

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING BOARD

Wednesday, 26 May 2010
Start Time for Visit:- 9.00 a.m.
Start Time for Meeting:- 1.00 p.m.

At Bailey Suite, Bailey House, Rawmarsh Road, Rotherham.

AGENDA

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
2. To determine any items which the Chairman is of the opinion should be considered as a matter of urgency.
3. Declarations of Interest (Pages 1 - 2)
(A form is attached and spares will be available at the meeting)
4. Deferments/Site Visits (information attached) (Pages 3 - 4)
5. Report of the Director of Planning and Regeneration Service (herewith) (Pages 5 - 86)
6. Updates



ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING REGULATORY BOARD

MEMBERS' DECLARATION OF INTEREST

Your Name (Please PRINT):-

Meeting at which declaration made:-

Item/Application in which you have an interest:-

Date of Meeting:-

Time Meeting Started:-

Please tick (✓) which type of interest you have in the appropriate box below:-

1. Personal

☐

You may stay in the room.

2. Personal/Prejudicial

☐

You may stay in the room (public allowed to attend meeting for same purpose) for the purpose of making representations, answering questions or giving evidence. You may not take part in the discussion or observe the vote.

3. Personal/Prejudicial

☐

You must leave the room (where ordinary member of the public not allowed to speak on the matter e.g. exempt item)

Please give your reason(s) for you Declaring an Interest:-

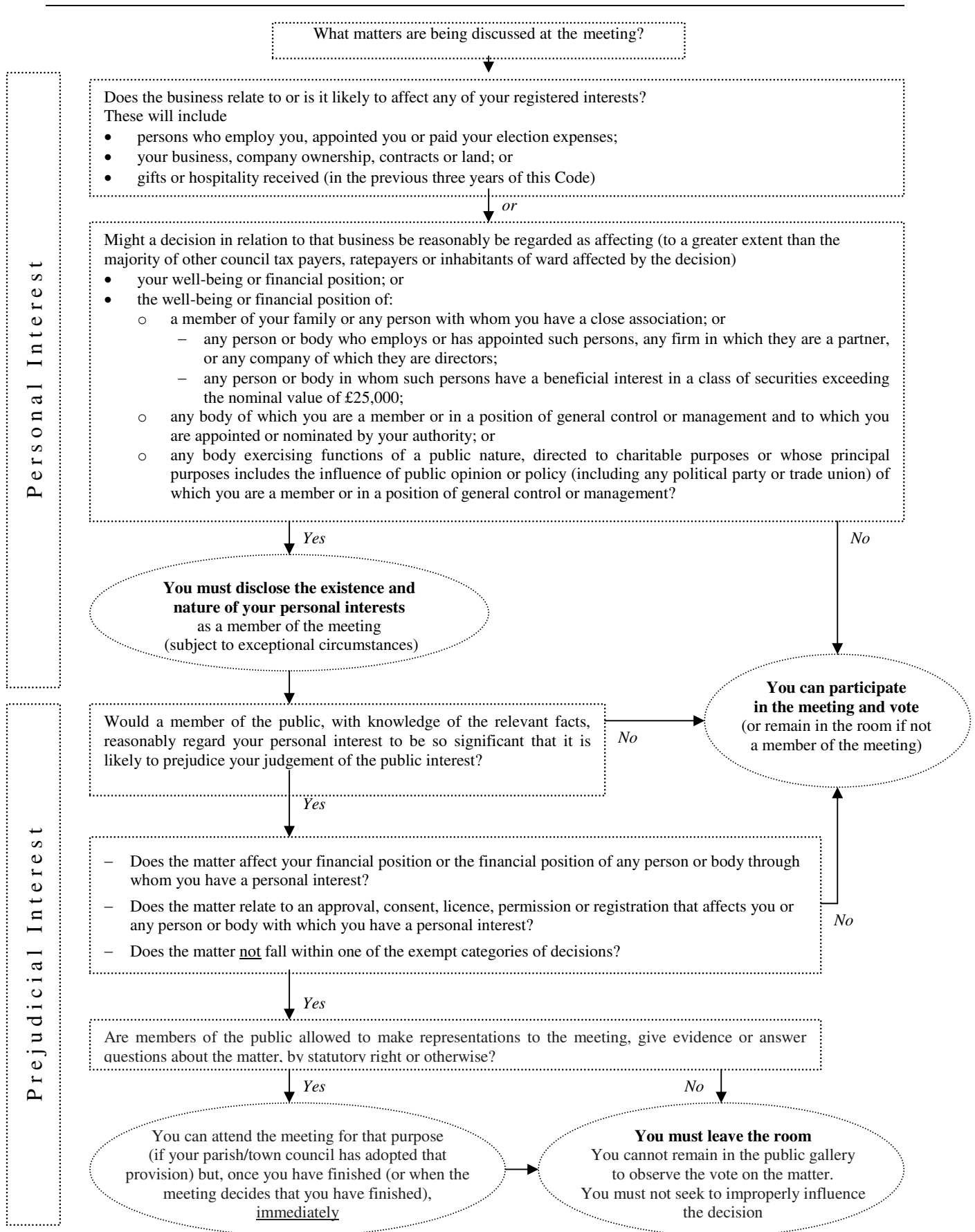
(Please continue overleaf if necessary)

N.B. It is up to a Member to determine whether to make a Declaration. However, if you should require any assistance, please consult the Legal Representative/Committee Clerk prior to the meeting.

Signed:-

(When you have completed this form, please hand it to the Committee Clerk.)

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



ROTHERHAM METROPOLITAN BOROUGH COUNCIL
PLANNING REGULATORY BOARD

DEFERMENTS

- Planning applications which have been reported on the Planning Board Agenda should not be deferred on request without justification.
- Justification for deferring a decision can arise from a number of matters:-
 - (a) Members may require further information which has not previously been obtained.
 - (b) Members may require further discussions between the applicant and officers over a specific issue.
 - (c) Members may require a visit to the site.
 - (d) Members may delegate to the Director of Service the detailed wording of a reason for refusal or a planning condition.
 - (e) Members may wish to ensure that an applicant or objector is not denied the opportunity to exercise the “Right to Speak”.
- Any requests for deferments from Members must be justified in Planning terms and approved by the Board. The reason for deferring must be clearly set out by the Proposing Member and be recorded in the minutes.
- The Director of Planning and Transportation Service or the applicant may also request the deferment of an application, which must be justified in planning terms and approved by the Board.

SITE VISITS

- Requests for the Planning Board to visit a site come from a variety of sources:- the applicant, objectors, the Parish Council, local Ward Councillors, Board Members or sometimes from the Director of Planning and Transportation Service.
- Site visits should only be considered necessary if the impact of the proposed development is difficult to assess from the application plans and supporting information provided with the officer's written report; if the application is particularly contentious or the application has an element that cannot be adequately expressed in writing by the applicant or objector. Site visits can cause delay and additional cost to a project or development and should only be used where fully justified.
- The reasons why a site visit is called should be specified by the Board and recorded.
- Normally the visit will be programmed by Democratic Services to precede the next Board meeting (i.e. within two weeks) to minimise any delay.
- The visit will normally comprise of the Members of the Planning Board and appropriate officers. Ward Members are notified of visits within their Ward.
- All applicants and representees are notified of the date and approximate time of the visit. As far as possible Members should keep to the schedule of visits set out by Committee Services on the Board meeting agenda.
- Normally the visit will be accessed by coach. Members and officers are required to observe the site directly when making the visit, although the item will be occasioned by a short presentation by officers as an introduction on the coach before alighting. Ward Members present will be invited on the coach for this introduction.
- On site the Chairman and Vice-Chairman will be made known to the applicant and representees and will lead the visit allowing questions, views and discussions. The applicant and representees are free to make points on the nature and impact of the development proposal as well as factual matters in relation to the site, however, the purpose of the visit is not to promote a full debate of all the issues involved with the application. Members must conduct the visit as a group in a manner which is open, impartial and equitable and should endeavour to ensure that they hear all points made by the applicant and representees.
- At the conclusion of the visit the Chairman should explain the next steps. The applicant and representees should be informed that the decision on the application will normally be made later that day at the Board meeting subject to the normal procedure and that they will be welcome to attend and exercise their "Right to Speak" as appropriate.

To the Chairman and Members of the
PLANNING REGULATORY BOARD

26TH May 2010

Report of the Director of Planning and Regeneration Service

ITEM NO. SUBJECT

1 RB2009/824

Page 6 Erection of 6 No 132m high wind turbines and associated 80m high anemometer mast, access roads, crane pads, control building, sub-station and temporary construction compound at land at Penny Hill Lane, Ulley, Rotherham for Penny Hill Wind Farm Ltd.

2 RB2010/0351

Page 85 Erection of 29 No. dwellinghouses comprising 1 No. bungalow, 2 No. two storey apartment buildings with Juliet balconies comprising 12 No. apartments and 16 No. two storey dwellinghouses at land at Garden Street, Melton High Street, Frederick Street and Victoria Road, Wath upon Dearne.

ROTHERHAM METROPOLITAN BOROUGH
COUNCIL

PLANNING REGULATORY
BOARD

PLANNING AND REGENERATION SERVICE

REPORT TO COMMITTEE
26TH MAY 2010

Item 1

(Ref. RB2009/824)

Erection of 6 No. 132 m high wind turbines and associated 80 m high anemometer mast, access roads, crane pads, control building, sub-station and temporary construction compound at land at Penny Hill Lane, Ulley, Rotherham for Penny Hill Wind Farm Ltd.

RECOMMENDATION:

(A) That the application be referred to the Department for Communities and Local Government under the Town and Country Planning (Consultation) (England) Direction 2009

(B) That consequent upon the Department for Communities and Local Government deciding not to intervene, the Borough Council resolves to grant planning permission subject to the following reasons for grant and conditions:

STATEMENT OF REASONS FOR DECISION TO GRANT PLANNING PERMISSION

1. Having regard to the Development Plan and all other relevant material considerations as set out below:

a) Development Plan:

Regional Spatial Strategy.

Policy ENV 5 Energy states that the Region will maximise improvements to energy efficiency and increases in renewable energy capacity. Plans, strategies, investment decisions and programmes should, amongst other things, maximise renewable energy capacity by:

1. Delivering at least the following Regional and Sub-Regional targets for installed grid-connected renewable energy capacity:-

	2010	2021
Humber	124MW	350MW
North Yorkshire	209MW	428MW
South Yorkshire	47MW	160MW
West Yorkshire	88MW	295MW
Offshore	240MW	630MW
Total	708MW	1862MW

2. Monitoring annually planning permissions and developments against the indicative local authority targets for 2010 and 2021 and taking action accordingly in order to ensure the regional and sub-regional targets are exceeded

The target for installed grid connected renewable energy for Rotherham is 11MW by 2010 and 36MW by 2012

Policy ENV10 Landscape states that the Region will safeguard and enhance landscapes that contribute to the distinctive character of Yorkshire and the Humber. It does not recognise the current application site as being of regional or sub-regional importance.

Policy YH 2 Climate Change and Resource Use, states “Plans, strategies, investment decisions and programmes should help to meet the target set out in the RES to reduce greenhouse gas emissions in the region in 2016 by 20-25% (compared to 1990 levels) with further reductions thereafter by,...increasing renewable energy capacity and carbon capture.”

(ii) Local Planning Policy.

The Rotherham Unitary Development Plan identifies the site as being within the Green Belt and an Area of High Landscape Value. The following Policies are relevant:

Policy ENV1 Green Belt states that inappropriate development in the Green Belt will not be allowed unless there are very special circumstances to clearly outweigh the harm caused.

Policy ENV1.2 Development in Areas of High Landscape Value states that strict control will be exercised over development that takes place in such areas.

Policy ENV2.2 Interest outside Statutorily Protected Sites states that development which affects any interests will only be allowed where it can be shown that the benefits outweigh the need to safeguard the interest.

Policy ENV3 Borough Landscape recognises the importance of maintaining and enhancing the landscape.

Policy ENV 3.2 Minimising the Impact of Development states that the Council will seek to minimise the impact of development.

Policy ENV 3.4 Trees Woodlands and Hedgerows states that the Council will seek to maintain and enhance the tree and hedgerow cover of the Borough.

Policy ENV3.7 Control of Pollution states that the Council will use all available powers to reduce pollution.

Policy ENV 4.3 Unstable Land states that the Council will in conjunction with the relevant agencies have regard for the stability of land where development is proposed and require any appropriate remedial measures.

Policy UTL 3 Environmental Impact of Service Installations seeks to minimise any adverse effect of installations on the landscape.

Policy UTL 3.4 Renewable Energy indicates a presumption in favour of renewable energy installations unless there is demonstrable harm to interests of acknowledged importance.

Policy EC3.6 Rural Diversification seeks to encourage rural diversification.

b) Other relevant material planning considerations:

European Community Directive 2009 requires that 15% of the UK's total energy use should be our energy should be supplied by renewable sources by 2020. The Climate Change Act 2008 legally binds the UK to deliver a reduction in greenhouse gas emissions of 80% by 2050 and at least 34% by 2020, compared with 1990 levels. The Energy Act 2008 places obligations on the electricity generating industry to provide electricity from renewable sources.

Central Government Guidance.

PPS 1 Delivering Sustainable Development.

Has the core principle of sustainable development and amongst other things aims to:-

- (i) Effectively protect the environment.
- (ii) Promote prudent use of natural resources.
- (iii) Protect and enhance the natural and historic environment.
- (iv) Address the causes and potential impacts of climate change.

The Planning and Climate Change Supplement to PPS1 Reinforces and emphasises the importance of addressing climate change and states:

“The Government believes that climate change is the greatest long term challenge facing the world today. Addressing climate change is therefore the Government's principal concern for sustainable development.” It adds that “Changes in climate are likely to have far-reaching and potentially adverse, effects on our environment and society for which we need to prepare and adjust.” It adds that “Where there is any difference in emphasis on climate change in this PPS and others in the national series this is intentional and this PPS takes precedence.”

The Supplementary Annex to PPS 1 “Climate Change Supplement” adds that the planning system should help to “-secure enduring progress against the UK's emissions targets by direct influence on energy use and emissions,” and that one of the “Key Principles” is to; “make a full contribution to delivering the

Government's climate change programme and energy policies and in doing so contribute to global sustainability."

It goes on to say that where strategic (RSS) and local plans (LDF) have not been updated to reflect this supplementary PPS, planning authorities should have regard to this PPS as a material consideration which may supersede policies in an existing development plan.

PPG 2 Green Belts states that one of the most important attributes of Green Belts is their openness and that development other than that essential for agriculture forestry or open recreation will not be allowed unless there are very special circumstances. Paragraph 3.2 states that "Inappropriate development is by definition harmful to the Green Belt." "Very special circumstances to justify inappropriate development will not exist unless the harm by inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development."

PPS 5 Planning for the Historic Environment states that developers should consult any historic environment record, and any asset which may be affected should have been assessed prior to the submission of any application, to establish the likelihood of archaeological remains, and any further necessary investigation. Where it is considered there may be potential for archaeological remains Local Authorities should require the developer to submit an appropriate desk top survey, including previous discoveries, maps, county archives, and geophysical surveys.

Policy HE1 of PPS5 Heritage Assets and Climate Change states that: "Where conflict between climate change objectives and the conservation of heritage assets is unavoidable, the public benefit of mitigating the effects of climate change should be weighed against any harm to the significance of heritage assets in accordance with the development management principles in this PPS and national planning policy on climate change."

PPS 7 Sustainable Development in Rural Areas states that Local Planning Authorities in formulating their policies in development plan reviews (Local Development Framework) should:

- (i) Support development that delivers diverse and sustainable farming enterprises.
- (ii) Support the country based enterprises and activities which contribute to rural economies, and/or promote recreation in and the enjoyment of the countryside.
- (iii) Take account of the need to protect natural resources.
- (iv) Provide for the sensitive exploitation of renewable energy resources in accordance with the policies set out in PPS 22 and

- (v) Conserve specific features and sites of landscape, wildlife and historic or architectural value, in accordance with statutory designations.

PPS 9 Biodiversity and Geological Conservation.

Aims to conserve and enhance biodiversity and geology, by amongst other things:-

- (i) Promoting opportunities to incorporate beneficial biological and geological features in developments.
- (ii) Prevent harm to biological and geological conservation interests.
- (iii) Avoid damage to and repair natural habitats.
- (iv) Protect habitats.

PPG 14 Development on Unstable Land states that stability of the land the subject of any planning application is a material consideration. It is the responsibility of the developer to determine whether land is suitable for development and they should make a thorough investigation and assessment of the ground to ensure that it is stable or that any actual or potential instability can be overcome by any remedial preventative or precautionary measure.

Where there are reasons for suspecting instability the developer should determine by appropriate site investigations and geotechnical appraisal whether the site could be affected by ground movements due to past present or foreseeable future mining activities. It is not the responsibility of the Local Planning Authority to investigate the ground conditions of any particular development site.

PPS 22 Renewable Energy and the related Companion Guide 'Planning for Renewable Energy' give details of the Government's policy regarding Renewable Energy development, which must be taken into account when formulating Regional Spatial Strategies and Local Development Frameworks. It indicates that planning authorities should adhere to the following key principles:

- (i) Renewable energy developments should be capable of being accommodated throughout England where the technology is viable and environmental economic and social impacts can be addressed.
- (ii) Regional Spatial Strategies and Local Development Frameworks should contain policies designed to promote rather than restrict development of renewable energy resources.
- (iii) Local Planning Authorities should set out criteria based policies that will be applied in assessing applications. Policies which rule out or constrain renewable energy development should not be included without sufficient reasoned judgement. The Government will intervene in the plan making process if constraints are considered too great or are poorly justified.
- (iv) Wider environmental and economic benefits of renewable energy projects whatever their scale, are material considerations that

should be given considerable weight when determining planning applications, including those in Green Belt locations. Paragraph 13 states: "Policy on development in the green belt is set out in PPG2. When located in the green belt, elements of many renewable energy projects will comprise inappropriate development, which may impact on the openness of the green belt. Careful consideration will therefore need to be given to the visual impact of projects, and developers will need to demonstrate very special circumstances that clearly outweigh any harm by reason of inappropriateness and any other harm if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources".

- (v) Local Planning Authorities should not make assumptions about technical and commercial feasibility of renewable energy projects.
- (vi) Local Planning Authorities should not reject proposals because output is small.
- (vii) Local Planning Authorities should foster community involvement and applicants should engage in active consultation before planning applications are submitted.
- (viii) Development proposals should demonstrate benefits as well as how any impacts have been minimised.
- (ix) ETSU-R-97 The Assessment and rating of Noise from Wind Farms is the document referred to by PPS 22 as a means of assessing and rating noise from wind farms. Advice in this document advocates the measurement of average background noise levels at the nearest sensitive receptor, and applying a maximum acceptable increase in the average noise levels of 5 dB(A), with a maximum level of 43 dB(A) during night time and daytime to between 35 and 40 dB(A). With regard to the daytime limits the actual figure chosen will depend on the number of dwellings affected, the effect of noise limit on the electricity generated and duration of the level of exposure.

PPG 24 Planning and Noise is Central Government advice in relation to the location of new development adjacent or near to existing noise sources. It is not appropriate for new noise sources near existing sensitive development. It does however refer to World Health Organisation advice which advocates a maximum night time background noise level of 35 dB(A) to ensure undisturbed sleep. That standard has recently been revised down to 30 dB(A).

BS 4142 is used for assessing the impact of new noise sources on existing sensitive receptors and indicates that increases of more than 5 dB(A) are more likely to result in complaints of noise nuisance. This approach is reflected to some extent in the advisory document ETSU-R-97 recommended by PPS 22.

Circular 2/99 Environmental Impact Assessment indicates that significant effects will generally depend on the scale of the development and its visual

impact as well as potential noise impacts. EIA is more likely to be required for proposals of 5 or more turbines or more than 5 MW of new generating capacity.

2. For the following reasons:

It is considered that, by way of the renewable energy to be generated, the reduction in CO2 emissions, and all the benefits associated with reduction in global warming and combating climate change, along with the ecological improvements, and subject to the recommended conditions to mitigate the effect on issues of acknowledged importance, there are very special circumstances sufficient to clearly outweigh the harm caused by inappropriate development and other identified harm, including the impact on the openness of the Green Belt and the adverse visual impact of some of the turbines on some local residents, such that the development can be permitted in the Green Belt.

It is considered that, by way of their size, design and location and the open large scale nature of the landscape, the proposed turbines will not have a materially adverse effect on the landscape character and visual amenities of the area.

It is considered that the proposed turbines will not have an adverse effect on the safety of users of the M1/M18 Motorways, where no objections have been received from the Highways Agency.

It is also considered that subject to the recommended conditions the development will not result in any material adverse effect on the amenities of nearby residents in the area by way of noise, vibration, flicker or physical danger, or any adverse effect on the ecology of the area.

3. The forgoing statement is a summary of the main considerations leading to the decision to *grant planning permission*. More detailed information may be obtained from the Planning Officer's report; the application case files and associated documents.

Conditions:

General Issues.

01

[PC97] The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details as shown on the approved plans (as set out below) except as shall be otherwise agreed in writing by the Local Planning Authority (Drawing numbers HJB/681/PA05 Rev B Issue A3, HJB/681/PA08 Rev A Issue A3, HJB/681/PA09 Issue A4, HJB/681/PA10 Rev A Issue A4, HJB/681/PA11 Issue A3, HJB/681/PA12 Issue A3, HJB/681/PA13 Issue A3, and HJB/681/PA14 Rev A Issue A3, received on the 9th July 2009).

02

No development shall take place within the area delineated within the red boundary on the plans annotated HJB/681/PA05 Rev C Issue A3, received on the 9th July 2009, until the applicant or their agents or successors in title have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, for the whole of the area within the referred to red boundary, which has been submitted by the applicant, their agents, or their successors in title and approved in writing by the Local Planning Authority, and implemented in accordance with the approved details.

03

Before the development is commenced on site, details of the materials to be used in the site control building shall be submitted to and approved by the Local Planning Authority, and the building shall be constructed in accordance with the agreed materials.

04

All electricity supply cables from the turbines to the equipment building shall be installed below ground.

05

Before the development hereby approved is commenced on site a scheme of investigation and assessment to identify the nature of the subsoil and bedrock geology and the extent and nature of any existing mine workings shall be carried out and submitted to the Local Planning Authority. The findings shall be used to justify designs for the turbine bases, access tracks and other small buildings, plant or machinery hereby granted permission. The scope of the scheme shall include the following:-

- (a) Desk study.
- (b) Exploratory investigation.
- (c) Engineering recommendations.
- (d) Validation.
- (e) A detailed scheme of monitoring the engineering recommendations.
- (f) A scheme of remedial works where appropriate.
- (g) A method statement including the timings of the proposed works.

The details of the approved scheme shall be carried out in accordance with the approved scheme and timings.

06

Prior to the commencement of development specific details of the anemometer mast and wind turbine design, specification (including evidence that the turbines meet the same criteria as those measured during noise monitoring and prediction models) and colour shall be submitted to and approved in writing by the Local Planning Authority. Only the approved wind turbines and anemometer mast shall be installed upon the development site.

07

The overall height of the anemometer mast shall not exceed 80m and the wind turbines shall not exceed 132 metres to the tip of the blades and the length of the blades shall not exceed 52 metres. The wind turbines shall be situated within 25 metres of the positions shown on Plan HJB/681/PA05 Rev B. Issue A3 dated 9th October 2009, and no wind turbine shall be situated less than the topple distance of 132m to a public footpath, road or highway.

08

The proposed turbines shall be located within the 50m diameter tolerance zones indicated on plan ref No HJB/681/PA05 Rev B Issue A3 submitted on the 9th July 2009.

09

The planning permission is for a period of 25 years from the commencement of operations (as identified under Section 56 of the Town and Country Planning Act 1990) on site.

10

Not less than 6 months from the expiry of 25 years from the commencement of operations on site, or on the cessation of electricity generation at the site, whichever is sooner, all development hereby permitted shall be removed and the land restored to agricultural land. Those works shall be carried out in accordance with a scheme to be submitted to and approved by the Local Planning Authority. The scheme shall include details for the removal of the turbines and associated equipment, the restoration of the land to agricultural use and the phasing of the works.

11

If any turbine, hereby permitted, ceases to be operational for a continuous period of at least 6 months, it shall be removed and the land restored to agricultural use in accordance with a scheme of decommissioning works to be submitted to and approved by the Local Planning Authority within 8 months of the cessation of operation of the turbine.

12

Before the development is brought into use details of a display of information about the development for visitors shall be submitted to and approved by the Local Planning Authority and the approved details shall be implemented within 3 months of the commissioning of the turbines.

13

Before the commencement of the development on site, details of the means of disposal of any excavated material shall be submitted to and approved by the Local Planning Authority, and the material shall be disposed of thereafter in accordance with the approved details.

14

Before the development hereby approved is commenced on site, a baseline television reception study to be carried out to a radius of 5 kilometres of the application site shall be undertaken by a qualified television engineer and submitted to and approved by the Local Planning Authority. Details of works necessary to mitigate any adverse effects to domestic television within the 5 kilometre zone caused by the development shall also be submitted to and approved by the Local Planning Authority. Any claim by any person for domestic television loss or interference at their household within 12 months of the final commissioning of the wind farm shall be investigated by the qualified engineer and the results submitted to the Local Planning Authority. Should any impairment to the television reception be determined by the qualified engineer as attributable to the wind farm on the basis of the base line study, such impairment shall be mitigated within 3 months of the claim in accordance with the agreed scheme of mitigation.

15

Before the development hereby approved is commenced on site details of a scheme for the detection and mitigation of blade icing shall be submitted to and approved by the Local Planning Authority. The measures set out in the approved scheme shall be followed at all times.

16

Before the development hereby approved is first brought into use aircraft warning lights in accordance with Civil Aviation Document CAP 168 as specified in table 6A.1 of that document shall be fitted to the turbines and thereafter retained and maintained.

17

The applicant shall provide written confirmation of the following details to the Ministry of Defence/Civil Aviation Authority within 3 months of the date of this permission and the commencement of the development shall not occur until this confirmation has been given:-

- (i) Proposed date of the commencement of the development.
- (i) The maximum extension height of any construction equipment.
Within 14 days of the commissioning of the final turbine, the applicant shall provide written confirmation of the following details to the Ministry of Defence/Civil Aviation Authority:
 - (i) Date of completion of construction.
 - (ii) The height above ground level of the highest potential obstacle.
 - (iii) The position of that structure in latitude and longitude.
 - (iv) The lighting details of the site.

18

The development hereby approved shall be carried out in accordance with the approved flood risk assessment by S.M. Foster Associates Ltd., (dated January 2009) and the mitigation measures included therein shall be implemented before the development is first brought into use.

Landscaping/ecology issues.

19

Before the development hereby approved is commenced on site details of a schedule of surveys for the recording of all baseline ecological information shall be submitted to and approved by the Local Planning Authority and the surveys shall be carried out before the development is commenced on site. The schedule shall include:

- All hedgerows within the site and along the agreed construction traffic route to identify lengths of significant importance for protection, sections that will need to be removed and / or trimmed and sections with potential for mitigation / enhancement;
- Habitats with the potential to support water vole and otter
- Badger setts and use to identify areas requiring protection
- Breeding bird, wintering bird and nocturnal / crepuscular bird use

20

Before the development hereby approved is commenced on site details of a ecological impact mitigation and biodiversity enhancement strategy shall be submitted to and approved by the Local Planning Authority and the approved

details shall be implemented before the development is commenced or in accordance with the approved details. The strategy shall include:

- Identification and quantification of hedgerow sections to be removed, replaced and enhanced;
- Provision of details of construction lighting to be used that demonstrates the minimisation of impact on bat species;
- Details of measures to avoid harm or disturbance to badgers as outlined in the Environmental Statement and its supporting documents;
- Measures to protect the watercourses and habitats connected with the site from pollution incidents;
- Identification of habitat creation areas with appropriate planting specifications,
- Details of a programme of monitoring of habitat creation and bat and bird collision impact with results to be submitted annually to the Local Planning Authority;
- Details of information to be provided to all site workers, contractors and sub-contractors in respect of the potential for protected species to be found on site and the requirements for action if this occurs.
- Details of measures to check for ground nesting birds prior to the commencement of construction and / or measures to prevent ground nesting bird use in construction areas.

21

Before the development hereby approved is commenced on site details of all construction activities, methods of working and timings shall be submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

22

[PC36] The detailed plans to be submitted in accordance with the requirements of this permission shall include a tree survey in accordance with BS 5837:2005 Trees in Relation to Construction Recommendations section 4.2 to 4.5. to include all the existing trees on and adjacent to the site that may be affected by any development and the following details;

1. Reference number (to be recorded on the tree survey plan to a scale and level of accuracy appropriate to the proposal);
2. Species (common and scientific names, where possible);
3. Height in metres;
4. Stem diameter in millimeters at 1.5 m above ground level (on sloping ground to be taken on the upslope side of the tree base) or immediately above the root flare for multi-stemmed trees;
5. Branch spread in metres taken at the four cardinal points to derive an accurate representation of the crown (to be recorded on the tree survey plan);
6. Height in metres of the crown clearance above adjacent ground level (to inform on ground clearance, crown stem ratio and shading);
7. Age class (young, middle aged, mature, over-mature, veteran);
8. Physiological condition (e.g. good, fair, poor, dead);
9. Structural condition, e.g. collapsing, the presence of any decay and physical defect;

10. Preliminary management recommendations, including further investigation of suspected defects that require more detailed assessment and potential wildlife habitat;
11. Estimated remaining contribution in years (e.g. less than 10, 10-20, 20-40, more than 40)
12. R or A to C category grading (see table 1) to be recorded and indicated on the tree survey plan

In addition the following details shall also be submitted for consideration and approval.

- root protection areas (RPA)
- a tree constraints plan (TCP)
- construction exclusion zones
- tree protection plan (TPP)
- arboricultural implication assessment (AIA)
- arboricultural method statement (AMS)
- existing and proposed contours and levels

23

[PC37] No tree shall be cut down, uprooted or destroyed nor shall any tree be pruned other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any pruning works approved shall be carried out in accordance with British Standard 3998 (Tree Work). If any tree is removed, uprooted or destroyed or dies, another tree shall be planted in the immediate area and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

24

[PC38C] Prior to commencement of development, a detailed landscape scheme shall be submitted to, and approved in writing by, the Local Planning Authority. The landscape scheme shall be prepared to a minimum scale of 1:200 and shall clearly identify through supplementary drawings where necessary:

- The extent of existing planting, including those trees or areas of vegetation that are to be retained, and those that it is proposed to remove. The extent of any changes to existing ground levels, where these are proposed.
- Any constraints in the form of existing or proposed site services, or visibility requirements.
- Areas of structural and ornamental planting that are to be carried out.
- The positions, design, materials and type of any boundary treatment to be erected.
- A planting plan and schedule detailing the proposed species, siting, quality and size specification, and planting distances.
- A written specification for ground preparation and soft landscape works. The programme for implementation.
- Written details of the responsibility for maintenance and a schedule of operations, including replacement planting, that will be carried out for a period of 5 years after completion of the planting scheme.

The scheme shall thereafter be implemented in accordance with the approved landscape scheme within a timescale agreed, in writing, by the Local Planning Authority.

25

[PC38D] Any plants or trees which within a period of 5 years from completion of planting die, are removed or damaged, or that fail to thrive shall be replaced. Assessment of requirements for replacement planting shall be carried out on an annual basis in September of each year and any defective work or materials discovered shall be rectified before 31st December of that year.

26.

[PC40*] No work or storage on the site shall commence until all the trees/shrubs to be retained have been protected by the erection of a strong durable 2.30 metre high barrier fence in accordance with BS 5837: 2005 Guide for Trees in Relation to Construction. This shall be positioned in accordance with details to be submitted to and approved by the Local Planning Authority. The protective fencing shall be properly maintained and shall not be removed without the written approval of the Local Planning Authority until the development is completed. There shall be no alterations in ground levels, fires, use of plant, storage, mixing or stockpiling of materials within the fenced areas.

27

[PC41] All tree works shall be carried out in accordance with B.S.3998: 1989. The schedule of all tree works shall be approved by the Local Planning Authority before any work commences and no tree work shall commence until the applicant or his contractor has given at least seven days notice of the intended starting date to the Local Planning Authority. The authorised works should be completed within 2 years of the decision notice otherwise a new application for consent to carry out any tree work will be required.

28

No turbine shall be located less than 67.9m from the centre of any hedgerow which crosses the application site or less than 200m from the edge of any woodland or buildings.

29

Before the development hereby approved is commenced on site, details of the location, size and method of construction of any temporary accesses, working and hard standing areas, parking areas, and internal access ways shall be submitted to and approved by the Local Planning Authority in writing. The details shall include the location of temporary areas proposed to accommodate topsoil and other excavated material used in the development. The details as approved shall be implemented in full prior to the construction of the wind turbines. The temporary working and hard standing areas shall be removed and the land restored to its original condition within 28 days of the final completion of the development hereby approved.

30

Details of the need for and level of on-site water extraction for the mixing of concrete will be provided for approval prior to the commencement of development. The information received should include the likely impact of this activity on the watercourse and wetland habitat and associated species and

should confirm measures appropriate to minimise negative impact and demonstrate any necessary mitigation.

Highways issues.

31

Concurrently with the carrying out of the development a crossing over the footway/verge in Penny Hill Lane and Brampton Lane shall be constructed to the specification of the Local Planning Authority and shall be completed before the development is brought into use.

32

Before the development is commenced on site, details of the proposed accesses to Penny Hill Lane and Brampton Lane, including the appropriate sight lines, shall be submitted to and approved by the Local Planning Authority, and the approved details implemented, before the development is first brought into use. Any visibility thus provided shall be maintained.

33

[PC26] Prior to the commencement of development details of the measures to be employed to prevent the egress of mud, water and other detritus onto the highway and details of the measures to be employed to remove any such substance from the highway shall be submitted to and approved in writing by the Local Planning Authority. Such measures shall be used for the duration of the works.

34

[PC 24] Before the development is brought into use, that part of the site to be used by vehicles shall be constructed with either;

a/ a permeable surface and associated water retention/collection drainage, or;

b/ an impermeable surface with water collected and taken to a separately constructed water retention/discharge system within the site.

The area shall thereafter be maintained in a working condition.

35

Within three months of the completion of the development, the permanent site accesses shall be reduced in size to a width sufficient only to accommodate the largest vehicle which will serve the site once the development is brought into use, in accordance with a scheme to be submitted to and approved by the Local Planning Authority.

36.

Before the development hereby approved is first brought into use, a turning area sufficient to accommodate the largest vehicle which will access the completed development, shall be provided in accordance with details to be submitted to and approved by the Local Planning Authority, and shall be implemented in accordance with the approved details.

37

Prior to the construction of any part of the development hereby permitted, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out only in accordance with the approved Construction Traffic

Management Plan or alteration approved in writing by the Local Planning Authority.

Noise/shadow flicker.

38

On receipt of any complaint relating to shadow or flicker, a scheme to alleviate the incidence of 'shadow flicker' at any affected premises shall be submitted to and approved by the Local Planning Authority. That scheme shall include details of the siting of photocells and the measures to control, re-orientate or shut down particular turbines for this purpose. Unless otherwise agreed in writing, any turbine producing 'shadow flicker effects' at any dwelling shall be shut down and the blades remain stationary until the conditions causing those 'shadow flicker effects' have passed. The scheme shall be implemented as approved.

39

The turbine blades of each individual turbine shall rotate in the same direction.

40

Noise emissions from the site (as measured LA90, 10mins) in free-field conditions, at any dwelling in existence prior to the development, shall not exceed the greater of 35 dB(A) or 5 dB(A) above the background noise level (LA90,10mins) during the day and evening (07:00-23:00 hours) and shall not exceed the greater of 38 dB(A) or 5 dB(A) above the background noise level (LA90,10mins) during the night (23:00-07:00 hours) at all wind speeds up to 12m/s. The noise emission values of the turbines shall include any tonal penalty if such is identified in accordance with the methodology set out in the ETSU-R-97 report.

41

Before the development is completed the applicant shall provide to the Local Planning Authority noise emissions results from the turbines at nearby dwellings to ensure compliance with planning conditions and the noise assessment carried out. Any results that breach the planning conditions or exceed levels agreed in the original noise assessment shall be rectified immediately in consultation with the Local Planning Authority.

42

Before the development hereby approved is commenced on site, final details of the precise route, number, type, frequency, and times of delivery vehicles accessing the site shall be submitted to and approved by the Local Planning Authority, and the deliveries shall be carried out in accordance with that approved scheme.

43

Except in case of emergency, no operations shall take place on site other than between the hours of 08:00 and 18:00 Monday to Saturdays, and between 09:00 and 13:00 hrs on Sundays and Public Holidays. At times when operations are not permitted work shall be limited to maintenance and servicing of plant or other work of an essential or emergency nature. The Local Planning Authority shall be notified at the earliest opportunity of the occurrence of any such emergency and a schedule of essential work shall be provided.

44

Heavy goods or abnormal loads vehicles shall only enter or leave the site between the hours of 08:00 and 18:00 hrs Mondays to Saturdays and between 09:00 and 13:00 hrs on Sundays and Public Holidays (this excludes the movement of private vehicles for personal transport).

45

The rating level of noise emissions from the combined effects of the wind turbines (including the application of any tonal penalty), when calculated in accordance with the attached Guidance Notes, shall not exceed the values set out in the attached Tables 1 and 2. Noise limits for properties within 2 km of a wind turbine, which lawfully exist at the date of this consent but not listed in the Tables attached shall be those of the nearest location listed in Tables 1 and 2.

46

At the request of the local planning authority following any complaint to it, the wind farm operator shall, at its expense, employ suitable persons whose expertise and experience shall be approved by the local planning authority, to assess the level of noise emissions from the wind farm at the complainant's property following the procedures described in the attached Guidance Notes.

47

Wind speed, wind direction and power generation data for each wind turbine shall be continuously logged. In the event of complaint, relevant data shall be provided to the local planning authority on request and in accordance with the attached Guidance Note 1(d), within 28 days of such request.

48

Before the development is commenced on site, details of the chosen turbine shall be submitted to and approved by the Local Planning Authority, following the tendering process. Details shall include the full turbine specifications and evidence that the units meet the same criteria as those measured during monitoring and prediction models

Reasons:

General Issues.

01

[PR97] To ensure that the development is carried out in accordance with the approved plans.

02

[PR03] To ensure that any archaeological remains are recorded or preserved in accordance with UDP policies ENV2 'Conserving the Environment', ENV2.2 'Interest Outside Statutorily Protected Sites' and ENV2.3 'Maintaining the Character and Quality of the Environment'.

03

No such details have been received, and in the interests of the character of the Green Belt in accordance with ENV 1 Green Belts and ENV 3.2 Minimising the Impact of development and UTL 3 Environmental Impact of Service Installations of the Unitary Development Plan.

04

In the interests of the character of the Green Belt in accordance with Policies ENV 1 Green Belts and ENV 3.2 Minimising the Impact of Development and

UTL 3 Environmental Impact of Service Installations of the Unitary Development Plan.

05

In the interests of the future stability of the development, in accordance with Policy ENV 4.3 Unstable Land of the Unitary Development Plan.

06

For the avoidance of doubt, and in accordance with Policy UTL 3 Environmental Impact of Service Installations of the Unitary Development Plan.

07

No final details have been received, and in accordance with Policy UTL 3 Environmental Impact of Service Installations of the Unitary Development Plan.

08

For the avoidance of doubt and in the interests of the amenities of nearby residents.

09

Permission for this development would not have been granted but for the very special circumstances relating to the proposal.

10

In the interests of the character of the Green Belt in accordance with ENV1 Green Belts ENV 3.7 Control of Pollution, and UTL 3 Environmental Impact of Service Installations of the Unitary Development Plan.

11

In the interests of the character of the Green Belt in accordance with ENV1 Green Belts ENV 3.7 Control of Pollution, and UTL 3 Environmental Impact of Service Installations of the Unitary Development Plan.

12

No details have been submitted and they are reserved for future approval.

13

In the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', and ENV3.2 'Minimising the Impact of Development', of the Unitary Development Plan.

14

In the interests of residential amenity, and in accordance with Policy UTL 3 Environmental Impact of Service Installations of the Unitary Development Plan.

15

In the interests of highway safety and the safety of people in the vicinity of the turbines.

16

In the interests of air traffic safety.

17

In the interests of air traffic safety.

18

To prevent flooding by ensuring satisfactory storage and disposal of surface water.

Landscaping/ecology issues.

19

To ensure accurate monitoring of the impact of the development on the ecology of the area in accordance with ENV 3.2 Minimising the Impact of Development of the Unitary Development Plan, and advice in PPS 9 Biodiversity and Geological Conservation.

20

To ensure the future protection and enhancement of the biodiversity value of the site in accordance with ENV 3.2 Minimising the Impact of Development of the Unitary Development Plan and advice in PPS 9 Biodiversity and Geological Conservation.

21

To ensure the future protection and enhancement of the biodiversity value of the site in accordance with ENV 3.2 Minimising the Impact of Development of the Unitary Development Plan and advice in PPS 9 Biodiversity and Geological Conservation.

22

[PR36] In order that the Local Planning Authority may consider the desirability of retaining trees in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

23

[PR37] In the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

24

[PR38C] To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

25

[PR38D] To ensure that there is a well laid out scheme of healthy trees and shrubs in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

26

[PR40] To ensure the trees/shrubs are protected during the construction of the development in the interests of amenity and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

27

[PR41] To ensure the tree works are carried out in a manner which will maintain the health and appearance of the trees in the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.1 'Development and the Environment', ENV3.2 'Minimising

the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.
28

To ensure the future protection and enhancement of the biodiversity value of the site in accordance with ENV 3.2 Minimising the Impact of Development of the Unitary Development Plan and advice in PPS 9 Biodiversity and Geological Conservation.

29

In the interests of the future ecology of the area in accordance with Policy ENV2, Conserving the Environment of the Unitary Development Plan.

30

To ensure the future protection and enhancement of the biodiversity value of the site in accordance with ENV 3.2 Minimising the Impact of Development of the Unitary Development Plan and advice in PPS 9 Biodiversity and Geological Conservation.

Highways issues.

31

[PR16] To avoid damage to the footway/verge.

32

[PR17] To provide and maintain adequate visibility in the interests of road safety.

33

[PR26] In order to ensure the development does not give rise to problems of mud/material deposit on the adjoining public highway in the interests of road safety.

34

[PR24A] To encourage drivers to make use of the parking spaces and to ensure that the use of the land for this purpose will not give rise to the deposit of mud and other extraneous material on the public highway in the interests of road safety.

35.

In the interests of visual amenity in accordance with Policy ENV 3.2 Minimising the impact of Development of the Unitary Development Plan.

36.

In the interests of highway safety.

37

In the interests of the safe and effective operation of the local and strategic road network.

Noise/shadow flicker.

38

In the interests of the residential amenities of nearby residents, in accordance with ENV 3.7 Control of Pollution of the Unitary Development Plan.

39

In order to reduce flicker and strobing in accordance with ENV 3.7 Control 44

40

In the interests of the residential amenities of nearby residents in accordance with ENV 3.7 Control of Pollution of the Unitary Development Plan.

41

In the interests of the residential amenities of nearby residents in accordance with ENV 3.7 Control of Pollution of the Unitary Development Plan.

42

In the interests of the residential amenities of nearby residents in accordance with Policy ENV 3.7 Control of Pollution of the Unitary Development Plan.

43

In the interests of the amenities of nearby residents in accordance with Policy ENV 3.7 Control of Pollution, of the Unitary Development Plan.

44

In the interests of the amenities of nearby residents in accordance with Policy ENV 3.7 Control of Pollution, of the Unitary Development Plan.

45

In the interests of the residential amenities of nearby residents, in accordance with ENV 3.7 Control of Pollution of the Unitary Development Plan.

46

In the interests of the residential amenities of nearby residents in accordance with ENV 3.7 Control of Pollution of the Unitary Development Plan.

47

In the interests of the amenities of nearby residents in accordance with Policy ENV 3.7 Control of Pollution, of the Unitary Development Plan.

48

In the interests of the residential amenities of nearby residents, in accordance with ENV 3.7 Control of Pollution of the Unitary Development Plan.

SCHEDULE OF GUIDANCE NOTES RELATING TO CONDITIONS 46, 47, and 48

These notes are to be read with conditions 46 -48. They further explain these conditions and specify the methods to be deployed in the assessment of complaints about noise emissions from the wind farm.

NOTE 1

(a) Values of the $L_{A90,10min}$ noise statistic should be measured at the complainant's property, using a sound level meter of IEC 651 Type 1, or BS EN 61672 Class 1, standard (or the equivalent relevant UK adopted standard in force at the time of the measurements) set to measure using a fast time weighted response. This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent relevant UK adopted standard in force at the time of the measurements).

(b) The microphone should be mounted at 1.2 - 1.5 m above ground level, fitted with a two layer windshield or suitable equivalent approved by the local authority, and placed outside the complainant's dwelling. Measurements should be made in "free-field" conditions, so that the microphone should be placed at least 3.5 m away from the building facade or any reflecting surface except the ground.

(c) The $L_{A90,10min}$ measurements should be synchronised with measurements of the 10-minute arithmetic average wind speed and with operational data from the turbine control systems of the wind farm or farms in their control.

(d) For the relevant periods relating to any complaint, or subsequent compliance demonstration, the wind farm operator shall provide continuously logged arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods, at hub height and 10m, together with power generation data, in order to demonstrate turbine status.

NOTE 2

(a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements should provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the Local Planning Authority. In specifying such conditions the local planning authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise. At its request the wind farm operator shall provide all of the data collected under condition 2 to the local planning authority

(b) Valid data points are those that remain after all periods during rainfall have been excluded.

(c) A least squares, "best fit" curve of a maximum 2nd order should be fitted to the data points and define the rating level at each integer speed.

NOTE 3

Where, in the opinion of the Local Planning Authority noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component, the following rating procedure should be used.

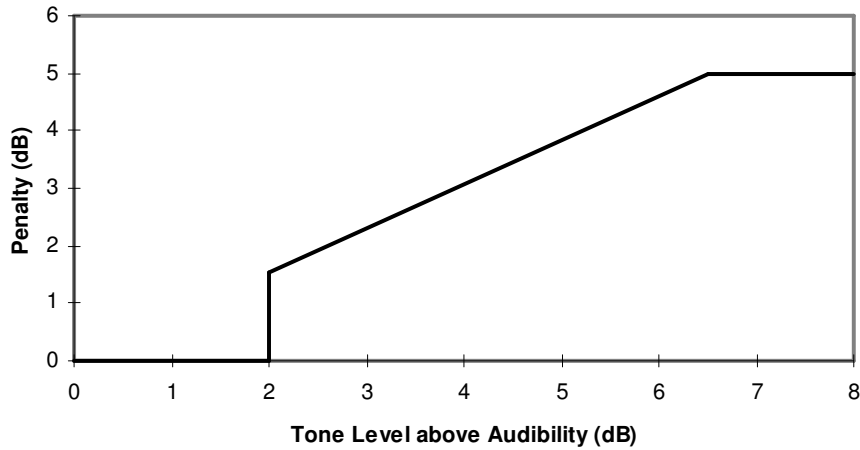
(a) For each 10-minute interval for which $L_{A90,10min}$ data have been obtained as provided for in Note 1 a tonal assessment is performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be regularly spaced at 10 minute intervals provided that uninterrupted clean data are available. Where clean 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 standard procedure shall be reported.

(b) For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, ΔL_{tm} , should be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.

(c) The margin above audibility is plotted against wind speed for each of the 2-minute samples. For samples for which the tones were below the audibility criterion or no tone was identified, substitute a value of zero audibility.

(d) A linear regression should then be performed to establish the margin above audibility at the assessed wind speed for each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic average shall be used.

(e) The tonal penalty is derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed is the arithmetic sum of the wind farm noise level, as determined from the best fit curve described in Note 2, and the penalty for tonal noise.

**NOTE 4**

If the rating level is above the limit set out in the conditions, measurements of the influence of background noise should be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Note 2, with the wind farm switched off, and determining the background noise at the assessed wind speed, L_3 . The wind farm noise at this speed, L_1 , is then calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

The rating level is re-calculated by adding the tonal penalty (if any) to the derived wind farm noise L_1 . If the rating level lies at or below the values set out in the conditions then no further action is necessary. If the rating level exceeds the values set out in the conditions then the development fails to comply with the conditions.

TABLES OF NOISE LIMITS RELATING TO CONDITION 1Table 1: Between 23:00 and 07:00 hours (Noise Level in dB $L_{A90, 10min}$):

Location	Wind Speed at 10 m height (m/s)									
	3	4	5	6	7	8	9	10	11	12
Morthen	49	50	50	51	52	54	55	56	-	-
Brampton-en-le-morthen	49	49	49	50	51	52	54	55	-	-
Thurcroft	49	49	50	50	52	53	54	55	-	-
Ulley	45	46	47	48	51	54	57	59	-	-
Penny Hill	53	54	54	54	55	56	58	60	-	-
Brampton Villa	49	49	49	50	51	52	54	55	-	-
Aston	43	43	43	43	43	45	46	47	-	-
Hardwick	49	48	48	49	51	53	54	54	-	-

Table 2: At all other times (Noise Level in dB $L_{A90, 10min}$):

Location	Wind Speed at 10 m height (m/s)									
	3	4	5	6	7	8	9	10	11	12
Morthen	52	53	54	55	57	58	59	61	62	63
Brampton-en-le-morthen	48	50	52	53	55	56	57	58	59	60
Thurcroft	48	49	51	52	54	56	57	58	60	60
Ulley	47	48	49	50	51	52	53	54	55	56
Penny Hill	57	57	58	59	59	60	61	62	63	64
Brampton Villa	48	50	52	53	55	56	57	58	59	60
Aston	43	44	45	46	47	48	49	50	51	52
Hardwick	48	49	51	52	53	54	55	57	58	59

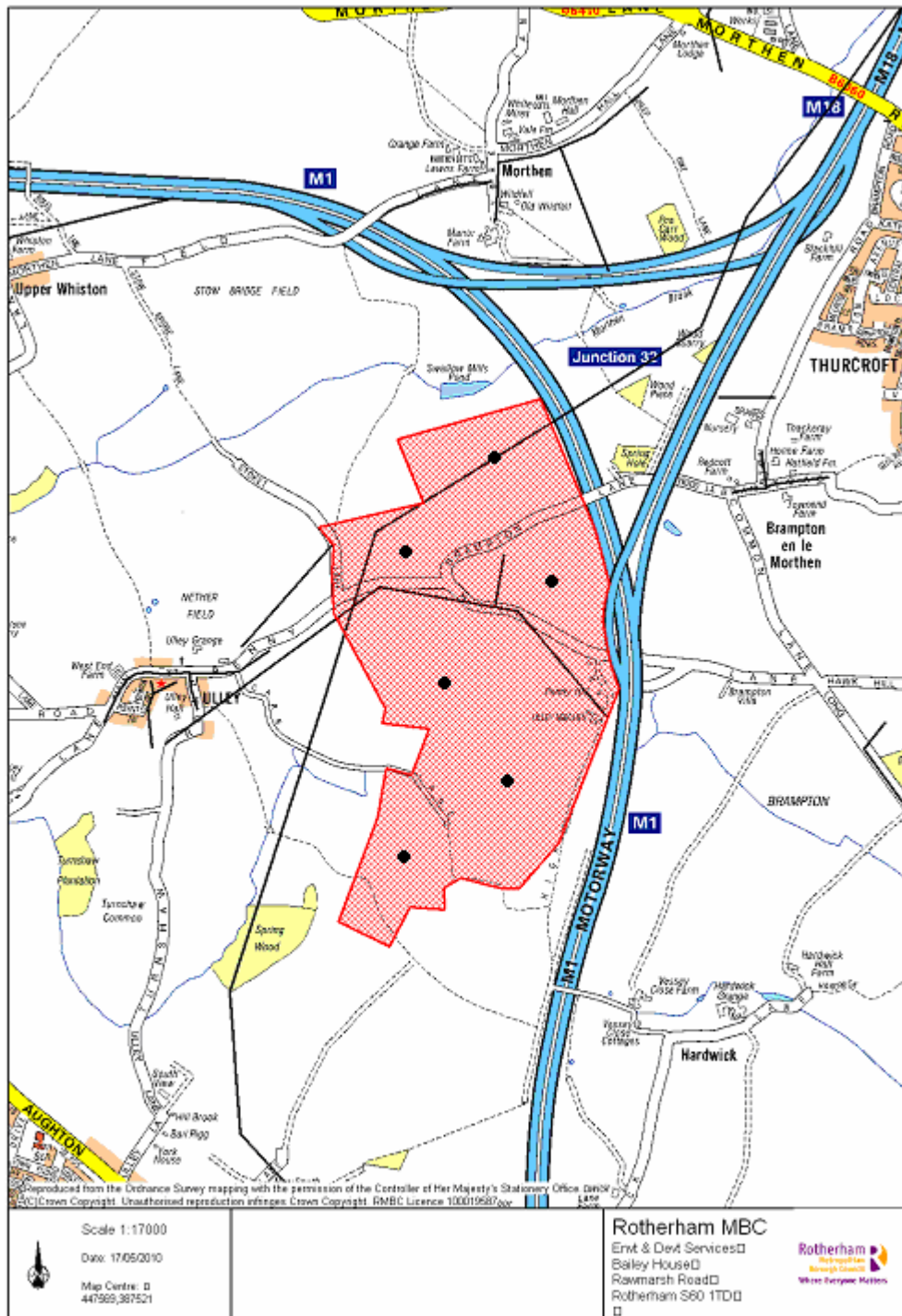
Informatives:

The Construction Traffic Management Plan should include details for the management of HGVs and abnormal loads. Movement of abnormal loads on the strategic road network must be carried out in accordance with the Highways Agency's current published procedures.

Transportation Unit notes that the agents should contact the Team Leader Highway Structures on 01709-822919. In addition, an Agreement under Section 59(3) of The Highways Act, 1980 may be required in order to reimburse the Council's costs incurred to facilitate the passage of such vehicles along the public highway.

Natural England have advised that in order to best protect the soils on the proposals site any excavations should be carried out in accordance with DEFRA Good practice Guide to for handling soils (MAFF 2000), and Draft Code of Practice for the sustainable use of soils on construction sites, 2008.

The Environment Agency note that mitigation measures as stated within section 7 – Ecology and Nature Conservation of the Environmental Statement must be incorporated to ensure the protection/conservation of the ecological features on site and preserve European protected species. Planting should be native to the local area and preferably of known local origin.



Background

Planning permission for the erection of an anemometer mast for a temporary 3 year period was refused in October 2005 by Planning Board (RB2005/1347) though a subsequent appeal was allowed in April 2006. A further application to extend the temporary period by a further 2 years was granted in June 2008 (RB2008/0607).

In 2008 The Climate Change Act 2008 legally bound UK to deliver a reduction in greenhouse gas emissions of 80% by 2050 and at least 34% by 2020, compared with 1990 levels. Britain also has an obligation to hit an EU target of generating 15% of our energy from renewable sources by 2020.

The Energy Act 2008 places obligations on the electricity generating industry to provide electricity from renewable sources.

In 2009 European Community Directive requires that 15% of the UK's total energy use should be supplied by renewables by 2020.

The 2009 UK Renewable Energy Strategy commits the UK to 15% of renewable energy supplies by 2020.

Further advice from Central Government strongly supports renewable energy development. In relation to wind farms, in a Policy Briefing 2005, the Local Government Information Unit has stated that wind generation is a key technology in achieving the 2010 target and is supported by two key factors: the availability of the technology and the UK's favourable wind patterns.

"Wind Power" a report from the Sustainable Development Commission 2005 (an independent Government advisory body) "underlines the fact that for the near and medium term future, wind power is the only widely available technology for expanding sustainable electricity generation. There is enough wind capacity in the UK to more than meet the Government's targets for renewable generation. Furthermore, the UK's electricity generation and transmission systems can accommodate the increased proportion of power from wind without straining their ability to provide reliable supplies. This is because, although wind based supply tends to be intermittent, it is not unpredictable. Wind pattern forecasts are accurate enough to enable alternative sources to be utilised should a drop in wind occur, thus maintaining continuity of supplies. Furthermore wind generation is less centralised than major coal, gas or nuclear power, it is less prone to total shut down in case of major technical failure." It goes on to say, that visual impact and ecological considerations relating to wind turbines require to be balanced against the long term wide spread impact of climate change on visual amenity and the devastating effect on ecology.

Prior to submission of the application, information was submitted under the Town and Country Planning (Environmental Impact Assessment)(England and Wales) Regulations 1999, to the Local Planning Authority in order to establish a scoping opinion relating to the information to be included in the

Environmental Statement. A Scoping Opinion was issued on the 24th September 2008 and an Environmental Statement accompanied the submitted planning application.

Site Description

The site of application forms part of a larger area of open undulating farm land comprising approximately 125.5 hectares, located approximately 550m to the east of Ulley village centre at its nearest point. The land rises gently in a west to easterly direction toward the M1 (J33)/M18 (J1) Motorway junction which is approximately 1500m to the east of Ulley. The site is in juxtaposition to the motorway junction and contains an overhead electricity line. The land is characterised by large arable fields with mature and semi mature hedgerows.

Proposals

The application is for the erection of six turbines with anticipated capacity of between 2 and 3.3 Mega watts (MW) per turbine, each with a hub height of 80m and blade length of 52m, resulting in a maximum blade tip height of 132m (approximately 430 ft). The anticipated total capacity would be between 12 and 19.8 MW sufficient to serve up to 10,254 residential properties depending on the final installed capacity, representing between 6 and 10% of households in Rotherham. The applicants have carried out some preliminary calculations and depending upon the final turbine installed the electricity generated would be between 31,000 and 45,700 MWh per annum. This equates to a saving of between 13,330 and 19,651 tonnes of carbon dioxide emissions per year. Based on an operational life span of 25 years, the power generated would be between 775,000 and 1,142,500 MWh and the emissions saving would be between 333,250 and 491,275 tonnes of CO₂.

Turbines 1 and 2 are located to the north of Brampton Lane, Turbine 3 is located between Penny Hill Lane and Brampton Lane, and turbines 4, 5 and 6 are located to the south of Penny Hill Lane. Turbine foundations would be 19m x 19m x 3.5m deep. The proposals include four new accesses, two to Penny Hill Lane and two to Brampton Lane.

The proposals also include:-

- (i) An 80m high anemometer mast to measure wind speed for the fine tuning of the turbines, to achieve the maximum efficiency. This would be located close to the site of the existing anemometer mast and would replace it should permission be granted.
- (ii) Access roads, crane pads, and associated infrastructure.
- (iii) Site control building which would be 14m by 6m, with an eaves height of 3m and roof apex of 3.85m, constructed from natural stone with a slate roof, and grid connection substation, located to the south of Brampton Lane.
- (iv) Underground electrical cables.

The preferred connection option to the grid is within the application site boundary direct to an existing 66KV overhead line which crosses the site.

The site of application is 125.5 hectares, approximately 2.5 hectares would be occupied by the turbines themselves, the access roads, sub-station and other infrastructure (approximately 2% of the site area).

The optimum wind speed for the generation of electricity is considered by the generating industry to be 6.5 metres per second (m/s) at 45m above ground level. On the basis of the BERR UK wind speed database, (and subject to confirmation by on site monitoring) the average wind speed for the site would be 6.6 m/s. The applicant estimates that electricity would be generated at the site 85% of the time and has indicated that the turbines would start producing electricity at wind speeds between 3 and 5 m/s and shut down at wind speeds in excess of 25 m/s.

The application is for a period of 25 years, after which they will be removed and the site restored.

The application is accompanied by a Statement of Community Involvement, a Design and Access Statement, a Planning Statement and an Environmental Statement. All the last three documents describe the proposals, constraints, planning policies considered, the impacts of the proposals and how any issues have been addressed. The content of the documents overlap to a great extent, but cover the issues at varying levels, the Design and Access Statement, briefly considers the content of the proposals and main considerations. The Planning Statement indicates the policy and design considerations of the proposals, whilst the Environmental Statement looks in more depth at the main considerations which need to be addressed.

Statement of Community Involvement:-

Prior to the submission of the application the applicants carried out a series of consultation exercises comprising

- Public exhibition on the 27th May 2008 at Aston Parish Hall.
- Public exhibitions at Gordon Bennet Hall, Thurcroft and Holy Trinity Church Ulley, on the 29th May 2008.
- Distribution of leaflets to 2,000 households.
- Press advertisements.
- Radio announcements (interviews).

Issues raised by the public were:-

- Audible noise.
- Visual impact.
- Impact on house prices.
- Height of turbines a concern.
- Impact on landscape.

- Impact on TV reception.
- Concerns that the proposals are too close to houses.
- Concerns about construction traffic.
- Does not comply with existing Green Belt Policy.
- Noise-low frequency.
- Wins turbines not effective/don't produce any power.
- Concerns about grid connections.

The comments arising from the exhibitions were fed back into the EIA process for the scheme before the proposals were finalised and incorporated into the planning application.

The application is also accompanied by a series of landscape views and photomontages which seek to illustrate the visual impact of the proposals in the landscape.

The Planning Statement outlines the relevant planning policy considerations. It also indicates that the site selection process was based on a number of criteria or constraints to identify the optimum location and site of turbines, and encompassing:-

- (i) Wind speeds in excess of 6.5 metres per second.
- (ii) Robin Hood Airport.
- (iii) Not within a nationally designated landscape area.
- (iv) Sites of Special Scientific Interest.
- (v) Scheduled Ancient Monuments.
- (vi) Registered parks and woodlands.
- (vii) Ancient woodlands and local nature reserves.
- (viii) A micro wave exclusion zone.
- (ix) Stand-off distances for hedgerows and rights of way.
- (x) Road access.
- (xi) Noise emissions.
- (xii) Shadow/flicker.
- (xiii) Ecology.
- (xiv) Archaeology.
- (xv) Natural fault lines.
- (xvi) Underground mine workings.

The above referred to constraints have resulted in the site selection, and guided the specific on-site location of the turbines, having regard for:

- Maximising the generating power of the wind resource.
- Achieving acceptable noise levels from the wind turbines at the nearest sensitive locations.
- Ensure the predicted views of the turbines and their grouping from sensitive locations take account of the topography.
- Ensure sensitive habitats and species and sites for both cultural and natural heritage are avoided where possible.

- Provide adequate stand-offs between turbines and road, radio communication lines, electricity lines and other services.
- Ensure adequate distances between turbines to ensure efficient operation.

The Environmental Statement looks more closely at the following issues:

1. Landscape Character Assessment.

Notes that the site is approximately 700m to the east of Ulley village in an area of gently rolling countryside with large agricultural fields. A number of breaks in existing hedgerows would be required for the access tracks and would result in a slight adverse effect in this respect.

The site falls within a single Joint Character Area (JCA) namely the Nottingham, Derbyshire and Yorkshire Coalfields, (JCA 38). Government Office for Yorkshire and the Humber (GOYH) has assessed the region for its sensitivity to wind energy development and concluded that of 42 JCA's JCA 38 is the least sensitive to wind farm development other than JAC 42 (Lincolnshire Coast and Marshes).

It is acknowledged that the site is within an Area of High Landscape Value in the Unitary Development Plan, but the applicant's Environmental Statement points out that Central Government does not favour the use of local landscape designations. The landscape is described as pleasantly rural on the urban conurbations of South Yorkshire, between Ulley and the M1/M18 Motorway junction. The proximity of the motorways and moving traffic and associated infrastructure in the vicinity of the site gives the landscape a less than tranquil feel, and is considered to be of medium sensitivity to wind farm development when considered in the national and regional context.

The primary visual impact of the development on the landscape would be within 2 km of the site. The turbines and anemometer mast would be seen as tall vertical structures though other infrastructure associated with the development would be at a lower level and partially screened by existing mature hedgerows. Additionally, it is pointed out that whilst the movement of the turbine blades would attract attention there are other man made structures in the vicinity including over head lines and moving traffic on the motorway.

It is concluded that the impact on the landscape in the immediate vicinity would be moderate, whilst in the wider area it would be a slight effect. It is also considered that the proposal will have a slight effect on the Area of High Landscape Value, and the openness of the Green Belt and the purposes for which it was designated.

With regard to the construction and decommissioning stage the additional impact would be temporary in nature (10 months) and consequently have a slight additional effect.

In terms of visual amenity it is concluded that the proposal would have a substantial effect on private visual amenity within 2 km of the site, which would affect 174 properties, 5% of the total number of the 3,353 properties in that area. The applicants consider that the introduction of commercial scale wind turbines within a rural location would produce similar effects given the inherent nature of the technology and that these effects cannot be avoided and the overall effects on visual amenity should be balanced against the significant renewable energy benefits of the proposals. Outside the 2 km zone the effect would be moderate. Properties within the 2 km zone on the edge of Brampton en le Morthen and Thurcroft would view the development across the motorway and consequently the Environmental Statement concludes that effect on those properties would be moderate.

Between 2 and 5 km there are many villages and settlements, with unobstructed views of the site. The effect on those properties would be moderate. In the opinion of the consulting Landscape Architects it is considered that moderate effects are not significant in terms of the EIA regulations.

The proposal would have a substantial effect on the visual amenities of users of Doorstep Walks 6 and 7, and Trans Pennine Trail network, with a slight effect on the visual amenities of users of the motorway, and other rights of way in the vicinity.

The impact on properties outside the 5km zone, and on the Peak National Park would be slight and the cumulative impact with other wind farms within 40km of the site would be slight.

The main conclusions relating to landscape character is that the cumulative impact and effects of the proposals would have no more than a slight effect on the Nottingham, Derbyshire and Yorkshire Coalfield character area.

2. Ecology and Ornithology:

The Environmental Statement considers the potential effects on Ecology and Ornithology, having regard for current wildlife legislation and policy framework, and in consultation with various statutory and non-statutory bodies.

It carried out a series of baseline studies for:-

- (i) Habitat.
- (ii) Bat.
- (iii) Badger.
- (iv) Otter.
- (v) Water Vole.
- (vi) White Clawed Cray Fish.
- (vii) Great Crested Newt.

In determining the effects the Environmental Statement concludes that there are no statutory designated sites of importance within 2 km of the site, and that the development will have the following effects:

2.1 Residual Impacts on Habitat

Construction Phase:

- Habitat Loss: Neutral with mitigation.
- Hedgerow removal: Slight adverse effect, neutral with mitigation.
- Habitat (watercourses): Slight adverse, neutral with mitigation.
- Soil and water pollution: Slight to moderate adverse, neutral with mitigation.
- Disturbance; Neutral to slight adverse, neutral with mitigation.

Operation Phase:

- Habitat Loss (arable, hedgerows and water courses): Neutral to slight adverse, neutral with mitigation.
- Soil and water pollution from routine maintenance: Slight adverse, neutral with mitigation.
- Disturbance: Neutral to slight adverse, neutral with mitigation.

Decommissioning:

- Habitat Loss (hedgerows and arable): Slight adverse, neutral with mitigation.
- Soil and water pollution: Slight adverse, neutral with mitigation.
- Disturbance: Slight adverse, neutral with mitigation.

2.2 Residual Impacts on Bats:

Construction Phase:

- Disturbance: Slight adverse neutral with mitigation.
- Breaches in hedgerows may affect flight lines: Slight adverse, neutral with mitigation.
- Habitat Loss: Slight adverse, neutral with mitigation.
- Light Pollution Slight adverse, neutral with mitigation.
- Noise and vibration: Slight to moderate, neutral to slight adverse with mitigation.

Operation Phase:

- Collision with blades: Slight adverse, Neutral with mitigation.
- Disruption flight lines: Slight adverse, neutral with mitigation.
- Ultrasound, interference with bat echolocation or creating sonic lures: Slight to moderate adverse, neutral to slight adverse with mitigation.

Decommissioning:

- Disturbance: Slight adverse, neutral with mitigation.
- Light Pollution: Slight adverse, neutral with mitigation.

Additional work was carried out in relation to bats which concluded that with additional mitigating measures the residual impacts would be neutral to slight adverse during the construction and operating phases, and neutral during the decommissioning stages.

2.3 Residual Impacts on Badgers:

Construction Phase:

- Habitat Loss: Slight adverse, slight adverse with mitigation.
- Disturbance: Slight adverse, neutral with mitigation.
- Light pollution: Slight adverse, neutral with mitigation.
- Increase risk of road casualties: Slight adverse, neutral with mitigation.

Operation Phase:

- Increase in risk of road casualties: Slight adverse, neutral with mitigation.

Decommissioning Phase:

- Habitat Loss: Slight adverse, slight adverse with mitigation.
- Disturbance: Slight adverse, neutral with mitigation.
- Light Pollution: Slight adverse, neutral with mitigation.
- Increased risk of road casualties: Slight adverse, neutral with mitigation.

2.4 Residual Impacts on Otter, Water Vole, and White Clawed Cray Fish.

Construction, operation and decommissioning Phase:

Pollution of suitable habitats: Slight adverse, neutral with mitigation.

2.5 Ornithology

Breeding Bird Survey:

There are no international or European designated sites, such as Special Areas of Conservation (SAC's) or Special Protected Areas (SPA's) or National designations within 2 km of the site.

A total of 41 species were noted within the area, 40 of which were considered to be breeding in the area.

In the breeding bird survey no species of national or international importance were recorded. A number of species of high conservation concern that appear on the Birds of Conservation Concern (BoCC) Red list (rapidly declining) were recorded during the survey and breeding populations of eight BoCC Red list species were recorded in the Ornithological Survey Area. Six species of medium conservation concern on the BoCC Amber list (species in moderate decline) were also recorded during the survey visits.

Wintering Vantage Point Survey:

Of these species there are five which are target species under the UK BAP (Biodiversity Action Plan). These are Golden Plover, Kestrel, Lapwing, Buzzard and Sparrow Hawk. Of these species one is included in Annex 1 of the EC Birds Directive 1997. However, the recorded population is not sufficient to reach the qualifying threshold for any form of national or international designation.

Summary of Effects:

Disturbance through increased human activity and construction noise:

Slight adverse effect for Skylark, Yellow Hammer, Reed Bunting and Grey Partridge, neutral effect for all other species. Residual effect with mitigation

would be neutral for Skylark, Yellow Hammer, Reed Bunting and Grey Partridge. Neutral for all other species.

Displacement (presence of the turbines and barrier to movement):

Slight adverse effect for Sparrowhawk, Kestrel, Buzzard, Lapwing and Golden Plover. Residual effect with mitigation would result in no change to those effects.

Habitat Loss:

Slight adverse effect for Skylark, Linnet, Song Thrush, Yellow Hammer, Reed Bunting, Starling House Sparrow, Tree Sparrow and Grey Partridge. Neutral for all other species. Residual effects with mitigation would result in no change for the duration of the wind farm. Neutral after decommissioning.

Hedgerow Loss:

The environmental statement indicates that the loss of hedgerows has been restricted to that essential for the accesses and internal roadways. The impact has been assessed as slight adverse.

3. Archaeological Assessment:

The application also includes an assessment of the possibility of archaeological remains being present on the site. Material submitted includes a desk top assessment, a walk over survey, a geophysical survey, an assessment of the effects of the development, the significance of those effects and any mitigation measures required.

The assessment concludes that there is low potential for unknown archaeological remains of all periods to remain within the site. They would be likely to be encountered beneath top soil cut into underlying strata, and likely to be in the form of ditches and field boundaries. They are likely to be of local importance, but evidence of any domestic activity may be of regional importance. Evidence for early prehistoric and early medieval/post roman settlement is rare in this area and if present likely to be of regional importance.

No direct effects are anticipated on any known cultural heritage features, such as Ancient Monuments, Listed Buildings, historic parks and gardens or Conservation Areas.

Summary of effects:

Construction Effects.

Potential for damage to destruction of unknown archaeological remains (direct effects on features within the site boundary). The significance would be "minor" to "moderate" depending on the nature of the remains. Residual effect with mitigation would be "not significant".

Indirect effect upon setting of cultural heritage features beyond site boundary(e.g. from presence of cranes). These would be temporary and not significant.

Operational Effects:

No significant direct effects are anticipated.

No significant effects are anticipated on the archaeological and historic settings of any cultural heritage features.

Decommissioning Effects:

No direct impacts are anticipated.

Removal of potential direct visual effects upon settings of some cultural heritage features beyond the site boundary.

4. Noise assessment.

The noise assessment concludes that the noise levels recommended as acceptable in ETSU-R-97 "The Assessment and Rating of Noise from Wind Farms" (this is the advice specifically advocated by Central Government), can be achieved at all residential properties in the vicinity.

The applicants have indicated that at the present time it is anticipated that the turbine to be used would be the "Repower 3.3m". Full noise data for the turbine is not currently available, so the applicants have based the noise assessment on a comparable turbine. Additionally, they have indicated that the manufacturer of any turbine selected for the site will be contractually obligated to guarantee compliance with the sound power levels for the turbine installed.

Finally the proposals indicate a micro-siting tolerance for the turbines 50m in diameter (maximum of 25m in any direction). The applicants have indicated that the noise assessment has regard for this tolerance and the consequent impact on residential properties.

5. Construction Traffic:

Construction traffic will access the site by two routes:

Heavy goods vehicles (HGV's) and the majority of construction vehicles would use the route: M1 Junction 31, A57, B6463 Dinnington Road, Common Road, Long Road, Penny Hill Lane. Abnormal Loads would travel the route: M18 Junction 1, A631 Bawtry Road, B6060 Morthen Road, C10 Brampton Road, Hawk Hill Lane, Penny Hill Lane. This will ensure that construction vehicles do not have access to the site through local settlements when avoidable. The applicants have indicated that during the construction period there would be a maximum of 75 vehicles per day over a 2 month period of the overall 10 month estimated construction period. The average number of vehicle movements is expected to be 49 vehicles per day and the hours of working and for deliveries would be during the normal working hours unless there are unforeseen circumstances.

A Traffic Statement is included within the submission relating to construction traffic and concludes that there will be short term, insignificant increase in traffic levels for both of the access routes to the site. A transport management plan will be provided to minimise and control any minor impacts of the proposed construction traffic.

Traffic generated during the decommissioning of the wind farm is likely to be lower than the levels associated with construction and is not therefore expected to be significant.

6. Visual Distraction (Driver distraction):

A Visual Distraction Assessment was submitted with the application. A further submission in this regard was submitted subsequent to the original submission, at the request of the Highways Agency.

The original submission compared the site with two existing wind farms adjacent busy strategic highways, (Lambrigg adjacent the M6, and High Volts adjacent the A19). On the basis of accident data produced before and after the addition of the wind farms, the study concluded that there is no demonstrable increase in the number of accidents occurring as a result of the construction of wind farms. Neither site suffered an increase in the number of personal injury accidents, as a result of the wind farms, and whilst the A19 adjacent the High Volts wind farm experienced an increase in the number of fatal accidents, they were not attributable to driver distraction.

The Highways Agency was of the opinion that the sites considered did not compare with Penny Hill Lane in terms of the proposals or the location adjacent the very busy M1/M18 Junction. Consequently a further assessment was carried out in relation to four sites adjacent busy strategic highways. None of the sites were directly comparable to Ulley but each one is similar in some way. They are:

(i).

Nissan Motors Wind Farm:

Eight turbines between 64m and 75m high, the nearest of which is 600m from the A9/A1231 interchange, Sunderland. It is a four arm grade separation separated roundabout with the A19 passing under the junction. The turbines can be seen from the northern and western approaches.

(ii)

Angel of the North:

A visible, 20m high statue, elevated approximately 30m above the A1/A167 five arm grade separated roundabout on a hill. The statue is visible on merging with the A1 main line. It is also likely to be visible to drivers on the west bound merge.

(iii)

Swaffam Extension Wind Farm:

Has a 1.5 MW turbine, 67M to the hub 100m to the tip, incorporating an observation platform. It is located 150m from the A47 near to the A47/A1065 junction at the Ecotec Centre at Swaffam. At this location the A47 widens to a dual carriageway from a single carriageway. The turbine is visible from a significant distance along the A47. It is also possible to be seen by drivers merging and diverging at the junction.

(iv)

Green Park Turbine:

Located approximately 600m west of Junction 11 of the M4, Reading. Consists of a single turbine, 85m to the hub and 120m to the tip, can be seen from junction 11 of the M4 and from the M4 to the west of Green Park. Junction 11 is a grade separated four arm roundabout formed by the

intersection of the M4, A33 and B3270. Movements are possible in all directions. The turbine is visible from all directions.

The Visual Distraction Assessment states that: "The analysis of the accident data, for all the comparable sites 18 months prior to the installation through to 36 months after installation, demonstrate no significant change in the number of accidents which attribute the contributory factor as driver distraction."

An increase in accidents at the Angel of the North occurred, but this cannot be attributed to driver distraction, and instead is likely to be caused by increased volume of traffic.

No evidence could be found linking road accidents on the strategic network to driver distraction caused by turbine flicker.

Highway Stress:

The applicants note that the Highways Agency assesses stress on the Strategic Road Network (SRN) by comparing existing traffic flow with the theoretical capacity of links and junctions. In cases where traffic levels exceed capacity, queuing can occur. Stress levels are displayed as a percentage of theoretical capacity, with four levels used.

- 05% to 75%
- 75% to 90%
- 90% to 100% and
- 100% and above.

The traffic flow information shows links at the site are currently predominantly operating at below theoretical capacity (100%) and in many instances significantly less so, with the majority of stress levels recorded between 30% and 90%. In general the network under observation is at an average capacity of 73.2% of operating capacity.

The existing traffic conditions show that the links most stressed on the network are both directions between junctions 33 and 32 of the M1 and these have just over 100% network stress. The link from M1 Junction 32 -33 is less relevant and can be excluded as drivers at that point will be moving away from the wind farm site and turbines will be behind them and subsequently out of view. The reverse link from the M1 J33 to 32 has a stress of 102% up to and including diverge into the M18. As drivers have visibility of the wind turbines for 1.5 km up to an 800m long cutting and up to 1.6 km after the 800m stretch of motorway it is believed that there will not be risk of distraction to drivers using this section of the motorway.

As a result of the above it is concluded that any driver distraction as a result of the proposed wind turbines would have negligible (and therefore not significant) effect on the safety of the Strategic Road Network within the study area.

Decommissioning:

Prior to decommissioning of the wind farm a further traffic assessment will be carried out and transport management procedures agreed with the appropriate authorities.

Summary of effects:

Construction:

- Increase in traffic flow will result in insignificant temporary effects.

Operation:

- Visual distraction will have insignificant long term effect.
- Increase in traffic will have insignificant long term effect.

Decommissioning:

- Potential increase in traffic will have insignificant temporary effect.

7. Civilian and Military Aeronautical Radar:

None of the airfields surveyed within a 30km radius of the site will have any substantive cause for objection to the proposal.

8. Ground Conditions and Hydrology Study:

Concludes that the ground conditions within the study area, (179 hectares) are considered to be suitable for wind farm development. Very few constraining factors relating to ground conditions are present on the site and it is likely that the majority of the study area would be suitable for the construction of the turbines and associated infrastructure.

9. Flood Risk Assessment:

Considers the site in relation to its vulnerability to potential sources including:

- Flooding from ground water.
- Flooding via overland flow from adjacent land and
- Flooding from surface water drainage.

The study concludes that the development site is not at risk from flooding and the development can be established in full compliance with PPS 25 Development and Flood Risk.

10. Radio Communications and Television:

The wind farm has been designed having regard as far as possible, for the constraints of various telecommunications operators and television reception. In this respect, the applicants have indicated that in some instances, information regarding links has not been forthcoming from some of the existing operators. It is concluded that the development has the potential to interfere with some telecommunications links and television reception for some residents. The report commits the applicant through consultation and mitigation measures to resolve the issue and notes that the applicant is happy to accept suitable planning conditions to resolve any issues.

11. Shadow Flicker:

An assessment has been carried out regarding the effect of shadow flicker on properties in the locality, and concluded that properties in seven locations would be affected. They are:

H1 Morthen: Theoretical maximum of 0 hrs per year.

H2 Brampton en le Morthen: Theoretical maximum of 45 hours per year.
H3 Ulley Beeches (High Lane): Theoretical maximum of 126.9 hours per year.
H4 Penny Hill Lane: Theoretical maximum of 104.9 hours per year.
H5 Turnshaw Road: Theoretical maximum of 35.2 hours per year.
H6 Vessey Close Farm (Hardwick Lane): Theoretical maximum of 34 hours per year.
H7 Ulley: Theoretical maximum of 65.6 hours per year.

These figures are the maximum that would theoretically be experienced by the properties in these locations. Other factors such as weather conditions would in reality reduce these times significantly. Shadow flicker only occurs during daylight hours when the sun shines though some shadow will occur in some slightly overcast conditions. The Regional Meteorological Office for the Midlands (which includes South Yorkshire) gives actual sunshine hours to be 32% of total daylight hours. The estimated occurrence is based on the sun shining during all daylight hours. It is therefore considered that weather conditions will reduce the actual occurrence of shadow flicker by at least half. Additionally, the turbines will not operate for all the daylight hours, depending on wind speed, and will not always face the properties directly, depending on wind direction. The occurrence may be further reduced by intervening objects. Having regard for these factors the study considers that the maximum theoretical occurrence at the two most affected properties can be reduced from 125.9 hours to 40.3 hours per year for Ulley Beeches and from 104.9 hours to 33.6 hours for the area around 2 Penny Hill Lane.

12. Public Safety:

Experience indicates that properly designed and maintained wind turbines are a safe technology. The very few accidents that have occurred have been caused by failure to observe manufacturers and operators instructions for the operation of the machines. There has been no example of injury to members of the public.

The proposed wind farm will comply with all relevant UK Legislation as well as specific industry guidance. There are currently 2355 operational on shore turbines in the UK with no record of a member of the public being hurt due to ice, blade throw or tower collapse. With regard to ice sheer, all turbines will be fitted with vibration sensors so that if a blade is damaged or unbalanced the turbine would automatically stop.

13. Public Rights of Way and Permissive Routes:

Each turbine would be located as far from footpaths bridleways and permissive routes within the site as is practical. The nearest right of way to a turbine (turbine no 2) along the north eastern boundary would be approximately 250m away. All five other turbines would be not less than 400m away. Footpaths within the site are in some instances crossed by the proposed access tracks. The Farmland Trail, which is crossed in two places, would, for health and safety reasons be diverted should planning permission be granted.

14. Site Security:

Appropriate security and surveillance measures would be in place to ensure security of the site and safety of the public.

15. Impact on Laughton-en-le-Morthen Church (Grade 1), Morthen Hall, Thurcroft Hall:

The Environmental Statement identified 8 scheduled ancient monuments and 18 listed buildings within 5km of the site designate Grade 1 or Grade 11 *. Laughton-en-le-Morthen Church (Grade 1), Morthen Hall, and Thurcroft Hall are the nearest three identified heritage sites. The Environmental Statement concludes that the proposals will result in “no significant impact” on the settings of any of the identified heritage interest, including the three nearest ones referred to.

Development Plan

(i) Regional Spatial Strategy (adopted May 2008).

Policy ENV 5 Energy states that the Region will maximise improvements to energy efficiency and increases in renewable energy capacity. Plans, strategies, investment decisions and programmes should, amongst other things, maximise renewable energy capacity by:-

1. Delivering at least the following Regional and Sub-Regional targets for installed grid-connected renewable energy capacity:

	2010	2021
Humber	124MW	350MW
North Yorkshire	209MW	428MW
South Yorkshire	47MW	160MW
West Yorkshire	88MW	295MW
Offshore	240MW	630MW
Total	708MW	1862MW

2. Monitoring annually planning permissions and developments against the indicative local authority targets for 2010 and 2021 and taking action accordingly in order to ensure the regional and sub-regional targets are exceeded

The target for installed grid connected renewable energy for Rotherham is 11MW by 2010 and 36MW by 20121

Policy ENV10 Landscape states that the Region will safeguard and enhance landscapes that contribute to the distinctive character of Yorkshire and the Humber. It does not recognise the current application site as being of regional or sub-regional importance.

Policy YH 2 Climate Change and Resource Use, states “Plans, strategies, investment decisions and programmes should help to meet the target set out in the RES to reduce greenhouse gas emissions in the region in 2016 by 20-25% (compared to 1990 levels) with further reductions thereafter by,...increasing renewable energy capacity and carbon capture.”

(ii) Local Planning Policy.

The Rotherham Unitary Development Plan identifies the site as being within the Green Belt and an Area of High Landscape Value. The following Policies are relevant:

Policy ENV1 Green Belt:

“A Green Belt whose boundaries are defined on the Proposals Map will be applied within Rotherham Borough. In the Green Belt, development will not be permitted except in very special circumstances for purposes other than agriculture, forestry, recreation, cemeteries and other uses appropriate to a rural area. The construction of new buildings inside the Green Belt is inappropriate unless it is for the following purposes:

- (i) agriculture and forestry (unless permitted development rights have been withdrawn)
- (ii) essential facilities for outdoor sport and outdoor recreation, for cemeteries and other uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land within it,
- (iii) limited extension, alteration or replacement of existing dwellings, and
- (iv) limited infilling in existing villages and limited affordable housing for local community needs under development plan policies according with PPG2 (Green Belts) and PPG3 (Housing).”

Policy ENV1.2 Development in Areas of High Landscape Value:

“In Areas of High Landscape Value, development other than for agriculture will only be allowed where it will not result in a significant, and permanent adverse impact on the landscape. New agricultural buildings and ancillary development requiring planning permission will normally be allowed, provided they are not detrimental to the local environment, as will agricultural dwellings where a genuine agricultural need for them is demonstrated. Strict control will be exercised over any development that does take place to ensure that the visual character of these areas is not affected. Supporting text in relation to this policy indicates that the quality of the landscape is of overriding significance.”

Policy ENV2.2 Interest outside Statutorily Protected Sites:

“Proposals which would adversely affect, directly or indirectly, any key species, key habitat, or significant geological or archaeological feature, will only be permitted where it has been demonstrated that the overall benefits of the proposed development clearly outweigh the need to safeguard the interest of the site or feature.”

Policy ENV3 Borough Landscape:

“The Council recognises the vital importance of maintaining and enhancing the landscape of the Borough, pursuing and supporting this objective through positive measures or initiatives and, when considering development or other proposals, taking full account of their effect on and contribution to the landscape, including water resources and environments.”

Policy ENV 3.2 Minimizing the Impact of Development:

“In considering the scale, appearance, nature and location of development and infrastructure proposals, the Council will seek to minimise adverse impact on the environment, including water resources, and to conserve and improve its quality. It will permit development which results in a significant loss of trees, woodlands, hedgerows or field boundary walls only when there is compelling justification for doing so.”

Policy ENV 3.4 Trees Woodlands and Hedgerows:

“The Council will seek to promote and enhance tree, woodland and hedgerow coverage throughout the Borough.”

Policy ENV3.7 Control of Pollution:

“The Council, in consultation with other appropriate agencies, will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport.

Planning permission will not be granted for new development which:

- (i) is likely to give rise, either immediately or in the foreseeable future, to noise, light pollution, pollution of the atmosphere, soil or surface water and ground water, or to other nuisances, where such impacts would be beyond acceptable standards, Government Guidance, or incapable of being avoided by incorporating preventative or mitigating measures at the time the development takes place, or
- (ii) would be likely to suffer poor environmental amenity due to noise, malodour, dust, smoke or other polluting effects arising from existing industries, utility installations, major communication routes or other major sources.

The Council will employ all its available powers and where appropriate will co-operate with and support other agencies, to seek a reduction in existing levels of pollution within the Borough in terms of air, water, noise, light, waste, litter and graffiti. Where concerns arise, the Council will in appropriate cases monitor or require the monitoring of levels of pollution within the Borough in terms of air, water, noise, light, waste, litter and graffiti, in furtherance of this Policy objective.”

Policy ENV4.3 Unstable Land:

“In dealing with planning applications for development, the Council will, in liaison with relevant informed agencies, have regard to the question of potential ground instability however caused but with particular regard to coal mining subsidence. Where conditions of instability are suspected, the Council will require prospective developers to demonstrate that such circumstances have been thoroughly investigated and, where appropriate, remedial steps incorporated into schemes which are being promoted.”

Policy UTL 3 Environmental Impact of Service Installations:

“The Council will seek to ensure that the utility companies and agencies avoid or, where this is not possible, minimise the adverse landscape and environmental impacts of transmission lines, installations and other similar apparatus.”

Policy UTL 3.4 Renewable Energy:

"There will be a presumption in favour of proposals for the generation of power from renewable energy sources unless the proposed development would cause demonstrable harm to interests of acknowledged importance. The Council will assess proposals for the development of renewable energy sources against the likely environmental costs and benefits arising in each particular case".

Policy EC3.6 Rural Diversification:

"The development of appropriate diversification enterprises, including tourism, craft industries and recreational activities, will be permitted where they can be shown not to have an adverse impact on the environment or where they enhance it."

Draft Local Development Framework:

Core strategy Policy PD8 states: "The Council supports the efficient and prudent use of resources and infrastructure by working with partners and stakeholders to:- " amongst other things, "Promote improved energy efficiency in new developments and to increase installed renewable energy capacity to meet Rotherham's indicative energy potential target of 10.6MW by 2010, and to achieve on-site provision within new developments to be specified in the Policies DPD."

(It is anticipated that the figure for renewable energy capacity will be amended to 11 MW in the final adopted Core Strategy).

Whilst It is acknowledged that the above Draft Development Plan Document should be afforded relative weight in terms of its stage in the LDF Process (not yet subject to an examination in public or formally adopted) it is noted that content does support the existing Policies in the UDP. It is therefore capable of amounting to a material planning consideration in the determination of this planning application and its content does not change the recommendation for approval of the proposed development.

c) Other relevant material planning considerations:

Central Government Advice.

PPS 1 Delivering Sustainable Development.

Has the core principle of sustainable development and amongst other things aims to:

- (v) Effectively protect the environment.
- (vi) Promote prudent use of natural resources.
- (vii) Protect and enhance the natural and historic environment.
- (viii) Address the causes and potential impacts of climate change.

The Supplementary Annex to PPS 1 "Climate Change Supplement":

Reinforces and emphasises the importance of addressing climate change and states:

“The Government believes that climate change is the greatest long term challenge facing the world today. Addressing climate change is therefore the Government’s principle concern for sustainable development.” It adds that “Changes in climate are likely to have far-reaching and potentially adverse, effects on our environment and society for which we need to prepare and adjust.” It adds that “Where there is any difference in emphasis on climate change in this PPS and others in the national series this is intentional and this PPS takes precedence.”

The Supplementary Annex to PPS 1 “Climate Change Supplement” adds that the planning system should help to “-secure enduring progress against the UK’s emissions targets by direct influence on energy use and emissions,” and that one of the “Key Principles” is to; “make a full contribution to delivering the Government’s climate change programme and energy policies and in doing so contribute to global sustainability.”

It goes on to say that where strategic (RSS) and local plans (LDF) have not been updated to reflect this supplementary PPS, planning authorities should have regard to this PPS as a material consideration which may supersede policies in an existing development plan.

PPG 2 Green Belts states that one of the most important attributes of Green Belts is their openness and that development other than that essential for agriculture forestry or open recreation will not be allowed unless there are very special circumstances. Paragraph 3.2 states that “Inappropriate development is by definition harmful to the Green Belt.” “Very special circumstances to justify inappropriate development will not exist unless the harm by inappropriateness, and any other harm, is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development.”

PPS 5 Planning for the Historic Environment states that developers should consult any historic environment record, and any asset which may be affected should have been assessed prior to the submission of any application, to establish the likelihood of archaeological remains, and any further necessary investigation. Where it is considered there may be potential for archaeological remains Local Authorities should require the developer to submit an appropriate desk top survey, including previous discoveries, maps, county archives, and geophysical surveys.

Policy HE1 of PPS5 Heritage Assets and Climate Change states that: “Where conflict between climate change objectives and the conservation of heritage assets is unavoidable, the public benefit of mitigating the effects of climate change should be weighed against any harm to the significance of heritage assets in accordance with the development management principles in this PPS and national planning policy on climate change.”

PPS 7 Sustainable Development in Rural Areas states that Local Planning Authorities in formulating their policies in development plan reviews (Local Development Framework) should:

- (vi) Support development that delivers diverse and sustainable farming enterprises.
- (vii) Support the country based enterprises and activities which contribute to rural economies, and/or promote recreation in and the enjoyment of the countryside.
- (viii) Take account of the need to protect natural resources.
- (ix) Provide for the sensitive exploitation of renewable energy resources in accordance with the policies set out in PPS 22 and
- (x) Conserve specific features and sites of landscape, wildlife and historic or architectural value, in accordance with statutory designations.

PPS 9 Biodiversity and Geological Conservation.

Aims to conserve and enhance biodiversity and geology, by amongst other things:

- (v) Promoting opportunities to incorporate beneficial biological and geological features in developments.
- (vi) Prevent harm to biological and geological conservation interests.
- (vii) Avoid damage to and repair natural habitats.
- (viii) Protect habitats.

PPG 14 Development on Unstable Land states that stability of the land the subject of any planning application is a material consideration. It is the responsibility of the developer to determine whether land is suitable for development and they should make a thorough investigation and assessment of the ground to ensure that it is stable or that any actual or potential instability can be overcome by any remedial preventative or precautionary measure.

Where there are reasons for suspecting instability the developer should determine by appropriate site investigations and geotechnical appraisal whether the site could be affected by ground movements due to past present or foreseeable future mining activities. It is not the responsibility of the Local Planning Authority to investigate the ground conditions of any particular development site.

PPS 22 Renewable Energy and the related Companion Guide 'Planning for Renewable Energy' give details of the Government's policy regarding Renewable Energy development, which must be taken into account when formulating Regional Spatial Strategies and Local Development Frameworks. It indicates that planning authorities should adhere to the following key principles:

- (x) Renewable energy developments should be capable of being accommodated throughout England where the technology is viable and environmental economic and social impacts can be addressed.

- (xi) Regional Spatial Strategies and Local Development Frameworks should contain policies designed to promote rather than restrict development of renewable energy resources.
- (xii) Local Planning Authorities should set out criteria based policies that will be applied in assessing applications. Policies which rule out or constrain renewable energy development should not be included without sufficient reasoned judgement. The Government will intervene in the plan making process if constraints are considered too great or are poorly justified.
- (xiii) Wider environmental and economic benefits of renewable energy projects whatever their scale, are material considerations that should be given considerable weight when determining planning applications, including those in Green Belt locations. Paragraph 13 states: "Policy on development in the green belt is set out in PPG2. When located in the green belt, elements of many renewable energy projects will comprise inappropriate development, which may impact on the openness of the green belt. Careful consideration will therefore need to be given to the visual impact of projects, and developers will need to demonstrate very special circumstances that clearly outweigh any harm by reason of inappropriateness and any other harm if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources".
- (xiv) Local Planning Authorities should not make assumptions about technical and commercial feasibility of renewable energy projects.
- (xv) Local Planning Authorities should not reject proposals because output is small.
- (xvi) Local Planning Authorities should foster community involvement and applicants should engage in active consultation before planning applications are submitted.
- (xvii) Development proposals should demonstrate benefits as well as how any impacts have been minimised.
- (xviii) ETSU-R-97 The Assessment and rating of Noise from Wind Farms is the document referred to by PPS 22 as a means of assessing and rating noise from wind farms. Advice in this document advocates the measurement of average background noise levels at the nearest sensitive receptor, and applying a maximum acceptable increase in the average noise levels of 5 dB(A), with a maximum level of 43 dB(A) during night time and daytime to between 35 and 40 dB(A). With regard to the daytime limits the actual figure chosen will depend on the number of dwellings affected, the effect of noise limit on the electricity generated and duration of the level of exposure.

PPG 24 Planning and Noise is Central Government advice in relation to the location of new development adjacent or near to existing noise sources. It is not appropriate for new noise sources near existing sensitive development. It does however refer to World Health Organisation advice which advocates a

maximum night time background noise level of 35 dB(A) to ensure undisturbed sleep. That standard has recently been revised down to 30 dB(A).

BS 4142 is used for assessing the impact of new noise sources on existing sensitive receptors and indicates that increases of more than 5 dB(A) are more likely to result in complaints of noise nuisance. This approach is reflected to some extent in the advisory document ETSU-R-97 recommended by PPS 22.

Draft National Policy Statements –overarching Energy NPS (EN1) and Renewable Energy Infrastructure (EN-3) – These statements were published during the previous Labour administration. The consultation period closed on 22nd February 2010. The previous administration, were considering the consultation responses with the intention of publishing a formal response document later in 2010, what the new coalition government's intentions are in relation to these statements it is still important to note the following:

Paragraph 1.2.4 of the draft NPS for REI (EN3) states: "This NPS, and in particular the policy and guidance on generic impacts in Part 2, may be helpful to local planning authorities (LPAs) in preparing their local impact reports. **In England and Wales, this NPS may also be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended). Where relevant, those making decisions on such applications in England should apply the policy and guidance in this NPS as far as practicable.**"

The Draft NPS for REI (EN3) reiterates a lot of the advice in PPS22, and notes that "The IPC should use ETSU-R-97 to satisfy itself that noise from the operation of the wind turbines is within acceptable levels" and that: "Where the correct methodology has been followed and a wind farm is shown to comply with ETSU-R-97 it should be reasonable for the IPC to conclude that it may give little or no weight to adverse noise impacts from the operation of the wind turbines".

It is acknowledged that the above Draft NPS's are a material planning consideration in the determination of this planning application and their content does not change the recommendation for approval of the proposed development.

Publicity

The application has been the subject of two consultation exercises, the second one being in response to additional information requested by the Highways Agency and the case officer and relating to photomontages, impact on the setting of Laughton Church, ecology, and highway safety.

Both consultation exercises comprised site and press notices with copies of all the relevant information sent to the Local Action Group, and Parish Councils. Representations were as follows:

Objections:

In relation to the first consultation 542 letters, a petition of 1792 names, and an objection from the Penny Hill Wind Farm Action Group were received all objecting to the proposals.

In relation to the second consultation 38 letters of objection had been received at the time of writing this report.

In addition, objections were received from Ulley Parish Council, Laughton en le Morthen Parish Council, Councillor Mr John Swift, and Parish Councillor Mrs Georgina Boyes.

Points raised by objectors are:-

- (i) Insufficient publicity.
- (ii) Concrete foundations will remain in place when turbines are decommissioned.
- (iii) Devalue properties.
- (iv) Turbines will be left after their useful life.
- (v) The proposal will have an unacceptable effect on visual amenity.
- (vi) The site is Green Belt and an Area of High Landscape value, and the proposal will have a severe adverse effect on the landscape.
- (vii) The proposal will be detrimental to health and residential amenity by way of strobing flicker, noise and vibration.
- (viii) Adverse effect on flora and fauna, including nesting and migratory birds, bats and wildlife generally.
- (ix) Aircraft safety.
- (x) Impact on T.V. reception.
- (xi) Construction noise and traffic.
- (xii) Amplitude Modulation affecting properties.
- (xiii) Danger from ice falling off during cold weather.
- (xiv) Existing noise from Motorway will be made worse by low frequency noise from turbines.
- (xv) Distraction to motorists on M1/M18.
- (xvi) Out of scale with village.
- (xvii) Effect on quiet areas at grave yards at Ulley.
- (xviii) Highways Agency not consulted.
- (xix) Farmers of the land are tenant farmers who object.
- (xx) ETSU-R-97 (used to assess noise impact) out of date.
- (xxi) No 'very special circumstances'.
- (xxii) Flooding.
- (xxiii) Loss of farmland.
- (xxiv) Photomontages deceiving.

Two residents have requested that Members view the site from their homes, at 22, Turnshaw Lane and 2 Penny Hill Lane.

In addition, a statement of case of objection has been received from the Penny Hill Wind Farm Action Group (PHWAG). Points raised are:

- (i) Out of scale with the surroundings.

- (ii) Local residents would be adversely affected by noise.
- (iii) Turbines too close to houses.
- (iv) Distraction to drivers on the Motorway.
- (v) Contravention of planning policies.
- (vi) Assessment of shadow flicker shows occurrence would be unacceptable nuisance.
- (vii) Risk to public safety, in terms of toppling turbines or shearing blades.
- (viii) Danger from ice throw.
- (ix) Huge local opposition.
- (x) No very special circumstances for development in the Green Belt.
- (xi) Inefficiency of turbines, only produce electricity 26% of the time.
- (xii) Not temporary structures.
- (xiii) Safety of horse riders and walkers due to proximity of turbines.
- (xiv) Adverse effect of amplitude modulation.
- (xv) Savings on carbon emissions not accurate, stand by capacity needed, which negates savings.

Additional comments have been received from PHWAG regarding the additional information submitted.

Points raised are:

- (i) Appraisal of landscape assessment biased and should be disregarded.
- (ii) Argue that ETSU-R-97 is not appropriate for the assessment and rating of noise from wind turbines due to its age and the type of turbines now under consideration.
- (iii) Refute the findings of the Highways Agency on driver distraction.
- (iv) Impact on hedgerows.
- (v) No additional clarity on how the turbines impact on Vodaphone telecommunications.
- (vi) Refer to appeals against refusal of planning permission for turbines which have been dismissed.
- (vii) Raises further issues relating to wind shear and requests an independent assessment of this issue in relation to this proposal.

Ulley Parish Council raised the following issues relating to the original submission:

- The planning case is not proven.
- Inadequate consultation has taken place and the views of the local population have not been taken into account.
- The scale of the turbines is too large for the landscape and their proximity to residents.
- There will be excessive noise and related health impacts on residential properties and the surrounding area.
- The assessment of flashing and strobing is incomplete and misleading and will result in unacceptable effects.
- The impacts on recreation and public safety are unacceptable.
- The impact on bird life is unacceptable.
- The bat survey is in contravention of legislative and RMBC requirements, particularly the need for a year long survey.
- The application is incomplete and contains significant material errors.

- The impact on television reception has not been adequately addressed.
- One affected residential property has been omitted.
- A residential property identified as unoccupied and which is affected to the greatest extent by the proposal is in fact occupied.
- The wind farm and foundations pose a serious flood risk to Ulley Country Park.
- The site suffers from geological faults and old mine workings and has not been shown to be capable of safely supporting the weight of the wind turbines.
- The removal of certain hedgerows to provide access is illegal.
- The application poses an unacceptable safety risk to the M1/M18 junction.

In response to the additional information consultation the Parish Council reiterate and reinforce their objections.

Laughton en le Morthen Parish Council:

- Acknowledge the need for the mitigation of climate change by the use of alternatives to fossil fuels but are surprised that the application makes no mention of the amount of CO₂ generated to produce the development and its decommissioning.
- The turbines are structures on an industrial scale and on decommissioning will leave the land polluted by concrete.
- Proposed development out of scale.
- Huge cost of connecting remote wind farms to the national grid.
- The proposals would unacceptably degrade the quality of life in the surrounding villages.

Treeton Parish Council:

- Highlight the complexity of the development proposals.
- Request an extension of the planning determination period due to the complexities involved.
- Express concerns relating to consultation sessions held by Banks Developments.

Letwell Parish Council:

Object to the proposals. Points raised are:

- Turbines too close to dwellings, resulting in adverse effect on health.
- "Industrialisation" and resultant loss of Green Belt, used by walkers horse riders and cyclists.
- Loss of visual amenity due to the size of the turbines.
- Flicker effect would present a hazard to Motorway users.
- Local people would be put at risk by the construction traffic using the narrow lanes.

The Parish Council accepts the need for sources of renewable energy but consider that the proposals would cause a huge amount of damage for little benefit.

Aston Parish Council:

Object to the proposal. Points raised are:

Site of the development is in an Area of High Landscape Value.

Proposals would dominate the landscape and would adversely affect the amenities of residents.

Detriment to health by proximity to dwellings (noise pollution).

In support:

In relation to the 1st consultation 812 letters, and a petition of 191 names were received, raising the following comments:

Points raised by supporters are:

- Good for the environment.
- Climate change is the greatest threat facing our planet.
- Would provide energy for 10,000 homes.
- Emissions free.
- Sustainable source of energy.
- Wind power reduces the need for dirty alternatives, including nuclear power with a legacy of toxic radio active waste for thousands of years.
- Site would deliver the target for renewable energy of 11MW by 2010 and 36 MW by 2020.

All letters and statements will be on deposit in the Members' Room prior to the meeting.

A total of 14 requests to speak at the Board meeting have been received, 12 from objectors including Ulley Parish Council and Penny Hill Wind Farm Action Group, and one from the applicant's agents.

Consultations

Highways Agency:

Has considered the potential impacts of the development in conjunction with the Highways Agency's current Spatial Planning Advice Note 12-09 (SPAN) on Wind Turbines.

Previously had directed that the Local Planning Authority should not approve the application until issues relating to potential driver distraction have been addressed to the satisfaction of the Highways Agency. Subsequent to this, the developer has submitted the following additional documents:

- Penny Hill Wind Farm, Further Accident and Distraction Assessment; and
- Additional visualisations of the turbine from locations on the strategic road network.

In addition, the Highways Agency has been shown a series of video simulations of the wind turbine in operation from the perspective of drivers on the strategic road network.

Driver Distraction.

The Highway's Agency's previous response highlighted a concern raised by the Highways Agency's Managing Agent Contractor (MAC) that the proposed

development is located adjacent to a heavily trafficked 'weaving' section between M1 junctions 31 and 32. Paragraphs 17 and 18 of the SPAN suggest that particular consideration should be made to the complexity of junctions and current accident record close to turbines.

The Highways Agency has carefully considered the additional evidence provided by the developer. The additional driver distraction information prepared by the developer looks in more detail at a number of other locations in the UK where potentially distracting features close to the strategic road network may have an impact on the safety record. The evidence submitted demonstrates that there is no correlation which can be currently drawn between wind turbines and accidents occurring due to driver distraction.

The Highways Agency accepts that the evidence submitted demonstrates that there is no objective evidence which indicates an increased risk of accidents occurring as a result of distraction caused by wind turbines. It must also be recognised that the evidence available cannot possibly demonstrate that there is no causal link, and therefore the Highways Agency maintains a necessarily cautious approach, and will continue to monitor the safety records surrounding this and other future wind turbine sites.

On an entirely subjective basis, the additional visualisations and video simulations allow a more accurate perception of the likely impact on the driver to be obtained. While viewers of the video will inevitably be concentrating on turbines rather than the road ahead, it appears that the turbines are likely to be less imposing than was initially the concern of the Highways Agency and its MAC.

In considering this application, reference has been made to the decision of the Planning Inspector in upholding the refusal of Cambridge Wind Farm, a proposed development of 15 turbines on land to the south-west of the A14 between Boxworth and Conington (Appeal Ref: APP/W0530/A/05/ 1190473) in which similar matters were considered.

While the proposed site shares some characteristics with the refused Cambridge Wind Farm, the M1 between J31 and 32 has two key differences:

- 1) As a motorway, the proposed development does not have lay-bys, field accesses and side road junctions highlighted as a key feature of the A14 by the planning inspector; and
- 2) In contrast to the A14, the section of the M1 in question has recently been widened and improved, reducing the likelihood of particularly difficult driving conditions occurring.

It was noted by the inspector that the factors which would have caused the proposed development to have a harmful impact on road safety were exceptional to the case.

On the basis set out above therefore, the Highways Agency does not wish to object to the proposed development on grounds of potential increased risk of accidents due to driver distraction. The Highways Agency accepts that the

evidence submitted by the developer demonstrates there is no objective evidence to suggest an increased risk of accidents occurring as a result of the proposed development. Compared to previous planning appeals, the Highways Agency considers that there are insufficient exceptional factors to justify a direction against approval of the application, or to sustain an 'in principle' objection to the application should the committee consider it necessary to refuse the application and a public inquiry ensue.

Transport of materials and turbine components.

The construction of a wind farm involves the transport to site of a large number of heavy and abnormal loads, many of which will use the strategic road network in accessing the site. The Highways Agency now directs that if planning permission is granted, a condition and informative be attached to the permission.

Transportation Unit:

Raises no objections to the proposals though have indicated that the developer may need to enter into an Agreement under Section 59(3) of The Highways Act, 1980, in order to reimburse the Council for any costs incurred (such as damage to the public highway) to facilitate the passage of equipment to the site. It is also recommended that conditions be attached to any permission regarding access to the site to ensure that, subsequent to completion of construction, a reduction in the size of the access takes place to accommodate the largest vehicle which will serve the site once brought into use, provision of a turning area to accommodate the largest vehicle which will access the site, provision of sight lines, surfacing of vehicular areas, and prevention of mud in the highway.

Director of Housing and Neighbourhoods (Environmental Health):

Notes that appropriate distances from the residential properties have been considered in order to satisfy UK Government guidelines on wind turbine noise and disturbance. It was believed that no turbine is to be located within 500m of an occupied domestic property, though it has since become apparent that the Ulley Beeches property which is owned by one of the land owners involved in this application has since been occupied and is now the closest occupied residential property at 350m away from the closest proposed turbine location.

The proposed turbine construction is three bladed rotors mounted on nacelles housing the generator, gearbox and other operating equipment. The turbine hub height will be 80m with all six of the turbines being the same make and model with a maximum blade height of 132m. The nacelles will be mounted on a tubular tower which allows access to the nacelle for any necessary maintenance. The final choice of the turbine has yet to be made and will be determined after a tendering process following planning consent.

For the purposes of the noise assessment forming part of the EIA the largest available turbines the site can accommodate in order to provide the maximum electricity outputs have been used with the final choice, specification and colour, to be agreed with the LPA after approval and tendering. The turbines

will operate automatically after construction and will require only occasional maintenance visits. The turbines are to begin turning between 3 – 5m/s rising to their max of 12 – 18m/s. At wind speeds of 25m/s or greater the turbines will automatically shut down.

The noise assessment was carried out in accordance with ETSU-R-97, the Assessment and Rating of Noise from Wind Farms, published by the Department of Trade and Industry (DTI). The ETSU is not a Government document although it has been endorsed by PPS22. PPS22 requires planning authorities when dealing with applications for renewable energy to be located and designed in such a way as to minimise increases in ambient noise levels. The assessment of noise from wind farms currently has no updated or improved standard other than the ETSU.

It is appreciated that the ETSU is a number of years old and the suggested conditions within it have been debated between acousticians and during other previous applications and appeals. The issue with ETSU arises following on from the publication of an update on sleep disturbance by the World Health Organisation (WHO) and the availability of turbines of a greater size and scale than those considered when ETSU was first developed. Issues regarding aerodynamic noise and amplitude modulation has also arisen since the publication of ETSU.

The ETSU assessment monitors background noise levels at the nearest noise sensitive receptors at the same time as measuring wind speeds. The application site already had a wind mast on site approved under a previous application. The assessment enables noise levels to be predicted at the monitoring locations relative to the wind speed. This allows for both fixed noise limits to be set and limits which are relative to the background noise levels, which increases with wind speed.

ETSU recommends that the day time level of LA90, 10min should be limited to an absolute level of between 35-40dB(A). At night time ETSU recommends a fixed limit of 43dB(A), which was based on the WHO sleep disturbance criteria of 35dB(A). This figure has now been updated to 30dB(A) by advice based on the publication by the WHO of "Guidelines for Community Noise" (2005) and there is much debate between acousticians regarding the update of the ETSU night time figure to 38dB(A).

ETSU states that the noise from a wind farm should be limited to 5dB(A) above the background for both night time and day time. This overrides the fixed limits. It is beneficial to have both a fixed limit and a 5dB(A) above background whichever is the greater condition in order to cover changing background noise levels.

Low Frequency noise (infrasound).

Concerns have been raised with regard to low frequency noise being generated by wind farms. PPS22 contains information on low frequency noise stating that "there is no evidence that ground transmitted low frequency noise from wind turbines is at a sufficient level to be harmful to human health." A

report by the former DTI in 2004 details that of the 126 wind turbines operating in the UK, five have had reported low frequency noise problems. The effects of low frequency noise was investigated by the report and concluded that:

1. Infrasound associated with modern wind turbines is not a source which will result in noise levels that would be at such a level as to be injurious to health to a neighbouring resident.
2. Low frequency noise at these sites was measurable on a few occasions but below the existing permitted night time noise criterion. The report concluded that the level of low frequency noise may be at a level inside a property at just above audibility however at all measured sites it was always lower than the local road traffic noise.
3. The common cause of complaint identified by the report was not related to low frequency noise but the occasion audible modulation of aerodynamic noise especially at night. Data collected during the study showed the levels recorded were not at a sufficient level to wake an occupier from sleep.

Amplitude Modulation (AM).

AM is the term used for aerodynamic noise that is in addition to the normal blade swoosh as it cuts through the air. Complainants have described it as sounding like distant rain or a pile driving operation. Following the report mentioned above DEFRA also commissioned the University of Salford to research this issue and the report was produced in July 2007. The purpose of the study was to look at AM at wind farms and to see if further research into the issue is required.

The results showed that 27 out of the 133 wind farm sites operational at the time had attracted noise complaints at some point. There were estimated to be 239 formal complaints received in the UK regarding wind farms since 1991, 152 of these related to only one wind farm. It is estimated that there were a total of 81 complaints over the same sixteen year period which shows that the numbers of people affected by wind farms are very low. In only one case was a wind farm considered by the authority to be causing a statutory nuisance.

The report indicated that AM incidents were low and where it was identified it was not present for most days. Where it was present more often measures were taken on the turbines themselves to reduce the problem. It is understood that AM is site specific and is caused by many variables which cannot necessarily be predicted. However it is likely that changes can be made to the turbine software to prevent such an issue.

Noise monitoring.

Noise monitoring was carried out by TNEI last year and contact was made with Environmental Health at the time to discuss suitable monitoring locations. The monitoring locations are indicated on drawing HJB/681/PA16, these locations were chosen to represent the closest residential receptors and

wherever possible the units were installed in the gardens or near to occupied properties. Representatives of Environmental Health Service were present for the installation of most of these units.

The closest site to the nearest proposed turbine is that of Ulley Beeches at 350m away all other measuring locations are between 520 – 1185m away. The exact model of the turbine is not known at the time of the noise report and details have been used for REpower 3.3M wind turbine, though the specific noise data for this turbine was not available at the time of the report and it is understood that this has still yet to be released. In view of this the consultants used the data for the MM92 2.0MW which is said to be comparable.

Table 9.3 of the report shows the prevailing background noise measurements, relevant criteria i.e. lower noise criterion from ETSU, upper ETSU level and the predicted turbine noise. The table also details the exceedance level for each of the monitoring sites at different wind speeds in relation to the noise criteria, a negative exceedance level shows that the predicted turbine level does not exceed the noise criteria contained within ETSU. Table 9.3 shows that the quiet daytime criterion based from ETSU is not exceeded at any of the six monitoring sites including Ulley Beeches which is inside the recommended 500m. This is also the same for table 9.4 which details the same information but for night time criteria. It should be noted however that the monitoring location at Ulley had the lowest negative result for the night time period at between -1.1 to 3.0 but it still meets the criteria in ETSU.

The report further details that the selected turbine manufacturer will be contractually required to meet these levels and that approval for the exact turbine shall be submitted after the tendering process should planning permission be granted.

The ETSU document (used to assess noise impact from wind turbines) was written specifically because there was no one piece of guidance on how to assess noise from wind turbines and at present there is no other guidance, nor has the ETSU document been updated. At the time of writing ETSU the working group considered all other available guidance available for assessing noise and the effect on neighbouring residents including for example BS4142 and PPG24. The ETSU document still remains the only full assessment tool for wind farms and although this document is guidance only it still remains the most complete document for assessing noise. Many objections have been raised regarding the sole reliance on the ETSU document, though the assessment carried out by the applicants indicates that no properties will exceed 5dB above the background, which ETSU recommends. Objectors to the proposals have submitted a number of Planning Inspectorate Appeal Decisions on wind farms, stating that the Planning Inspectorate have criticised the sole use of the ETSU document. However, having looked at the appeal decisions this does not appear to be the case. Indeed, the Inspectors involved indicate that it is still recognised as the only complete assessment currently available. Each Planning Inspectorate decision is site specific and takes into account unique circumstances for each proposal. These include fundamental

issues with how the noise measurements were carried out and the close proximity to proposed turbines.

Appeal decisions:

1. APP/R1038/A/09/2107667 - Derbyshire 5 turbines max height of 126m.

There were already pre existing criticisms on the background noise assessment carried out, which is not the case in Penny Hill. The Inspector comments on the use of ETSU by saying: "The Assessment & Rating of Noise from Wind Farms (ETSU-R-97) is generally agreed to be the appropriate standard against which noise from turbines should be assessed. Despite the fact that the document is over 10 years old, I consider its methodologies to be sufficiently robust. They have been endorsed in the Companion Guide to PPS22 and they continue to be used by decision makers."

The Inspector also agrees that the use of the lowest measured background level as the worst case scenario for the turbine prediction model is the most appropriate because as with Penny Hill the sites are rural in nature. The application site in Derbyshire had significantly tight margins for compliance and this is exasperated by the complex topography at the site which is not the case at Penny Hill.

With regard to Amplitude Modulation (AM) the Inspector agrees with the use of ETSU and states: "The appellant has relied on the fact that the ETSU-R-97 recommendations take AM into account without requiring any further correction to be applied. I consider this to be the correct approach, not least because the 2007 Salford report Research into Aerodynamic Modulation of Wind Turbine Noise found that AM was not generally a factor in noise complaints."

The Inspector's main issue regarding noise in this instance is solely about the closeness to the recommended conditions contained within ETSU at this specific location and not at anytime about the use of ETSU as a tool for assessing noise from wind farms or for decision making. The Inspector's only concerns relate to the ability of the council in question to effectively deal with any breach in planning condition which, due to the very small safety margin at the Derbyshire site, is likely to occur on a number of occasions during the wind farm's operation, and that investigations and any necessary steps taken after a breach is proved would leave the complainants with the effects of the noise. This noise issue is very site specific and cannot be applied at Penny Hill. The data for the Penny Hill applications shows that at no time day or night throughout the assessment does any location breach the recommended levels stated by ETSU and that the closest level to the ETSU recommendations is still 5.8dB lower than required.

2. Planning Inspectorate decision for Norfolk. (APP/F2605/A/08/2089810) erection of two wind turbine generators, each with a maximum hub height of 65m and a maximum tip height of 100m.

Again the Planning Inspector agrees that the use of ETSU is suitable by stating "The Assessment & Rating of Noise from Wind Farms (ETSU-R-97) is

the basis on which I have made my assessment of noise. Despite the fact that the document is over 10 years old, I consider its methodologies to be sufficiently robust. They have been endorsed in the Companion Guide to PPS22, and by parliamentary clarification in 2007. They continue to be used by decision makers.”

This site has two dwellings within the recommended 500m and a third only just outside at 504m. This is not the case at Penny Hill where there is only one property within the 500m recommended distancing and noise levels at this property are also within the ETSU-R-97 recommended limits.

This appeal raised issues regarding the validity of the background noise measurements taken, noting that those put forward by the applicant were around 4.6dB higher than those taken by the Environmental Health Officer (EHO) and also by an independent person who gave evidence at the Inquiry on behalf of the objector’s group. In addition, the Inspector also had concerns about the locations chosen for the background noise assessments carried out, noting that those that were chosen were located in a higher noise climate than those ones taken by the local EHO.

No concerns regarding how the background noise measurements were taken and the subsequent results supplied have been raised regarding Penny Hill, the monitoring positions have not been subject to criticism by any objectors. Rotherham Council Environmental Health Officers attended most of the installations of the noise recording equipment and it is clear that the person appointed by TNEI to install the monitoring units was at all times trying find the best free field location at representative locations. In addition, it was clear that the aim was to locate the unit where the lowest background noise level would be recorded as it was felt that this would benefit the residents. Environmental Health Service has no objections with how the assessment was carried out and can confirm that this was explained to all the participating residents, who all co-operated with the officer to locate the units in the best places.

In respect of the Norfolk appeal the Inspector found that the results were unrepresentative of the background climate and had concerns about their accuracy. There has been no such claims made regarding Penny Hill and it is considered that the results submitted were in accordance with ETSU and are therefore representative of the climate surrounding Penny Hill.

3. APP/W4705/A/09/2114165 – Princes Soft Drinks, Weaverthorpe Road, Bradford.

This appeal relates to a proposal for a single three bladed turbine measuring 85m hub height and 120.5m including blades and the refusal of the application on the basis of noise and the effect on the area. This site is located in a predominately residential area unlike Penny Hill and the closest resident is only 165m away from the proposed site which is significantly closer than any property at Penny Hill. The Inspector raises concerns regarding the submitted noise data and the availability of the wind data recordings that

should have taken place at the same time as the continuous monitoring. This is not the case in Penny Hill as both the units and the wind was monitored continually during the assessment and these have been provided. The Inspector also had issues regarding how the background noise measurements were interpreted by the use of 'best fit curve' which meant when taking the individual results into account that the difference could be as much as 5dB.

The Inspector also recognises the use of an additional standard ISO 9613-2 Attenuation of Sound during Propagation Outdoors which contains a propagation model. This was also used in the assessment completed by TNEI but recognises that background noise measurements and any model are based on the assumptions put into them and, therefore, it is not a precise science. The Inspector does not at anytime state that ETSU is not the best assessment tool to use or that the additional use of the model in ISO 9613 is inaccurate or outdated. This is why conditions have been requested this is included in the conditions above that noise monitoring be carried out once the turbines are operational to ensure that they are operating in accordance with the predictions and that measures are taken to ensure that they continue to do so for the life of the wind farm.

The Inspector also raises concerns regarding wind shear in that the proposed cut in and cut out wind speeds put forward by the applicant are high, where it is recognised that the higher the wind speed the greater the noise will be. The units at Penny Hill are proposed to cut in at 3-5m/s rising to their max of 12-18m/s when they will cut out should the wind speed be greater than 25m/s the units will shut down. These levels are much lower than those at the Bradford site therefore making wind shear noise less of a concern, combined with the fact that the residential properties are far closer at the Bradford site than at Penny Hill. In the Bradford appeal, concerns were raised regarding the data presented and its accuracy which has not been the case at Penny Hill. The only objection received revolves around the use of ETSU for assessing noise from the turbines, which in all three appeals referred to above has been accepted by the relevant Inspector. In addition, the Inspector dealing with the appeal in Bradford had concerns about the closeness to the ETSU levels for the residents close to the proposed turbine, and that for the closest resident the margin is only 0.5dB. This is very close, unlike at Penny Hill where the closest is over 5dB.

The submitted noise assessment for the Bradford appeal shows that in certain conditions it is possible that complaints would be likely from local residents and this the Inspector rightly finds unacceptable. Again this is not the case at Penny Hill.

Appeal 4 Appeal ref: APP/Q1153/A/08/2017162 The Inspector at the Den Brook Appeal stated: "the WHO standards apply to noise in general rather than to windfarm noise in particular" and "A potentially more stringent condition, relying on WHO standards rather than ETSU-R-97 (or requiring greater separation between the turbines and the dwellings) would not, in the

light of the Department for Communities and Local Government (DCLG) letter, be justified.”

The DCLG letter referred to is the letter dated 22nd November 2006 from Lester Hicks, Deputy Director of Planning Resources and Environment at the Department for Communities and Local Government to all local Planning Authorities regarding the WHO guidelines, in which he states, “The advice in PPS 22 and the Companion Guide, that ETSU-R-97 should be used for the assessment and rating of noise from wind farms is unchanged”.

Having regard for all the above, it is recommended that in the event of Members being disposed to grant permission the safeguard of appropriate conditions be attached to any planning permission which may be granted.

Culture and Leisure Service (Ecology):

Indicates no major objections to the proposed scheme but points out the following:

Additional survey work is required. Three turbines are less than the minimum distance from existing hedgerows, for the flight paths of foraging bats in the area. Consideration should be given to a reduction in the length of access tracks. Points out that the residual ecological impacts would range from neutral to minor. PPS 9 recommends biodiversity gain for all development proposals.

It is therefore recommended that if permission is granted conditions to ensure adequate monitoring and mitigating measures are considered and implemented. Measures to be considered are:-

- Ecological monitoring strategy.
- Additional hedge planting.
- Water course improvements.
- Creation and management of permanent field margins.
- Woodland planting.

Rotherham Ornithological Society:

Expressed concern that the submitted information makes no mention of the area as a migration route for birds during spring and autumn.

South Yorkshire Bat Group:

Requested additional information regarding bat surveys at the time of the original submission. No additional comments had been received regarding the additional information at the time of writing this report.

Natural England:

Consider that the large open fields which make up the landscape are of no particular landscape value and that location of the busy Motorway interchange close to the site reduces the sensitivity of this part of the character area. It concludes that there will be no significant landscape impact from the proposed development. It is further stated that there are continual views of man made structures in the area such as the motorway and electricity

infrastructure and that the presence of turbines in the area would not dominate the view or prevent the appreciation of the underlying landscape.

With regard to bats, their advice is that a buffer of 50m should be maintained between any part of a turbine and any feature utilised by bats. They have provided guidance that gives a calculation to determine where turbine bases should be located. The current proposal will result in turbines being located too close to hedgerows utilised by foraging and commuting bats. Natural England is concerned that, in its current form, the proposal has an unacceptable risk to the local bat population.

To overcome this concern the applicants will need to re-locate/micro-site turbines 1, 3 and 5 such that the 50m buffer is maintained. AECOM have utilised the TN051 guidance and determined that the turbine bases must be placed at least 67.9m from the centre line of any feature utilised by bats i.e. hedgerows or trees. A condition has been attached to address this issue.

Natural England requests that all wind farm developers show a commitment to monitoring the impact of their developments on bat populations because monitoring data can be valuable in assessing the impact of turbines on bat populations in general, as well as contributing to the evidence base of the ecological impact of wind farms.”

With regard to Badgers they raise no objections subject to appropriate mitigation measures.

No objections are raised with regard to ornithology subject to appropriate mitigating measures raised in the Environmental Statement.

With regard to soil in the area the land is classed as category 3a (soils are graded 1 to 5 the best and most versatile being between 1 and 3a). No objections are raised with regard to soil in the area provided that on decommissioning the land will be reinstated to the same grading of agricultural land. In this respect it is recommended that an environmental management plan should be submitted and implemented.

Streetpride Service (Trees and Woodland):

Points out that the development will result in the loss of trees and hedgerows and it is difficult to assess the impact without additional information. It is therefore recommended that in the event of permission being granted, appropriate conditions should be attached to any planning permission to ensure the impact is assessed and mitigated.

Streetpride Service (Landscape Design):

1. Landscape Impacts

1.1. Wider Landscape Character

The site falls within Joint Character Area (JCA 38) – Nottinghamshire, Derbyshire and Yorkshire Coalfields Area. This independent Landscape Capacity Study, commissioned by The Government Office for Yorkshire and Humberside, considered JCA 38 to have a low

sensitivity to wind farm development. Due to the influence of major transport corridors, the industrial backdrop of Sheffield and Rotherham and associated evidence of urban activity, the magnitude of impact from the proposal on the wider landscape character is that of a slight adverse affect.

1.2. Local Landscape Character

In considering the impact on the local landscape character, we are assessing the change in character as a result of the development. In order to do this we look not just at the impact on existing landscape features which are dealt with below but the impact of introducing new features within the landscape, such as access tracks, turbines, control building, and meteorological mast.

The access tracks are considered to be of a similar scale and character to existing farm access tracks in the surrounding area and as such these features are not perceived to affect the character of the site. It is also considered that through sensitive selection of materials and careful screen planting the control building and sub-station can be accommodated within the landscape with only a slight adverse effect on the landscape character.

The primary impact will come from the turbines themselves and the meteorological mast. The applicant has assessed this impact as a moderate adverse effect. The turbines would appear as tall structures in a gentle rolling agricultural landscape and whilst they would not be viewed in isolation but in the context of existing vertical elements such as electricity pylons, telecommunications masts, and motorway gantry signs they would still be significantly taller than any other visible structures in the area.

Whilst the presence of the turbines would not prevent the continued appreciation and enjoyment of the landscape, they will have an adverse effect on the local landscape character.

1.3 Landscape Features

In terms of existing landscape features affected by the development, there are limited lengths of existing hedgerows which will require removal in order to facilitate safe access into the site. It is understood that one of these lengths of hedgerow forms part of the historic parish boundary. The protection of existing features will need to be secured through a carefully worded landscape condition attached to any consent.

1.4 Landscape Designations.

The site has also been identified by the borough as being an Area of High Landscape Value. Whilst this designation does not carry the same importance as a national designation in government guidance relating to sustainable development, it does reflect the importance and value placed on the landscape locally. The UDP saved policy states 'In Areas

of High Landscape Value (AHLV), development other than for agriculture will only be allowed where it will not result in a significant, and permanent adverse impact on the landscape.' The applicant's assessment of the effect on the AHLV designation is that of a slight adverse effect, which we do not consider to be significant.

2 Visual Impacts.

When assessing the visual impact of a given development, we are assessing the extent to which a given viewpoint or visual receptor can accommodate change without unacceptable adverse effects on the view or the visual receptor.

The sensitivity of visual receptor is dependant upon a number of factors such as the location of the viewpoint; the expectations and activity of the receptor; the importance of the view, which itself can be influenced by popularity, and the number of people affected.

The 20 viewpoints assessed were agreed following discussions with Pegasus Environmental Ltd at Scoping Report stage, and are largely representative of identified receptors such as villages and residential areas, amenity landscapes and parks, public rights of ways and bridal ways, national parks and major transport routes.

Viewpoints within 0-2km of the site (Viewpoints 1, 2, 3, 4, 5, 6, and 7)
The most significant visual impacts are experienced by residential properties within villages and settlements within 0-2km of the site with the magnitude of impact reducing the greater the distance from the site up to 5km. Of the 3353 properties within 2km of the site 174 will experience a substantial adverse effect and a further 310 properties will experience a moderate adverse effect. This degree of adverse visual impact is considered to be significant.

Viewpoints 2-5km (Viewpoint 8, 9, and 13)
In addition to the those properties identified above there are a number of properties at the western edge of Laughton en le Morthen village (viewpoint 9) which would experience a moderate adverse effect. The effect from viewpoint 8 which represents views from M1 at Wales Bar is that of a slight adverse effect.

The effect from viewpoint 13 which represents views from A631 Rotherham are of a moderate adverse effect to a small number of properties on the southern edge of Rotherham with no effect on the majority of receptors. This degree of visual impact is not considered to be significant due to the increasing distance from the site and the fewer properties affected.

Viewpoints 5-10km (Viewpoints 10,12,and 17)
Viewpoints in this range include South Anston, Maltby and Conisbrough and represent only a slight adverse effect which is not considered to be significant.

Viewpoints 10-20km (Viewpoints 11,14, 15, 16, 18, 19, and 20)

Similarly, viewpoints within this range include the major road corridors of the M1 & M18, the settlements of Worksop, Shirecliffe, Bolsover, Eckington, Wentworth Woodhouse historic park and the Peak District National Park all of which represent either a slight adverse effect or no effect. Again these effects are not considered to be significant.

Mitigation measures.

Best practice guidance for Environmental Impact Assessment sets out that mitigation measures should include: Avoidance of impacts, reduction in magnitude of impacts, compensation for impacts where appropriate and remediation.

Whilst careful site selection and micro-siting can go some way to avoid and reduce adverse impacts to landscape character from the proposal, they do nothing to address the magnitude of adverse visual impact. There is little attempt made by the applicant to reduce the magnitude of substantial and moderate adverse visual impacts within 2km of the site. Of particular concern is the number of properties which would be subject to a substantial adverse or moderate adverse visual impact within the villages and settlements of Ulley, Brampton en le Morthen, Morthen, Properties East of M1, Aston cum Aughton, Aughton, Thurcroft and Upper Whiston.

Summary

There are serious concerns regarding the visual impact of these proposals, based on the number of properties affected, the significance of the magnitude of visual impact (174No properties experiencing a substantial adverse effect and 310No properties experiencing a moderate adverse effect), and in the absence of any proposed mitigation to avoid, reduce or compensate for the predicted visual effects.

The need for the planning board to take a balanced view is understood, and in the event that consent is granted the following conditions should be attached to any consent: PC38C: Landscaping details for Full applications and PC38D: 5 years Maintenance. Additional conditions would need to be agreed to mitigate for the effect on existing landscape features, and to control the precise siting of and materials for the development and associated infrastructure.

Public Rights of Way Officer:

Points out that a permissive right of way crosses the site, and that access tracks for the development cross the right of way. The applicants propose to divert the permissive right of way. No objections subject to details and status of the new right of way.

South Yorkshire Mining Advisory Service:

Records indicate the site to be located on mudstone, siltstones and sandstones of the middle coal measures. Geological faulting is present within the site. Deep mining affected the site between 1920 and the late 1980s. All

normal subsidence movements will have ceased decades ago, and with the site being remote from other active coal fields it should not be affected for the foreseeable future. It would be prudent to locate all turbines clear of geological faulting. Sandstone bedrock can contain fissures and weak ground conditions encountered would require suitable treatment or foundations designed accordingly. SYMAS has no record of any previous polluting land uses and indicates that the positions of the proposed turbines are clear of the recorded geological faulting.

The Forestry Commission:
No impact on ancient native woodland.

Bassetlaw District Council:
No comments to make.

North East Derbyshire Council:
No comments to make.

Bolsover District Council:
No objections. Points out that the development has the potential to cause distraction to users of the M1/M18 Motorway junction.

Sheffield City Council:
No objections.

Environment Agency:
No objections subject to conditions to ensure implementation of the measures outlined in the submitted Flood Risk Assessment.

National Grid:
Risk to equipment is negligible.

Northern Electric Distribution Ltd:
Indicate that the applicant should consult with the diversions section.

Rotherham Civic Society:
Are neutral on the matter.

Civil Aviation Authority:
No objections, subject to satisfactory response from Robin Hood Airport.

Defence Estates (agency of MOD):
No objections. Should the development go ahead they would like to receive the following data:

- a. Date of the start and end of construction.
- b. The maximum extension height of any construction equipment.
- e. The positions of the turbines in latitude and longitude.

NATS (Air Traffic Control Services)
Has no safeguarding objections.

Doncaster (Robin Hood) Airport:

Have now achieved controlled air space and have no objections to the proposals.

BOC:

Have no services in the vicinity which would be affected.

Yorkshire Forward:

Strongly support appropriately located renewable energy technologies, which reduce the Region's need to burn fossil fuels and thereby reduce carbon emissions, in accordance with Objective 5 (Transport Infrastructure and the Environment) of the Regional Economic Strategy.

South Yorkshire Archaeology Society:

In the event of Members supporting the proposal it is recommended that a condition be attached to ensure a scheme of archaeological works for the whole site, is submitted to and approved by the Local Planning Authority, and implemented before work commences on site.

CPRE:

Consider that climate change is the greatest threat to our countryside today and will have a devastating impact on our rural landscapes and wildlife. To minimise this threat, rapid and deep cuts in greenhouse gas (GHG) emissions will be required. They support the national target to reduce GHG emissions by at least 80% by 2050 and to generate 15% of our energy from renewable sources by 2020. In order to achieve these targets CPRE support renewable energy technologies which do not significantly affect our most valued landscapes.

CPRE note that Rotherham is currently falling short of the 2010 installed capacity target by 9.7MW and that even if the wind farm at Loscar (Harthill/Thorpe Salvin) was operational within the next 10 years, Rotherham will still be short of the 2021 installed target by 30.8MW.

This scheme will contribute significantly to the 2021 target, leaving a shortfall of 11MW, which should be met by other suitable renewable energy schemes and provide a wider energy mix. Given the approach to renewable schemes within the Green Belt and this scheme's contribution to Rotherham's renewable energy target, CPRE believe that the harm to the landscape must be significant to refuse this application.

They note that a detailed description of the site can be found in the Rotherham's Draft Landscape Character Assessment and Landscape Capacity Study, which was published for consultation after this application was submitted. The assessment identifies the site within the Central Rotherham Coalfield Farmland LCA. This area is described as a gently rolling, large scale arable landscape with wide angle views to the south and west. The landscape shares similar characteristics to the Limestone Plateau LCA in Doncaster to the north and the Limestone Farmlands LCA in Derbyshire to the

south. According to the matrix on page 37 this LCA is considered to have a moderate strength of character. CPRE concur with this assessment and believe its sensitivity is moderate.

Using the Matrix of Significance (EIA page 64), whilst the landscape is considered to be moderate in sensitivity, due to the high magnitude of change, CPRE consider the effects upon the landscape as substantial/moderate. Consequently the impacts upon the immediate landscape is considered significant. What must be taken into consideration when considering the significance of these impacts are the limited opportunities to locate large scale wind farms within alternative locations of the Borough. These restrictions are due primarily to the lack of suitable wind speeds in the west, proximity of residential areas and the Robin Hood Airport's vectoring area in the east.

CPRE conclude that this proposal will have a potential installed capacity of 19.8MW. Consequently it will contribute considerably towards Rotherham's renewable energy target of 36MW by 2021. If approved and operational (with Loscar), this proposal will reduce the remaining required megawatts to 11. When balanced against the substantial/moderate effects upon the landscape, they believe that the landscape and visual impacts – though significant – are outweighed by the generation of 19.8MW. It therefore complies with UDP Policy ENV1, UTL3.4, PPG2 and PPS22. In addition, the challenging renewable targets and the limited opportunities to locate turbines in less sensitive landscapes reduces the weight which is attached to landscape impacts. Consequently CPRE support this application.

Various Telecommunications Operators and their agents have been consulted with the following results:

CSS Spectrum Management Services:

CSS have responded on behalf of UHF Radio Scanning Telemetry communications and the UK Water Industry. No objections.

The following operators have objected, subject to acceptable mitigation measures being agreed:

- Cornerstone Mobile.
- Ericson.
- JRC on behalf of the UK Energy Industry.
- Vodafone.

Arqiva:

Have responded on behalf of BBC and ITV transmissions, and raised no objections.

Orange:

No objections.

Appraisal

Where an application is made to a local planning authority for planning permission.....in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations - S. 70 (2) TCPA 1990.

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise – S.38 (6) PCPA 2004.

The application site is within the Green Belt, and an Area of High Landscape Value. Policy ENV 1 Green Belts of the Unitary Development Plan states that construction of new buildings within the Green Belt is inappropriate development unless it is essential for the use of agriculture or forestry, essential facilities for outdoor sport or outdoor recreation, limited extensions to existing dwellings or limited infilling in existing villages. The proposal is therefore inappropriate development in the Green Belt. As such the proposal does not accord with the designation in the UDP.

PPG2 Green Belts states that inappropriate development is harmful to the Green Belt and that the Secretary of State will attach significant weight to the harm caused by inappropriate development. The Town and Country Planning (Consultation) (England) Direction 2009 directs that any development which, by reason of its scale or nature or location, would have a significant impact on the openness of the Green Belt, and the Local Planning Authority does not propose to refuse permission, should be referred to the Secretary of State before a decision is made. In this respect it is considered that, by way of their size, the proposed turbines will have a significant effect on the openness of the Green Belt and consequently, should Members be disposed to grant permission, the matter will need to be referred to the Secretary of State.

The application is for the erection of six turbines with anticipated capacity of between 2 and 3.3 Mega Watts per turbine, each with a hub height of 80m and blade length of 52m, resulting in a maximum blade tip height of 132m (approximately 430 ft). The anticipated total capacity would be between 12 and 19.8 MW sufficient to serve up to 10,254 residential properties depending on the final installed capacity, representing between 6 and 10% of households in Rotherham. The applicants have carried out some preliminary calculations and depending upon the final turbine installed the electricity generated would be between 31,000 and 45,700 MWh per annum. This equates to a saving of between 13,330 and 19,651 tonnes of carbon dioxide emissions per year. Based on an operational life span of 25 years, the power generated would be between 775,000 and 1,142,500 MWh and the emissions saving would be between 333, 50 and 491, 75 tonnes of CO₂.

These figures are based on the average mean wind speeds for the country measured at 60m above ground level. The data is fed into a computer model which predicts the power generated allowing for inbuilt inefficiencies of the system and unpredictability of the wind speed and its occurrence. This

methodology has been accepted by appeal Inspectors as a means of predicting power generation by turbines.

It is considered therefore that the main issues in relation to the proposal are:

1. The presumption against development in the Green Belt unless there are very special circumstances.
2. The visual impact on character and appearance of the landscape.
3. Impact on flora and fauna.
4. Residential amenity.
5. Impact on motorists using nearby M1/M18
6. Any other material considerations.

1. Very special circumstances:

European Community Directive 2009 requires that 15% of the UK's total energy use should be supplied by renewables by 2020. The Climate Change Act 2008 legally binds the UK to deliver a reduction in greenhouse gas emissions of 80% by 2050 and at least 34% by 2020, compared with 1990 levels. The Energy Act 2008 places obligations on the electricity generating industry to provide electricity from renewable sources.

Policy ENV5 of the Regional Spatial Strategy for Yorkshire and the Humber which identifies specific commitments for renewable for installed renewable energy capacity of 100MW for South Yorkshire by 2010, the targets for Rotherham being 11MW by 2010, and 36MW by 2020.

Policy ENV 1 Green Belts indicates that inappropriate development in the Green Belt will not be allowed unless there are very special circumstances.

Paragraph 3.2 of PPG 2 Green Belts, states that "Very special circumstances to justify inappropriate development will not exist, unless the harm by reason of inappropriateness or any other harm is clearly outweighed by other circumstances."

PPS 22 Renewable Energy strongly advocates the use of energy from renewable sources, indicating that its production is a material consideration carrying significant weight in relation to planning applications, and that the wider benefits of increased production of energy from renewable resources may constitute very special circumstances in relation to development in Green Belt areas. Paragraph 13 states: "Policy on development in the green belt is set out in PPG2. When located in the green belt, elements of many renewable energy projects will comprise inappropriate development, which may impact on the openness of the green belt. Careful consideration will therefore need to be given to the visual impact of projects, and developers will need to demonstrate very special circumstances that clearly outweigh any harm by reason of inappropriateness and any other harm if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources."

Paragraph 13 of PPS22 Renewable Energy attaches significant weight to the increased production of renewable energy. This advice is reflected in Policy ENV5 of the Regional Spatial Strategy for Yorkshire and the Humber. It is therefore considered that the wider benefits of pollution free renewable energy in this instance in combating climate change clearly outweigh the harm caused by inappropriate development and other identified harm.

The latest Policy Briefing from the Sustainable Development Commission reinforces this view, indicating that wind generation is a key technology in achieving the 2010 target of 10% of UK energy generation coming from renewable resources. This is supported by two factors: The availability of the technology (wind power is the only widely available technology for expanding sustainable energy generation) and the UK's favourable wind patterns. The Sustainable Energy Commission also indicates that wind in the UK is sufficiently predictable to enable the use of other means of producing electricity should a drop in wind speed occur. Furthermore, because wind generation is less centralised it is less prone to total shut down in the event of major technical failure. Finally, with regard to cost, wind energy tends to be 5% higher than electricity produced from coal/gas powered stations. However, it is predicted that the price of coal and gas will increase over time, and wind power could consequently be the cheapest means of producing electricity by 2020.

Finally, Policy ENV 3.7 Control of Pollution indicates that the Council will not grant permission for development which will give rise to pollution and will support proposals which reduce pollution levels in the Borough. The applicant has indicated that with a predicted installed capacity, the proposal will reduce harmful emissions by between 13,330 and 19,651 tonnes of CO₂ per year. Based on an operational life span of 25 years, the power generated would be between 775,000 and 1,142,500 MWh and the emissions saving would be between 333,250 and 491,275 tonnes of CO₂.

Having regard for the above, and in particular advice paragraph 13 of PPS22, significant weight must be afforded to the production of energy from a renewable resource, the reduction in harmful emissions, and the wider environmental benefits in terms of combating climate change. It is therefore considered that there are very special circumstances in this instance which clearly outweigh the harm caused by inappropriate development, and any other identified harm, such that the development can be permitted in the Green Belt.

In the past emissions savings have been questioned, on the basis that they are based on the worst case scenario of coal fired power stations which have the most polluting effect with emissions of 860g of CO₂ per megawatt hour. It has been argued that in line with DTI advice the figure should be 430g of CO₂ per megawatt hour, reducing the emissions savings by half. An independent judgement by the Advertising Standards Agency upheld a complaint to this effect, but qualified the judgment by indicating that the evidence gathered indicated that the highest figure was widely used by the generating industry

and endorsed by the House of Commons Environmental Audit Committee. This is because coal powered stations are the most flexible form of plant on the system which can be most easily adjusted.

The figure is therefore reasonable at the present time, but given the future mix of power stations which may change and become less polluting due to legislative changes, alternative production methods, and the installation of flue gas desulphurisation units, the emissions saving in the future could not be accurately predicted. It was therefore concluded that the higher figure adopted by the applicant is reasonable at the present time but should be qualified by having regard for the potential changing position in the future. In any event it is considered that the emissions savings will be substantial.

2. Visual Impact on Character and Appearance of the Landscape.

Whilst the landscape is attractive, it is essentially large scale, open and gently rolling countryside with associated features such as woodlands and man made features such as the M1/M18 Motorway junction with large volumes of moving traffic. In some instances the turbines would be seen in conjunction with the motorway and in some instances the motorway would form part of the backdrop to the development. Additionally there are radio telecommunications masts in the vicinity as well as electricity pylons and overhead lines, and in many instances the turbines will be seen in conjunction with these man made features. These features give the landscape a capacity to absorb the development visually, and reduce the sense of remoteness of the area.

Outside the site, statutory undertakers have permitted development rights and consequently it is not possible to control this aspect of the development should permission be granted. In this respect there is an existing electricity line which crosses the site and it is the applicant's favoured option to connect to that within the application site boundary via a switch gear building and sub station. All other supply lines would be below ground.

As noted above, the character of the landscape is open with large fields, hedgerows and some man made features, which erode the feeling of remoteness and tranquillity. In this respect, the site falls within a single Joint Character Area (JCA) namely the Nottingham, Derbyshire and Yorkshire Coalfields, (JCA 38). Government Office for Yorkshire and the Humber (GOYH) has assessed the region for its sensitivity to wind energy development and concluded that of 42 JCA's JCA 38 is the least sensitive to wind farm development other than JAC 42 (Lincolnshire Coast and Marshes).

Policy ENV1.2 Development in Areas of High Landscape Value states that the quality of the landscape is of overriding significance. Additionally, Policy ENV3 Borough Landscape advocates maintaining and enhancing the landscape through positive measures or initiatives.

It is not possible to mitigate the impact of the development on the character. However, having regard for the landscape categorisation, and the man made features in the vicinity, it is considered that the character of the area is not

sufficiently attractive, remote or tranquil for the development to result in a negative impact, sufficient to justify refusal. This view is supported by Natural England, and the Council's Landscape Architect.

With regard to the visual impact of the turbines, Policy ENV1.2 Development in Areas of High Landscape Value states that development other than that essential for agriculture will not be allowed where it results in a significant and permanent effect on the visual amenities of the area. In this respect PPS22 states that local landscape designations should not be used in themselves to refuse planning permission for renewable energy developments. Due to their size, the turbines cannot be mitigated to any substantial degree and will consequently have a material effect on the openness of the Green Belt, requiring referral to the Secretary of State should Members be disposed to grant permission. They are however well designed and architecturally pure making a visual statement.

Having regard for the above it is considered that whilst the proposal will have a significant effect on the openness of the Green Belt sufficient to require its referral to the Secretary of State should Members be disposed to grant permission, it would not have a sufficiently unacceptable visual impact on the landscape to warrant refusal. Should permission be granted a condition to ensure that the turbines are removed after 25 years and the site restored would be attached. Natural England and the CPRE concur with this view indicating that climate change is the greatest threat to our countryside and its character, and that the impacts of the development are acceptable in the light of the benefits associated with the carbon emission savings.

3. Impact on Flora and Fauna.

This issue is directly linked to the character of the landscape in that any changes to the landscape have obvious implications for the flora and fauna. No nationally or internationally endangered species have been highlighted by the various consultees. The Environmental Statement concludes that the overall residual impact of the development would be 'slight adverse'. In this respect, the Council's Ecology Officer has requested additional information regarding the ornithological survey, location of turbines in relation to buffer zone (bats foraging areas), and the possibility of reducing the amount of access track. It is considered that some of these issues can be addressed by appropriate conditions and mitigation measures to provide biodiversity enhancement in accordance with PPS9.

Measures put forward to mitigate any loss of hedgerows or bird population are:

- (i) The carrying out of works outside the breeding season.
- (ii) Minimising the loss of hedgerows.
- (iii) A scheme of biodiversity improvement, including field margins, and hedgerow replacement/improvements.

With regard to the proposed site access, there would be two crossing/access points, one in Penny Hill Lane and one in Brampton Lane. The turbines would

be linked by an access track within the site for construction, maintenance and decommissioning purposes, which will cross the highway at those points and will result in the removal of some small areas of hedgerows. It may be possible to reduce, by a small amount, the length of access track within the site. This would however, increase the number of new highway access points required. It is therefore considered that having regard for this and the site levels the access track and its location appear to be optimum. In this respect the applicants have indicated that they have been designed as far as possible to reduce the loss of hedgerows, have regard for the topography and field boundaries, and that the only hedgerows lost would be those essential for site access and circulation. The Environmental Statement concludes that the impact on trees and hedgerows would be a "slight adverse effect."

In respect of Policy ENV 3.4 Trees Woodlands and Hedgerows, the proposed development would result in the loss of 65m of hedgerows due mainly to the new highway accesses and the routes of access tracks within the site. It is accepted that this is relatively small in relation to the site as a whole. However, it is considered that appropriate conditions should be attached to assess and mitigate fully the hedgerow loss.

4. Residential Amenity.

4.1 Visual impact.

The impact on residential amenity can be in the form of a number of issues, including, visual impact of the development on outlook or aspect from residential properties, noise impact, shadow flicker and interference with electromagnetic transmissions (such as TVs).

With regard to visual impact, there is no doubt that the turbines are substantial in height, and cannot be mitigated due to their sheer size. However the structures are well designed and pure in their form. The nearest property would be approximately 350m away, whilst the two nearest properties in Ulley would be approximately 570m away from the nearest turbine. It is therefore considered that there will be a material impact in this regard, and this must be weighed against the benefits of the scheme. In this instance it is considered that the benefits associated with the scheme in terms of significant levels of renewable energy generation would outweigh the harm caused by the visual impact of some of the turbines on some nearby properties.

4.2 Noise.

With regard to the issue of noise, Technical Annex to the Companion Guide to PPS22 states that "Noise levels from turbines are generally low and, under most operating conditions, it is likely that turbine noise would be completely masked by wind-generated background noise". In this instance it is considered that noise impact would only be a potential issue on the nearest properties to the turbines, being Ulley Beeches, The Ponds, and 2 Penny Hill Lane.

In relation to noise from wind turbines, the Department of Communities and Local Government states "The Hays McKenzie report on low frequency noise

was commissioned by the DTI (Department of Trade and Industry). It investigated the claims that infrasound or low frequency noise emitted by wind turbine generators was causing health effects. It concluded that there is no evidence of health effects arising from infrasound or low frequency noise generated by wind turbines. The report, however, has been quoted as recommending a total review of ETSU-R-97 (this is the methodology Local Planning Authorities are advised to use when assessing and rating noise from wind energy developments). This is not the case. The advice in PPS22 and its Companion Guide that ETSU-R-97 should be used for the assessment and rating of noise from wind farms is unchanged". In this respect the World Health Organisation recommended noise level of a maximum of 30dBA for undisturbed sleep is advisory.

The issue of Amplitude Modulation has been raised a number of times in the representations received. The applicant's agents have made the following response:

"The issue of amplitude modulation of the aerodynamic noise (AM) associated with the operation of the wind farm has been raised within consultation responses from the Local Authority. The issue of AM has been identified as a result of a study undertaken for the DTI which investigated three wind farms in the UK which were subject to complaints associated with the operation of the wind turbines. This study found that infrasound and low frequency noise were not the source of the complaints but that for some periods or modes of operation of the wind turbines, levels of AM were clearly audible external and internal to the complainants dwellings.

The three sites do not experience this sound all the time but only for specific wind conditions which, in the main, relate to wind direction and the sheltering afforded to a property by topography. Wind direction was associated with AM being experienced for two of the wind farms. When the wind direction occurred, the specific wind turbines which made the noise were found to be down wind of an upwind wind turbine. In these circumstances, the AM could be removed by controlling the down wind turbine such that it did not make the noise, i.e. parking the wind turbine for this specific wind condition. For the third wind farm, the receptor location was located in a deep, well sheltered valley. They experienced AM when the wind turbines installed at the wind farm entered "stall" at the rated power wind speed of the turbines. However, due to the deep valley location, there was no corresponding increase in the background noise levels, i.e. the turbines started to generate more noise which made them more audible at the receptor location."

The situation is further clarified following a recent permission issued by the Secretary of State for Business, Enterprise and Regulatory Reform, following a public inquiry into an application for a wind farm of 22 turbines, each 65m to the hub with a rotor diameter not exceeding 90m, and with a total generating capacity of 66MW. The Secretary of State made the following comments:

"On 1 August 2007, the Department announced the outcome of the study by Salford University into a phenomenon known as Aerodynamic Modulation ("AM"). AM is the audible modulation of aerodynamic noise, i.e. aerodynamic

noise which displays a greater degree of fluctuation than usual. In some isolated circumstances AM was occurring in ways not anticipated by the 1997 report by ETSU to assess and rate noise from wind energy developments ("ETSU-R-97"). The Salford study concluded that although AM cannot be fully predicted, the incidence of AM resulting from wind farms in the UK is low. Out of the 133 wind farms in operation at the time of the study, there were four cases where AM appeared to be a factor. Complaints have subsided for three out of these four sites, in one case as a result of remedial treatment in the form of a wind turbine control system. In the remaining case, which is a recent installation, investigations are ongoing. Based on these findings the Government does not consider there to be a compelling case for further work into AM and will not carry out any further research at this time: however it will continue to keep the issue under review. The Government therefore continues to support the use of ETSU-R-97 as the means to assess and rate noise from wind energy developments."

Having regard for the above advice it is concluded that it is extremely unlikely that there will be any materially adverse effect on residential amenity by virtue of Aerodynamic Modulation.

4.3 Shadow Flicker.

With regard to shadow flicker the technical annex to Companion Guide to PPS22 notes that problems caused by shadow flicker are rare and that only properties within 130 degrees either side of north, relative to the turbines, can be affected. The information submitted by the applicant in this instance concludes that the theoretical worst case scenario on two properties in the vicinity would be 15.9 hours per year at Ulley Beeches, and 104.9 hours per year at Penny Hill Lane (in the vicinity of The Ponds and 2 Penny Hill Lane). Having regard for factors such as average hours of sunlight, and weather conditions, these figures reduce to 40.3 hours and 33.6 hours per annum respectively. In this respect it is recommended that if Members are disposed to grant permission, a condition to mitigate the effects of Flicker shadow should be attached to any planning permission which is issued.

4.4 Radio communications and television/radio reception.

The applicant considers that any adverse impacts can be resolved by way of mitigation measures once the turbines have been erected and is happy to accept suitable planning conditions to resolve any issues.

5. Impact on motorists on nearby M1/M18 Junction

PPS 22 Technical Annex notes that wind turbines should not be any different from other distractions a driver must face and should not be considered particularly hazardous. In this respect the site is unique being close to a busy junction of the M1 and M18 Motorways. Consequently the issue of distraction to drivers on the strategic road network is a material consideration. There is no other strategic highway network junction which is directly comparable to the one near Ulley. Consequently the applicants have carried out a study in relation to four highway junctions in the strategic network system which have similar features to those found at the M1/M18 Junction. The study considered

accident rates at the junctions both before and after the addition of the feature referred to in each case and concluded that there was no statistical evidence to indicate that the turbines would result in any material adverse effect in highway safety terms. The Highways Agency concurs with this view and it is therefore considered that the proposal is acceptable in this respect.

6. Other Material Considerations.

6.1 Stability of the land.

PPG 14 Development on Unstable Land states that stability of the land the subject of any planning application is a material consideration. It is the responsibility of the developer to determine whether land is suitable for development and they should make a thorough investigation and assessment of the ground to ensure that it is stable or that any actual or potential instability can be overcome by any remedial preventative or precautionary measure.

Where there are reasons for suspecting instability the developer should determine by appropriate site investigations and geotechnical appraisal whether the site could be affected by ground movements due to past present or foreseeable future mining activities. It is not the responsibility of the Local Planning Authority to investigate the ground conditions of any particular development site.

UDP Policy ENV4.3 Unstable Land indicates that prospective developers should demonstrate that they have investigated thoroughly the possibility of instability and, where appropriate, proposed remedial steps to address any such instability which will be incorporated. Having regard for the above it is considered that the policy would not be prejudiced by the imposition of such a condition. Additionally the South Yorkshire Mining Advisory Service have indicated that, they have no objections to the proposals.

6.2 Farm Diversification.

Policy EC3.6 Rural Diversification states that the development of appropriate diversification enterprises may be appropriate where they can be shown not to have an adverse impact on the environment or where they enhance it. The applicants have indicated that the "Wind Farm will allow normal business to take place in the occupied land, whilst providing another use for the land owner, thereby diversifying their business." In this respect it is considered that any benefits from diversification are marginal.

6.3 Archaeology.

The Environmental Statement concludes that no direct effects are anticipated on any known cultural heritage features, such as Ancient Monuments, Listed Buildings, historic parks and gardens or Conservation Areas. It is considered that an appropriate condition should be attached to allow monitoring whilst development works take place on the site.

6.4 Impact on Air Traffic.

Doncaster Robin Hood Airport achieved controlled air space around the airport and consequently have no objections to the proposals.

6.5 Impact on Listed Buildings.

The Environmental Statement indicates that 18 listed buildings (designated Grade 1 or Grade 2*). lie within 5km of the site. Laughton-en-le-Morthen Church (Grade 1), Morthen Hall (Grade 2*), and Thurcroft Hall (Grade 2*) are the nearest three identified heritage sites. It concludes that the proposals will result in “no significant impact” on the settings of any of the identified heritage interest, including the three nearest ones referred to. In this respect the only asset which can be seen relative to the application site is Laughton en le Morthen Church. Wireframe views of the relationship between the proposed wind farm, Laughton Church and the topography have been submitted as part of the additional requested information and they indicate that there will be no effect on the setting of that asset.

6.6 Impact on Horse Riders/walkers.

PPS22 Technical Annex advises that The British Horse foundation has suggested 200m exclusion zones between bridle ways and turbines to prevent the frightening of horses but there is no statutory requirement. Similarly, with public rights of way, in this respect fall over distance is often considered an acceptable separation, and a minimum distance is taken to be that the turbine blades should not be permitted to over sail a public right of way. The PPS22 Technical Annex indicates that “it may be advisable to achieve a set-back from roads and railways of at least fall over distance, so as to achieve maximum safety.”

In this instance, there are no existing public rights of way or bridleways that fall within this distance.

6.7 The Effects on Icing of the Turbine Blades.

PPS22 Companion Guide Technical Annex, indicates that the conditions for icing of turbine blades occur for less than one day per year and that turbines can be fitted with anti vibration sensors which can detect any imbalance which might be caused by icing of blades, in which case operation of machines with iced blades would be inhibited. It is therefore considered that this issue can be addressed by the imposition of an appropriate condition.

6.8 Additional Social/Economic Benefits.

PPS22 states that development proposals should demonstrate any environmental, economic and social benefits. The Government's Companion Guide states that developers should also outline any such benefits which are specific to the development (as opposed for example broader environmental benefits that could be applicable to any renewable energy project). In this respect the applicants have indicated that the proposals would potentially benefit the local economy in terms of providing opportunities for local employment and accommodation during the construction phase. It is also acknowledged that the proposal would allow the land owner to diversify their activities on the land whilst retaining the majority of the land in agricultural use.

Warm Front:

Warm Front is a Government run initiative in which properties experiencing fuel poverty can apply to have fuel efficiency measures installed in their properties. Warm Zones are different in that the benefits are not restricted by means testing and can relate more comprehensively to a specific area. A Warm Zone initiative is to be set up for Rotherham by Warm Zones cic (WZcic) which is an independent non profit making company set up to deliver fuel efficiency and carbon savings. The applicants have indicated that a contribution of £60 0000, would be made to the Warm Zone for Rotherham if permission would be granted. The applicants have submitted a Unilateral declaration for provision of the contribution should planning permission be granted. They have emphasized that whilst they consider the proposal is acceptable without this contribution, it could be viewed as a material consideration on the basis of carbon emission savings in accordance with Government initiatives, policy and advice.

Additionally the applicants have indicated that they will set up a community fund related to the output from the wind farm, the distribution would be decided by a sub-funding committee. Should permission be granted a separate additional community fund will be allocated solely for Ulley. This is a specific request made by the landowner of the site. The applicants have acknowledged that this would not be a material consideration in relation to the application which they consider is acceptable on its merits.

A condition is recommended to ensure an informative display to be erected at the site to inform visitors of the installation and about renewable energy.

As such, it is considered that there are additional social/economic benefits related to the proposals.

6.9 Telecommunications:

Various telecommunications operators have been consulted and three objections remain outstanding. In relation to two of these no observations were received in relation to the re-consultation process and the third objector acknowledges that negotiations with the applicant are on going. Additionally the applicants have committed to resolving the matter with the operators.

6.9 Human Rights.

Generalised environmental concerns do not engage Article 8 of the European Convention on Human Rights which is concerned with an individual's right to enjoy life in his own home. Notwithstanding this the right under Article 8 or Article 1 of the First Protocol is not absolute and can be made to yield to the greater public good. Any interference under Article 8 would be justified on the basis that there is a legal authorisation for the interference (Town and Country Planning Act 1990), which pursues the legitimate aim of the economic well-being of the country,(here by the preservation of the environment, by the positive effects of the production of pollution free energy from a renewable source and the saving of emissions of carbon dioxide, sulphur dioxide and oxides of nitrogen) and the protection of the rights of others (here the landowner/applicant and indeed those who support the proposals through the preservation of the environment) set against inappropriate development in the

Green Belt and any potential impact on the amenities of residents (most notably Ulley Beeches) and other residents in the locality. Any interference in the context of the foregoing it is submitted would be necessary and proportionate.

Article 1 of the First Protocol of the European Convention on Human Rights states: "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

The courts have held that diminution in value of property is outside the scope of Article 1 of the First Protocol as well as not being a material planning consideration.

Therefore, it is considered that there is no infringement of Article 8 and Article 1 of the First Protocol in this instance.

Conclusions

The material considerations in relation to the proposal are numerous and important. In assessing this scheme the Council must take into account the claimed benefits by the applicant in support of the proposal and identified as:

- (i) Significant contribution to the savings in carbon dioxide emissions by between (13,300 and 19,651 per year, and between 333,250 and 491,275 tonnes over the life of the permission) though this may reduce depending on the mix of fuel types in the generation industry.
- (ii) The production of renewable electricity from wind energy which would produce virtually no emissions during their operating life.
- (iii) The electricity generated is likely to be the equivalent of 10,254 households.
- (iv) Farm diversification and a reliable income stream for the landowner.
- (v) Possible biodiversity improvements.
- (vi) The wider benefits attributable to the combating of climate change which would have a far more significant impact on the landscape and ecology than the proposed development.

In weighing these matters it is important to note that the identified savings may be exaggerated depending on the fuel mix in the power stations in the grid, and that the possible biodiversity improvements cannot be fully identified until all the requisite surveys and mitigation measures are formulated. The benefits must also be set against the siting of the turbines within the Green Belt and Area of High Landscape Value, effect on the environment, visual amenity, residential amenity, the landscape and biodiversity.

Advice from Central Government strongly supports renewable energy development. The Supplementary Annex to PPS 1 'Climate Change Supplement' reinforces and emphasises the importance of addressing climate change and states: "The Government believes that climate change is the greatest long term challenge facing the world today. Addressing climate change is therefore the Government's principle concern for sustainable development." It adds that the planning system should help to "secure enduring progress against the UK's emissions targets by direct influence on energy use and emissions," and notes that one of the "Key Principles" is to; "make a full contribution to delivering the Government's climate change programme and energy policies and in doing so contribute to global sustainability."

European Community Directive 2009 requires that 15% of the UK's total energy use should be supplied by renewables by 2020. The Climate Change Act 2008 legally binds the UK to deliver a reduction in greenhouse gas emissions of 80% by 2050 and at least 34% by 2020, compared with 1990 levels. The Energy Act 2008 places obligations on the electricity generating industry to provide electricity from renewable sources.

Having regard for all the above, it is considered that the provision of renewable energy/reduction in emissions, the potential landscape and biodiversity improvements, and the wider benefits of combating climate change amount to very special circumstances which clearly outweigh the harm by way of inappropriate development, the effect on the openness of the Green Belt, and any other harm, sufficient to overcome the presumption against the granting of permission in this instance. As such, it is recommended that planning permission be granted subject to the recommended conditions to mitigate as far as possible the effects of the development.

Should Members be disposed to grant permission, the application should be referred to the Department for Communities and Local Government as outlined in recommendation A and the reasoned justification set out in the Appraisal of this report.

Item 2

(Ref. RB2010/0351)

RB2010/0351

Erection of 29 No. dwellinghouses comprising 1no. bungalow, 2 No. two storey apartment buildings with Juliet balconies comprising 12 No. apartments and 16 No. two storey dwellinghouses at land at Garden Street, Melton High Street, Frederick Street and Victoria Road, Wath upon Dearne.

RECOMMENDATION: To impose two additional planning conditions**Conditions**

01

Prior to the commencement of the development, the developer shall submit a soil investigation report to test for the presence of asbestos and details of remedial works to deal with the elevated concentrations of lead and chromium in the made ground across the site shall be submitted to and approved in writing by the Local Planning Authority. The remediation works shall be implemented by the developer, prior to occupation of the dwellings. Following the remediation works a validation report shall be submitted to and approved in writing by the Local Planning Authority.

02

Prior to the commencement of development, details of the measures to be employed to minimise dust during the construction period shall be submitted to and approved in writing by the Local Planning Authority. Such measures may include water bowsers, sprayers whether mobile or fixed, or similar equipment. The approved measures shall be implemented on site and at such times when due to site conditions the prevention of dust nuisance by these means is considered by the Local Planning Authority in consultations with the site operator to be impracticable, then movements of soils and overburden shall be temporarily curtailed until such times as the site/weather conditions improve such as to permit a resumption.

Reason

01

[PR92] In the interests of safe redevelopment and after use of this site and in accordance with UDP Policy ENV4.4 'Contaminated Land'.

02

To prevent dust nuisance during the construction period in the interest of residential amenity of neighbouring properties.

Background

Members will recall this planning application being presented to Planning Board on 17 May 2010. Members were disposed to grant the planning application subject to the recommended conditions.

Consultation Response

Following the planning board, a consultation response was received from Environmental Health. This consultation response states that:

“There are elevated concentrations of lead and chromium in the made ground across the site (3 adjacent sites in total) and this could pose a risk to the end users of the site.

A condition should be imposed to either remove this material from site, or a capping layer should be provided to prevent future users of the site being exposed to the contaminants. Validation of such works would be recommended also.

I would also recommend that the soils are tested for the presence of asbestos, given the demolition of the former houses and working men’s club that were constructed sometime in the 1930’s.”

In addition at Planning Board an informative was recommended in respect of measures to control dust during the construction phase. Whilst an informative can be useful and gives guidance to the developer/applicant, such a measure carries no legal status. Accordingly and in the interests of residential amenity, an issue highlighted in the Right to Speak by a local resident, I am of the opinion that this can only be adequately controlled by the imposition of a planning condition.