Framework
[7] Campaign to Limit Onshore Wind Development
[8] Public Rights of Way
[9] East of England Plan: The Revision to the Regional Spatial Strategy for the East of England of May 2008

10. RSS Paragraph 9.6 translates this to an installed capacity, onshore, of 820 MW by 2010 and 1620 MW by 2020. The DECC[10] figures for the Eastern Region, agreed and submitted by the main parties post-Inquiry, show that as of 25 April 2012, in terms of renewable energy technologies as a whole, the Eastern Region has 1160 MW in operation, 552 MW awaiting, or under, construction, and 231 MW as planning applications under consideration. The onshore wind elements of those figures are 141 MW in operation, 252 MW awaiting, or under, construction and 73 MW as planning applications under consideration.

11. On this basis, it is clear that the 2010 target has been comfortably surpassed (though that did not take place in 2010) and there is sufficient in operation, and awaiting or under construction, to exceed the 2020 target (provided the latter are completed and brought into operation in time). There are also other renewable energy projects under consideration as part of the planning process that may contribute by 2020. On the basis of this information, I agree with the Council that regionally, the situation appears healthy.

12. In many ways, that reflects the national picture set out in the Roadmap[11]. Paragraph 2.20 of the Roadmap notes that analysis of the Renewable Energy Planning Database suggests that the pipeline for new plant across the UK is currently healthy, with around 22 GW of potential new capacity in planning, consented, or under construction. When taken together with existing capacity and accounting for historic consenting rates, 29 GW could be in operation in 2020. However, paragraph 2.21 adopts a more cautionary tone because, as it says, we cannot be certain that all the projects in the pipeline will be consented or commissioned or that they will progress quickly enough to contribute when needed. That is why EN-1[12] states that there is an urgent need for new large scale renewable energy projects to come forward to ensure that we meet the 2020 target and wider decarbonisation ambitions.

13. In terms of those ambitions, paragraph 1.1 of the Roadmap says that the Coalition Government has made clear its commitment to increase the amount of renewable energy deployed in the UK to make the nation more energy secure, to protect consumers from fluctuations in the price of fossil fuels, to help drive investment in new jobs and businesses in the renewable energy sector, as well as keeping us on track to meet our carbon reduction objectives for the coming decades. Paragraph 1.2 notes that the goal is to ensure that 15% of all of our energy demand is met from renewable sources by 2020, with ambition equally strong across all areas of the UK. Paragraph 1.3 looks beyond 2020 and cites advice from the CCC[13] that there is scope for the penetration of renewable energy to reach 30-45% of all energy consumed in the UK by 2030.

14. Against that background, paragraph 93 of the Framework says 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, and supporting the delivery of renewable energy. Paragraph 97 suggests that to help increase the use and supply of renewable and low carbon energy, local planning authorities[14] should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources.

[10] Department of Energy & Climate Change
[11] The UK Renewable Energy Roadmap
[12] Overarching National Policy Statement for Energy
[13] Committee on Climate Change
[14] I take that to include the Secretary of State and/or those acting on his or her behalf throughout the document

15. Moreover, paragraph 98 notes that in determining planning applications, applicants should not be required to demonstrate the overall need for renewable or low carbon energy. It also recognises that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

16. With that in mind, both the regional and national pipelines to 2020, in terms of renewable technologies overall and onshore wind specifically, may be healthy, but that health depends, to a large extent, on proposals already in the planning process, like that at issue, coming to fruition, in time. It is also clear that Government ambitions go well beyond 2020 and if those ambitions are to be realised, the pipeline will need new projects to continue coming forward in order to sustain supply.

17. The Framework does not repeat the key principle, set out in PPS22[15], that the wider environmental and economic benefits of all proposals for renewable energy projects, whatever their scale, are material considerations that should be given significant weight in determining whether proposals should be granted planning permission. But, supporting the transition to a low carbon future in a changing climate is one of the key principles of the Framework. That, coupled with what the Government has said in the Roadmap and EN-1, makes it clear that the relatively small, but nevertheless tangible, benefits of the proposal, in terms of the generation of energy from a renewable source, securing reductions in greenhouse gas emissions, adding to energy security, providing resilience to the impacts of climate change, and fostering economic growth, must carry significant weight in the overall planning balance.

18. The nature of that balancing exercise is encapsulated in LP[16] Policy BE7. This sets out that in assessing proposals for renewable energy schemes, the Borough Council will have particular regard to a series of issues including the immediate and wider impact of the proposed development on the landscape; the need to protect features and areas of natural, cultural, historical and archaeological interest; the measures that would be taken, both during and after construction, to minimise the impact of the development on the landscape, local land use, and residential amenity, as well as the local and wider benefits that the proposal may bring.

19. Similarly, paragraph 3.20 of the Roadmap notes that the planning system plays a central role in delivering the infrastructure we need to reduce our carbon emissions, ensuring continued security of energy supply, and helping our economy to grow, but also a vital role in safeguarding our landscape and natural heritage and allowing individual communities the opportunity to shape their environment. It is with all that in mind that I turn to the potentially harmful impacts.

Landscape Impact

20. Outside those landscapes that are nationally designated, RSS Policy ENV2 exhorts local planning authorities and other agencies to recognise and aim to protect and enhance the diversity and local distinctiveness of the various landscape character areas in the region. LP Policy BE30 sets out the Council's approach to all new development. Criterion i) refers to the visual impact of the development and its contextual relationship.

[15] Planning Policy Statement 22: Renewable Energy (now cancelled)
[16] Bedford Borough Local Plan of October 2002

21. Criterion iii) of CS[17] Policy CP21 requires all new development to fully consider the context within which it will sit and opportunities to enhance the character and quality of an area and local distinctiveness. CS Policy CP24 sets out that development should protect and, where appropriate, enhance the quality and character of the landscape and its nature and scale should be appropriate in the wider landscape.

22. One of the core principles of the Framework is that the intrinsic character and beauty of the countryside should be recognised. Paragraph 109 of the Framework states that the planning system should contribute to and enhance, the natural and local environment by, amongst other things, protecting and enhancing valued landscapes.

23. In National Landscape Character Assessment terms, the appeal site and its immediate surroundings lie within JCA[18] 91: Yardley-Whittlewood Ridge. To the south of the appeal site is JCA 88: Bedfordshire and Cambridgeshire Claylands and to the north, JCA 89: Northamptonshire Vales. In very simple terms, JCA 91 is defined as a broad ridge, elevated above adjacent vales. In terms of more local designations, the wind farm would straddle the boundary between LCA 1B: Riseley Clay Farmland and LCA 2A: Hinwick Wooded Wolds[19].

24. In essence, LCA 2A is a rolling, gently sloping landform, with some subtle valleys. There are significant amounts of woodland but there can be commanding views across the landscape through gaps in the tree cover. A characteristic of LCA 1B is disused World War II airfields that are a feature of the higher plateaux, where the absence of field boundaries emphasise the 'empty' character of these areas.

25. The appeal site lies within the environs of what was an airfield, built as an RAF base, but subsequently used by the USAAF. Some of the remaining taxi-ways are used as farm tracks and the disused runway facilitates various forms of motor sport and testing, notably drag racing, under the umbrella of the Santa Pod Raceway that lies to the north-east of the appeal site. To the north and west is a motley collection of buildings, some of which, including the former control tower, now in use as a dwelling, are remnants of the former airfield.

26. At around 126 metres high, the wind turbines proposed would be much taller than anything in the immediate area of the appeal site and they would, at times, be moving. However, it is readily apparent that the site was once home to an airfield; that, and the presence of the Santa Pod raceway, the multifarious facilities serving it, and the other buildings to the north and west, mean that the area bordering the appeal site is not particularly sensitive, in landscape terms, and the proposed wind turbines would not appear wholly incongruous in their immediate context.

27. From further away, the influence of former and current uses of the site would not be so apparent, or not apparent at all, so the sensitivity of the surrounding landscape to the change wrought by the proposed wind turbine array would be much greater. As the various viewpoints analysed demonstrate, given the elevated nature of the appeal site, the wind turbines would be widely visible from various points in the surrounding area, rising above woodland, or gently rolling fields, almost always against a currently unbroken skyline.

[17] Bedford Borough Council Development Plan Document: Core Strategy & Rural Issues Plan of April 2008
[18] Joint Character Area
[19] As defined by the Bedford Borough Council Landscape Character Assessment

28. Protection of the landscape for its intrinsic qualities is the clear thrust of landscape policy, locally, regionally and nationally. The introduction of incongruous, man-made, moving features, of such a height, into the landscape that surrounds the appeal site, would have a detrimental impact on those intrinsic qualities. However, there are features of the landscape that would mitigate the harm caused to a significant degree. From what I saw, views up to the ridge where the appeal site lies are generally part of a broad sweep across a landscape of significant scale, with the sky prominent above it. Rising above that often wooded landscape, against the skyline, the wind turbines proposed would not dominate the overall panorama. Nor would they appear wholly out of place as their location on an exposed plateau would have some functional resonance.

29. I was taken to a number of viewpoints in the course of the evidence and my site visits. The view of the proposal across the lake at Harrold Odell Country Park was the focus of much discussion. As an example of what I refer to above, despite the height of the wind turbines and their kinetic nature, given the degree of separation, the foreground provided by the lake, and the landscape beyond, would still form the most prominent elements of the view. The wind turbines would be a distinct visible presence, perched on the skyline, but the essential qualities of the landscape would remain largely intact and retain their dominance. Much the same would be true of the other viewpoints highlighted, whether closer to the appeal site than the country park, such as those along the Three Shires Way, or further away.

30. CLOWD also raised issues around cumulative impact. It is noteworthy that the wind farm approved closest to the appeal site, at Nun Wood, is subject to a High Court Challenge. However, even if a wind farm was eventually built in that location, the degree of separation is such that there would be no great visual tension with the proposal before me. Other wind farms, operational, permitted, or merely proposed, like Petsoe End, Chelveston, Burton Wold, and the extension to it, Stoke Heights or Orchardway, would all be even further away. Notwithstanding what the regional capacity study[20] says about the number of wind turbines JCA 91 might accommodate, the proposal would not lead to any significantly harmful, cumulative impact upon the landscape.

31. The proposal is intended to endure for a period of 25 years and is reversible. Government advice in paragraph 2.7.17 of EN-3[21] is that a time limit is likely to be an important consideration in assessing impacts of onshore wind farms (albeit larger ones) on the landscape. It is correct to note that any grant of planning permission might be renewed, or the wind farm repowered. However, either scenario would, in all likelihood, necessitate a further planning application that would need to be judged, on its merits, at the time.

32. As far as the proposal before me is concerned, so long as suitable conditions are attached to any grant of planning permission, at the end of the 25 year period, the wind turbines and ancillary infrastructure would be removed, and the land restored to its former condition. As set out, there would be a degree of harm to the landscape and 25 years is a long time in relation to the human lifespan. However, the transient nature of the harm that would be caused must mean that the proposal would have less of a harmful impact than if it was intended to be permanent.

[20] Placing Renewables in the East of England February 2008
[21] National Policy Statement for Renewable Energy Infrastructure

33. In summary, like almost any wind farm, the proposal would cause some harm to the character and appearance of the surrounding landscape. In this case, for the reasons set out, that harm would be ameliorated to a significant degree. There would be no great cumulative impact and the harm caused would be reduced further by the transient and reversible nature of the proposal. Nevertheless, that there would be some harm means that the proposal would fail to comply with RSS Policy ENV2, LP Policy BE30 and CS Policies CP21 and CP24. This conclusion feeds into the overall balancing exercise.

Heritage Assets

34. The suggestion that the proposal would cause undue harm to the setting of heritage assets does not form part of the Council's case and neither did EH[22] raise an objection in those terms. However, in evidence, CLOWD, and others, identified a range of designated heritage assets that would be affected by the proposed development.

35. These range from Hinwick House, a Grade I listed building set within a Grade II registered park and garden, the former Church of St Nicholas (now the Chellington Centre), a Grade I listed building and SAM[23], the Wold Farm Moated Enclosure, a SAM, a series of conservation areas encompassing the historic cores of surrounding villages, to Hinwick Lodge Farm and Cottages, Hobbs Green Farm and New Farm, all Grade II listed buildings. Reference is also made to some non-designated heritage assets notably a former Roman Road and Forty Foot Lane (Three Shires Way), as ancient routeways, Odell Great Wood, an ancient semi-natural woodland, and ridge and furrow landscapes at Podington and Chellington.

36. The Framework defines the setting of a heritage asset as the surroundings in which a heritage asset 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, may affect the ability to appreciate that significance, or may be neutral. EH guidance in *'The Setting of Heritage Assets'* says, in paragraph 2.2, that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset.

37. The evidence of CLOWD and others is that the wind turbines proposed would be visible from, or in juxtaposition with, all those heritage assets identified. My site visits bore that contention out. Visibility or inter-visibility clearly bears on the way an asset is experienced. As a consequence, on the basis of the definition in the Framework and the EH guidance, the proposal would affect the setting of all those heritage assets identified.

38. An assessment of the impact of the proposal on the setting of these heritage assets must be made against the background of a series of statutory and policy documents. First, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out that in considering whether to grant planning permission for development which affects a listed building, or its setting, the decision-maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

[22] English Heritage
[23] Scheduled Ancient Monument

39. RSS Policy ENV6 tells local planning and other agencies that the historic environment of the region should be identified, protected, conserved, and where appropriate, enhanced. LP Policy BE11 requires development likely to affect the setting of a conservation area to preserve or enhance its character or appearance. LP Policy BE21 seeks to preserve and enhance the setting of listed buildings by exercising appropriate control over the design of development in their vicinity. LP Policy BE23 takes a similar approach to sites of archaeological interest and their settings. LP Policy BE26 states that development that would have an adverse effect on the site, setting or enjoyment of any part of an historic park and garden will not be permitted. Amongst other things, CS Policy CP2 looks to ensure that important historic and cultural features are protected. CS Policy CP23 requires development to protect and, where appropriate, enhance the character of conservation areas, SAMs, historic parks and gardens, listed buildings and other important historic or archaeological features.

40. Paragraph 132 of the Framework sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. It goes on to note that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting; substantial harm to or loss of a Grade II listed building, park or garden should be exceptional; and substantial harm to or loss of designated heritage assets of the highest significance, notably SAMs, Grade I and II* listed buildings, and Grade I and II* registered parks and gardens, should be wholly exceptional.

41. Paragraph 133 goes on to note, of relevance, that where a proposed development would lead to substantial harm to or total loss of significance of a designated heritage asset, consent[24] should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh the harm or loss. Paragraph 134 says that where a proposed development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. Paragraph 135 states that in weighing applications that affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss, and the significance of the heritage asset.

42. As a precursor to the assessment of impacts on the setting of individual heritage assets, it is necessary to address the concept of significance. This is defined in the Framework as the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. Furthermore, it is necessary to assess the calibration of substantial and less than substantial harm. This is dealt with in paragraphs 91 to 95 of the still extant Practice Guide[25] that accompanied PPS5[26]. There is no specific guidance as to the level at which harm might become substantial but on a fair reading, it is clear that the author(s) must have regarded substantial harm as something approaching demolition or destruction.

[24] I take that term to be interchangeable with permission
[25] PPS5: Planning for the Historic Environment Historic Environment Planning Practice Guide
[26] Planning Policy Statement 5: Planning for the Historic Environment (now cancelled)

43. Turning to the individual heritage assets referred to, Hinwick House is a Grade I listed building set within a Grade II registered park and garden. The house and garden derive some of their significance from their setting in the landscape and in particular, from designed views to the east. The wind turbine array would be a distracting presence in some outward views but a peripheral presence only in views along the main eastern axis. That, coupled with the separation distance of around 2 kilometres[27], would mean that the harmful impact on the setting of Hinwick House, and its surrounding Registered Park and Garden, would be less than substantial.

44. The former Church of St Nicholas (now the Chellington Centre), a Grade I listed building and SAM, also derives some significance from its setting in the landscape and, in particular, the view of the Church set against the backdrop of the landscape and the sky above on the main approach to it. On this approach the wind turbines proposed would be prominent on the skyline above and beyond the Church. Their, sometimes moving, presence would compete with, and distract from, the Church. However, given that the wind turbines proposed would lie more than 3 kilometres[28] beyond, the Church would retain its dominance as a foreground element. For that reason, while some harm would be caused to the setting of the Church, and thereby its significance, that harm would be less than substantial.

45. The Wold Farm Moated Enclosure, a SAM, lies to the west of the proposed turbine array with the closest wind turbine about 300 metres away[29]. The wind turbines would be prominent in some views of the SAM. However, the moated enclosure is bound closely by trees and this would mean that the turbines would be perceived as separate elements, beyond the SAM. Moreover, as a SAM, most of the significance of the moated enclosure lies in its archaeological interest, which would be unaffected. On that overall basis, the harm caused to its setting would have a less than substantial impact on its significance.

46. There are a series of conservation areas around the site of the proposed wind farm: Podington, about 3.5 kilometres, Farndish, about 4 kilometres, Odell, about 3 kilometres, Sharnbrook and Felmersham, 3-4 kilometres, Harrold, 3-4 kilometres and Chellington, 4 kilometres distant[30]. The conservation areas encompass the historic cores of these villages and derive much of their significance as heritage assets from their form, and the buildings and spaces within them. Nevertheless, the wind turbines proposed would be visible in views out of, and across, these conservation areas. Their presence would act as a distraction from, and in some cases compete with, the Churches that mark the centre of gravity of the conservation areas, and their position in the landscape. However, the wind turbine array would be sufficiently distant from all these conservation areas to ensure that the Churches retained primacy. In all the views highlighted, any harmful impact on the setting of the conservation areas, and thereby their significance, would be less than substantial.

47. Hinwick Lodge Farm and Cottages are listed Grade II and lie about 1 kilometre[31] away from the proposed wind turbines. Some of their significance derives from their setting and, in particular, the reminder they give of the former agricultural landscape on what became the airfield.

[27] The distance given by CLOWD in their evidence
[28] The distance given by CLOWD in their evidence
[29] As corrected by CLOWD from the figure in their evidence
[30] Distances given by CLOWD in their evidence
[31] The distance given by CLOWD in their evidence

48. The wind turbines proposed would be prominent in some views from the farm and cottages but the influence of other buildings and structures on what was the airfield is such that the addition of the wind turbines proposed would make little difference to the way in which the farm and cottages remind the observer of the agricultural landscape that existed before the development of the airfield. On that basis, the harmful impact on the setting of Hinwick Lodge Farm and Cottages, and thereby their significance, would be less than substantial.

49. There would be views of the wind turbine array from Hobbs Green Farm and New Farm which are Grade II listed buildings. Both derive some of their significance from their setting and their relationship with the landscape in particular. However, it is the area immediately around these buildings that makes the greatest contribution to their significance. The degree of separation between these buildings and the proposed wind turbines would be such that while there would be an effect on their settings, any harmful impact on their significance would be less than substantial.

50. As set out, CLOWD also make reference to some non-designated heritage assets. The wind turbine array would be visible from the former Roman Road and from Forty Foot Lane (part of the Three Shires Way). However the significance of these, as heritage assets, lies mainly in the routes they follow. The presence of the wind turbines in views from those routes would have an effect on their settings, but little harmful impact on their significance.

51. Similarly, if Odell Great Wood has any significance as a heritage asset, that lies in the longevity of its presence in the landscape. That the wind turbines would be visible from the edges of the woodland, or in longer-distance views across it, would affect its setting but have little harmful impact on its significance. The ridge and furrow landscapes at Podington and Chellington have significance as reminders of old agricultural practices but views of the wind turbines from, or across, them would have little impact on their heritage interest.

52. Moving away from considering designated heritage assets individually, Government advice in paragraph 2.7.17 of EN-3 is that duration is likely to be an important consideration in assessing impacts of onshore wind farms (albeit larger ones) on the setting of heritage assets. This is also acknowledged by EH in '*Wind Energy and the Historic Environment*'. Once the 25 year period the proposal is intended to be in operation for has passed the wind turbines and their ancillary infrastructure will be removed and the harmful impact on the settings of the heritage assets identified would be no more. Relative to the human lifespan, 25 years is a long time, but in terms of the age of the heritage assets affected, and the period that they can reasonably be expected to endure, it is relatively insignificant. Less than substantial harm would be caused to the setting of a number of heritage assets but that harm would be reduced yet further by the transient and reversible nature of the proposals.

53. To summarise, there would be some harm caused to the settings and thereby the significance of a range of designated and non-designated heritage assets. However, in all cases that harm would be less than substantial. The Framework sets out how that needs to be balanced against potential benefits but it also needs to be considered in relation to the statutory test set out in Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Moreover, that there would be some harm caused to the setting of designated heritage assets means that the proposal does not comply with RSS Policy ENV6, LP Policies BE11, BE21, BE23, and BE26, and CP Policies CP2 and CP23.

Living Conditions

54. There are two aspects to concerns raised about the impact of the proposal on the living conditions of nearby residents. The first relates to the visual impact of the proposed wind turbines. Criterion i) of LP Policy BE30 says the visual impact of development and its relationship with its context is something which will be taken into account when development proposals are considered. One of the core principles of the Framework is to always seek a good standard of amenity for existing occupiers of land and buildings.

55. Reference was made to the approach of an Inspector who set out that when turbines are present in such number, size and proximity that they represent an unpleasantly overwhelming and unavoidable presence in main views from a house or garden, there is every likelihood that the property concerned would come to be regarded as an unattractive and thus unsatisfactory (but not necessarily uninhabitable) place to live. He went on to assert that it is not in the public interest to create such living conditions where they did not exist before[32]. This approach offers a useful guide.

56. The dwellings that the Council have highlighted are Tower House, the Caravan at Tower House, Santa Rosa, Santa Maria, and West Side (Unit 11). All are sited, broadly, to the north of the proposed array. The position of the Council is that with the degree of separation proposed, the number, scale and moving nature of the turbines would make them substantial and overpowering features as seen from habitable rooms and amenity areas associated with Tower House, Santa Rosa and the Caravan at Tower House, and to a lesser extent, West Side (Unit 11) and Santa Maria.

57. According to the Council, these impacts would be unacceptable, in the terms of the living conditions of the occupiers, without effective mitigation. However, the Council is satisfied that intervening tree planting that could be secured by a suitably worded condition, would offer sufficient screening. It was outlined, on behalf of the appellant, that they did not share the Council's view on the visual impact of the turbines proposed, but put the tree planting forward as a suggestion, in the event that I agreed with the Council.

58. First of all, it is correct to record that none of the occupiers of the dwellings highlighted by the Council have objected to the proposed wind farm. Indeed, all have written in support. It may well be the case that some of this support is motivated by financial interest. Nevertheless, it is something that I must take account of. More important though, having regard to the 'Lavender Test', is consideration of the impact the proposal would have on the properties, referred to by the Council, themselves, as places to live, and part of the housing stock.

59. I visited the properties in the course of my site visits and though I did not enter them, was able to gain a clear impression of what the visual impact of the proposed turbines would be. I agree with the Council that the visual impact would be most severe on Tower House, Santa Rosa, and the Caravan at Tower House. In terms of Tower House, separation distances would be about 612 metres to Turbine 1 (T1), 613 metres to Turbine 2 (T2) and 518 metres to Turbine 3 (T3). The corresponding distances for Santa Rosa would be about 729 metres (T1), 638 metres (T2) and 485 metres (T3) and for the Caravan at Tower House, 665 metres (T1), 646 metres (T2), and 528 metres (T3).

[32] What has been termed the 'Lavender Test'

60. Tower House was formerly the control tower serving the airfield. As befits that function, its primary aspect ranges from south-west to the south-east and it has a garden facing the same way. The main frontage of Santa Rosa, containing several large windows, faces south-east and part of its garden lies to the south of the property. The main elevation of the Caravan at Tower House, again containing several windows, faces south.

61. Given their size, proximity and moving nature, at these separation distances (and allowing for the possibility of micro-siting), the wind turbines would have a significant visual impact on views out of these properties and the gardens or outside spaces that serve them. However, the wind turbines would be well spread out and seen in the context of an open, large-scale vista to the south, that would take in a wide sweep of the landscape and a prominent sky. As a consequence, the visual impact of the proposed wind turbines while obvious would not be dominant or overbearing, and the effect on the living conditions of the occupiers would fall within reasonable bounds. Tower House, Santa Rosa and the Caravan at Tower House would not become particularly unattractive or unsatisfactory places to live.

62. Some, largely oblique views would be available from within Santa Maria and more direct views from its garden. West Side (Unit 11) has little in the way of windows so it is unlikely that there would be any views of the wind turbines from the interior. However, I saw at my site visit evidence that an area outside the main entrance, on the south-east facing frontage, is used for sitting out. There would be clear views of the turbine array from this position.

63. However, the impact on the occupiers of both of these properties would be less than that on the occupiers of the other properties referred to because of the greater degree of separation and, again, fall within reasonable bounds. Neither Santa Maria nor West Side (Unit 11) would become particularly unattractive or unsatisfactory places to live.

64. In the context of these conclusions, the tree planting that the Council believes necessary to mitigate the visual impact of the proposed wind turbines, would not be necessary to make the proposal acceptable, in these terms. There would be no departure from criterion i) of LP Policy BE30 or the relevant parts of the Framework referred to.

65. The second aspect is noise. Criterion vii) of LP Policy BE30 refers to any noise likely to be generated by development as a factor requiring consideration. In addition to the core principle of the Framework that deals with the amenity of existing occupiers, paragraph 123 notes that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

66. As set out in paragraph 2.7.56 of EN-3, the assessment of noise from wind turbines should use ETSU-R-97[33] taking account of latest industry good practice. Since the previous Inquiry, the appellant has produced further information in the form of a report referred to as the NIA, dated 1 April 2011[34], superseding the information contained in the original ES.

[33] ETSU-R-97: *The Assessment and Rating of Noise from Wind Farms*
[34] Podington – Airfield Farm Noise Impact Assessment – Noise and Vibration

67. On the basis of the information in the NIA, the Council, in a separate SoCG, specifically to deal with noise, agrees that the wind farm proposed can operate within noise limits derived from ETSU-R-97 and the effect of noise on the living conditions of nearby residents can be dealt with through appropriately worded planning conditions. There is some dispute over aspects of the suggested conditions and I deal with those matters below.

68. CLOWD raised concerns about aspects of the appellant's methodology and, specifically, whether it complies exactly with the requirements of ETSU-R-97, in terms of the use of standardised or measured wind speed at 10 metres height. However, the use of standardised wind speed by the appellant represents latest industry good practice and, as such, while the methodology may not comply with ETSU-R-97, in terms, it does not fall outside the approach recommended in EN-3. Concern was also raised about the position of the anemometer mast that took readings that fed into the methodology. It seems to have been located in the order of a kilometre away from the appeal site, close to woodland. ETSU-R-97 may well suggest that such measurements should be taken on site, but I do not regard the location of the anemometer mast to be so remote from the appeal site, and so different in nature, that the readings cannot be relied upon. I note the Council takes a similar view on both matters.

69. While the Council does not, CLOWD raise issues around AM[35]. This phenomenon is recognised in ETSU-R-97 but the specific concern raised by CLOWD relates to what is termed excess AM. A number of conditions have been suggested to deal with the implications, should AM arise. However, it is important to note that little is known about the causes of AM, or the level of risk in relation to any specific wind farm proposal. There is no good evidence to suggest that excess AM is likely to occur as a result of the proposal at issue in this appeal, whether because of the particular nature of the appeal site, and/or the arrangement of wind turbines proposed, or any other matter.

70. On that basis, there seems little justification in approaching the noise management of the scheme in a way that differs from the approach set out in ETSU-R-97. In the context of the evidence in this case, the conditions suggested could only be precautionary and, as such, they have not been shown to be necessary, as Circular 11/95[36] would require them to be. I am also mindful that should issues around excess AM arise, there is the potential for it to be dealt with by way of nuisance action.

71. Taking these points together, subject to suitably worded conditions that I deal with below, the proposal would not cause any significant detriment to the living conditions of local residents as a result of noise. There is compliance with criterion vii) of LP Policy BE30 and the Framework, in this regard.

Horse Riders and other Users of PRoW

72. CS Policy CP2 requires development to ensure that opportunities for leisure, recreation and tourism are readily available. Paragraph 73 of the Framework recognises that access to high-quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Paragraph 75 seeks to protect and enhance public rights of way and access.

[35] Amplitude Modulation
[36] Circular 11/95: *The Use of Conditions in Planning Permissions*

73. The former airfield is the focus of various PRoW[37] which cross, border and run close to the appeal site and radiate beyond, including the Three Shires Way. Indeed, in terms of horses and their riders, it appears correct that any rider in Hinwick, South Podington, Odell or Sharnbrook has no off-road circular route available that does not cross or pass close to the appeal site.

74. Against that background, there are two main aspects to the concerns raised by the BHS[38] and others. The first strand relates to separation distances. The latest advice from the BHS is that wind turbines should be situated three times the height of the turbine away from general routes and four times the height from routes like the Three Shires Way (Ride UK Routes). The Companion Guide to PPS22 records the previous BHS advice in paragraph 56 stating that the BHS, following internal consultations, has suggested a 200 metre exclusion zone around bridle paths to avoid wind turbines frightening horses.

75. The arrangement of the wind turbines proposed does not comply with the latest BHS guidance. Indeed, it appears that, in places, there is a breach of the 200 metre separation distance previously advised by the BHS, notably in the relationship between bridleway BW37 and one of the wind turbines. However, as set out in paragraph 56 of the Companion Guide to PPS22, the 200 metre exclusion zone is not a statutory requirement. Neither is the latest BHS advice that post-dates the Companion Guide to PPS22.

76. As set out in the landscape evidence, the wind turbines would be clearly visible on the approach towards them. That would tend to reduce the likelihood of their sudden emergence startling horses. Moreover, the appellant has put forward provisions for a permissive bridleway that can be secured by condition. This would allow horses and their riders to move across the former airfield while maintaining a reasonable degree of separation from the wind turbines. In that way, the proposals would have no great impact on horse riders.

77. The second strand relates to the effect of shadows. As prey animals, horses can react to fear with flight and are very protective of their legs – their means of escape. Horses are sometimes unpredictable and I have no reason to doubt that shadows cast by moving turbine blades may be seen as a threat by some, causing them to rear, spin or bolt, thereby causing danger to the horse, its rider, and other users of PRoW. It is unfortunate that this aspect has not been assessed in detail by the appellant. Given the relative orientation of the proposed turbines and the PRoW, some of the routes used by horses and their riders, in the vicinity of the proposed turbines, might be affected by such shadows, under particular weather conditions, and at certain times of the day. However, given variations in weather conditions, and in the sun path over the course of the year, there will be lots of times when they are not. As such while the prevalence of shadows may at times constrain horse riders, this restriction would not be so great that their ability to use routes across the site would be undermined to any significant degree.

78. There are also well-used walking routes in the vicinity of the appeal site including some that cross the site of the former airfield, notably the Three Shires Way. As set out, the wind turbines would be readily apparent on the various approaches to them and when passing them. However, they would not form a physical barrier to the use of the walking routes.

[37] Including Byways Open to all Traffic (BOATs), Bridleways and Public Footpaths
[38] British Horse Society

79. Neither would the presence of the wind turbine array significantly devalue the experience of walking those routes because, as I have referred to in assessing the landscape impact, it would not appear wholly incongruous given the nature of the area around the appeal site and the qualities of the wider landscape. For similar reasons, the presence of the proposals would not undermine to any significant degree the enjoyment of the PRoWs (or other facilities) at Harrold Odell Country Park, or elsewhere.

80. Against that background, the proposal would have no significant harmful impact on horse riders or other users of PRoW. As such, I see no departure from CS Policy CP2 or the requirements of the Framework in this regard.

Ecology

81. The Council raises no ecological issues and subject to some mitigation, neither does Natural England or the RSPB. CLOWD raised some concerns about the potential impact on birds and bats. In terms of birds, the ES, and the evidence presented by the appellant makes clear that there would be no significant impact on any bird species as a result of the proposal.

82. Surveys that informed the original ES and since have shown a low-level of bat activity in the vicinity of the appeal site. That is consistent with the habitat-based assessment that found the site to be of low-value to bats with little in the way of quality features on-site, or linkage into it from high quality habitats elsewhere. There are some gaps in the survey work however. To address that, the appellant has proposed a shut-down protocol during defined periods of time in the active bat season, to be secured by condition. This, it is said, would bring any bat fatalities as a result of the wind turbines to a negligible level. That approach is not what would normally be expected but Natural England has expressed satisfaction with it and I have no good reason to question their judgement as the Government's advisor on these matters.

83. On that basis, subject to conditions that I return to below, the proposal would have no significantly harmful impact in ecological terms and would not fall foul of the requirements of RSS Policy ENV3, LP Policy NE2, or CP Policy 25, that address matters ecological.

Other Matters

84. The proprietor of Wold Farm Fisheries has expressed concern about the impact that the wind turbines proposed would have on the experience of fishing at Wold Farm Fisheries and, as a consequence, the business. Clearly users of the fishing lakes would see the upper parts of wind turbines at relatively close quarters above the trees that surround the fishing lakes and, at times, the wind turbines might be audible. However, I do not believe that would devalue the fishing experience to any significant extent. Moreover, there is no direct evidence from the proprietor that customers would be put off using the facilities because of the presence of wind turbines relatively close by.

85. Some concern has been raised about the effect of the wind turbines proposed on the Santa Pod Raceway. The wind turbine array would be visible to spectators but in the periphery of views towards the track. The wind turbines may well be in the direct view of drivers but despite the proximity involved they would not be such a distraction that racing or other events or activities would become dangerous or otherwise devalued. The operators of Santa Pod Raceway raise no objections to the proposal.

The Balancing Exercise

86. I am aware of the degree of local opposition to the proposal. However, that opposition is not determinative, in itself, and must be viewed in the overall policy context. The proposal would have no significant impact on the living conditions of nearby residents through visual impact, or noise, and horse-riders and other users of PRoWs, would not be significantly inconvenienced by it. However, the wind turbine array would cause some harm to the landscape, and to the setting, and thereby the significance, of heritage assets. While the harm to the landscape would be ameliorated to a significant degree and the harm to the setting and thereby the significance of heritage assets would be less than substantial, as set out, notwithstanding that the proposal would accord with RSS Policy ENG2, the presence of harm renders the proposal contrary to the provisions of the development plan, viewed overall. Moreover, the statutory test imposed by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 must be borne in mind.

87. Against that, as reflected in the Framework, and wider Government energy strategy, the proposal would bring significant benefits through the generation of energy from a renewable source, securing reductions in greenhouse gas emissions, adding to energy security, providing resilience to the impacts of climate change, and fostering economic growth. In my view, notwithstanding the overall failure to accord with the development plan, these positive aspects of the proposal clearly outweigh the negative aspects. On that basis, I intend to allow the appeal, subject to conditions.

Conditions

88. I have considered the suggested conditions in the light of Government advice in Circular 11/95. In general terms, I have made relatively minor changes to a number of the conditions in the interests of precision. Given the difficulties that might be encountered in the procurement stage and the number of conditions to be discharged before development can take place, it is reasonable to allow a 5 year period for commencement. To facilitate any subsequent application for a minor material amendment, a condition is required to set out the approved plans. I have not included those intended to be 'typical' depictions. The development is promulgated on the basis that it will endure for a period of 25 years and a condition is necessary to confirm that. It is also necessary to apply a condition to deal with decommissioning. I have amended that suggested as I see no need for a two-stage process.

89. A condition has also been suggested to secure a bond or an alternative financial provision to secure decommissioning. I do not believe that to be necessary because there will be other options open to the Council to enforce removal at the expiry of permission in the very unlikely event that the terms of the relevant conditions are not adhered to. It seems similarly unlikely that at the time when the permission expires, there will be no landowner to enforce against, if that should be necessary.

90. A condition specifying the number of turbines is unnecessary as the scheme put forward clearly shows three. However, it is reasonable to set out the blade tip and hub height of the turbines. A condition is necessary to secure details of the design, colour and finish of the wind turbines. However, it is not necessary to secure details of the warranted sound power levels. This is a matter for the appellant given the constraints of the noise conditions, that I turn to below.

91. A condition is required to address the design of, and materials to be used in, the control building, site compound and any ancillary structures. It is reasonable to limit any lighting or signage on the wind turbines and ancillary structures and to ensure that all cables between the turbines and the substation are buried. Given the complexities involved a condition is necessary to secure a Construction Method Statement. Replanting around the turbine bases would appear to place raptors in danger and contradict subsequent suggested conditions. In any case, given the overall site context, it would provide little visual benefit. It is reasonable to control the hours during which construction or decommissioning can take place. Given the proximity of dwellings, the more restrictive times suggested by the Council would better protect living conditions during those phases of the development.

92. An Ecological Mitigation and Management Plan is needed in the interests of nature conservation. However, given that the proposal is acceptable in planning terms, there is no need for it to provide ecological enhancement as requested by English Nature. Given the archaeological potential of the site, it is reasonable to attach a condition to secure a watching brief. Given their size, the delivery of wind turbine components to the site will clearly require careful planning. On that basis, a condition requiring a Transport Management Plan is a reasonable imposition. On the basis of what I saw, the suggested condition should be expanded to include details of any works of protection or support to Hinwick Bridge and details of other off-site highway works and on-site parking and hard standing areas (as suggested elsewhere). Along with the Construction Method Statement, the Transport Management Plan would be sufficient to address the points raised on conditions by the representative of the BHS.

93. To protect the facilities enjoyed by users, a condition is required to deal with the provision of a permissive bridleway as shown on drawing no.13366-R181 and to ensure that it is retained for the lifetime of the development. I see no necessity for the bridleway to be dedicated and for the existing route to be extinguished under the terms of the Highways Act. The development is of a temporary nature so there is no reason why the diversion of bridleway BW37 needs to be permanent.

94. Given the impact that either might have on local residents, conditions are necessary to deal with any electromagnetic interference and shadow flicker that might be encountered. A condition is also required to deal with the situation that might arise if one or more of the wind turbines fail to operate for a significant period. The whole basis behind the acceptability of the proposal is the benefits it brings in terms of the generation of electricity from a renewable source. To that end, the Operator needs some reasonable flexibility where technical issues, such as a wind turbine requiring repair or replacement, might arise. I have therefore reworded the suggested condition to allow that.

95. A condition is required to ensure that the MoD and CAA is provided with information about the proposal. As set out, in the interests of bats, a condition is required to address the need for a shut-down protocol. The information might prove useful but in the light of the ES, and the evidence presented to the Inquiry, a condition to require post-construction monitoring of any impact on protected bird species is not necessary. Given my conclusions about the visual impact of the proposal and the consequent effect on the living conditions of nearby residents, the condition suggested by the Council to secure screening is not necessary.

96. A series of conditions have been put forward to deal with noise. Not all of those suggested are necessary however. First of all, provisions for decommissioning and to set out what should happen if one or more of the wind turbines fail to operate continuously have been covered already. Furthermore, whether one uses the Council's figures or the appellant's, the conditions will set noise limits that the wind turbines would need to operate within. Because of that, I see no good reason why the appellant should need to submit details of the chosen wind turbine to ensure that it will meet the same noise criteria as specified in the noise assessment. It is for the appellant to select the type of wind turbine to be used and I cannot believe that they would be so reckless as to select a wind turbine model that would not operate within the noise limits set out. In that context, the suggested condition is unnecessary.

97. A condition has also been suggested to set out what the wind farm operator must do to remedy any breach of the noise limits. That is not necessary because the appellant is obliged to ensure the wind turbines operate within the set noise limits in any event. If there is a breach then the Council has enforcement powers available to it. Similarly, I see no good reason why details of the maintenance programme needs to be submitted for approval. If a lack of maintenance leads to a breach of the noise limits, then the Council can use its enforcement powers accordingly.

98. In terms of the noise limits, the Council's position, in simple terms, is that because ETSU-R-97 is a guide that sets *indicative* noise levels (limits) *thought* to offer a reasonable degree of protection to wind farm neighbours (Council's emphasis), it is appropriate to set noise limits 5dBA below the so-called derived noise limits or at the predicted noise level where the headroom is less than 5dBA. I do not agree with that approach because EN-3 is very clear that ETSU-R-97 should be used more strictly than that in defining how wind farms should operate. In that context, while the appellant appears to have accepted a reduction in night-time limits for West Side (Unit 11) at some wind speeds, I see no good reason to set lower limits across the board, in the way the Council suggests. I have therefore used Tables 1 and 2 as put forward by the appellant. Finally, as set out, the conditions proposed by CLOWD to deal with excess AM are not necessary.

Final Conclusion

99. For the reasons given above I conclude that the appeal should be allowed.

Paul Griffiths

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Tom Cosgrove of Counsel	Instructed by Assistant Chief Executive and Solicitor to Bedford Borough Council
He called	
John Baly DipLA(Glos) Dip Con Pol CMLI	Consultant, Ian Stemp Landscape Associates
Peter White BA(Hons) MA DipTP MRTPI	Team Leader (Appeals and Enforcement), Bedford BC
Graham Parry Specialist PG Diploma in Noise and Acoustics MIOA[39]	Managing Director, ACCON UK and Principal Associate of the Temple Group

FOR THE APPELLANT:

John Houghton Partner, Bond Pearce LLP	Instructed by NUON (UK) Ltd – NUON Renewables
He called	
Caroline Gettinby BSc(Hons) MSc MIEEM CEnv	Associate Director of Ecology, AMEC Environment & Infrastructure UK Ltd
Ian Gates BA MLD CMLI	Principal Landscape Architect, AMEC Environment & Infrastructure UK Ltd
David Kenyon BA MA MRTPI IHBC	Associate Director, AMEC Environment & Infrastructure UK Ltd
Dr Andrew Bullimore BSc(Hons) PhD MIOA[40]	Managing Partner, Hoare Lea Acoustics

FOR THE CAMPAIGN TO LIMIT ONSHORE WIND DEVELOPMENT (CLOWD):

Tina Douglass of Counsel	Instructed by CLOWD
She called	
Steve Chambers[41]	Local Resident
Apple Ivory	Podington Parish Council
Bettina Kirkham DipTP BLD CMLI	Director, Kirkham Landscape Planning

INTERESTED PERSONS:

Peter Scott	CPRE Bedfordshire
Angela Hill	Local Resident
Ronan Wilson	Local Resident
Ann Kennedy	Beds. Access and Bridleways Officer, BHS
John Tusting	Trustee of Reach Out Plus
Alison Foster	Ward Councillor, Harrold Ward

[39] Took part in the discussion on the issue of noise and conditions relating to that aspect of the appeal
[40] Ditto
[41] Also gave evidence on behalf of Dax Miller

DOCUMENTS

1 Statement of Common Ground (between appellant and the Council)
2 Statement of Common Ground on Noise (between appellant and the Council)
3 Extracts from Appeal Decision APP/L2630/A/08/2084443 (Hempnall)
4 List of Core Documents
5 Copy of 'A Guide to Santa Pod Raceway 2011'
6 Rebuttal Evidence of Caroline Gettinby complete with e-mail from Dr Sharrock (Appendix 2) (and also Appendix 3 to the Dax Miller PoE) and NE1 (e-mail exchange in September 2011 with English Nature)
7 Bundle of responses to originating application from the Environment Agency, Natural England, Adrian Fett (Rights of Way Officer [Ouse Valley] Beds. CC), RSPB and the BHS
8 Letter of 17 November 2011 from Mr E W G Braddick of 'Tower House'
9 Letter of 17 November 2011 from Mr Raymond Smalley of 'The Caravan at Tower House'
10 Letter of 17 November 2011 from Stewart & Debora Schofield of 'Santa Rosa'
11 Letter of 24 November 2011 from Carolyn T Gibson of 'Santa Maria'
12 Letter of 1 December 2011 from Mike Billinton and Anna Walsh of 'Westside Bungalow Unit 11'
13 Letter of 6 December 2011 from Shelagh Potter, Interim Principal, Hinwick Hall College
14 Letter of 19 October 2011 from Avril Chick (Mrs)
15 Submissions of Peter Scott CPRE Bedfordshire
16 Photographs of Hinwick House put in by Ronan Wilson
17 Submissions of Ann Kennedy
18 Submissions of Alison Foster, Ward Councillor for Harrold Ward
19 Submissions of Ed Burnett, Countryside Sites Officer, and attachments
20 Details of facilities at Wold Farm (shooting and fisheries)
21 Aerial photograph of the former Church of St Nicholas (Chellington Centre),
22 Copy of photomontage from VP20
23 Photomontage from near Tower House (labelled Viewpoint 2)
24 View of Petsoe End Wind Farm taken from appeal site
25 View of bridleway BW37
26 Photomontages showing cumulative impacts
27 Submissions of Harrold Parish Council
28 Plan of Proposed Bridleway Diversion
29 Summary Proof of Evidence of Steve Chambers
30 Schedule of Suggested Conditions
31 Proposed Noise Conditions
32 Proposed AM Noise Conditions (put in by CLOWD)
33 Bundle of e-mails between appellant and English Nature regarding the proposed Bat Protocol Condition
34 Table giving an indicative assessment of the impact on energy yield of a bat mitigation protocol (version 1)
35 Revised table and accompanying notes giving a representative assessment of the impact on energy yield as a consequence of implementing a bat protocol
36 Map of site visit viewpoints and walks
37 Post-Inquiry correspondence relating to the Nun Wood high court challenge
38 Post-Inquiry correspondence relating to the decision of the Secretary of State on the Biogen appeal (2141593)
39 DECC figures correcting the figures set out in Document 38
40 Post-Inquiry correspondence on the Framework

PLANS

A Figure 1.1: Site Boundary
B Figure 1.2: Wider Geographical Context
C Figure 5.1: Proposed Wind Farm Layout
D Figure 5.2: Typical Wind Turbine
E Figure 5.3: Schematic Diagram Showing Connection to the Local Distribution System
F Figure 5.4: Typical Site Road Cross-Section
G Figure 5.5: Typical Turbine Pad Foundation
H Figure 5.6: Typical Crane Hard Standing
I Figure 5.7: Typical Cable Trench
J Figure 5.8: Typical Control Building

Annex A

Schedule of Conditions

1) The development hereby permitted shall begin not later than five years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: Figure 1.1: Site Boundary; and Figure 5.1: Proposed Wind Farm Layout.

3) The permission hereby granted 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 (the '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 before the permanent cessation of electricity generation at the site, 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 specify the depth below ground to which turbine foundations are to be removed. The scheme shall also include details of the management and timing of any works, a traffic management plan to address likely traffic impact issues during the decommissioning period, site restoration measures, and a programme of works. The decommissioning and site restoration scheme shall be implemented and completed, in accordance with the approved details.

5) The blades of the wind turbines shall rotate in the same direction. The overall height of the wind turbines shall not exceed 126.5 metres to the tip of the blades when the wind turbine is in the vertical position, and the hub height shall be in the range between 79–85 metres, as measured from natural ground conditions immediately adjacent to the turbine base.

6) Notwithstanding condition No.2, each wind turbine and its associated track(s) shall be sited in the positions indicated in the Environmental Statement (ES) and indicated on drawing 13366-R137, subject to a micro-siting allowance of 50 metres. Notwithstanding that, Turbine 1 shall not be micro-sited in the sector 160 to 340 degrees west of grid north from the position shown in the ES and drawing 13366-R137. A drawing showing the final positions of all the wind turbines and tracks shall be submitted to the local planning authority within 3 months of the First Export Date.

7) No development shall take place until details of the wind turbines including their design, colour, finish and air safety lighting have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

8) No development shall take place until details of the control building including its design, dimensions and materials, and of the site compound and any ancillary structures, including their design and materials, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

9) No lighting, symbols, signs, logos or lettering, other than those required for statutory health and safety purposes, traffic management or aviation safety, shall be displayed or installed on any external surfaces of the wind turbines or any other building or structure.

10) All cables within the site, between the wind turbines, and the wind turbines and the substation, shall be set underground.

11) No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved CMS. The CMS shall address the following matters:
    i) The control of noise and vibration from construction activities and arrangements for their monitoring during the construction process;
    ii) The control of dust and arrangements for monitoring during the construction process;
    iii) Measures for the control of pollution and sedimentation including arrangements for the storage of materials and a protocol for responding to any incidents during the construction process;
    iv) Wheel washing facilities and their operation;
    v) The location and size of temporary parking, lay-down, material stores, and compounds;
    vi) The location and details of warning signs informing the public of construction activities taking place;
    vii) The control of surface water drainage from parking and hard-standing areas and the design and construction of oil interceptors (including during the operational phase);
    viii) The use of impervious bases and bunds for the storage of oils, fuels, or chemicals during the construction phase;
    ix) The means by which users of the public rights of way will be safeguarded during the construction phase;
    x) Details of a 24 hour point of contact to whom incidents arising during the construction phase can be reported; and
    xi) The storage of soil excavated in the construction phase.

12) Construction and decommissioning work shall only take place between the hours of 08:00 to 18:00 on Monday to Friday inclusive and 08:00 to 13:00 on Saturdays, with no such work on a Sunday or Public Holiday. Exceptions for work outside these hours including deliveries may be carried out with the prior written approval of the local planning authority.

13) No development shall take place until an Ecological Mitigation and Management Plan (EMMP) has been submitted to and approved in writing by the local planning authority. The EMMP shall include the establishment of the baseline conditions, long-term objectives, management regime and maintenance schedules and shall consider investigations relating to drift cover and underlying rock, specify measures to be taken to protect newts during the construction period and to control vegetation around the turbine bases. Upon completion of the construction phase, the EMMP shall be reviewed and submitted for the written approval of the local planning authority every five years. The measures outlined in the EMMP shall continue for the lifetime of the permission or until the wind farm is decommissioned, whichever is the sooner.

14) No development shall take place until a scheme for an archaeological watching brief has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details.

15) No development shall take place until a Transport Management Plan (TMP) has been submitted to and approved in writing by the local planning authority. The TMP shall include details of the management and routing of construction traffic; swept path diagrams at junctions and changes in direction; delivery times; any temporary works of protection or support to Hinwick Bridge; off-site highway works including the site access; and on-site hard-standings and parking facilities. Development shall be carried out in accordance with the approved details.

16) No development shall take place until a scheme for the provision of a permissive bridleway along the approximate alignment shown on drawing no: 13366-R181 has been submitted to and approved in writing by the local planning authority. The scheme shall include precise details of alignment, surfacing material and signage. The permissive bridleway shall be completed in accordance with the approved details before any other development commences and retained, as approved, for the construction, operational, and decommissioning phases of the development.

17) No development shall take place until a scheme for the mitigation of any electromagnetic interference, including to television reception, that could be caused by the wind turbines permitted herein, and a programme for implementation, has been submitted to and approved in writing by the local planning authority. Any mitigation measures shall be carried out in accordance with the approved details.

18) No development shall take place until a scheme for the mitigation of any shadow flicker that could be caused by the wind turbines permitted herein, including a programme for implementation, has been submitted to and approved in writing by the local planning authority. Any mitigation measures shall be carried out in accordance with the approved details.

19) If any of the wind turbines hereby permitted ceases to operate for a continuous period of 12 months, or an extended period approved in writing by the local planning authority, (unless such a cessation is due to the turbine being under repair or replacement), a scheme for the decommissioning and removal of the wind turbine and any ancillary equipment and structures relating solely to that wind turbine, and restoration of that part of the site affected, shall be submitted to the local planning authority for written approval within 3 months of the end of the 12 month period or any extended period approved in writing by the local planning authority. The scheme shall be completed, in accordance with the approved details within 12 months of the date of its approval by the local planning authority.

20) Before development commences details of the date of commencement and projected cessation of construction; the latitude, longitude, easting and northing of each wind turbine; and the height above ground level of the tallest construction and operational structure, shall be notified to the CAA and MoD. Within 28 days of the First Export Date, details of the completion date of construction and of any alterations to the data previously submitted shall be provided to the CAA and MoD.

21) The wind turbines shall not operate between sunset and sunrise, 14 April to 14 October inclusive, below wind speeds of 5.5m/s at turbine hub height unless in accordance with a bat mitigation scheme that details a revised shut down protocol first submitted to and approved in writing by the local planning authority. Such a bat mitigation scheme shall include details of the methodology and results of survey work undertaken between sunset and sunrise for a full active bat season between 14 April and 14 October inclusive; provision for temporary shut down periods of the wind turbines between sunset and sunrise, 14 April to 14 October inclusive; and provision for periodic monitoring and review of the shut down protocol for the operational period of the wind turbines. The bat mitigation scheme shall be implemented in accordance with the approved details.

22) The rating level of noise immissions at dwellings which lawfully exist, or have planning permission for construction at the date of this permission, from the combined effects of the wind turbines (including the application of any penalties in accordance with the attached Guidance Notes) when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in the tables attached to these conditions (Tables 1 and 2). The coordinate locations to be used in determining the location of each of the dwellings listed in Tables 1 and 2 shall be those listed in Table 3. Where any or all of the installed turbines require to be operated in noise constrained modes in order to meet the daytime noise limits at any given wind speed or wind direction, these same noise constrained modes shall be retained for the operation of the turbines under these same wind speed and wind direction conditions at all times unless otherwise required for reasons of maintenance, safety or grid requirements. In fulfilment of this condition the following notes (a) to (i) shall also be complied with.

    (a) No wind turbine shall generate electricity to the grid until the local planning authority has approved in writing a scheme for undertaking the noise monitoring required under (b) below, as submitted by the Wind Farm Operator. This scheme shall detail the measurement of noise immissions from the wind turbines, with such measurements to be carried out by a suitably qualified consultant, approved by the local planning authority, at the operator's expense.

    (b) A noise measurement study shall commence within one month of the turbines becoming fully operational, unless an alternative timescale is otherwise agreed in writing with the local planning authority. Noise immission measurements shall be undertaken associated with the properties known as Tower House and Unit 11, unless alternative locations are agreed in writing with the local planning authority. The measurements shall continue for a period of 3 months unless a shorter timescale is agreed in writing by the local planning authority as a consequence of the Wind Farm Operator demonstrating that any shortened survey period has covered an adequate representation of the long term range of measurement conditions expected to be experienced at the development site.

    (c) Upon receipt of a written request from the local planning authority, following a complaint to it alleging noise disturbance at a dwelling,

the Wind Farm Operator shall provide to the local planning authority the information relevant to the complaint as detailed in the written request from the local planning authority, such data to be logged in accordance with (i) below, in the format set out in Guidance Note 1(e). This information shall be provided within 14 days of the written request of the local planning authority, unless the time limit is otherwise extended in writing by the local planning authority. Within 21 days from receipt of the written request of the local planning authority made under this paragraph, the Wind Farm Operator shall, at its expense, employ a 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, unless it is agreed in writing by the local planning authority that such assessment can be adequately undertaken based on the noise immission compliance measurements undertaken under (a) and (b) above.

(d) The local planning authority shall issue a written statement to the Wind Farm Operator setting out a protocol for the assessment of the rating level of noise immissions, such protocol to include the conditions described in Guidance Note 2(b) and to include a statement as to whether, in the opinion of the local planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

(e) Where a dwelling to which a complaint is related is not listed in Table 3, 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 representative background noise environment and proposed noise limits shall be submitted for approval in writing by the local planning authority. 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.

(f) 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 Tables 1 and 2 or approved by the local planning authority pursuant to (d) above, shall be undertaken at the measurement location approved in writing by the local planning authority.

(g) The Wind Farm Operator shall provide to the local planning authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written protocol of the local planning authority provided in accordance with (d) above 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). 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.

(h) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), 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 (g) above unless the time limit has been extended in writing by the local planning authority.

(i) The Wind Farm Operator shall continuously log rainfall at the site and shall continuously log power production, nacelle wind speed, nacelle wind direction and nacelle orientation at each wind turbine all in accordance with Guidance Note 1(d). This data shall be retained for the duration of this permission. The Wind Farm Operator shall provide this information in the format set out in Guidance Note 1(e) to the local planning authority on its request, within 14 days of receipt in writing of such a request.

23) The results of any noise measurement studies instigated under condition 22 shall be provided to the Council for their agreement and approval in order to demonstrate compliance with and/or discharge of condition 22.

Table 1 - Between 07:00 and 23:00 - Noise level dB $L_{A90,\ 10\text{-minute}}$

	Wind Speed at 10 m Height, m/s									
	3	4	5	6	7	8	9	10	11	12
Tower House	45.0	45.0	45.0	45.0	45.0	45.8	48.8	49.1	49.1	49.1
Santa Rosa	45.0	45.0	45.0	45.0	45.0	45.9	50.2	52.7	52.8	52.8
Santa Maria	45.0	45.0	45.0	45.0	45.0	45.9	50.2	52.7	52.8	52.8
Unit 11	35.0	35.0	35.0	36.5	39.6	43.0	46.5	50.0	53.2	56.2
Caravan	35.0	35.0	35.0	37.6	41.6	45.8	48.8	49.1	49.1	49.1

Table 2 - Between 23:00 and 07:00 - Noise level dB $L_{A90,\ 10\text{-minute}}$

Location	Wind Speed at 10 m Height, m/s									
	3	4	5	6	7	8	9	10	11	12
Tower House	45.0	45.0	45.0	45.0	45.0	45.0	49.2	51.9	51.9	51.9
Santa Rosa	45.0	45.0	45.0	45.0	45.0	45.0	47.5	51.1	51.8	51.8
Santa Maria	45.0	45.0	45.0	45.0	45.0	45.0	47.2	51.1	51.8	51.8
Unit 11	38.0	38.0	38.0	38.0	38.0	40.9	46.0	49.9	51.0	51.0
Caravan	38.0	38.0	38.0	38.0	38.0	43.7	49.2	51.9	51.9	51.9

Table 3: Coordinate locations of the properties listed in Tables 1 and 2.

Property	Easting	Northing
Tower House	495130	260492
Santa Rosa	495206	260607
Santa Maria	495163	260648
Unit 11	495013	260471
Caravan	492148	260568

Note to Table 3: The geographical coordinates references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

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

Guidance Notes for Noise Conditions

These notes are to be read with and form part of the noise conditions. 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. 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).

Guidance Note 1

(a) Values of the $L_{A90,10\text{-minute}}$ noise statistic should be measured at the complainant's property, 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 in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). 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 should be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the local planning authority, and placed outside the complainant's dwelling. Measurements should be made in 'free field' conditions. To achieve this, the microphone should 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 with operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the Wind Farm Operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated during each successive 10-minutes period for each wind turbine on the site. The mean wind speed data shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness

length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2(b), such correlation to be undertaken in the manner described in Guidance Note 2(c). All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time.

(e) Data provided to the local planning authority in accordance with Condition 22 shall be provided in comma separated values in electronic format.

Guidance Note 2

(a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Guidance Note 2(b).

(b) Valid data points are those measured in the conditions specified by the local planning authority in its written protocol under Condition 22(d), but excluding any periods of rainfall measured on the wind farm site. These specified conditions shall include the range of wind speeds, wind directions, times of day, meteorological conditions and power generation. In specifying such conditions the local planning authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) Values of the $L_{A90,10\text{-minute}}$ noise measurements and corresponding values of the 10-minute wind speed, standardised to ten metre height using the procedure specified in Guidance Note 1(d), for those data points considered valid in accordance with Guidance Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, 'best fit' curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

(a) Where, in the opinion of the local planning authority as advised to the Wind Farm Operator in its written protocol under Condition 22(d), 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.

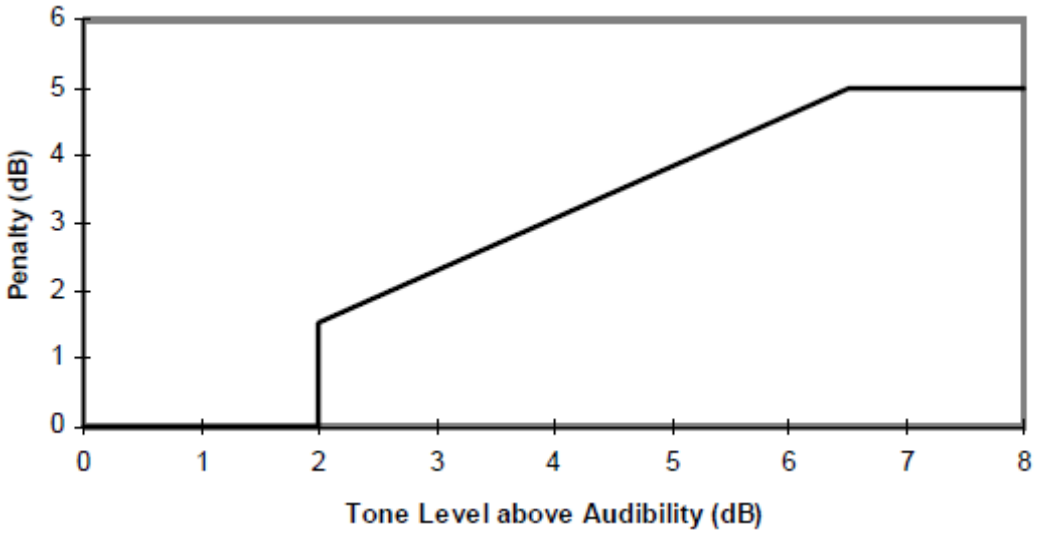
(b) For each 10-minute interval for which $L_{A90,10\text{-minute}}$ data have been determined as valid in accordance with Guidance Note 2(b) a tonal assessment shall be performed on noise immissions during 2 minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals 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 within ± 0.5m/s of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance 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 Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the local planning authority in its written protocol under Condition 22(d).

(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) 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 Condition 22(e), 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 Guidance Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range requested by the local planning authority in its written protocol under Condition 22(d).

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 Guidance 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 Condition 22(e) 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 (d) of the noise condition then the development fails to comply with the conditions.