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# **Report to the Secretary of State for Energy and Climate Change**

**by Philip Major BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Energy and Climate Change**

**Date: 1 November 2012**

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**ELECTRICITY ACT 1989 (SECTION 36)**

**PROPOSED WIND FARM DEVELOPMENT**

**SIX HUNDRED FARM, SIX HUNDRED DROVE**

**EAST HECKINGTON, LINCOLNSHIRE**

Inquiry opened on 31 July 2012 and closed on 9 August 2012

File Ref: DPI/R2520/12/8

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**File Ref: DPI/R2520/12/8**

**Six Hundred Farm, Six Hundred Drove, East Heckington, Lincolnshire**

- The application was made under section 36 of the Electricity Act 1989.
- The application is made by Ecotricity (Next Generation) Limited to the Secretary of State for Energy and Climate Change.
- The application is dated 15 December 2009.
- The development proposed is the construction and operation of a wind energy development of 22 wind turbines of up to 125m and associated infrastructure and services, access tracks, crane pad areas and underground cables within the site, temporary construction compound, electrical substation and new vehicular access from the A17.

**Summary of Recommendation: That consent is given with a direction that planning permission be granted subject to conditions.**

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**PROCEDURAL MATTERS**

1. A pre inquiry meeting was held on 28 May 2012. The inquiry opened on 31 July and closed on 9 August. It sat for a total of 7 days. I made a number of unaccompanied site visits before and after the inquiry. Accompanied site visits were made on 3 August and 8 August.
2. The application for consent was made by Next Generation Limited. At a later date the name of the company was formally changed to Ecotricity (Next Generation) Limited. Application documentation is described in the Statement of Common Ground<sup>1</sup>.
3. The application as first submitted comprised of 28 wind turbines of 100m to blade tip with a maximum generation capacity of up to 2.3 MW each. An Environmental Statement (ES)<sup>2</sup> was prepared following a consultation and assessment process. The ES revised the proposal from 28 turbines to 22 turbines with a maximum tip height of 125m. There has been no suggestion that the ES is defective, and I agree with that position. Further information of the process leading to the revised details of the application can be found in the Statement of Common Ground<sup>3</sup>.
4. Following discussion with Council officers further environmental information was provided in order to clarify specific sections of ES Chapter 5 on Landscape and Visual matters<sup>4</sup>.
5. Oral evidence was given by those listed at the end of this report. Written evidence was provided by Dr Simon Colcutt and Mr Brian Plumb on behalf of the applicant in relation to cultural heritage, geology and highways and transportation. This was not contested by the Council.
6. Written representations by other bodies and members of the public have also been received and fully taken into account. The statements of case and proofs of evidence of all those who appeared are listed at the end of the report.

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<sup>1</sup> CD 11.3 – paragraph 2.16

<sup>2</sup> CD 1.4 to 1.7

<sup>3</sup> CD 11.3 – Section 2

<sup>4</sup> CD 1.10

## **MATTERS OF INTEREST TO THE SECRETARY OF STATE**

7. The following is the list of matters identified as being of interest to the Secretary of State. In light of the representations received the list has been added to with matters identified by me. This is reflected in the final entry of the list.
- a. *the extent to which the proposed development would be in accordance with saved Policies C2, C17 and LW1 of the North Kesteven Local Plan and Policies 1, 26, 31 and 40 of RSS8;*
  - b. *the extent to which the proposed development is consistent with the objectives of the Government's policy on the energy mix and maintaining a secure and reliable supply of electricity as the UK makes the transition to a low carbon economy, and achieving climate change goals;*
  - c. *the extent to which the proposed development is consistent with the policies relating to generation of renewable energy contained within the National Policy Statements for Energy Infrastructure, EN-1 and EN-3;*
  - d. *the extent to which the proposed development is consistent with relevant policies in the Government's National Planning Policy Framework which has replaced inter alia, PPS1, PPS7 and PPS22);*
  - e. *the visual impact of the proposed development;*
  - f. *the cumulative impact of the proposed development with the existing Bicker Fen wind farm;*
  - g. *the impact of construction and operational traffic associated with the proposed development on the local highways, including users and safety;*
  - h. *the impact of the proposed development on air traffic control radar systems at RAF Coningsby and other neighbouring RAF radar sites;*
  - i. *the impact of the proposed development on air traffic control radar systems at Claxby and other neighbouring civil aviation radar sites;*
  - j. *any potential impacts on the health of local residents;*
  - k. *any other matter that the Inspector considers relevant. In this case matter j (impact on the health of local residents) is expanded to include visual dominance, noise, vibration, shadow flicker and TV reception.*

## **THE SITE AND SURROUNDINGS**

8. An agreed description of the site and surroundings can be found in the Statement of Common Ground<sup>5</sup>. In brief, the appeal site lies about 12km to the west of Boston at its closest and slightly further to the east of Sleaford. This part of Lincolnshire is flat fenland landscape in the main, and the site is low lying

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<sup>5</sup> CD 11.3

between 0 and 5m AOD. The site is within a land holding of some 604ha which is bounded to the south by the A17 road, to the east by Holland Dike, to the north by Head Dike, and to the west by Sidebar Lane (B1395). The land is principally divided by drainage ditches or dikes, with some remnants of hedgerows remaining and a few blocks of woodland planting. Fields tend to be large, and communication routes and dikes tend to follow a rectilinear pattern which reflects the man made nature of the landscape. Views over the flat land are extensive and far reaching. There are no designated landscapes in the immediate area, the closest being the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) some 25km to the north.

9. Smaller settlements in the area are East Heckington, which straddles the A17 to the south about 1km from the nearest proposed turbine, and South Kyme to the north-west, which is about 3.75 - 4km from the nearest proposed turbine. Slightly further afield are Swineshead (5km to the south-east) and Heckington (5.2km to the west).
10. Apart from the small settlement of East Heckington there are a number of scattered hamlets, farmsteads and residential properties surrounding the general area of the proposed development. These include Mill Green Farm to the north, College Farm and Catlins Farm to the east, and dwellings which are present along Sidebar Lane to the west.
11. The wider area within 5 to 10km is intersected by overhead power lines which run relatively close to the site. In addition there is a wind farm to the south (Bicker Fen wind farm) at about 5km distance (closest turbine to closest proposed turbine). Other non residential development is scattered around, and includes buildings such as extensive glasshouses, packing sheds and agricultural structures.

## **PLANNING POLICY**

### ***Background***

12. It was agreed at the inquiry that the size of the proposed development, at more than 50MW of rated output, makes the development nationally significant, albeit it is not technically a nationally significant infrastructure project (NSIP) which can be considered under the auspices of the Planning Act 2008. As the application has been made under S36 of the Electricity Act the primacy of the development plan flowing from S38(6) of the Planning and Compulsory Purchase Act 2004 does not apply. It is agreed, however, that policies of the development plan are material to the proposal.
13. Given the nationally significant nature of the application it is accepted by the Council that the primary policy vehicle against which the proposal should be considered is the suite of National Policy Statements (NPS) on Energy. These are the Overarching National Policy Statement for Energy (EN-1)<sup>6</sup> and the National Policy Statement for Renewable Energy (EN-3)<sup>7</sup>.

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<sup>6</sup> CD 4.2

<sup>7</sup> CD 4.3

14. In relation to other policy the Council agreed at the inquiry that the hierarchy of policy considerations begins with the NPS, followed by the National Planning Policy Framework (NPPF)<sup>8</sup>, then the development plan, and other material considerations.
15. At the time of the inquiry the development plan comprised the Regional Strategy for the East Midlands – *The East Midlands Regional Plan (2009)*<sup>9</sup> – and the adopted North Kesteven Local Plan (2007)<sup>10</sup>. I have taken account of the fact that the Government has stated its intention to revoke regional strategies and that provision for powers to bring this about is included in the Localism Act. However, at present regional strategies still form part of the development plan and must be afforded due weight.
16. I turn next to a brief outline of policies which are of material relevance to the proposal.

### ***East Midlands Regional Plan (the RS)***

17. The most relevant policies, as noted in the Statement of Common Ground, are Policy 1 (Core Objectives) Policy 26 (Protecting and Enhancing the Region's Natural and Cultural Heritage) Policy 31 (Priorities for the Management and Enhancement of the Region's Landscape) and Policy 40 (Regional Priorities for Low Carbon Energy Generation).
18. Policy 1 includes the objectives of protection of the natural assets of the region, whilst mitigating any unavoidable damage, but also maximising the level of renewable energy generation. These overriding objectives are taken forward in Policy 26 with regard to natural and cultural heritage. Policy 31, in dealing with landscape, requires amongst other things that local policy is developed to ensure that the intrinsic quality of rural landscape is recognised. Policy 40 includes objectives which seek to ensure that local authorities develop policies and proposals to achieve the targets for renewable energy set out. In relation to onshore wind energy consideration of a number of criteria relevant to this proposal is required, including landscape and visual impact, impact on cultural heritage, the number and scale of turbines, cumulative impact, and the contribution to national and international objectives on climate change. The renewable energy targets set out in the RS, in total across all technologies, are for 324MW by 2010 and 3671MW by 2020.

### ***North Kesteven Local Plan***

19. The agreed policies of greatest relevance are C2 (Development in the Countryside) C17 (Renewable Energy) and LW1 (Landscape Conservation).
20. Policy C2 is permissive of development in the countryside subject to criteria which seek to avoid loss of its environmental, economic and social value, seek to protect its character, and follow principles of sustainable location. Policy C17 is supportive of renewable energy proposals, again subject to criteria, which require environmental, economic and social impacts to be satisfactorily addressed; requires minimisation of landscape and visual impacts; and avoids adverse

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<sup>8</sup> CD 4.5

<sup>9</sup> CD 5.1

<sup>10</sup> CD 5.2

impacts on internationally or nationally important designations. Policy LW1 seeks to protect distinctive landscapes and any special features contributing to their character.

### ***National Policy Statements***

21. As noted in the statement of Common Ground it is agreed between the Applicant and the Council that the Overarching National Policy Statement for Energy (NPS) EN-1 and the National Policy Statement for Renewable Energy Infrastructure EN-3 are material considerations.
22. A series of assessment principles are also set out in NPS EN-1. It is stated that there should be a presumption in favour of granting consent to applications for major energy infrastructure given the level and urgency of need for this infrastructure. EN1 sets out policy in respect of generic impacts from energy infrastructure to assist in the consideration of these topics. Decision makers are advised to take into account the potential benefits of a proposed development, including its contribution to meeting the need for energy infrastructure, job creation and any long-term or wider benefits, and its potential adverse impacts, including any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.
23. Amongst other things NPS EN-3 sets out technical considerations to be taken into consideration when determining proposals for onshore wind farms.

### ***National Planning Policy Framework (NPPF)***

24. The NPPF revokes the majority of Planning Policy Statements and Planning Policy Guidance Notes. However, the Companion Guide to PPS22: Planning for Renewable Energy has not been revoked. Paragraph 3 of the NPPF confirms that national policy statements form part of the overall framework of national planning policy. It is agreed between the Applicant and the Council that the NPPF is a material consideration in this proposal.
25. The core planning principles of the NPPF state that planning should encourage the use of renewable resources (for example, by the development of renewable energy) and contribute to conserving and enhancing the natural environment and reducing pollution. Paragraphs 93 – 99 sets out national policy in relation to meeting the challenge of climate change.

### ***Other National Policy Considerations***

26. It is agreed between the Council and the Applicant that this scheme does not offer an appropriate forum for debating the merits of national policy as it relates to energy, renewable energy or climate change issues.
27. The electricity output from the proposed development would constitute supply from an eligible renewable source for the purposes of the Renewables Obligation. As such it is agreed that the proposal would contribute to the national objective of promoting renewable energy technologies.
28. It is also agreed between the Council and the Applicant that relevant elements of the UK and EU Energy Policy are material considerations, including Climate Change: the UK Programme, the Energy Challenge, UK Energy White Paper and Energy Act 2008, the Climate Change Act 2008, the Planning Act 2008, the EU

Renewable Energy Directive and the UK Renewable Energy Strategy 2009 and Low Carbon Transition Plan, the Annual Energy Statement of July 2010, the Renewable Energy Review (Committee on Climate Change), the Electricity Market Reform White Paper of July 2011, the Renewable Energy Roadmap and the Carbon Plan of December 2011.

## **THE PROPOSALS**

29. The Statement of Common Ground<sup>11</sup> between the Applicant and the Council sets out the application proposal. This is as follows:
- The erection of 22 wind turbines, each with a maximum overall height of up to 125 metres, at the location and layout shown on the Proposed Site Layout Plan (Figure 4.1 of the ES);
  - Access tracks 5.5m in width are proposed linking the turbines and the proposed routing of the access tracks is shown on Figure 4.1 of the ES;
  - A substation building: the turbines would be connected to this via underground cabling within the site. The location of the substation is shown on Figure 4.1 of the ES. Indicative details of a substation are shown on Figure 4.5;
  - Enabling works for delivery of turbine components and for erection of the turbines: crane pads adjacent to each turbine position (as shown on Figure 4.1), and a temporary construction compound to house machinery and materials (in the location shown on Figure 4.1) and
  - An amended vehicular access to the site from the A17. The location of the access is shown on Figure 4.1 of the ES.
30. Information in the ES is based on the maximum of each turbine specification with 22 turbines at a tip height of 125m, maximum rated capacity of 3.0MW each, and total rated capacity of up to 66MW.
31. The connection works between the proposed development and the local distribution network are not a component of the development for which consent is sought. For the purposes of the application and the accompanying environmental information, the most likely route and means identified are the installation of an overhead line from the application site to the existing electrical substation at Bicker Fen. This would be the subject of an application under Section 37 of the Electricity Act 1989, accompanied by any environmental impact assessment as required pursuant to the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000.

## **THE CASE FOR ECOTRICITY (NEXT GENERATION) LTD**

The main points are:

32. The proposed development has to be considered under the terms of the 1989 Act. The Council has failed to understand the legal decision making framework for this application. The Council appears to have mixed up law, policy and other material considerations and in effect, treated this like any other planning application, which it is not. In addition to the matters to be considered at the

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<sup>11</sup> CD 11.3

inquiry, paragraph 3(2) of Schedule 9 to the 1989 Act, provides a specific statutory requirement on the Secretary of State to have regard to the following when considering development proposals:

*"The desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeology interest; and.....The extent to which the developer has complied with its duty to do what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or any such flora, fauna, features, sites, buildings or objects".*

33. The ES which supported the section 36 Application and evidence produced by the Applicant for the inquiry fully addresses these matters. Through the EIA process, which has been undertaken in accordance with good practice, likely significant environmental effects have been identified and mitigated where possible. The Council has agreed that the duty to do what is reasonably necessary to mitigate impacts does not mean to make any significant effects minimal. The EIA process and inquiry evidence confirm that the environmental impacts from the proposed development would be acceptable and that the statutory test has been met.
34. The application site is a text book site for this nationally important infrastructure project. By their very nature, wind energy developments of this scale and importance have been extremely rare in England and even more so in lowland settled parts of the country. It is therefore extraordinary to find a site such as this with so few environmental constraints and none which would merit the refusal of consent and deemed planning permission.
35. This scheme would sit comfortably in and be successfully accommodated by the host landscape, would be comfortably removed from existing residential properties and have no material effect on any culture heritage assets. The professional officers of the Council, who know and understand the local development plan policies and the local landscape, recommended that no objection be submitted to DECC.
36. Mr Doughty, representing the Council at the inquiry, has not formed a personal professional view on whether the proposed development should receive consent. He was not asked to form such a view in his brief; all he has done is forward a case in support of the decision of elected members to object which he considers to be reasonable. Hence the Secretary of State will never be assisted by knowing what Mr Doughty's professional opinion is on this proposal.
37. All issues with the exception of landscape and visual impacts are agreed between the Applicant and the Council. Even within this topic, the degree of disagreement between the parties is narrow. Matters of particular note are:
  - Sufficient landscape and visual impact evidence has been provided to comply with the EIA Regulations;
  - The Council had not carried out any type of sensitivity to wind farm development study or any type of wind farm capacity statement, hence it is not tenable for the Council to assert that the local area has reached its development capacity;

- The Council has inappropriately used a matrix of landscape character appraisals, general landscape sensitivity studies, and out of date wind farm sensitivity studies from neighbouring areas in an attempt to describe the application site as having a moderate to high sensitivity to this form of development. Moreover, it has failed to rely on the South Kesteven Landscape Character Assessment undertaken by FPCR in 2007<sup>12</sup> which is the one study which did look at sensitivity to wind farm development. That study found that the landscape character type (LCT) which is a continuation of the one in which the proposed development is sited has a medium to low sensitivity. This is the same conclusion reached by the Applicant's landscape witness in his bespoke study on behalf of the Applicant;
  - A wind farm landscape would be created out to no further than 1 km from the nearest turbine;
  - The Applicant maintains that the threshold of significance is reached at between 1.5 km and 2 km. The Council does not allege that there would be any significant landscape character effects attributable to the proposed development alone further than 3.75 km from the nearest turbine;
  - Of all the key characteristics identified in the North Kesteven District Landscape Character Assessment, the only characteristic which might potentially be affected by the proposed development would be the "Generally extensive vistas to level horizons and huge skies..." but even then, such views would only be interrupted and not lost;
  - On the Council's own case, users of the A17 would only ever experience significant landscape effects arising from the proposed development because the road lies outwith the theoretical sphere of influence of Bicker Fen so there can be no significant cumulative impact on those receptors;
  - The Council itself has not identified any additional EIA significant visual effect; in the case of 6 viewpoints the Council uprated the level of significance set out in the ES by half a category, but in no case did this alter the overall EIA significance of the effect;
  - The proposed development would not affect any nationally, regionally or locally designated landscapes.
38. The Council was wrong to suggest that the level horizons, huge skies and linear patterns across the landscape were factors which tended to lower the capacity of the fenland landscape to satisfactorily accommodate wind farm development. The fenlands exhibit all of the characteristics which better enable wind turbines to be satisfactorily accommodated, and this has been acknowledged in many guidance documents and appeal decisions. Indeed, it is common sense.
39. It is telling that virtually nowhere in the Council's substantive evidence given by its landscape witness, Mrs Buckingham, does it mention the word 'harm' and at no point does it attempt to inform the decision maker as to how serious or substantial any harm is. It is not enough to say that the evidence identifies some adverse effects and that the Applicant should have known that they were

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<sup>12</sup> CD 7.16

harmful; any wind farm will result in significant effects which may be deemed adverse. The issue for the decision maker is to understand the degree of seriousness of such harm because any harm found would have to be of sufficient severity to significantly and demonstrably outweigh the clear policy presumption in favour of granting consent. The Council's planning witness, Mr Doughty, cannot have properly understood how serious the harm alleged was and it is difficult as a consequence to see how he can have struck the correct planning balance.

40. Local residents say that the local landscape is unique and there is no doubt of the sincerity of that view. The North Kesteven landscape is clearly valued at a local level. But if renewable targets are going to be met, the face of rural England is going to have to change. Local communities are going to be expected to host renewable energy schemes. The reasons for objection raised by third party objectors, where they are of substance, must of course be given due weight in the decision making process. But such objections have to be subjected to the rigours of careful and robust evidential testing, and their planning merit assessed.
41. Turning to matters of interest to the Secretary of State, these follow below.

**A) The extent to which the proposed development would be in accordance with saved Policies C2, C17 and LW1 of the North Kesteven Local Plan and Policies 1, 26, 31 and 40 of RSS8**

42. As a matter of law, the provisions of the adopted development plan are not directly applicable to the application. The statutory test set out in s38(6) of the Planning and Compulsory Purchase Act 2004 is not engaged in relation to an application for consent under the Electricity Act 1989. The applicable statutory provisions are contained within the Electricity Act 1989. However, it is accepted that the provisions of the development plan are a material consideration. In relative importance, it is an agreed position that the development plan will be located in the hierarchy of material considerations as follows:

- NPS EN-1 and EN3
- National Planning Policy Framework
- Development Plan
- Other material considerations

***The East Midlands Regional Plan and Underpinning Evidence***

43. As matters currently stand, the East Midlands Regional Plan<sup>13</sup> (the RS) remains part of the statutory development plan applicable to the consideration of the proposed development as a material consideration. The evidence which underpins the RS is relevant to the determination of this application and an important material consideration, including the assessments of the potential renewable and low carbon energy resources. The renewable energy targets contained in the RS were derived from a robust evidence base and it expressly recognises that there will need to be a complete change in attitude in current

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<sup>13</sup> CD 5.1

planning practice if challenging and ambitious renewable energy targets are to be met.

44. Appendix 5 of the RS sets out indicative targets which amount to an all technology target for the region of 324 MW of installed on-shore capacity by 2010 and 3,671 MW by 2020. The RS does not disaggregate targets by sub-region (this was not required by then Government guidance in PPS22).
45. The RS places significant reliance on domestic scale technology to meet targets, but the more recent East Midlands Regional Assembly Report (EMRA) indicates that there has been slow deployment of such technology. Consequently reliance on domestic scale technology to meet the 2020 targets would be highly unrealistic. There is no evidence that small scale renewable projects of this nature could possibly play the part anticipated by the RS. A partial review of the RS submitted to the Secretary of State in 2010<sup>14</sup> (but not progressed) made it clear that on-shore wind is the most mature technology and was expected to provide the lion's share of the updated installed capacity had the RS review been taken forward.
46. The most important regional target is the all technology target, and this has been consistently recognised by decision makers. That target relates to installed capacity. There is a substantial shortfall against the 2010 target and a massive shortfall against the 2020 target. In other decisions<sup>15</sup> it has been accepted that the proposition that the greater the shortfall against target the greater the weight that can be attached to a renewable energy scheme has considerable merit. Conversely, the fact that targets may be met does not mean that increased levels of scrutiny should be applied to impacts or that less weight should be given to benefits<sup>16</sup>.
47. The report prepared for the East Midlands Councils in March 2011 entitled 'Low Carbon Energy Opportunities and Heat Mapping for Local Planning Areas Across the East Midlands'<sup>17</sup> sets out an evidence base of the technical potential for renewable and low carbon energy technologies in the East Midlands. The purpose of it was to assist local authorities to develop well founded policies that can support low carbon energy deployment up to 2030. Key objectives included the mapping of low carbon and renewable energy resources and opportunities across the East Midlands following recognised methodology. The application site lies squarely within an area identified as having the highest capacity for large scale wind farm development.
48. The results of the study indicate that onshore wind forms the greatest technical resource potential for all the local authorities in the region up to 2020. For Lincolnshire, with the exception of Lincoln, onshore wind forms the greatest technical resource potential in the county. It also states:

*"despite the expected abolition of regional strategies, there remains an important imperative for effective strategic planning with local authorities having a critical role to play in encouraging the uptake of renewables".*

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<sup>14</sup> CD 5.3

<sup>15</sup> CD 9.8 for example

<sup>16</sup> CD 9.20 for example

<sup>17</sup> CD 5.4

49. The report recommends that the East Midland's Councils should disseminate the findings of the study and evidence base to all local authorities in the region to assist with their strategic planning of renewables and low carbon energy developments.
50. The 'Renewable and Low Carbon Energy Study for Central Lincolnshire'<sup>18</sup> (November 2011), prepared by AECOM for the Central Lincolnshire Joint Strategic Planning Committee was designed to inform the evidence base in the development of policies for the Central Lincolnshire Core Strategy. This reflects the NPPF requirement for local authorities to identify and map opportunities for renewable and low carbon energy. The study notes that Central Lincolnshire authorities are generating below average renewable energy, when compared with surrounding authorities. The study notes that North Kesteven is favourable for wind energy. Figure 3 shows the areas suitable for wind turbines and the application site is within this designation. In this more focused document, the conclusion by AECOM corroborates the study from March 2011. In this report the site is within the area of highest potential for large scale wind energy development.
51. It is therefore no surprise that an application has come forward on the site. The Council was a sponsor of the AECOM report of November 2011 and their witness confirmed at the inquiry that the proposals would not have been a surprise given that it had been identified in the report as being in a suitable location for such development.

#### *Specific RS Policies*

52. Policy 1 of the RS is not framed for specific development management issues but to inform strategies, plans and programmes, and hence is of limited assistance. But the development is a sustainable development by nature and has been designed and sited with due regard to the objectives of the policy. The purpose of the development is to address the effects of climate change and this is consistent with the policy objective.
53. Policy 31 is of limited relevance as it mainly highlights that development plans should be informed by landscape character assessments to underpin criteria based policies.
54. The proposal would also be consistent with the objectives of RS Policy 40 and would contribute to the regional installed capacity target. There is no inconsistency between Policy 40 and the NPPF.
55. In relation to RS Policy 26 the proposed development is sustainable in terms of the principles that the policy sets out and these have been taken account of in the design and siting of the proposal.

#### **North Kesteven Local Plan**

56. All policies within the Local Plan have been saved by direction pending the introduction of the Central Lincolnshire Local Development Framework.

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<sup>18</sup> CD 5.5

57. Policy C2 is a general development management policy. It is of limited relevance to the siting of wind turbines as it relates to the general locational strategy for typical built development. Taking Policy LW1, the development would relate well to the landscape character and would integrate successfully with it.
58. In relation to Policy C17 (Renewable Energy) environmental, economic and social matters have been satisfactorily addressed and are acceptable. Similarly the design of the wind farm has been through an iterative process such that impacts have been minimised to a level at which they are acceptable.
59. Other policies of the Local Plan are not mentioned in the Council's reason for opposing the application. These include C5 (Effects upon Amenities) C18 (Design) HE1 (Sites Containing Nationally Important Archaeological Remains) HE5 (Development Affecting the Setting of a Listed Building) and HE10 (Local Distinctiveness). In relation to these policies the proposed development would not lead to unacceptable impacts. With particular regard to the policies dealing with the historic environment it is notable that English Heritage does not object. Impacts are less than substantial and, in accordance with the NPPF, the level of harm must be weighed against the public benefits of the proposal. The public benefits are clearly of greater weight.

### ***Conclusion on the Development Plan***

60. When read as a whole the overall conclusion on the development plan is that the proposal is in accordance with it, and specifically RS Policies 1, 26, 31 and 40, and Local Plan Policies C2, C17 and LW1, as identified in the statement of matters.

### **B) The extent to which the proposed development is consistent with the objectives of the Government's policy on the energy mix and maintaining a secure and reliable supply of electricity as the UK makes the transition to a low carbon economy, and achieving climate change goals**

61. The proposed development represents a nationally important element of renewable energy infrastructure. Formally, it is not an NSIP (Nationally Significant Infrastructure Project) because it is not promoted pursuant to the 2008 Energy Act. However, given the definition of an NSIP in EN-1, there is no question that this scheme would so qualify had it been submitted now. Electricity output from the proposed development would constitute electricity supply from an eligible renewable source for the purposes of the Renewables Obligation. The proposed development would make a substantial and nationally important contribution to the national objective of promoting renewable energy technologies.
62. The proposed development relates to the generation of electricity from renewables. Relevant elements of the UK and EU Energy Policy are significant material considerations, and are agreed by the Council. These include:
- The Energy White Paper – Meeting the Energy Challenge (2007)<sup>19</sup>
  - Planning Act 2008
  - Climate Change Act 2008

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<sup>19</sup> CD 6.1

- Energy Act 2008
  - EU Directive 2009/28/EC on Renewable Energy<sup>20</sup>
  - The UK Renewable Energy Strategy and Low Carbon Transition Plan<sup>21</sup>
  - The Annual Energy Statement of July 2010<sup>22</sup>
  - The Renewable Energy Review, Committee on Climate Change (2011)<sup>23</sup>
  - Planning Our Electric Future, White Paper of July 2011<sup>24</sup>
  - The Renewable Energy Roadmap of July 2011<sup>25</sup>
  - The Carbon Plan: Delivering Our Low Carbon Future of December 2011<sup>26</sup>
63. The Energy White Paper from 2007 remains extant and gives a clear steer to all those involved in the planning process to look favourably upon the grant of planning permission for a renewable energy project. It also states that a decision maker must accord significant weight to the wider environmental benefits of the project in the planning balance. In terms of the most recent Government policy documents, on 12 July 2011 the Government published two documents with regard to renewable energy. These are *Planning Our Electric Future: a White Paper for secure affordable and low-carbon electricity*, and *The UK Renewable Energy Roadmap*.
64. The White Paper sets out the Government's commitment to transform the UK's electricity system to ensure that future electricity supply is secure, low-carbon and affordable. The Roadmap sets out a comprehensive action plan to accelerate the UK's deployment and use of renewable energy, with the aim of putting the country on the path to achieve the national 2020 renewable energy target, while driving down the cost of renewable energy over time. The report identifies the eight technologies (including onshore wind) that have either the greatest potential to help the UK meet the 2020 target in a cost-effective and sustainable way, or offer great potential for the decades that follow.
65. The proposed development would make a direct contribution to achieving renewable energy generation targets in the UK (such as the Renewable Energy Strategy objective of 30% of electricity from renewable sources by 2020) and would support Government policy to encourage more electricity generation from renewable sources. These targets have been confirmed by the Renewable Energy Roadmap of 2011. The Carbon Plan also confirms the commitment to decarbonisation of electricity generation and the security of energy supply. The proposal would be consistent with these objectives of Government policy.

**C) The extent to which the proposed development is consistent with the policies relating to generation of renewable energy contained with the National Policy Statements for Energy Infrastructure, EN-1 and EN-3**

66. Overarching National Policy Statement for Energy EN-1<sup>27</sup> and the National Policy Statement for Renewable Energy Infrastructure EN-3<sup>28</sup> are significant material

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<sup>20</sup> CD 4.1

<sup>21</sup> CD 6.2 and 6.3

<sup>22</sup> CD 6.5

<sup>23</sup> CD 6.11

<sup>24</sup> CD 6.12

<sup>25</sup> CD 6.13

<sup>26</sup> CD 6.16

<sup>27</sup> CD 4.2

considerations. Section 1 of EN-1 states that an NSIP is to be determined against the policies contained within EN-1 and EN-3 and there is no reason to go beyond them. By analogy, the Council agreed that EN-1 and EN-3 are the most important material considerations for this nationally important element of infrastructure. The proposed development is entirely consistent with the suite of National Policy Statements on Energy which were designated by Parliament on 19 July 2011.

67. NPS EN-1 sets out the high level objectives, policy and framework for the delivery of major energy infrastructure. It sets out the key reasons why the Government believes there is an urgent need for new major energy infrastructure to be built, with the objective of contributing to a secure, diverse and affordable energy supply and supporting the Government's policies on sustainable development, in particular by mitigating and adapting to climate change. EN-1 also considers the need for specific technologies. Paragraph 3.3.10 provides that *"as part of the UK's need to diversify and decarbonise electricity generation, the Government is committed to increasing dramatically the amount of renewable generation capacity ... In the short to medium term, much of this new capacity is likely to be onshore and offshore wind"*. It states that it is necessary to bring forward new renewable electricity generating projects as soon as possible, and that the need for such projects is urgent.
68. Assessment principles are also set out in EN-1. Paragraph 4.1.2 states that there should be a presumption in favour of granting consent to applications for major energy infrastructure given the level and urgency of need for this infrastructure. This presumption applies unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused. Environmental, social and economic benefits and adverse impacts, at national, regional, and local levels should be taken into account. EN-1 also sets out policy in respect of generic impacts from energy infrastructure to assist the consideration of these topics. The NPS recognises that there will be some significant adverse effects arising from developments but that it will not be possible to develop the necessary amount of infrastructure without such effects.
69. NPS EN-3 describes onshore wind as "the most established large-scale source of renewable energy in the UK. Onshore wind farms will continue to play an important role in meeting renewable energy targets". It sets out technical considerations when determining onshore wind farms.
70. The Government has emphasised the urgency and need for this type of development through the NPSs and given this level and urgency of need the starting point based on the policies should be a presumption in favour of the development.

**D) The extent to which the proposed development is consistent with relevant policies in the Government's National Planning Policy Framework which has replaced inter alia, PPS1, PPS7 and PPS22**

71. The proposed development is entirely consistent with the provisions of the National Planning Policy Framework<sup>29</sup> (NPPF) which was published on 27 March

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<sup>28</sup> CD 4.3

<sup>29</sup> CD 4.5

2012. The NPPF revokes Planning Policy Statements and Planning Policy Guidance Notes. The Companion Guide to PPS22: *Planning for Renewable Energy* has not been revoked.
72. Paragraph 3 of the NPPF confirms that national policy statements form part of the overall framework of national planning policy. The NPPF does not contain specific policies for projects which do not fall to be determined in accordance with the Town and Country Planning Act 1990 (as amended). It may however be considered as important or relevant for decisions on projects outside of the 1990 Act. The NPPF is a material consideration for this proposal and insofar as it is relevant to the consideration of an Electricity Act application the approach advocated by the NPPF with regard to decision taking is relevant.
73. Paragraph 14 is the key part of the NPPF. There is a presumption in favour of sustainable development where development accords with the development plan. That applies with force in this case. This proposal accords with the development plan and, in line with paragraph 14, should be approved without delay. In part the development plan is not consistent with the NPPF (such as in cultural heritage policies where no balancing provision is included) and hence relevant policies cannot attract full weight, but there is not a significant overall level of inconsistency. In any event any cultural heritage impacts of the proposal would not justify refusing consent.
74. The NPPF (at footnote 17 page 22) confirms reliance upon NPS EN-1 and EN-3 as the primary sources of guidance to planning decision makers addressing wind energy proposals. Thus, the introduction of the NPPF explicitly reflects the approach of EN-1 and EN-3. However, it provides greater clarity about how the national policy imperative to promote the delivery of renewable energy schemes is to be advanced within the framework of a plan-led system when the development plans themselves are not up-to-date (in the sense that they conflict with the advice in the NPPF). The fact that onshore wind energy is alone in having an explicit direct link with the NPS series (in relation to the Town and Country Planning Act 1990 schemes) indicates the importance which the Government attaches to the exploitation of renewable energy sources.
75. Overall the introduction of the NPPF supports the delivery of and adds significant further weight to national government policy for the bringing forward of renewable energy projects. The proposed development is in accordance with the NPPF and this carries considerable weight. There are no adverse impacts arising which would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The presumption in favour of sustainable development applies here with force and consent should be granted.

## **E) The visual impact of the proposed development**

76. Landscape and visual effects are only one consideration to be taken into account in assessing planning or section 36 applications and this point is made both in the Companion Guide to PPS22 and EN-3 itself. Effects may be deemed significant and harmful but they do not have to be rendered harmless to be acceptable. Further, many people are positively disposed towards wind farm development. These are perceptions that must be recognised and respected given the European Landscape Convention's definition of landscape, which has been signed up to by Natural England and is supported by the Landscape Institute. The response to

wind farms has also been shown to alter in the pre-construction and post-construction phases.

77. Landscape and visual effects, although assessed separately, are closely related. The character of the landscape informs the visual amenity of an environment and vice versa. Change in landscape character is a matter of change from one landscape type to another. Landscape character is a distinct, recognisable and consistent pattern of elements in the landscape that makes one landscape different from another, rather than better or worse.
78. A significant effect does not automatically equate to an adverse effect and, further, a significant adverse effect does not automatically equate to an unacceptable effect when considered solely within visual and landscape terms.

### ***Landscape Character***

79. Reference has been made by the Applicant to a number of national and local Landscape Character Assessments and to the resulting landscape character areas (LCAs). At national level these include Lincolnshire Wolds (National Character Area 43) Central Lincolnshire Vale (NCA 44) The Fens (NCA 46) and Southern Lincolnshire Edge (NCA 47). More locally the following assessments have been referred to:
- North Kesteven Landscape Assessment (2007)
  - East Lindsey Landscape Character Assessment (2009)
  - South Holland Landscape Character Assessment (2003)
  - South Kesteven Landscape Character Assessment (2007)
  - Boston Borough Landscape Character Assessment (2009)
80. It is essential to understand the differences between landscape character, general landscape sensitivity, specific landscape sensitivity to wind farm development, and wind farm capacity. However, the Council has indiscriminately used studies designed to do quite different things in a failed attempt to suggest that the local landscape has a medium to high sensitivity to wind farm development. The plan produced by the Council to show the various studies<sup>30</sup> is wrong and misleading. It omits part of the South Kesteven area which was found to have a medium to low sensitivity to wind farm development. The North Kesteven Landscape Assessment, Boston Borough LCA and East Lindsey LCA all fall into the category of landscape character and general landscape sensitivity studies but do not consider sensitivity to wind farm development. However, the South Kesteven LCA does also include sensitivity to wind farm development. The South Holland LCA also includes wind farm sensitivity but uses assessment criteria which are unsuitable and out of date: the Council accepted that it would not wholly rely on it or reject it, but has not been able to identify any general principles with which it could agree. The East Lindsey Landscape Capacity Study has been abandoned following repeated criticism and no weight can attach to it.
81. The Application site is located in The Fens national character area (NCA 46) and the Fenland landscape character area within the North Kesteven District Council landscape assessment (Landscape Character Area 13). The assessments of these areas reach similar conclusions on the character of the application site and its

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<sup>30</sup> NKDC/2

- surroundings. In broad terms the landscape around the application site is low lying coastal fenland. The overriding characteristics are its low lying flatness, its man made composition, a sense of isolation, and its huge scale and huge skies. The area is criss-crossed by drains and ditches in a rectilinear pattern, which provide a strong influence. There is some higher ground to the north and west at some distance from the site; that to the north providing an 'upland' horizon.
82. The wind farm has been designed so that it appears as a compact well ordered unit which relates to the surroundings functionally and aesthetically. The layout reflects the underlying landscape pattern and land use, and minimises disturbance to natural features and existing landscape elements such as ditches and drains. The wind farm avoids any designated landscape areas, being over 25km from the Lincolnshire Wolds AONB. Visual amenity has been maintained by incorporating a setback to residential property or settlements of about 1km or more.
83. The capacity of any landscape to accept development is dependent on its character and sensitivity to the development proposed. The Applicant has undertaken a bespoke landscape sensitivity and capacity study, carried out in a manner consistent with current best practice guidance, and drawing on published resources as appropriate. The assessment indicates that the sensitivity of the landscape to the proposed development is medium to low. Following on from the sensitivity assessment the capacity study indicates that the landscape has a medium to high capacity for development such as that proposed. Hence the Applicant has demonstrated that the site and surrounding landscape has the capacity to accommodate the proposed development.
84. Wind turbines of the size proposed would be prominent in the landscape when seen from less than 2km distance. They would be relatively prominent from 2km to 5km, but of diminishing prominence with distance and clarity of visibility. Beyond 15km they would be a minor element in the landscape. Bearing in mind the character of the fenland landscape the proposed development would have a moderate presence in the landscape at 2km, diminishing with distance.
85. Within 2km the wind farm would be a strong presence (depending on the orientation of the viewer) and observers would increasingly perceive the wind farm as a determining characteristic of the landscape when moving closer. There would be a wind farm landscape type created in that area. But no significant effect would occur on adjacent character areas, and the character of the wider landscape would be relatively unaffected because of the large scale man made context within which the development would sit. The effect on the host character areas would therefore be minor to moderate, and not significant in EIA terms. Beyond about 2km the wind farm would not override the underlying characteristics of the host landscape.
86. The proposed development can therefore be implemented without unacceptably harming the local landscape. The nature of the proposal, combined with its siting and design, would preserve the distinctive character of the Fens landscape for future generations.

## **Visual Amenity**

87. The effect on local visual amenity has been assessed by reference to residential amenity, recreational amenity and general amenity. The separation between what is a private interest and what should be protected in the public interest is tolerably clear; it has been the subject of particular focus in wind farm cases. It is helpful to consider the factors and thresholds of acceptability which have guided decision makers in other cases:
- No individual has the right to a particular view but there comes a point when, by virtue of the proximity, size and scale of a given development, a residential property would be rendered so unattractive a place to live that planning permission should be refused. The public interest is engaged because it would not be right in a civil society to force persons to live in a property, which, viewed objectively, the majority of citizens would consider to be unattractive.
  - The test of what would be unacceptably unattractive should be an objective test, albeit that judgement is required in its application in the circumstances of a particular case.
  - There needs to be a degree of harm over and above an identified substantial adverse effect on a private interest to take a case into the category of refusal in the public interest.
  - The visual component of residential amenity should be assessed "in the round" taking into account factors such as distance from the turbines, the orientation, size and layout of the dwelling, garden and other amenity space, arc of view occupied by the wind turbines, context and observed layout of the turbines and the availability of screening.
  - Each case has to be decided on its own merits but other appeal cases<sup>31</sup> provide a useful benchmarking exercise. Granting permission here would be entirely in line with such decisions.
88. Private property beyond 2km from the nearest turbine would not suffer from any unacceptable effect in visual amenity terms. Some properties within 2km are predicted to experience a major to moderate level of visual change when considered in the round. But the nature of the change would not be so great as to be overbearing or overwhelming. The most affected property, Mill Green Farm, would have views of the wind farm at about 1km from its south facing windows, but other views would be unchanged (or experienced at oblique angles). The side garden of the property would afford views of the wind farm, but these would be interrupted to a degree, and because of the orientation and relatively secluded nature of the garden the proposed development would not be visually intrusive. Hence, although there would be significant change to outlook from Mill Green Farm, the distance to the wind farm, together with the large scale landscape context and its capacity for wind energy development, combined with the coherent design of the proposal, means that the wind farm can be accommodated in views from that property without any overbearing effect.

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<sup>31</sup> CD 9.10 and 9.11 for example

89. In the public domain, in terms of highways and railways, the majority would not be affected to any significant degree. However, there would be some stretches within about 1km which would experience moderate to major visual effects.
90. The predicted change for recreational users of the landscape would involve significant change at some receptors, such as at Amber Hill, South Kyme Golf Course and Kyme Tower. Similarly there would be a significant change in views from a small number of public footpaths within about 2km of the nearest turbine. However, the effect on visual amenity of the users would not be unacceptable, nor would people be prevented from using and enjoying the facilities.
91. It is a key feature of this site that existing residential properties are at comfortable distances away from the proposed turbines. The proposed development would not have an overbearing effect on the visual component of residential amenity such that any property would be rendered an unattractive place in which to live when judged objectively, nor would the proposed development give rise to unacceptable visual effects or be visually dominating from rights of way or recreational resources. The Council does not allege that the public interest test would be failed at any individual property, group of properties or settlement. The evidence of the Applicant in this respect was not challenged in any way at the inquiry.

**F) The cumulative impact of the proposed development with the existing Bicker Fen wind farm**

92. The host landscape has the capacity for Heckington Fen wind farm, taking account of the presence of Bicker Fen wind farm, and no significant or unacceptable cumulative landscape and visual effects would result. In the area in which the zones of likely significant landscape character effect from Heckington Fen and Bicker Fen overlap, there is an area of farmland, one property, a couple of minor roads and a stretch of railway extending to about 800m. That is the sum total of it.
93. The relative locations of and separation distances between the proposed development, Bicker Fen and other sites included in the cumulative assessment, when considered in the context of the fenland landscape with its medium to high capacity for large scale wind energy development, are sufficient to prevent significant additional cumulative effects.
94. Clarification of cumulative effects was prepared at the request of the Council in relation to the A17 and settlements of South Kyme and Helpringham. This clarification confirms the original assessment of the ES that no significant cumulative impact would be brought about by the combination of the proposed development and Bicker Fen or any other wind farm in the study area.
95. The design and siting of the proposed development in relation to Bicker Fen wind farm would preserve the distinctive character of the fenland landscape for future generations and would not have an overbearing effect on the visual component of residential amenity such that any property would be rendered an unattractive place in which to live on a cumulative basis when judged objectively. Nor would the proposed development give rise to unacceptable cumulative visual effects from rights of way or recreational resources.

**G) The impact of construction and operational traffic associated with the proposed development on the local highways, including users and safety**

96. The impact of traffic and vehicle movements associated with the construction of the proposed development was assessed in the ES in accordance with relevant technical and policy guidance. The additional vehicle movements on local highways would not exceed a 30% increase in HGV/heavy vehicle movements. The Guidelines for the Environmental Assessment of Road Traffic suggests that less than a 30% increase generally results in imperceptible changes in the environmental effects of traffic.
97. The predicted vehicle movements associated with the development during the construction phase would be about 18 HGVs on average per day. Other trips would be for construction workers. The total of 24 movements compares with the recorded usage of the A17 of almost 10,000 vehicles per day close to the site, of which almost 20% are HGVs. The percentage increase in traffic would therefore be less than 1% and of no material impact.
98. The results of a site survey indicate that abnormal loads can be delivered to the application site with minimal impact on the existing infrastructure. Abnormal loads would be timed to avoid peak vehicle use hours. The new access to the site from the A17 has been designed to ensure that loads and HGV deliveries can obtain access quickly and efficiently with space for HGVs to pass within the access point. Sufficient visibility of and from HGVs entering and exiting the site would be provided to ensure the safety of users of the A17. Once operational, vehicle movements to and from the wind farm would be limited to maintenance trips. Routine maintenance trips do not require the use of HGV vehicles.
99. There has been no objection to the proposals from the Highways Authority subject to planning conditions being imposed, or from the Highways Agency. Suitably worded planning conditions to secure a construction traffic management plan, including details of escorts and arrangements for abnormal loads and the management of junctions, can be imposed in the interests of highway safety and minimising impacts on other users of the A17.
100. There is no intention to use the B1395, which would be of concern to local residents, and this would be made clear in a traffic management plan. Furthermore the proposed development would not undermine the Red Route strategy which seeks to reduce accidents and casualties on a number of Lincolnshire roads, and which applies to the A17.
101. There would therefore be no unacceptable impacts on local highways arising from construction and operational traffic associated with the proposed development. There has been no substantive challenge to the Applicant's evidence from any party.

**H) The impact of the proposed development on air traffic control radar systems at RAF Coningsby and other neighbouring RAF radar sites**

102. Appropriate mitigation has been formulated and agreed with the Ministry of Defence. This would be secured by way of a condition. There would be no unacceptable residual effects on military radar systems.

**I) The impact of the proposed development on air traffic control radar systems at Claxby and other neighbouring civil aviation radar sites**

103. Appropriate mitigation has been formulated and agreed with all relevant aviation bodies. This would be secured by way of a condition. There would be no unacceptable residual effects on either military or civil radar systems.

**J) Any potential impacts on the health of local residents**

104. This matter is encompassed in the final section below.

**K) Any other matter that the Inspector considers relevant. In this case matter J (impact on the health of local residents) is expanded to include noise, vibration, shadow flicker and TV reception**

**Noise**

105. The methodology set out in ETSU-R-97: *The Assessment and Rating of Noise from Wind Farms*<sup>32</sup> is the appropriate guidance for the assessment and rating of operational noise from the proposed development. The methodology applied therein has been properly applied in the assessment of the proposed development. The approach set out in *Prediction and Assessment of Wind Turbine Noise*<sup>33</sup> by Bowdler D et al in the Acoustics Bulletin, Volume 34 No. 2 (March/April 2009) has been employed in the assessment of the operational noise from the proposed development. This is a clarification of the approach in ETSU-R-97 and is an adequate methodology which represents current best practice and is therefore appropriate for the assessment.

106. The locations selected for background noise monitoring as set out in the Environmental Statement are appropriate and representative. Baseline background noise measurements have been agreed with the Council to be representative, and noise limits have been derived from baseline data which would be applicable at all nearby noise receptor locations. The Environmental Statement demonstrates that the proposed wind farm can be operated such that noise levels will fall within the relevant limits of acceptability advised by ETSU-R-97. This applies to the candidate turbines and to other available types and makes of turbine.

107. The applicant accepts that there would be a change to the local noise environment, even though the levels defined in ETSU-R-97 can be achieved. Noise immissions would inevitably exceed current prevailing background noise conditions. A rise above very low prevailing background levels to something which is still, in absolute terms, a very low background noise environment would not cause disturbance, result in an unacceptable level of amenity or result in breaches of development plan policy.

108. That there would be a change in the background noise environment may be expressly recognised by the decision maker. However, great care has to be exercised so as not to invite a 'wolf in sheep's clothing' into the decision making process. It would be a nonsense to find absolute limits acceptable within the

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<sup>32</sup> CD 8.1

<sup>33</sup> CD 8.2

rating and assessment ETSU-R-97 process, only to reintroduce a 'BS4142 style' argument via the backdoor of an amenity argument. Simple audibility is not the same thing as acceptable levels of noise impact commensurate with the need to facilitate renewable energy development. Change in itself doesn't matter; it would have to be change to a background noise environment which is unacceptable in order for it to weigh against the proposal. This development would not be unacceptable in noise terms.

109. Risks of infrasound, low frequency noise, vibration and health risks have been taken into account. There is no evidence for adverse health effects caused directly by exposure to the noise and vibration of wind turbines. The proposed noise condition would ensure that the living conditions and health of residents would be protected.
110. For the reasons given in evidence a stand alone condition to control Other Amplitude Modulation (OAM) would not comply with Circular 11/95. A full and detailed discussion of this topic was given at the recent Woolley Hill<sup>34</sup> inquiry and specific reliance is placed on this decision. On the facts of this case, any OAM planning condition would be unnecessary, imprecise and unreasonable, and therefore unlawful. It is rare for OAM to be a factor of concern and if it proved to be so in the future at this site then it could be dealt with by statutory nuisance procedures.

### ***Vibration***

111. The question of vibration was addressed at the inquiry and there is no evidence that there would be perceptible vibration at any property. Further, the question of liquefaction, which was raised by local residents, has been addressed in a technical note<sup>35</sup> and shown to be negligible at distances greater than some 50m from any proposed turbine. Residents would not be affected.

### ***TV Reception and Shadow Flicker***

112. Suitably worded planning conditions can be imposed to ensure appropriate provision is made to remedy any impairment to terrestrial television reception which is directly attributable to the proposed development. Similarly, suitably worded planning conditions can be imposed to address the investigation of any complaint of shadow flicker and remedial measure for shadow flicker attributable to the proposed development.
113. Overall it has been shown that there would be no unacceptable impact on the health of local residents whether caused by noise immissions, shadow flicker, shadow throw, blade glint or other phenomena.

### **Other Material Considerations**

#### ***Cultural Heritage***

114. The proposed development would not cause unacceptable harm to the setting of any designated or undesignated cultural heritage asset or to any historic elements of the local landscape. The Council does not raise any objection based

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<sup>34</sup> CD 9.23

<sup>35</sup> Doc ECO SNC/2

on cultural heritage impacts. Local residents made reference to South Kyme Tower but the evidence provides no substantive basis for refusal on this ground. In the event that harm to the setting of any designated heritage assets were to be found, the Applicant submits that any such harm would clearly be less than substantial and would be outweighed by the benefits of the development, when properly calibrated, in accordance with policies contained in the NPPF. The Applicant submits that the proposed development does not have an unacceptable effect on the significance of any designated or undesignated heritage asset.

## **Conclusion**

115. The Council has not alleged any unacceptable harm in relation to (amongst others) the following matters:
- The impact of the development rendering any dwelling an unsuitable place to live;
  - The impact on tourism or recreational amenity;
  - The impact on archaeology;
  - The impact on ecology, including protected species and designated assets;
  - The impact on the highway network;
  - The impact on any heritage asset or its setting;
  - The impact on residents by noise, vibration, shadow flicker or public safety;
  - The impact on aviation safety and radar;
  - The loss of agricultural land;
  - The human rights of residents under Article 8 and Article 1 of the First Protocol to the European Convention on Human Rights and the Human Rights Act 1998, including diminution in the value of residential property;
  - The impact on geology or hydrogeology, or land contamination.
116. This is a nationally important element of renewable energy infrastructure. It is directed at increasing the amount of electricity generated in the UK from renewable sources, in line with UK Energy Policy. The proposed development would make a nationally important contribution towards meeting UK renewable energy targets as set out in the Renewable Energy Directive and reducing greenhouse gas emissions in line with the Climate Change Act 2008. Accordingly, it is a form of development which government policy states should be encouraged and for which the environmental benefits weigh markedly in favour of granting consent.
117. The proposed development would be visible and would result in change to local landscape character and this would also involve change to views within the local and wider environment. However, simple visibility does not necessarily equate with damage to the landscape and change is not of necessity to be deemed unacceptable. There are no specially protected landscapes here.
118. In these circumstances, the test must be whether key characteristics of this part of the fens within North Kesteven are sufficiently sensitive to be significantly impaired by the introduction of these turbines. This is essentially a working agricultural landscape, the large scale, open fields and the huge skies of which will accommodate the simple coherent lines and monumental scale of the turbines. Although the scheme would create a contrasting vertical focus, this will form an acceptable feature in the overall panoramas which are available.

119. Further, whether regarded as positive or adverse, any significant effects on landscape character and visual amenity can be substantially reversed. The proposed development is the archetypal form of sustainable development from the perspective of safeguarding a landscape resource and from the perspective of long-term visual amenity.
120. For the reasons set out, the proposed development should be consented on this 'text book' site. The Applicant has demonstrated that the statutory tests set out in Schedule 9 of the Electricity Act have been met, and respectfully requests that consent be granted in the form in which it has been sought together with deemed planning permission.

## **THE CASE FOR NORTH KESTEVEN DISTRICT COUNCIL**

The main points are:

121. On 30 January 2012 the Council's Planning Committee considered the proposed development) and resolved to object to the Application (contained in its Notice of Decision to Object dated 8 February 2012) for the following reason:

"In the opinion of the District Planning Authority, the development of up to 22 wind turbines of a height of 125 metres would introduce features of an excessively dominating and incongruous scale, mass and height which will have a significant harmful visual impact on the character and appearance of the locality and its setting within the important fenland landscape. Such harm would be further exacerbated as a result of the cumulative impact arising from the relatively close proximity of the proposed development with the Bicker Wind Farm to the south. In the opinion of the District Planning Authority, the benefits of the scheme in generating renewable energy would not, in this instance, outweigh the harmful impacts that the development would have in terms of visual impact on the character and appearance of the fenland landscape.

Accordingly it is considered that the proposal fails to accord with saved Policies C2, C17 and LW1, of the North Kesteven Local Plan, Policies 1, 26, 31 and 40 of RSS8 and the provisions of PPS1, PPS7 PPS22, and policies EN-1 and EN-3 of the National Policy Statement for Infrastructure."

122. The key issues are a matter of agreement between the principal parties in this Application, namely:
- (i) Whether the effects of the proposed development on visual amenity and local landscape character are acceptable, and if not, whether they are outweighed by the benefits of the development;
  - (ii) Whether the cumulative effects of the proposed development in relation to local landscape character and visual amenity, when taken into account alongside Bicker Fen wind farm are acceptable, and if not, whether they are outweighed by the benefits of the development.
123. The answer to these questions is in the negative.

## Background

124. Some key evidence relied upon by the Applicant was provided relatively late in the proceedings. On 24 November 2011, following discussion with Council Officers, it was agreed that further environmental information would be provided in addition to that found in ES Chapter 5 Landscape and Visual. Significantly, the Applicant did not decline to provide this further evidence on grounds of irrelevance or that it had already been supplied. This was and is relevant to the application and ought therefore to have been included at the outset. The new evidence (described as a "Landscape Clarification Report") comprised:
- (i) Further assessment of the A17 including the potential cumulative impact of Bicker Fen wind farm and the proposed wind farm;
  - (ii) Additional photomontages from the A17 within 15-20km of the application site approximately every 5km, incorporating the proposed development and Bicker Fen wind farm;
  - (iii) Review of the cumulative impact assessment in respect of the proposed development and Bicker Fen wind farm from the A17, Helpringham and South Kyme;
  - (iv) Two additional photomontages in the 2-5km distance range (included in the A17 visualisations).
125. Each of these constitutes a serious omission from earlier work, which compromises the integrity of the iterative process described by the Applicant's witness, and offends the principle enunciated that the earlier professionals are engaged the better, as well as the principle that the detail of assessment should be no greater at inquiry than at the application stage.
126. The failure to sufficiently consider the interplay between the proposed wind farm and Bicker Fen or to make use of Bicker Fen as a model for assessing likely landscape impact (as the Council's witness did) is a further serious omission and missed opportunity.
127. The failure to consider properly views from the A17 also flies in the face of the principle the Applicant's witness sets out at 1.38 of Appendix 1 of his proof of evidence<sup>36</sup>, i.e. *"in line with current best practice the focus of the LVIA and my evidence is the potential affect on publicly available views of the landscape and the visual amenity it provides as opposed to the private sphere."*
128. As the Council's landscape witness made clear views from the A17 are important given its trajectory, the type of traffic it carries and the sensitivity of many of the receptors within the tourist vehicles passing along it. This is a separate point from any relating to a right to a view.
129. Relevant information in the Landscape Sensitivity and Capacity Study introduced by the Applicant (Appendices 2 and 3 of the Applicant's landscape

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<sup>36</sup> ECO/GD/4

evidence<sup>37</sup>) was introduced too late for it to play a meaningful role in the design and assessment of the proposal.

130. It is not tenable to suggest that the LPA should have commissioned a report of its own when the application had none, but in any event the Council's witness was cross examined on this topic. It is reasonable and proportionate for LPAs to review the work of a developer rather than going to the expense of plugging the gaps in that work. That is what the Council did through numerous visits to the site and careful assessment of landscape impact, making sensible use of Bicker Fen as a model. The Council has provided the fullest possible information upon which to draw conclusions.
131. In summary the Applicant failed, by providing relevant evidence too late, to meet the endeavour its witness set at 1.27 of Appendix 1 to the PoE, namely, *"The responsibility of the landscape professional is to bring the evidence to the attention of the decision maker as lucidly, transparently and impartially as possible. This I have endeavoured to do."*

### **Relevant Tests**

132. In policy terms there is a high degree of agreement between the principal parties as to the policy background. There is a difference of approach to the application of regional renewable energy targets and to the interpretation of the decisions of other Inspectors (such as in the Sober Hill Decision<sup>38</sup>) which are not, in any event binding.

### **Key Points from the Evidence**

#### ***Landscape and Visual Impact (for the Applicant)***

133. During the inquiry the Applicant's advocate consistently exceeded the conclusions of his own expert witnesses and engaged in hyperbolic statements relating to the suitability of the site for the development. However, the witness provided a full list of constraints (including expansive views, level horizons, visual characteristics which raise sensitivity and lower the capacity, the existence of the Bicker Fen wind farm which reduced the capacity, huge skies, the very flat nature of the landscape, etc.) on the proposal so that whilst he was reluctant to concede that he was at odds with Mr Hardy's rather over-zealous description of the application site as one "...with so few environmental constraints..." this was the clear logical consequence of his evidence.
134. The Applicant's witness accepted that he should have considered other assessments of landscape sensitivity/capacity (such as those produced by North Kesteven, Boston Borough and South Holland) from the outset and that his assessments were different from those available from other (independent) sources. He asserted that his additional studies were merely for clarification and to aid the decision maker, but it is unlikely in general and in this particular case that an Applicant for permission for a wind farm would commission further work on cumulative impact and/or landscape sensitivity and capacity if it were not necessary and relevant. It is also simply illogical that such material should be

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<sup>37</sup> ECO/GD/4

<sup>38</sup> Cd 9.20

relevant at inquiry but not at the application stage. The importance of this is that it left the Applicant justifying after the event a decision taken as to the suitability of this site early on and without sufficient information, analysis or basis to support such a decision. It is worth noting and emphasising that both expert witnesses (for Applicant and Council) formed the view that the South Kesteven study was of limited assistance and therefore omitted from their analyses "...because the administrative district lies over 10km from the application site, outside the study area." (paragraph 2.26 of App 2 of the Applicant's evidence<sup>39</sup>).

135. The Applicant's witness seemed unaware of the guidance contained in Natural England's 'Assessing the Environmental Capacity for On-Shore Wind Energy Development (Consultation Draft)<sup>40</sup> which in its penultimate bullet-point at page 38 provides that:

*"As a rule of thumb, separation distances ranging from 6km (for smaller sites in landscapes with some enclosure) to 12km (for larger sites in open exposed landscapes) are desirable to prevent the landscape becoming dominated by wind farms and to reduce intervisibility."*

However it was very fairly accepted both that this was a larger site in an open exposed landscape and that such a separation distance was preferable. The Applicant's own figures for distances between adjacent sites (whilst well below 12km) were inaccurate (despite the agreed distance of 5.5km at paragraph 7.9 of the Statement of Common Ground). This is not trivial given the distances involved and may help explain the consistent underplaying of effects compared to both the Council's evidence and independent sources. There was also agreement as to the relevance of the provisions contained in this Consultation Draft relating to visual clutter, a pertinent piece of guidance here given the existence of not only Bicker Fen wind farm but extensive lines of power cables.

136. The witness for the Applicant provided a useful explanation of the principle of valency but also some insight into the side of the debate on which he situates himself (he deployed several of the same adjectives in describing turbines as he ascribes to those who are categorised a pro-wind farm). It is right, as he did, to point to the need for objectivity in an expert, but right also to observe that since May 2008 the witness has not been in independent practice but has been an employee of the Applicant deploying his skills and expertise in realising the renewable energy development ambitions of the applicant company. With the best will in the world it is inconceivable that such a professional arrangement and the obvious duties and aspirations that arise from it would not and did not in this case impact on the witness's perspective.

137. For the avoidance of doubt no breach of any professional code or impropriety is suggested. These are matters of personal and professional judgment with room for disagreement between experts (such as those seen in this case). But it is useful to understand where expert opinion is coming from. Whilst the Applicant's witness answered the Inspector's question as to whether he had ever advised the Applicant against the pursuit of a wind farm in particular, we were not provided with details of the breadth of experience which he considered

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<sup>39</sup> ECO/GD/4

<sup>40</sup> CD 6.20

assisted a witness in achieving the balance that is necessary in handling development matters generally (and wind farms in particular).

138. The witness also appeared to focus unduly on landscape character change and the axis along which more than one wind farm could be seen overlapping, rather than the wider range of locations from where both Bicker Fen and the application proposal would be visible at all (which is highly relevant to a cumulative impact assessment). Despite the avowed preference for up to date guidance he relied on the 2005 SNH Cumulative Impact Guidance<sup>41</sup> rather than that published in March of this year<sup>42</sup>.

139. Overall the Applicant's witness was candid enough to admit that the early work failed to consider relevant studies, but not quite so candid when it came to acknowledging the problems arising from the late production of key evidence into important aspects of landscape impact and cumulative assessment (such as views from the A17, use of Bicker Fen as a model and so on). The consistent downgrading of landscape sensitivities when compared to those expressed in independent studies and by the Council should be treated with caution.

### ***Landscape and Visual Impact (for the Council)***

140. The Council's witness knows the landscape area well and conducted numerous site visits and assessments, sensibly making such use of the Bicker Fen wind farm as a landscape impact model (both landscape witnesses confirmed that the landscape of the two is sufficiently similar for such a model to sensibly be used). The Council's witness identified the omissions in the Applicant's case which led to a return to the drawing board and consideration of A17 views and a sensitivity / capacity assessment. The contention that it is for a local planning authority to commission its own such study where there was none available from the developer was rightly resisted.

141. The witness was struck by the Applicant's failure to have regard at the outset to the various studies undertaken into landscape sensitivity and capacity in the area (whether wind farm specific or not) and shared the Applicant's witness view that the South Kesteven study was of less relevance due to the distance from the appeal site of the area it addressed.

142. There is no particular magic about wind farm development (as opposed to any other form of development). The Council's witness was perfectly capable of and went about the task of applying her considerable landscape and visual impact experience and expertise to the particular features of this case notwithstanding the relative lack of experience on wind farms specifically. It is not correct to suggest that the Council's evidence (written or oral) left any doubt that the carefully considered professional judgment was that the proposal would cause unacceptable harm to landscape assets. The Applicant's own planning witness agreed that it was not appropriate to read proofs of evidence as though they were statutes. And the Council's planning witness clarified that when it comes to matters of expert judgment it is for the expert in question to express carefully considered conclusions as he or she sees fit.

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<sup>41</sup> CD 7.9

<sup>42</sup> CD 7.20

143. Similarly, questions put to the Council's landscape witness as to significant impact tended to focus unduly (or even exclusively) on what was described as EIA significant levels. This standard is not the touchstone of a professional assessment of landscape and visual impact but a term deployed in the specific context of Environmental Impact Assessment. It was as open to the witness, as to any landscape expert (whether they have a lifetime's experience of wind farm development or not) to apply professional judgment and expertise. This is precisely what occurred and no reasonable criticism of that approach (whether the conclusions reached are the subject of agreement or not) can properly be made.
144. The evidence presented demonstrates that the Applicant has underestimated the effects of the proposal. The landscape and cumulative landscape effects would be both significant and more widespread than suggested in the application documents. The Bicker Fen development can be used as a model to demonstrate that the turbines would be a distinctive, significant and defining element in the landscape; in the case of Bicker Fen to a distance of about 3km from the nearest turbine. The change from fenland character to 'wind farm in fenland' sub-character would occur up to 3.75km from the proposed development.
145. The fenland landscape has a strong and distinctive character derived from a simple palette of landscape features. It is a landscape of vast skies, wide panoramas and distant horizons. It is typically quiet, with a prevailing sense of remoteness and isolation. Although there are man-made elements present, these are of a different nature to the proposed turbines and it is wrong to describe the landscape as having a developed character. Existing features tend to be static, such as the nearby pylons, and horizontal, as demonstrated by the cables between the pylons. This horizontal character emphasises the horizontal qualities of the landscape.
146. The proposed turbines would bring adverse changes to the landscape in terms of its character and appreciation. Whilst this may also be true in relation to the pylons and cables, these are lightweight in appearance, smaller in scale, and unmoving when compared with the proposed wind turbines.
147. The Applicant has underestimated the degree of predicted residual change from a number of viewpoints (VPs). For example VP1 should have a magnitude of change assessed as very high (as opposed to high) and this changes the significance of change to major (as opposed to major/moderate). From this viewpoint the proposal will be impossible not to notice, and this pushes the assessment higher up the scale. It is not reasonable to suggest that the observer may be looking away from the proposed turbines when at the VP as this would mean that the viewer was looking at a different view. Similar exercises result in upward reassessment at VPs 3, 5, 10, 12, and 13.
148. Whilst it is agreed that the separation between the proposal and the potential wind farm at Billingborough would not give rise to significant cumulative impact, the same is not true of Bicker Fen. The nearest turbine to turbine distance between the proposal and Bicker Fen is 5.5km. Bicker Fen creates a sub-character area up to 3km from the nearest turbine, and the proposal is likely to have a similar effect up to 3.75km away because of its increased scale. Both wind farms would be visible from large areas of the open fenland landscape. This would result in adverse change brought about by the loss of a significant swathe

of landscape to either 'wind farm in fenland' character type, or 'fenland with wind farm' character sub-type because of the saturation of the locality with wind turbines, allowing them to become a key characteristic of the landscape.

149. In relation to the impact on users of the A17 it is agreed that effects diminish with distance and vary according to the amount of roadside and intervening vegetation and built development. Again, however, the impact has been underestimated by the Applicant.
150. The development clearly fails to accord with the objectives of saved Local Plan Policies C2 and LW1, both of which, amongst other things, relate to the protection of the character of the countryside. Policy C17 requires that renewable energy development should only be permitted if the proposal minimises the landscape and visual effects of development. The proposal does not comply with this requirement.
151. RS Policies 1, 31 and 40 are also of relevance and include objectives relating to protection and enhancement of the environment, avoidance of significant harm, and respect for the intrinsic landscape character. Particular consideration should be given to cumulative impact under Policy 40. The proposal is not policy compliant.

### ***Planning Evidence (for the Applicant)***

152. The Applicant's planning witness accepted that a breadth of experience (such as his own) is a useful quality in a witness. This disavows the suggestion that there is some sort of magic about wind farm inquiries. Both planning witnesses are right; wind farms, like any other form of development application or appeal require a proper and thorough application of relevant principles and sound planning judgment – nothing more and nothing less.
153. The Applicant's witness was unsure himself upon what basis he had decided that paragraph 214 (rather than 215) of the NPPF applied (without knowing whether the local plan policies were adopted pursuant to the Planning and Compulsory Purchase Act 2004 or Town and Country Planning Act 1990). The significance of this is the weight to be attached to policies C2, C17 and LW1.
154. So far as the planning balance was concerned the witness accepted that the issue of targets "calibrates the scales" and that RSS on-shore wind targets for 2010 and 2020 (which have been comfortably met and are likely to be met respectively) was the starting point. He was candid enough to volunteer that the higher regional targets set in the partial review were not considerations to which any significant weight should be attached. It is submitted that even if these figures are adopted the targets are nonetheless met or likely to be met so that calibration of the planning balance operates in the same way.
155. There was less clarity when it came to dealing with the issue of whether the existence of a wind farm in a particular location may have the effect (as the Council contends that it does) of desensitising the landscape and increasing the prospect of further consequential development (including further wind turbines). This is plainly what was contemplated by the authors of the South Holland study.

156. In relation to the Orby figures (List of East Midlands Onshore Wind Farm Developments dated 3 August 2012<sup>43</sup>) the witness agreed with the principle that if consented schemes are relevant to the Inspector then those under construction are all the more so. There was acceptance that the technology-specific (i.e. on-shore wind energy) target is the starting point for assessing the extent to which regional targets have been met and are likely to be met in the future. Ultimately there was relatively little to separate planning witnesses on either side with both feeding different landscape and visual impact assessments into the planning balance to different effects.

***Planning Evidence (for the Council)***

157. The Council's witness did not form a personal/professional view as to the merits of the application and was not asked to do so. His role was to assess the decision taken by the Council and first decide whether he could support it and if so, to do so. This he did by applying all relevant policy (including NPS EN-1 and EN-3) and by applying the carefully considered and reasoned conclusions (including as to degree of harm) provided to him by the Council's landscape witness.

158. Local and regional policies support renewable energy proposals, but not at all costs. There is a recurring need to assess the impact of proposals against the landscape and visual impacts.

159. In relation to the Renewable & Low Carbon Energy Study for Central Lincolnshire of November 2011<sup>44</sup> it has been explained that the areas identified (which include the application site) are ones "...where the authors would anticipate wind farm proposals to come forward." This does not mean that consents will necessarily be granted. The study has been brought forward to inform the forthcoming Central Lincolnshire Local Development Framework. It does not purport to consider the merits or otherwise of any particular application. Those matters are left to others, or in this case to the Inspector and the Secretary of State.

160. The Council's planning witness clarified that his approach to policy was broadly consistent with the Applicant's and declined to agree that technology specific targets were an irrelevance, instead insisting that they inform the way in which the balance is to be struck in any particular case. The effect of this in this case is that regional targets for on-shore wind have been comfortably met and are likely to be met. Whilst these targets are not ceilings they exist and are there for a reason. It is right to say that one must have regard to both technology-specific targets and aggregate ones and that a proper reading of the Sober Hill decision<sup>45</sup> leads to this conclusion. It is also right that one should treat a region which had met/is likely to meet its targets differently from one which has not done so. One calibrates the scales more in favour of development consent where there is a technology-specific target shortfall. In this case there is no such shortfall. Nor is there likely to be.

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<sup>43</sup> CD 11.10

<sup>44</sup> CD 5.5

<sup>45</sup> CD 9.20

## **Matters of Interest to the Secretary of State where relevant to the objections of the Council**

### ***The extent to which the proposed development would be in accordance with saved Policies C2, C17 and LW1 of the North Kesteven Local Plan and Policies 1, 26, 31 and 40 of RSS8***

161. **Local Plan Policies.** The application proposed requires a countryside location because of its type and form. In this it complies with Policy C2. But the policy also requires development to maintain and enhance the environmental value of the countryside, and to protect and where possible enhance its character. As noted in landscape evidence the proposal does not comply with this objective and the development falls foul of Policy C2.
162. There are 4 criteria to be met in Policy C17, which is supportive of renewable energy in principle. As the proposal would have a significant adverse landscape and visual impact this would be detrimental to the environmental and social quality of the area. The proposal would not meet the criteria set out and the development would therefore conflict with Policy C17.
163. Policy LW1 seeks to conserve the local landscape and requires that development should contribute to local distinctiveness and be well integrated with local landscape character. The adverse effect of the proposal is acknowledged to varying degrees by both Applicant and Council, and the proposal cannot therefore comply with this policy.
164. **RS Policies.** Although Policy 1 is supportive of sustainable development and renewable energy generation it also seeks to protect and enhance the environment by avoiding significant harm, including adverse landscape and visual impacts. Hence the application is contrary to this policy.
165. Policy 26 seeks to protect and enhance the natural and cultural heritage of the region. A number of principles are applied to achieve this, including avoiding damage to natural assets such as landscape. The proposal fails to avoid landscape damage and is therefore contrary to the policy.
166. The proposed development fails to respect the intrinsic landscape character of the rural area, and as such fails to comply with the requirements of Policy 31.
167. Policy 40 requires support for low carbon energy generation where environmental, economic and social impacts can be addressed satisfactorily. The criteria for onshore wind energy are set out in Local Plan Policy C17 and are not met. Therefore Policy 40 is not met.

### ***The extent to which the proposed development is consistent with the objectives of the Government's policy on the energy mix and maintaining a secure and reliable supply of electricity as the UK makes the transition to a low carbon economy, and achieving climate change goals***

168. The latest Annual Energy Statement<sup>46</sup> sets out the Government's expectations for energy. Its most significant reference in relation to the application is to the

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<sup>46</sup> CD 4.4

NPSs for energy infrastructure. NPS EN-1 sets out the need for an increase in secure electricity generation from a diverse mix of technologies and fuels.

169. The information submitted with the application in relation to its contribution to renewable energy is limited, though in the absence of its own specific expertise the Council has relied on it. The Council resolved to object to the application on the basis of the information submitted and in light of the significant adverse landscape impact. The case as to whether the proposal meets Government policy has not been adequately set out but it is acknowledged that a development of 22 turbines of the size proposed would make a contribution.

***The extent to which the proposed development is consistent with the policies relating to generation of renewable energy contained within the National Policy Statements for Energy Infrastructure, EN-1 and EN-3***

170. The proposal is in accordance with National Policy Statements in respect of seeking to meet the need for a greater number of electricity generating schemes that utilise onshore wind energy.

171. However, the NPSs require robust assessments of all impacts, including those relating to landscape and visual matters. The onus is on those who propose renewable energy schemes to demonstrate the benefits and that any adverse effect is properly assessed. The Council concludes that the proposal fails to address the impact satisfactorily and does not, therefore, comply with NPS EN-1 or NPS-EN3.

***The extent to which the proposed development is consistent with relevant policies in the Government's National Planning Policy Framework which has replaced inter alia, PPS1, PP 7 and PPS22***

172. The NPPF supports the development of renewable energy projects as one of its core principles. Section 10 requires that local planning authorities should approve applications for such proposals if its impacts are, or can be made, acceptable. Paragraph 96 sets out the expectations on local planning authorities. Footnote 17 indicates that when determining wind energy development applications regard should be had to the National Policy Statements for Renewable Energy Infrastructure.

173. The NPPF does not change the statutory status of the development plan as the starting point for decision making, and where development proposals are contrary to the development plan they should be refused unless material considerations indicate otherwise. This proposal does not comply with the development plan and the adverse impacts are not outweighed by the benefits of renewable energy. The decision to object to the proposal therefore accords with the NPPF.

## **THE CASE FOR OTHERS WHO APPEARED AT THE INQUIRY**

The main points are:

174. **Cllr Mervyn Head, South Kyme Parish Council**<sup>47</sup>. The wind farm has been discussed at the Parish Meeting and the mood is against it. A petition of local residents confirms that a majority of households oppose the proposal. Residents' fears have not been allayed by subsequent information and should not be ignored. The views of local residents are important in this case.

### ***Landscape***

175. The fens is a unique landscape and includes a skyline of prominent churches and cathedrals. South Kyme itself has a historic monument in the form of South Kyme Tower. The remains of a castle built in the 14<sup>th</sup> century. There are uninterrupted views across the fenland landscape from the tower, particularly towards Boston and the south-east. The proposed development would be in contravention of Local Plan Policy C2, which requires development to "maintain or enhance the environmental, economic and social value of the countryside", and "protect and where possible enhance the character of the countryside".
176. The erection of large scale wind turbines would destroy scenic beauty which has been enjoyed for generations. The view from the B1395 towards Boston is at present uncluttered. The proposal would change the character of this landscape. It would detract from the amenity value of historic monuments such as South Kyme Tower and St Botolph's Church, Boston (The Stump). It would be impossible to hide the turbines.
177. Bicker Fen wind farm is clearly visible and prominent in the landscape from South Kyme. Heckington Fen wind farm, if built, would become the dominant feature and would define what people remember about the area. The cumulative effect of this proposal, with Bicker Fen, and the proposed Sempringham and/or Billingborough sites, would totally devalue the landscape. Local people fear that granting consent for this application would open the floodgates for further development.
178. Additionally the development would lead to the loss of prime arable land. This would be not just for the turbine bases, but for the associated service roads and access roads. Farm land is already under pressure to produce more, and this proposal would exacerbate the pressure.

### ***Proximity to Dwellings and Health Concerns***

179. There has been much debate about the potential adverse effects of noise, vibration and shadow flicker. Although ETSU-R-97 is the current standard for noise assessment it does not take into account the data from recently constructed and operational wind farms. The standard is now some years old and earlier studies related to much smaller turbines, not those in excess of 100m. There are reports available which show that some turbines do cause problems of noise.

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<sup>47</sup> Docs OBJ/35 – 35/5

180. The separation of turbines from dwellings is of great concern. The promotion of separation distances of a minimum of 2km in Parliament and by the County Council should be given due consideration. There are many reports and studies on noise transmitted from wind farms, and there have been out of court settlements for residents claiming damages because of noise pollution of their homes.
181. Research at Dunlaw shows that turbines produce infrasound signals which can be detected at 10km. This is a rapidly evolving field and knowledge is growing fast. The impact on local residents of modern turbines must not be ignored.

### ***Air traffic***

182. Although the Applicant has reached an agreement with the Ministry of Defence and NATS (en route) Ltd in relation to radar mitigation it is understood that there are outstanding issues with the development of mitigation. Objection is raised to the potential for a five year period during which the mitigation may be developed. This is too long a period for the application to be left open. The application should be rejected on the basis that there is no solution available in the foreseeable future.

### ***Road Traffic Disruption***

183. The A17 is a busy main highway with a high proportion of agricultural, domestic and business vehicle use. The section between the B1395 junction and the A1121 at Swineshead is notorious and has had many accidents in recent times, some fatal. This is the stretch which includes the access to the wind farm.
184. There would undoubtedly be disruption to traffic flow during the construction phase of the wind farm. It is likely that there would be a significantly increased potential for more accidents and long delays as a result of construction traffic requiring entry to the site. This should not be underestimated or ignored.
185. South Kyme sits astride the B1395. This is a poorly maintained road with no real foundations, and is not suitable for HGV traffic. It is a shortcut from the A153 to the A17 and it has the potential to be used as a major highway for vehicles carrying aggregates from the north. This would bring danger, noise and pollution to the village and would be most unwelcome.

### ***Generating Capacity***

186. The Applicant does not know which turbine model would be erected. This is unacceptable and suggests that the proposal has not been correctly appraised or that there are other underlying issues. Full details of the Applicant's appraisal should be made known. It is not accepted that the theoretical generating capacity of the site would be realised given the average wind speeds in the locality and based on the turbine spacing proposed, with the resulting acknowledged loss of capacity. There should be scrutiny of the proposal to ensure that it is financially viable. It seems that the number of turbines has been decided in order to bypass local planning procedures and opinion.

### ***Conclusion***

187. National policy in NPS EN-1 indicates that it is necessary to take into account both potential benefits and adverse impacts. The proposal conflicts with Local

Plan Policies C2, C17 and LW1, and makes no significant contribution to RS Policies 1, 26, 31 and 40. Government targets for renewable energy are ambitious, but that does not mean wind power at all costs. This proposal has not been openly appraised for output. The adverse effects of wind turbines on landscape is a national concern. If schemes such as this are to go ahead then there should be some benefit for local people, but there is no benefit in either landscape or economic terms.

188. **Mr John Bowler, local resident<sup>48</sup>**. South Lincolnshire is becoming a dumping ground for industrial wind turbines. This contravenes national planning policy relating to protection of the countryside and giving preference to the use of brownfield land. Lincolnshire has exceeded its target for turbine construction and no further schemes should be allowed. The policy of the elected councillors of the County should be taken into account.
189. Turbines would dominate the landscape and the cumulative visual intrusion with Bicker Fen would be totally unacceptable. The proposal to construct overhead lines to Bicker Fen would also be detrimental. Distraction would be caused to drivers on the A17, causing a highway safety hazard.
190. Local residents would suffer severe adverse impacts caused by the construction and running of the wind farm. Construction of Bicker Fen resulted in some 355,000 vehicles movements past residential property, many exceeding the speed limit and causing damage to local roads. The planning application underestimated actual traffic by a factor of 5. Planning conditions were broken on a daily basis, with early morning start times disrupting sleep and causing health problems. In addition property is devalued by 25%.
191. Since construction there are ongoing problems with Bicker Fen. Noise is a periodic problem with a continuous throbbing as the blades rotate, so that windows cannot be opened at night. Bird numbers have fallen, bats have disappeared. Ice throw from the blades is a safety hazard.
192. The benefit of wind turbines is being questioned because of the level of CO<sub>2</sub> emitted during manufacture, construction and visits for ongoing maintenance. In addition backup supplies must be always available at gas, oil or coal fired power stations, all of which are kept running inefficiently and producing CO<sub>2</sub>. Decommissioning would also cause CO<sub>2</sub> emissions.
193. **Mr Chris Pavely, local resident<sup>49</sup>**. The turbines proposed would be highly visible throughout the area. Turbines dominate and draw the eye. Both this proposal and Bicker Fen would be seen together from many locations. There would be a proliferation of wind turbines. This would appear industrial and out of place in a rural setting, and would detract from existing natural and historic views. The unique fenland landscape makes up only about 1.5% of British landmass and it is being gradually taken over by wind turbines. The added impact of further proposed schemes to the south (Billingborough and Sempringham) is also of concern.

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<sup>48</sup> OBJ/53 – 53/2

<sup>49</sup> OBJ/15 – 15/8

194. The impact on historic sites such as Kyme Tower and South Kyme Church would be detrimental. It is not the case that the existing spires marking villages are not challenged by the turbines. Clusters of turbines dominate. The reference of the Applicant to historic windmills is of no relevance to the consideration of these wind turbines.
195. The County Council has issued a position statement that there should be no turbines over 100m within 2km of a settlement boundary, and no turbines within 10km of existing turbines. It indicates that settlements of over 10 dwellings should not have wind turbines in more than 90° of their field of view, or individual dwellings in more than 180° of field of view. In addition turbines should not compromise historic assets.
196. The turbines would be too close to existing homes. They should be no closer than 2km, in line with independent studies, to protect against infrasound and amplitude modulation concerns. In this case there would be 90 houses within 2km. There are also concerns in relation to light flicker and noise in general. Noise disturbance is likely, particularly at night. This would impair the health of residents, as shown by studies carried out. The recent out of court settlement at Deeping St Nicholas raised questions in relation to the validity of noise data.
197. There is concern about the safety of the turbines in relation to towers toppling or buckling, blades detaching, blade tips being thrown, ice being thrown, and fire. Resultant debris can be thrown a considerable distance. Homes and buildings may also suffer from the effects of many large vehicle movements, particularly those without foundations. If local residents suffer inconvenience or loss attributable to the proposal it seems unlikely that they would receive full compensation.
198. Wildlife would be put at risk by the wind turbine blades. In particular raptors would be likely to be affected.
199. The claimed production of energy is exaggerated. The nearby Bicker Fen wind farm operates at about 22% of its capacity rating when averaged over the year. The entire wind energy production of Great Britain is often less than 1% of that available to the national grid, and can be lower. The model of turbine which would be used is not known, but the proximity of turbines within the site would be likely to reduce output further; wake loss is accepted by the Applicant at some 12%. The layout of turbines appears to have been determined by the desire to hit the 50MW target, rather than sound engineering of local considerations, to enable the proposal to be considered under S36 of the Electricity Act. This enables local democracy to be bypassed. It is not a necessary development now that the country has large reserves of shale gas.
200. A great deal of cement would be used in construction for bases, piles, tracks and hard stands. Productive arable land would be lost. An undertaking should be in place to remove all such material at the end of the project's life.
201. **Mr Keith Dunkley, local resident, on behalf of himself and Mrs Dunkley<sup>50</sup>**. The fens have a beauty imparted by the landscape and big skies. The wind farm would be visible for miles around as they would not be screened

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<sup>50</sup> OBJ/30, 31 – 31/3

- from view. They would be out of keeping with everything else in the area and would dwarf all the buildings in Sidebar Lane. If approved there would be 35 turbines and 105 visible blades turning when added to the Bicker Fen wind farm. This would intrude into the big skies.
202. Property prices would be detrimentally affected. There is also uncertainty about whether television reception would be affected, and if so how it would be dealt with. In addition the extra traffic generation and distraction to drivers would create the potential for accidents on the A17 and other roads.
203. This is a quiet and peaceful location and noise from the wind farm is likely to cause issues for local residents, especially at night. Noise travels long distances. Those living near other wind farms have reported sleep problems or sleep deprivation. Current noise criteria are based on out of date guidance which is in need of review. It is questionable whether immediate and effective measures could be put in place to deal with any issues of noise arising after construction. Until that time wind farms should be limited in number and in the height of turbines. Low level vibrations could also cause debilitating ill health to local residents, and the flicker effect could cause adverse reactions.
204. There is concern that property damage could occur as a result of pile driving causing liquefaction of the ground even at some distance from the operations.
205. There is abundant wildlife in the area, such as wagtails, greenfinches, gulls, curlews, voles and weasels. The wildlife is threatened by the turbines. The blades would be a risk for birds, and vibrations transferred into the ground may drive away other wildlife, as has been reported at Bicker Fen. This effect could also cause anxiety for local pet owners.
206. Any green source of energy should be as efficient as possible. Wind turbines operate in a relatively narrow band of wind speed and are not a satisfactory energy solution because there are occasions when they are users of energy rather than suppliers of energy.
207. **Mrs M Hobbs, local resident**<sup>51</sup>. There is concern that the Applicant has identified likely significant environmental effects, and suggested that these would be mitigated where possible. But it is unclear where in the field of acceptability the effects would lie.
208. The NPPF, development plan and other policy statements should be taken into account, as should the opposition arguments and evidence which are submitted in 'real time'. Policy documents are not site or community specific. The inquiry is a vehicle for equalisation of 'real time' issues and policy statements.
209. Concerns in relation to landscape and visual impacts are in the classification of what is and is not harm. The Applicant indicates that harm is not unacceptable based on a bespoke sensitivity and capacity study. But the Applicant has control over the bespoke study and its contents will reflect the issues designated within it. On the other hand the generic study carried out by Boston Council takes in all aspects of the area. It is beneficial to cast the net as wide as possible when seeking to ascertain the acceptability or otherwise of a proposal.

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<sup>51</sup> OBJ/54 – 54/2

210. The suggestion that there would be no overwhelming or overbearing effect of the proposed 22 turbines is astounding even if there are views through to the landscape beyond. When looked at objectively the whole is taken into account and not just what lies beyond. Any reasonable person would see the foreground and see the turbines. What lies beyond would be a pale shadow of the current vista.
211. Noise evidence suggests that there would be some loss of amenity but this is downgraded by suggesting it would be acceptable in planning terms. This suggests that in any other circumstances it would be unacceptable. Complaints made against wind farm sites are explained as being the result of amplitude modulation and that these are outside the suggested normal levels within ETSU-R-97. These matters give concern about the appropriateness of the application. It is unrealistic to suggest that robust conditions are available to protect amenity as these would only be available after construction. The use of ETSU-R-97 should be to find out if noise levels would be within the required parameters. If it is not then the project should fail.
212. Wind energy is not sustainable and is unlikely to bring any jobs to the locality. It is costly and inefficient. The life of the turbines is also limited, and their gearbox limited further still. In future the developer's viability may become compromised to the extent that decommissioning is not undertaken. There are many references to studies and surveys which have produced negative results, but those results are deemed not unacceptable. But in taking into account the whole of the project all the small individual impacts should be collected together to form a complete picture. These small but relevant issues render the application unsupportable.

## **WRITTEN REPRESENTATIONS**

### **Objections**

**Preamble:** A number of objectors have submitted written evidence. The majority of the matters raised are included within the cases reported above on behalf of the Council and those objectors who appeared and gave evidence at the inquiry. There is no need to repeat the matters of objection here. Objections, whether made orally or in writing, are addressed in my conclusions below. I therefore restrict this section to covering the main points of any written objections not so far reported.

213. The wind farm would pose a hazard to local aviation and the predicted mitigation, if it fails, could cost lives. There is no agreed form of radar mitigation in place, but a period of 5 years in which to seek to do so. The Applicant has been misleading on this point. A further hazard is the gas pipeline nearby.
214. The construction of turbines would require the laying of foundations using thousands of tons of concrete. This raises questions about the ability of the ground to continue to absorb ground water and the effect on the water table. There would be an increased risk of localised flooding. The turbines would also interrupt the efficient farming of the land, making it more costly to plough, sow, spray and harvest. They would also interrupt the tranquillity of life on the fens and it would be damaging to tourism.

215. The cost of wind energy is high because of the subsidies paid to operate them. Wind power is also unreliable and periods of still weather, when turbines do not operate, often coincide with cold weather. The number of homes which could be supplied by the wind farm has been overstated.
216. There are suitable alternatives to onshore wind farms. Most notably offshore wind energy offers an opportunity which would not have the same impact upon local residents. Off shore power is more reliable and has greater efficiency. Solar power is also an alternative. There is therefore no need to erect onshore turbines.
217. Montages produced underestimate the impact of the proposals, and cannot replicate the unpleasantly hypnotic effect of the turning blades. The effects can also include distressing impacts for autistic children who respond adversely to the turning turbine blades. The wind turbines would also be too close to local schools.
218. The development of the wind farm would be in contravention of the Human Rights Act in that it would interfere with the peaceful enjoyment of property.

### **In Support**

The written representations in support of the proposal make the following main points.

219. Wind energy is part of the answer to replace fossil fuels and the UK is lagging behind others in production of clean energy. The threat of climate change outweighs the threat from the wind farm and it is necessary to do something to safeguard the future. Without the development of alternative power sources our current lifestyle will become unsupportable.
220. Heckington is a good location for a wind farm, with few residential properties, and the UK should do more to support clean energy and reduce CO<sub>2</sub> emissions. Wind farms are a thing of beauty and make a contribution to the countryside, enhancing the 2 dimensional landscape. Lincolnshire is traditionally a county of windmills and the landscape is well suited to the construction of wind turbines. They are not a problem in scenic terms and Lincolnshire has space to accommodate them away from scenic areas such as the Wolds.

### **OTHER WRITTEN REPRESENTATIONS**

This section briefly outlines the main points in representations and comments made by others.

221. **English Heritage (CON/1)**. Note that there would be no substantial harm to designated heritage assets and has no objections.
222. **Lincolnshire County Council Highways (CON/2)**. Recommends that conditions be attached to any consent.
223. **Central Lincolnshire Joint Strategic Planning Committee (CON/3)**. The response sets out the relevant planning policy at the time of reply, and refers to emerging policy and studies carried out. It is advised that the decision maker takes proper account of the information set out.

224. **Natural England (CON/4 and 5).** Natural England has no objection based on the information supplied. 50m buffers around ecological features are recommended and the post construction monitoring and mitigation proposed is welcomed. No significant impacts on the Lincolnshire Wolds AONB are expected.
225. **Heritage Trust of Lincolnshire (CON/6).** Make comments on the information which would be expected in an Environmental Impact Assessment.
226. **Royal Society for the Protection of Birds (CON/7).** Recommend post construction monitoring and consideration of resiting turbines to avoid collision risk to Golden Plover. An environmental management plan is supported.
227. **Boston Borough Council (CON/8).** The Council is not minded to support the application, but requires the Environmental Health Manager to raise reservations about the quality of information relating to background noise assessments and the impact on local residents.
228. **Civil Aviation Authority (CON/9).** Consultation with NATS (En Route) plc is necessary in relation to radar. There is no case for lighting but the MoD may have its own view.
229. **Black Sluice Internal Drainage Board (CON/10).** Consent would be required for any works which would require the alteration of culverts, provision of culverts, or provision of permanent tracks along the banks of watercourses.
230. **Swineshead Parish Council (CON/11).** No objection.
231. **Ministry of Defence (CON/12).** No objection subject to the imposition of agreed conditions.
232. **Joint Radio Company (CON/13).** No potential interference with radio systems operated by utility companies is foreseen.
233. **East Midlands Airport (CON/14).** No objections (includes Humberside Airport).
234. **Environment Agency (CON/15).** No objection subject to a condition requiring development to accord with the submitted flood risk assessment.
235. **Great Hale Parish Council (CON/16).** No comments
236. **NATS (NATS En Route Safeguarding) (CON/17).** No objection subject to the imposition of agreed conditions
237. **Lincolnshire Wildlife Trust (CON/18).** Support for the need for pre construction surveys and pre, during and post construction monitoring. Biodiversity enhancement is also supported. Impacts on bats are not likely to be significant.
238. **Bat Conservation Trust (CON/19).** Submitted the document 'Bat Surveys – Good Practice Guidelines. Surveying for onshore wind farms' 2<sup>nd</sup> Edition.
239. **Health and Safety Executive (HSE) (CON/20).** There is no statutory requirement to reply as this is not a nationally significant infrastructure project (NSIP) being considered under that route (formerly via the Infrastructure Planning Commission). However, some comments were made which indicate

that the HSE would expect all relevant regulations, including the Electrical Safety, Quality and Continuity Regulations 2002, to be complied with.

240. **Highways Agency (CON/21).** The proposal lies on part of the road network which is under the management of the County Council. General advice given is that the wind farm promoter should be asked to prepare a transport statement covering construction, operation and decommissioning stages of development. The statement should demonstrate likely impacts on the highway network and its users.
241. **Lincolnshire County Council Highways (CON/22).** The County Council recommends a number of conditions be attached to any consent.
242. **Central Networks (CON/23).** Recommend that the contents and specifications of *Western Power Distribution (formerly Central Networks) Technical Standard for the Separation of Wind Turbines from Overhead Lines* be complied with.

### **Objections Withdrawn**

243. A number of objections to the proposal were withdrawn in the lead up to or during the inquiry, generally as a result of negotiation or the impact of the amended proposal. I note these here for completeness.
- Mrs A Stevens (OBJ 11/2)
  - Ministry of Defence (CON 12) – subject to conditions being imposed
  - NATS (En Route) plc (CON 17/1) – subject to conditions being imposed

### **CONDITIONS**

244. In the event that consent is granted the Applicant and the Council have largely agreed a list of conditions which they would wish to see imposed on that consent (and deemed planning permission). This list is found at Document CD 11.6. I attach at Annex 1 of this report the conditions I recommend if consent is granted. My recommendation takes account of the agreement of the parties and the discussion at the inquiry. Justification for the conditions can be broken down into groups.

#### *In order to define the consent*

245. Conditions would be necessary setting a time limit for commencement, and it is common practice to allow a period of 5 years in such cases in light of the significant lead in time for various matters post consent. That limit would be appropriate here (Conditions 3 and 7). The details of the development are also set out (1, 2). A time limited consent is sought and a condition to that end would be necessary (8). Conditions requiring decommissioning at the end of the period of consent, or earlier if turbines become unused, would also be necessary (9, 10). In this respect I concur with the Applicant that the requirement to remove foundations to a depth of 1 metre below ground would be sufficient to allow beneficial use of the land, and that the 2 meters suggested by the Council has not been justified as being necessary.

*In order to ensure a satisfactory standard of development*

246. Conditions specifying the generic design of the turbines, and their external appearance and colour, would be necessary (16, 17). It would also be necessary to require details of the substation proposed, and specify the undergrounding of on site cabling, in the interests of the appearance of the locality (19, 20). In order to reduce flood risk a condition specifying the location of transformers would be reasonable (18). A condition requiring a construction method statement would also be reasonable and necessary (13).

*In order to protect aviation safety*

247. It would be necessary to impose conditions restricting the implementation of the development and its operation until such time as a radar mitigation scheme has been agreed and implemented (4, 5). Similarly a condition requiring appropriate lighting would be necessary (6). Notification of the anticipated date of completion and other details should be provided (27). The suggested conditions on radar mitigation have been amended to include reference to radar operated by NATS (En Route) plc.

*In order to protect fauna and flora*

248. The conditions agreed by the parties on this matter are necessary, and deal with such matters as the carrying out of protected species surveys, breeding bird surveys, and the provision and implementation of an ecological enhancement plan (21, 22, 23).

*In order to protect the living conditions of nearby residents*

249. Conditions for this reason would be necessary to define a satisfactory operational noise environment and to minimise disruption during construction (29, 14, 15). Conditions requiring a scheme to deal with potential shadow flicker, and to address any electro magnetic interference would also be necessary (24, 25).

*Other potential interference*

250. It would be reasonable to require a scheme to mitigate any impacts upon the regulated links operated by Western Power Distribution (26).

*In order to ensure highway safety and protect highway conditions*

251. Conditions requiring the approval of a construction traffic management plan and its implementation, and details of the new access from the A17, would be necessary (11, 12).

*Archaeology*

252. A condition requiring a programme of archaeological work would be reasonable and necessary in order to record or preserve any finds during the development period (28).

## **CONCLUSIONS**

253. In this section of the report I deal with the matters of interest to the Secretary of State and draw together my recommendation. I deal with the matters in a sequence which aids the logical flow of the conclusions. Numbers in square brackets refer to the paragraphs in the previous sections.

### **Visual Impact of the Proposed Development (SoS matter 'e')**

[35, 37 – 40, 76 – 95, 117, 119, 124 – 130, 133 – 151, 175, 176, 189, 193, 201, 209]

254. This is the main area of disagreement between the Applicant and the Council. By its nature the response to the visual impact of any development is to an extent subjective, but the landscape witnesses for the main parties have sought to bring an objective methodology into the assessment of the impact. The methodology is largely agreed, but the results of its implementation are not. Whilst mention has been made of the fact that the Applicant's witness is employed by the applicant company, I am satisfied that the assessments and evidence have been produced in accordance with accepted professional standards.
255. The starting point must be an understanding of the current situation, defining the character of the existing landscape, and in turn its sensitivity to the type of development proposed. Both main parties relied to a greater or lesser extent on studies carried out in surrounding localities. These offer varying degrees of assistance and I do not see them as being determinative of the acceptability or otherwise of this proposal. They are background material. I regard the assessment of the particular proposal as being of greater importance here.
256. The appeal site lies in an area which has no formal landscape designation. The closest such designation is the Lincolnshire Wolds Area of Outstanding Natural Beauty, some 25km to the north. There is no serious suggestion made that the proposal would have any material adverse effect on that landscape.
257. The site is located in National Character Area (NCA) 46, as identified by Natural England. This is The Fens. It is also within the area of Fenland as identified in the North Kesteven landscape character assessment (LCA13). Both of these studies correctly identify the essential characteristics of the area. These include the low lying, flat character of the landscape, the man made composition with rectilinear drains and ditches, massive scale and huge skies. It is a simple landscape with wide panoramas, distant horizons and little complexity. There is a degree of remoteness and isolation.
258. Within this context the proposed development would result in a change of some significance. The turbines would be unmissable, and would influence the character of the landscape. Within and very close to the wind farm I agree that the character of the landscape would change to being a wind farm landscape in its own right. It would still exhibit some of the characteristics of fenland, such as flatness, ditches and large scale, but the dominant character would be imparted by the wind farm itself.
259. Self evidently this influence would change with distance. The Council, in comparing this site with the existing wind farm at Bicker Fen, assesses the

influence to extend out to some 3.75km, within which it is suggested that the landscape would be defined as a 'wind farm in fenland' landscape. The Applicant accepts the principle, but suggests the distance would be something less.

260. I do not agree that it is possible to take a simple arithmetic formula to assess the likely influence on character when comparing with Bicker Fen or any other wind farm. The assessment of the effect of the proposal should be based on the particular circumstances of the development. In any event my own site visits suggest that the influence of Bicker Fen is by no means consistent, varying with the viewpoint and other features nearby. Taken in the round, I do not agree that the influence of Bicker Fen in producing a 'wind farm in fenland' landscape reaches as far as the Council suggest. Nor do I not consider that the influence of this proposal would reach the 3.75km suggested. My observations from many viewpoints suggest that the influence would be more restricted.
261. This is because the huge scale of existing landscape quickly reduces the apparent scale and impact (on character) of development. Although they would be the largest feature in view, the turbines would not dominate in the way they would in a small scale, intimate landscape. In my judgement their influence would decline quite rapidly, and the overarching character of the landscape would revert to a fenland character well before a distance of 3.75km was reached. In this I agree with the Applicant. Nonetheless the development would clearly have an impact on the character of the landscape in relatively close proximity to it, though the precise distance would vary. But in terms of the character of the host landscape as a whole the impact on character would be limited. I see no reason to differ from the assessment of the Applicant that the impact can be categorised as minor to moderate, and adverse.
262. The Applicant's assessment of the sensitivity of the landscape has been carried out using published sources, but also in accordance with established best practice. That the Council disagrees with the resultant sensitivity analysis is a matter of judgement and not of approach. There has been criticism of the Applicant's approach in that the bespoke analysis was carried out after the ES was published. What matters though, is that the analysis has been undertaken, and there has been no suggestion that the ES was defective.
263. The fenland landscape is valued by its inhabitants, and it is not difficult to see why. It has characteristics which set it apart from other landscapes. Its huge skies, horizontality, wide panoramas and extensive uninterrupted views can be well appreciated. However, it is these same factors which reduce its sensitivity to development of the type proposed. The landscape is simple in form, massive in scale and exhibits man made features in straight lines. In my judgement landscapes which have such attributes are more likely to be able to accept relatively large scale and simple forms of development. Again, I agree with the Applicant that the sensitivity of the host landscape, in particular to wind turbine development, should be categorised as medium to low. That this might differ from studies in other areas reflects the bespoke nature of this particular assessment as compared to the more generic assessments elsewhere.
264. One of the latest studies of capacity to accept wind turbine development in the East Midlands Councils area (published in 2011) identifies the area of the site as having one of the highest capacities for such development. Whilst I cannot comment on other locations I agree that the area around the appeal site

demonstrates features which, on a common sense basis, suggest that capacity to accept wind energy development is at the higher end of the scale. For example the large scale of the landscape, its man made appearance, the remoteness and relative lack of population, when combined with its simplicity, suggest that if wind turbines are to be constructed, there are fewer constraints in areas such as this than elsewhere. Although the Council suggest that the area is at its development limit so far as this proposal is concerned, I do not agree. The proposal would add to existing development, but I do not agree that it would add unacceptably to a clutter of development or significantly desensitise the landscape to the extent that it would make future applications more likely. In any event this is not a comparative exercise per se, and it is necessary to assess the impact of the particular proposal. It seems to me that the presence of other development, such as nearby pylons or other wind farms, has a limited bearing on my assessment.

265. The wind farm has been designed through an iterative process but I note that the intention has been to respect the grid like pattern of dykes and ditches which is characteristic of the area. In layout terms this could only be of limited success because of the myriad of viewing locations in which the lines of turbines would not be apparent. Indeed there would be relatively few locations where any appreciation of the concept of the layout would be likely to be apparent.

266. It is fair to say that the wind farm would be visible from considerable distances and, despite the acknowledgement that some people find wind turbines attractive, fair also to assess the visual impact on a 'worst case' scenario by assuming adverse impact. Taking the starting point of the minor to moderate change in character, and factoring in the moderate to minor sensitivity of the landscape, that would suggest that the overall significance of impact would be minor or minor to moderate. In landscape terms that is a reasonable overall conclusion. But it understates the visual impact from some locations and for some receptors or viewers.

267. There would be clear views to the wind farm from publicly accessible land and roads surrounding the site. But it is generally accepted that the sensitivity of receptors on the highway is not as great as, for example, residential property. The wind farm would be seen from the A17, the A1121 and from the B1395 as well as other local roads. These views would vary with distance and orientation, would be interrupted by other development and vegetation, and would be available in the context of journeys along the roads. In my judgement the Council has overstated the impact of the wind farm in this respect. I assess it as being low overall. I acknowledge that the A17 is used by holiday and tourist traffic, but it is not likely to be used other than as a means of reaching other destinations. For that reason I do not accept that it should attract any greater level of sensitivity than any other highway.

268. Of greater note would be the effect on users of public footpaths and residents of property surrounding the site with views towards the development (though I deal with this in relation to living conditions later in the report). In these instances the impact would be greater, the effect would be longer lasting, and the wind farm more embedded in the visual experience. In these cases there would be a medium to major visual impact. This generally accords with the findings of the study carried out by the Applicant.

269. Taking these matters in the round I am satisfied that the level of impact on the landscape character would be moderate to minor, and adverse. The visual impact would vary with the location and sensitivity of the receptor, and would vary from minor to major, and adverse. I note here that the wind farm is intended to have a 25 year life and would be capable of being removed. Consequently, even though 25 years is almost a generation the fact that the development would not be likely to be permanently located in the landscape slightly moderates the long term adverse impact.
270. As part of the visual impact I turn now to the effects on cultural assets, a matter not contested by the Council, but advanced by local residents. The main concerns relate to South Kyme Tower, South Kyme church and other churches, and the 'Boston Stump', St Botolph's.
271. None of the cultural assets would be particularly close to the wind farm, South Kyme being about 3.75km from the nearest turbine. Boston is about 12km to 15km away. South Kyme Tower and church are to the north-west of the village, slightly further away. From ground level in the vicinity of South Kyme Tower and church the views towards the wind farm would be filtered by vegetation and development, though some elements of the development would be seen. Although I viewed the landscape from the top of South Kyme Tower it would be wholly unrealistic to take this as an important viewpoint. This is for 2 reasons. First, the tower is not generally open to the public. Secondly, and more importantly, the tower is in part unsafe and access to its upper levels could not realistically be countenanced for members of the public. Any views from that location can carry little if any weight in the balance.
272. St Botolph's is different. Public access is available to a viewing platform about half way up its tower, with extensive views across the fens. Bicker Fen is evident in that view, and the proposed development would be too. However, at a distance of some 15km the wind farm would make little difference to the panorama of the fens laid out in front of the viewer. It would form a minor part of the extensive vista, which would be little altered. The overriding character and appreciation of the hinterland would be essentially unchanged.
273. In reverse it is right to observe that St Botolph's would be seen through the wind farm when viewing from the west. But St Botolph's, though a significant local building, is in fact a relatively minor element in the scene. It only takes on a greater prominence when much closer to Boston.
274. For these reasons I do not accept that the proposal would have any material impact on these or other cultural assets brought to my attention. I do not find that there would be any reduction in the significance of the assets or their settings. This finding accords with the advice of English Heritage.
275. To sum up on this topic, it is my judgement that the impact of the proposed development would be moderate to minor and adverse in terms of landscape character, minor to major (major in few locations) and adverse in terms of visual impact, but of no material impact in relation to cultural assets. The host landscape is capable of accepting a development of this nature. In this case the design of the scheme mitigates adverse impact to a degree which leads to an overall conclusion that the wind farm would be acceptable in landscape terms.

## **The cumulative impact of the proposed development with the existing Bicker Fen wind farm (SoS matter 'f')**

[92 – 95, 138, 139, 144, 148, 177, 188, 189, 193, 201, 209]

276. This proposal would be seen in the same view as Bicker Fen wind farm from a number of locations. Whilst the overlapping zones in which the character of the landscape may be deemed to be jointly 'wind farm in fenland' is relatively small, the cumulative impact is not restricted to that zone. Within that particular zone there are few receptors, and I agree that cumulative impact there would be minor. There would be a greater area where the landscape character had changed, but this would be restricted to a limited area of fenland such that the wider perception of fenland would be largely retained. The overall character of identified character areas would not be significantly altered. The wind farms are closer (closest turbine measurement) than is often suggested as a reasonable minimum (7km). In this case the distance is about 5.5km. But this distance is not fixed and any cumulative impact must be assessed on a case by case basis.
277. It is the case that the 2 wind farms (Heckington and Bicker) would be seen simultaneously and/or successively when travelling along local roads, such as the A17 and the B1395. As with either wind farm in isolation, however, the users of roads can be deemed to be less sensitive receptors than, for example, residents of nearby houses. Hence, although both wind farms would be seen when travelling local routes (including the railway) I am satisfied that their combination would not significantly affect the overall visual impact.
278. The most significant cumulative impact would occur when both wind farms were overlapping or immediately adjacent, typically in simultaneous views from the north or south quadrants. The relatively short distance between the 2 developments would mean that the furthest of the wind farms from the viewer would still be clearly in vision as seen alongside or through the closer development. When alongside, wind turbines would then fill a greater arc of view, and when seen through the concentration of turbines would be greater.
279. Nonetheless, it seems to me that the furthest wind turbines, because of their greater distance from the viewer, would take on less significance in visual impact terms. That they would be seen is true, but in my judgement that mere fact of being visible does not equate to materially added impact. In fact the greatest impact would, as would be expected, rest with the closest development, and the furthest would tend to recede in importance.
280. Other developments are proposed nearby and although not specifically noted by the Secretary of State it is worth adding a comment here. There are a number of operational wind farms in the wider area, but that of greatest concern is the proposed wind farm at Billingborough. I understand that this is at planning stage. It would lie some distance to the south, beyond Bicker Fen. Should that scheme progress to a formal proposal then it would need to be considered on its own terms and I cannot prejudge what might be forthcoming for that site. I am therefore satisfied that there would be no significant additional cumulative adverse landscape and visual impacts when considered with Bicker Fen, any other current wind energy development, or any known firm proposals for wind energy development.

**Impacts on the health of local residents, including visual dominance, noise, vibration, shadow flicker and TV reception (SoS matters 'j' and 'k')**

[87 – 91, 105 – 113, 179 – 181, 191, 196, 211]

*Visual dominance*

281. This is not a matter contested by the Council. As pointed out by the Applicant, the division between the public interest and the private interest is reasonably clear when visual impact is considered. A number of Secretary of State and Inspector appeal decisions set out the matters which are likely to have an influence on the judgement. The starting point, acknowledged by all, is that an individual does not have a right to a view. What is crucial is that a private property should not be made an unattractive place to live by being subjected to overwhelming, dominating or overbearing impacts such that it would cease to be reasonable to expect anyone to live there comfortably. In those circumstances it would not be in the public interest to allow the development.
282. In this case there are residential properties on all sides of the site. All are about 1km or more away from the nearest turbine. The views of the turbines from the properties would inevitably vary because of viewing angle, intervening vegetation and development, and layout of the dwelling.
283. I was able to visit property and assess the impact of the wind farm at first hand. There are properties, such as Mill Green Farm, where the whole wind farm would be clearly visible from several principal windows of the house. Others, such as The Bungalow on Sidebar Lane, would have almost as much of a clear view across the site, but more limited in terms of the number of windows affected. Some properties would see both this proposal and Bicker Fen. In these and other cases it is clear to me that the views from the properties would be significantly changed by the development.
284. However, I am mindful that the nearest turbine would be some distance away, and that the wind farm would be visually permeable. It would be possible to see between turbines so that the viewer is not faced with a solid visual block of development. I appreciate that seeing 22 moving structures is not insignificant, but in most cases there would be some relief from that view available elsewhere at the property. For example, at The Bungalow, there are pleasant gardens with vegetation which would largely screen views of the turbines, and parts of the dwelling where any views would be minimal. Even at Mill Green Farm it would be possible to find locations which reduce the impact of the development.
285. In some places the field of view would be filled by turbines more than in others. But in all cases it would be possible for the viewer to see beyond and past the turbines. But the distance to the turbines, even at the closest point would not in my judgement result in over dominance. Although different, the living conditions at the dwellings would not be reduced to the extent that they became unacceptable places to live. Despite the fact that a significant number of dwellings would be affected the impact of the proposed development would not be such that living conditions would be reduced or harmed to an unacceptable degree.
286. I address the associated matter of property values here. This is not a matter to which weight can be attached in the planning balance. That said, there is also

no long term evidence brought forward that there is significant depreciation in property value caused by proximity to a wind farm.

#### *Noise*

287. Again, the Council does not contest this matter. No formal oral evidence was heard at the inquiry but the Applicant presented the expert witness in order for questions to be raised by concerned residents. As a result of that it was clear that many reservations had been tempered. However, there remains concern in relation to this matter.

288. The predictions of noise immission to the receptors around the site are such that it is expected that the noise limits recommended in ETSU-R-97 would be comfortably met. I have no reason to doubt that. Despite criticisms made, ETSU-R-97 remains the required guidance to assess the impact of wind farms and the Applicant has followed current best practice in the assessment. But noise prediction is not an exact science. Hence it would be necessary to impose an appropriate condition in order to protect the living conditions of residents.

289. The matter of excess or other amplitude modulation (EAM) is not yet well enough understood for its prediction to be possible. It has been recorded at some sites, including single turbine sites, but not at others. Although there have been attempts to devise a condition which would address EAM there is consensus amongst experts that such a condition would be difficult to create and enforce. In any event I have no evidence that EAM would be likely here. It would, though, be possible to take action under nuisance regulations if such a phenomenon became apparent. On that basis I am satisfied that concerns in relation to noise are not of sufficient weight to justify withholding consent.

#### *Vibration*

290. There are essentially 2 parts to the concerns expressed here. In the first place the concern is that vibration from the operational turbines might be detected and cause unpleasant effects for residents, their pets, or wildlife. That concern is unfounded. Although it is possible to detect vibration from operating wind turbines it is at such a tiny level that it is impossible for it to be detected by humans. It also seems unlikely to me that animals, whether domestic or wild, would be able to do so. Certainly no evidence has been presented that that is the case, and it is common to find grazing animals in close proximity to operational wind turbines.

291. The second aspect of the concern is whether constructional techniques such as deep piling would cause the potential for liquefaction of ground beneath the closest properties. Bearing in mind the distance between turbines and property this would seem unlikely on a purely logical basis, but the Applicant has also provided evidence that this would not occur. This matter therefore carries no weight.

#### *Shadow Flicker*

292. This is an acknowledged phenomenon, but one which would not be expected beyond about 10 rotor diameters. That would suggest that it should not happen in this instance to the extent that it would materially interfere with the enjoyment of domestic properties. However, it is possible to impose a condition which

would, in the event of problems occurring, require the matter to be addressed. Again, this matter is not of sufficient weight to justify rejecting the scheme.

#### *TV Reception*

293. In some circumstances it has been the case that the erection of tall metallic structures such as turbine towers has interfered with electro magnetic signals. However, I was informed at the inquiry that such interference would not be expected in relation to digital TV signals. In any event it would be possible to impose a condition requiring that any identified difficulty in this respect is properly addressed. The matter cannot carry weight against the proposal.

#### **The impact of construction and operational traffic associated with the proposed development on the local highways, including users and safety (SoS matter 'g')**

[96 – 101, 183 – 185, 190]

294. The Council takes no issue on this matter and there are no objections from highway authorities. I have heard from local residents that the construction of the Bicker Fen wind farm required far more vehicle trips than was predicted in the application. However, there is no substantive evidence to suggest that in the current case the predicted traffic movements are not robust. In any event I note that the access to the site would be from the A17, whilst it seems that access to Bicker Fen was along minor roads which passed residential property. Hence I do not accept that the cases are comparable.
295. It is reasonable that construction traffic should be required to be limited to preferred routes and times, and this can be addressed with an appropriate management plan. The level of predicted increase in traffic is such that there should be no material impact on the use of, or safety of, local highways. As a result this is not a matter which can weigh against the proposed development.

#### **The impact of the proposed development on air traffic control radar systems at RAF Coningsby and other neighbouring RAF radar sites and the impact of the proposed development on air traffic control radar systems at Claxby and other neighbouring civil aviation radar sites (SoS matters 'h' and 'i')**

[102, 103, 182, 213]

296. The presence of 22 wind turbines would affect both military and civilian radar by 'painting' on the radar returns and causing the potential for confusion and reduction in safety. However, the Applicant has been in negotiation with the respective safety bodies and has reached agreement on suitable mitigation for radar. This has been confirmed in writing by the bodies concerned. I am therefore satisfied that these matters do not form an impediment to the grant of consent.
297. Whilst I note that some residents are concerned that the 'in principle' agreements appear to give a long period for the matter to be resolved, this period reflects the usual time available for starting a project of this nature. There would be no extension of the time set aside for resolving this matter.

**The extent to which the proposed development is consistent with the policies relating to generation of renewable energy contained within the National Policy Statements for Energy Infrastructure, EN-1 and EN-3 (SoS matter 'c')**

[66 – 70, 157, 170, 171, 187]

298. It is acknowledged by both parties that the proposed development is of a scale which, had it been submitted later, would have been considered under the Planning Act of 2008 as a nationally significant infrastructure project (NSIP). That in turn would have brought about the 'primacy' of NPS EN-1 and EN-3. It is consequently argued that there is no real need to look beyond the NPSs. That is not a position which can be wholly supported since there is also acknowledgement from the Applicant that the policies of the NPPF and the development plan are material, though of lesser weight. Nonetheless the policies of NPS EN-1 and NPS EN-3 carry substantial weight in the planning balance. This is the position accepted by the Council, and a position with which I agree.
299. NPS EN-1 makes it clear that renewable energy projects are urgently needed if the UK is to meet its commitments to renewable energy generation. The reasons for the urgency are clearly set out. Deployment of renewables will help to tackle climate change, reduce CO<sub>2</sub> emissions, deliver jobs, and assist in securing supply by reducing the reliance on fossil fuels. Onshore wind is identified as the most well established and economically viable source of renewable electricity. There is acknowledgement that much new capacity is likely to come from onshore and offshore wind energy in the short to medium term.
300. EN-1 indicates that the starting point should be a presumption in favour of granting consent unless more specific and relevant policies set out in NPSs clearly indicate that consent should be refused. Self evidently, as pointed out by the Council, EN-1 does not give a 'green light' to anything – a considered assessment is necessary. As would be expected, it is necessary to take into account the benefits of the proposal, and weigh these against the adverse impacts. Impacts may be national, regional or local.
301. NPS EN-3 is more specific and outlines the factors likely to be considered in assessing any project. These are dealt with earlier in these conclusions following the evidence submitted in respect of each topic. There is adverse effect identified in relation to landscape and visual impact, but little else. The time limited nature of the proposal is indicated as an important matter, and I have dealt with that above. It lessens the weight attached to landscape harm to a degree.
302. In this case on the benefits side there is no dispute between the Applicant and the Council that the proposed development would be a valuable source of renewable energy. I agree. Local residents question the efficiency and output of the development, but the evidence provided is that the wind farm would provide a useful source of energy which would assist in meeting the objectives of NPS policy. On the negative side I have identified the generally moderate levels of landscape harm, that being in a relatively restricted area. There are no other material adverse impacts which weigh against the proposal. The balance in terms of NPS policy clearly lies in favour of granting consent.

**The extent to which the proposed development would be in accordance with saved Policies C2, C17 and LW1 of the North Kesteven Local Plan and Policies 1, 26, 31 and 40 of RSS8 (SoS matter 'a')**

[42 – 60, 154, 161 – 167, 175, 187]

303. The development plan here is the East Midlands Regional Plan (RS) of 2009 and the North Kesteven Local Plan (LP) of 2007. The development plan does not carry the primacy which would flow from S38(6) of the 1990 Act as amended, as that does not apply to applications for consent under the Electricity Act.
304. The intention to revoke the RS is a material consideration, but at present its policies remain extant. In addition the evidence base for the review of the RS is material to the proposal. More recent evidence provided with the application is helpful in setting out the regional state of play for renewable energy capacity and potential.
305. The Local Plan was adopted in 2007 and was already in preparation when the Planning and Compulsory Purchase Act came into force in 2004. It is my understanding that it was not adopted pursuant to the 2004 Act, and therefore paragraph 215 of the NPPF is relevant. This indicates that due weight should be given to the policies of the LP according to their degree of consistency with the NPPF. In fact there is no alleged material inconsistency with the NPPF in relation to the relevant policies such that the weight of the policies should be reduced.
306. LP Policy C2 is a general development management policy which seeks to be permissive of development in the countryside subject to a number of criteria. The third criterion is that development could not be located within or adjacent to a settlement. That clearly applies here. Apart from the construction phase the development would not attract or generate a large number of journeys, and so would satisfy the fourth criterion. The development would bring a degree of harm to the landscape, and as such could not accord with the first 2 criteria. However, I agree with the Applicant that this policy appears to be aimed at the 'run of the mill' type of development proposal and have limited applicability to wind energy proposals. Taken in the round the proposal is neither wholly supported by nor wholly opposed by this policy.
307. Of arguably greater relevance is Policy C17 which deals directly with renewable energy. Support is offered, subject again to a number of criteria. There is no dispute that the proposal would not conflict with criteria 3 and 4. Given my judgements above in relation to the planning balance of benefits and adverse impact I am satisfied that the requirements of criteria 1 and 2 are also satisfied. As a result the proposal accords with this policy.
308. Policy LW1 seeks to protect the distinctive landscape of Landscape Character Areas. In this case there would be an impact on the fenland landscape, and that impact would be detrimental. But the detriment would be moderate, and would be localised. For the most part the distinctive qualities of the landscape character area would be retained and, as noted, the reversibility of the proposed development mitigates the weight of objection to this impact. In my judgement the proposal accords with the underlying objectives of the policy.
309. Turning to the RS, Policy 1 is a broad brush policy with a number of overarching objectives. Prominent amongst the objectives is the maximisation of

renewable energy generation. There is a potential tension between that and the objective of protecting and enhancing the environment. In this case the environmental impact of the proposal is outweighed by the benefits of renewable energy generation and consequently the development would, on balance, accord with this policy.

310. In a similar vein I see no material conflict with Policy 26. To the extent that conflict is alleged it seems to me that the wind farm has been designed to minimise damage, and the loss of agricultural land is small.
311. Policy 31 sets out a hierarchy of landscapes and seeks to promote their protection. The fenland areas are not singled out for special treatment (as are other areas) but it is expected that local planning authorities will develop policies for the management of landscape character. I am satisfied that there is no conflict with the thrust of this policy.
312. Policy 40 sets out priorities for low carbon energy generation. It refers to the targets set at Appendix 5 in the RS. For all technologies this is 324MW by 2010 and 3671MW by 2020. That for 2010 was not met. There is no dispute that the 2010 wind energy target was met, and that the 2020 target is likely to be met when extant and under construction wind farms are taken into account. But the targets are indicative in any event, and if met should be raised, and I agree with the Applicant that the aggregate all technology target of the RS is the most appropriate, whatever technology is used to reach them. Within the 2020 overall target micro-generation has been identified as the greatest provider, but this has subsequently been brought into question by later studies. This proposal would be a useful addition to meeting the stretching 2020 all technologies target. Whilst Policy 40 also sets out those areas of consideration appropriate to the assessment of onshore wind energy, they are not prescriptive. Taken as a whole this policy supports the proposed development.
313. When considering the development plan as a whole I am satisfied that the support of the relevant policies for the proposed development greatly outweighs any conflict.

**The extent to which the proposed development is consistent with relevant policies in the Government's National Planning Policy Framework (SoS matter 'd')**

[71 – 75, 153, 172, 173]

314. In many ways the NPPF takes a similar line to NPS policy. It supports the development of renewable energy if any impacts are, or can be made, acceptable. There is a cross reference to NPS policy in footnote 17 of the NPPF, which indicates that local planning authorities should follow the approach set out in the NPSs. It is clear that the support for renewable energy which is evident in the NPPF also offers direct support to this scheme.
315. The NPPF includes a presumption in favour of sustainable development where the development accords with the development plan. As I note above, I consider that the development plan supports the proposal. In such circumstances, and given that there is no suggested material inconsistency between the development plan and the NPPF, the NPPF would support the granting of consent in this case.

**The extent to which the proposed development is consistent with the objectives of the Government's policy on the energy mix and maintaining a secure and reliable supply of electricity as the UK makes the transition to a low carbon economy, and achieving climate change goals (SoS matter 'b')**

[61 – 65, 168, 169, 186, 192, 199, 212]

316. It is not in dispute that the proposed development would produce renewable energy. The wind farm, at its maximum, if completed as proposed, would have a rated output of up to 66MW. Although no wind farm would ever be likely to be able to produce its rated output for 100% of the time, the contribution of the scheme to the objective of adding to the mix of energy supply, maintaining a secure and reliable electricity supply, and to reducing CO<sub>2</sub> emissions, is of value. There is no room here for criticism of Government policy on this matter. The policy is a given.
317. Energy policy has developed quickly over the last few years and the emphasis continues to be on the installation of a mix of low carbon energy production designed to secure supply for the UK and to reduce reliance on greenhouse gas producing generation.
318. The detail of all the specific documentation need not be rehearsed here since it is not challenged, but it is clear that there is a demonstrable imperative to increase the production of electricity from renewable sources. This can be seen, for example, in *The Renewable Energy Strategy* of 2009, which set a target of 30% of electricity to be sourced from renewables by 2020 in order that 15% of total energy is from such sources. This would enable national obligations to be met.
319. The UK Low Carbon Transition Plan of July 2009 also seeks to deliver emission cuts by 2020 and to procure 40% of electricity from low carbon sources by that date. The proposal would assist in meeting such objectives. More recent expressions of intent from the Department for Energy and Climate Change (DECC) include *Planning Our Electric Future – A White Paper for Secure, Affordable and Low Carbon Electricity* (2011) the *UK Renewable Energy Roadmap* (2011) and *The Carbon Plan – Delivering Our Low Carbon Future* (2011).
320. There is therefore a considerable body of national policy and guidance which indicates strong and growing national support for renewable energy production, including the deployment of the onshore wind resource. I consider this to be a consideration of substantial weight.
321. On this matter there can be no doubt that the proposed development is consistent with the objectives of the Government's policy on energy mix and maintaining a secure and reliable supply of electricity, and achieving climate change goals.

**Other Matters**

[115, 197, 213 – 218]

322. This proposal does not include the means of linking the wind farm to the electricity grid, but the Applicant has made it clear that the likely method would be by overhead cables to Bicker Fen. I note the objections, but since this is not a matter included in this proposal it must be left for a future application.

323. The position of Lincolnshire County Council in relation to wind energy development was raised at the inquiry. I am informed that the Council has resolved that wind farms and turbines should be subjected to constraints relating to distance from settlements or other residential property. However, there is nothing before me to suggest that this is anything other than an expression of aspirations by the County Council. This can carry little weight in the planning balance.
324. It is asserted that implementation of the wind farm would violate the human rights of local residents in that it would interfere with the peaceful enjoyment of property. In this case I do not consider that such interference would be present for the reasons given earlier, but even if there were to be some interference this is outweighed by the legitimate public interest of providing urgently for renewable energy infrastructure. Any effect on residents would not be disproportionate.
325. A number of people have suggested that suitable alternative sources of power exist, ranging from offshore wind energy, to solar power, to shale gas. I do not doubt that each of these has a place in the future. However, there is nothing in evidence to suggest that alternatives are available in the short term. The necessity for renewable power is urgent hence the availability in the longer term of alternatives does not materially alter the planning balance.
326. It has been suggested that wind turbines are potentially unsafe. Certainly there have been examples of blade failure, fire, ice throw and tower collapse. But in the context of this site and its location I heard no evidence which suggests that safety concerns would be a material factor here.
327. There has been criticism that the proposal would not bring local jobs. This is not a matter which was examined in detail at the inquiry, but clearly there would be likely to be some construction jobs available in the early phases of the development. It is also possible that jobs would be retained or created in suppliers to the developer.
328. Impacts on tourism generally, flooding potential, a local pipeline, and the possible impact on autistic children were also raised. However, there is no substantive evidence available that the development would cause any material harm in these spheres, and hence these matters cannot weigh against the proposal. Similarly, whilst the wind farm would remove a small area of arable land from production the reduction would be too small to have an impact on the area available for food production.

## **FINAL CONCLUSIONS**

329. I draw together the strands of my conclusions here. In reaching my overall recommendation I have taken into account the views of the local people which have been expressed at the inquiry and in writing.
330. I have found that there would be a degree of harm in landscape and visual terms, but the harm would not be at a high overall level. There would be some acknowledged impact on the visual amenity enjoyed by residents, in some cases at a high level. But there are no impacts which would be serious enough to harm the living conditions of residents to the extent that their dwellings would become

unacceptable places to live. I have not identified any material harm to other interests.

331. The impacts must be set against the benefits of the proposal. These benefits include the contribution of the proposal to meeting the objective of achieving a secure and reliable supply of electricity. There is substantial support from national policy and objectives for the development of renewable energy in order to reduce greenhouse gas emissions and address the effects of climate change. The failure to meet all technology renewable energy objectives to date strengthens the need to provide new development as soon as possible.
332. The proposal accords with the policies set out in NPS EN-1 and NPS EN-3, and these are the most relevant policies to this application. Furthermore the proposal accords with the objectives for renewable energy set out in the NPPF and is supported, when taken as a whole, by the development plan.
333. In considering this proposal, as required by Schedule 9 of the Electricity Act 1989, the Secretary of State is required to have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest. The Secretary of State is also required to have regard to the extent to which the Applicant has complied with its duties to do what it reasonably can to mitigate any effect which the proposal would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects. There has been no point raised at the inquiry in respect of these provisions. In practical terms these considerations have been satisfactorily addressed and the proposal is compliant with the requirements of Schedule 9 to the Electricity Act 1989

#### *The Overall Balance*

334. The considerations which support the proposal, dealing with the imperative of addressing climate change and the need to achieve a secure and reliable supply of electricity are compelling. They clearly outweigh the moderate levels of harm to the landscape and visual amenity which I have identified. There are no other matters which have been raised by any party which would alter the balance of these conclusions.

#### **RECOMMENDATION**

335. For the reasons given above I recommend that Consent be granted subject to the conditions in the attached annex, and that planning permission be deemed to be granted.

*Philip Major*

INSPECTOR

**APPEARANCES**

**FOR THE LOCAL PLANNING AUTHORITY:**

Mr Richard Wald	Of Counsel
He called	
Mrs Wendy Buckingham BA(Hons) MPhil CMLI	Principal Landscape Architect, Robert Doughty Consultancy
Mr Robert Doughty BSc(Hons) DipTP MRTPI	Managing Director, Robert Doughty Consultancy

**FOR THE APPLICANT:**

Mr David Hardy	Partner, Eversheds LLP, Bridgewater Place, Water Lane, Leeds
He called	
Mr Gavin David BA(Hons) DipLA CMLI	Landscape Architect, Ecotricity Group Limited
Mr David Bell BSc(Hons) DipUD MRTPI MIHT	European Director, Jones Lang LaSalle, Edinburgh
Dr Andrew Bullmore BSc DPhil	Managing Partner, Hoare Lea Acoustics. Attended to answer questions and clarify noise issues, but did not formally give evidence

**INTERESTED PERSONS:**

Cllr Mervyn Head	South Kyme Parish Council
Mr John Bowler	Resident of Bicker
Mr Chris Pavely	Resident of Quadring
Mr K Dunkley	Resident of East Heckington
Mrs M Hobbs	Resident of South Kyme

**CORE DOCUMENTS**

<b>Application Documents</b>	
CD1.1	Section 36 Application Letter (15 December 2009)
CD1.2	Form B Notice (15 December 2009)
CD1.3	Request for Scoping Opinion (September 2010) and DECC response to Scoping Opinion Request
CD1.4	Heckington Fen Wind Park Environmental Statement Non-Technical Summary (July 2011)
CD1.5	Heckington Fen Wind Park Environmental Statement (July 2011)
CD1.6	Heckington Fen Wind Park Environmental Statement Figures (July 2011)

CD1.7	Heckington Fen Wind Park Environmental Statement Appendices (July 2011)
CD1.8	Heckington Fen Wind Park Planning Statement (July 2011)
CD1.9	Letter from Ecotricity to North Kesteven District Council (2 November 2011)
CD1.10	Heckington Fen Wind Park Further Environmental Information Landscape Clarification (December 2011)
<b>North Kesteven District Committee Report and Consultation Response</b>	
CD2.1	North Kesteven District Council Objection (8 February 2012)
CD2.2	North Kesteven District Council Committee Report (30 January 2012)
CD2.3	RDC Review of Landscape and Visual Impact Assessment, Heckington Wind Farm (October 2011)
CD2.4	RDC Review of Heckington Fen Wind Park Further Environmental Information Landscape Clarification (January 2012)
<b>Consultee and Third Party Responses to Planning Application</b>	
CD3.1	List of consultee and third party responses to the planning application
<b>EU and National Planning Policy and Guidance</b>	
CD4.1	European Commission: Directive on the Promotion of the Use of Energy from Renewable Sources 2009/28/EC
CD4.2	DECC: Overarching National Policy Statement for Energy EN-1 (Designated Version, 19 July 2011)
CD4.3	DECC: National Policy Statement for Renewable Energy Infrastructure EN-3 (Designated Version, 19 July 2011)
CD4.4	Statement to the House of Commons by the Secretary of State for Energy and Climate Change (18 October 2010 and 23 June 2011)
CD4.5	The National Planning Policy Framework (March 2012)
CD4.6	DCLG: "Government Response to the Communities and Local Government Select Committee Report: National Planning Policy Framework" (March 2012)
CD4.7	Planning for Renewable Energy: A Companion Guide to PP22 (2004) (including the Technical Annex for Wind)
<b>Regional and Local Planning Policy and Regional Renewable Energy Documents</b>	
CD5.1	East Midlands Regional Plan (March 2009)
CD5.2	North Kesteven Local Plan (2007) and Saving Direction dated 17 September 2010
CD5.3	EMRA Revised Draft East Midlands Regional Plan (Partial Review) (March 2010)
CD5.4	Low Carbon Energy Opportunities and Heat Mapping for Local Planning Areas Across the East Midlands: Final Report (March 2009) and July 2011, including Appendices, Maps and Figures (Extracts) (dated March 2011, updated July 2011)
CD5.5	Renewable and Low Carbon Energy Study for Central Lincolnshire Nov 2011
CD5.6	Reviewing Renewable and Energy Efficiency Targets for the East Midlands' Final Report, prepared on behalf of the East Midlands Regional Assembly (EMRA) (June 2009) prepared by Faber Maunsell / Aecom (dated 12 June 2009)
CD5.7	Letter dated 6 July 2010 from the Secretary of State for Communities and Local Government to all Chief Planning Officers

CD5.8	PINS Advice for Inspectors: Regional Strategies – Impact of Cala Homes Litigation (24 March 2011)
CD5.9	Localism Act, PINS Guidance for Appeal Parties, 7 December 2011
CD5.10	East Midlands Regional Targets and Scenarios for Renewable Energy, research conducted for EMRA by Best Foot Forward (April 2006)
CD5.11	Statement by Baroness Hanham CBE, Abolition of Regional Strategies, 25 July 2012
<b>Renewable Energy and Climate Change Documents</b>	
CD6.1	DTI Energy White Paper “Meeting the Energy Challenge” (2007) (Extracts)
CD6.2	DECC: The UK Renewable Energy Strategy (2009)
CD6.3	DECC: The UK Low Carbon Transition Plan, (LCTP), White Paper (July 2009) - Executive Summary
CD6.4	The Coalition Government: “Our programme for Government” (2010) (Extract)
CD6.5	DECC: Annual Energy Statement (July 2010)
CD6.6	Letter to Lord Turner re ‘Increasing the Target for Energy from Renewable Sources’ dated 29 July 2010 and Letter to Rt Hon Chris Huhne ‘The Level of Renewable Energy Ambition to 2020’ dated 9 September 2010
CD6.7	HM Government, ‘2050 Pathways Analysis’ (July 2010) (Extracts)
CD6.8	DECC: National Renewable Energy Action Plan for the United Kingdom (July 2010) (Extracts)
CD6.9	DECC: “Renewable Electricity in Scotland, Wales, Northern Ireland and the regions of England in 2010”, Special Feature Renewable Electricity (September 2010)
CD6.10	The Plan for Growth produced by HM Treasury (March 2011) (Executive Summary) and Letter to Chief Planning Officers re the Plan for Growth dated 31 March 2011)
CD6.11	Committee on Climate Change: Renewable Energy Review (May 2011) (Extracts)
CD6.12	DECC: White Paper - Planning our Electric Future - a White Paper for Secure, Affordable and Low Carbon Electricity (July 2011) (Extracts)
CD6.13	DECC: UK Renewable Energy Roadmap (July 2011)
CD6.14	DECC: “Consultation on Proposals for the level of banded support under the Renewables Obligation for the period 2013 – 2017 and the Renewables Obligation Order” (20 October 2011) (Extracts)
CD6.15	HM Treasury & Infrastructure UK: National Infrastructure Plan (29 November 2011) (Extracts)
CD6.16	DECC: “The Carbon Plan: Delivering Our Low Carbon Future” (December 2011)
CD6.17	Natural England “Climate Change Policy” (2008)
CD6.18	Natural England “Sustainable Energy Policy” (2008)
CD6.19	Natural England, “Position on Wind Energy” (March 2009)
CD6.20	Natural England “Assessing the Environmental Capacity for On-Shore Wind Energy Development” – Consultation Draft’ (2009)
CD6.21	Natural England “All Landscapes Matter” (2010)
CD6.22	Natural England “Making Space for Renewable Energy” (2010)
CD6.23	Lincolnshire County Council: Open Report to Executive Committee for meeting of 6 June 2012 “Wind Farms – Update”
CD6.24	Lincolnshire County Council: Position Statement (6 June 2012)

CD6.25	Lincolnshire County Council: "Council says enough is enough on wind farms", extract from news page on Lincolnshire County Council website
CD6.26	RenewableUK Press Release: RenewableUK welcome DECC support for more onshore wind energy as new research shows clear benefits, 12 June 2012
<b>Landscape and Visual</b>	
CD7.1	The Landscape Institute, Institute of Environmental Management and Assessment, 2002, "Guidelines for Landscape and Visual Impact Assessment", Second Edition
CD7.2	Scottish Natural Heritage "Guidelines on the Environmental Impacts of Windfarms and Small Scale Hydro Electric Schemes" (2001)
CD7.3	Scottish Natural Heritage "Siting and Design Windfarms in the Landscape, Version 1" (December 2009)
CD7.4	The Countryside Agency "Landscape Character Assessment: Guidance for England and Scotland" (2002)
CD7.5	Countryside Agency and Scottish Natural Heritage, "Landscape Character Assessment Series: Topic Paper 6 – Techniques and Criteria for Judging Capacity and Sensitivity" (2003)
CD7.6	Scottish Natural Heritage and The Countryside Agency Landscape Character Assessment Series "Topic Paper 9: Climate change and natural forces – the consequences for landscape character" (2003)
CD7.7	Visual Assessment of Wind Farms: Best Practice (produced for Scottish Natural Heritage by the University of Newcastle) (2002)
CD7.8	Visual Representation of Wind Farms – Good Practice Guidance (2006)
CD7.9	Scottish Natural Heritage "Guidance – Cumulative Effect of Wind Farms – Version 2" (2005)
CD7.10	"Landscape Architecture and the Challenge of Climate Change", Landscape Institute (October 2008)
CD7.11	Landscape Institute Advice Note 01-11 Photography
CD7.12	Countryside Agency, 1999, Countryside Character – Volume 4: East Midlands
CD7.13	East Midlands Regional Landscape Character Assessment (2007)
CD7.14	North Kesteven Landscape Character Assessment (2007) (Extracts)
CD7.15	Boston Borough Landscape Character Assessment (2009) (Extracts)
CD7.16	South Kesteven Landscape Character Assessment (2007) (Extracts)
CD7.17	South Holland Strategic Landscape Capacity Study (2003) (Extracts)
CD7.18	East Lindsey Landscape Character Assessment (2009) (Extracts)
CD7.19	East Lindsey Landscape Capacity Study (2004) (Extracts)
CD7.20	Scottish Natural Heritage: Assessing the Cumulative Impact of Onshore Wind Energy Developments (2012)
<b>Noise</b>	
CD8.1	ETSU-R-97: The Assessment and Rating of Noise from Wind Farms (September 1996).
CD8.2	Prediction and assessment of wind turbine noise - agreement about relevant factors for noise assessment from wind energy projects. D Bowdler, AJ Bullmore, RA Davis, MD Hayes, M Jiggins, G Leventhall, AR McKenzie. Institute of Acoustics, Acoustics Bulletin, Vol 34, No 2 March/April 2009
CD8.3	Noise Policy Statement for England, Noise and Nuisance Team, Department for Environment, Food and Rural Affairs (Defra), March 2010

CD8.4	"Wind Turbine Generator Systems – Part 11: Acoustic Noise Measurement Techniques", IEC 61400-11:2002 2 <sup>nd</sup> Edition (2002)
CD8.5	Report on DECC Research Contract 01.08.09.01/492A (Analysis) - Analysis of How Noise Impacts are Considered in the Determination of Wind Farm Planning Applications, Hayes McKenzie, April 2011
CD8.6	ISO 9613-2:1996(E) Acoustics- Attenuation of sound during propagation outdoors- Part 2: General method of calculation, International Standards Organisation, Geneva (Extracts)
CD8.7	Bass JH, Bullmore AJ, Sloth E, Development of a wind farm noise propagation prediction model, May 1998, Contract JOR3-CT95-0051, European Commission , Brussels (Extracts)
<b>Court of Appeal and High Court Decisions, Appeal and Application Decisions</b>	
CD9.1	R (Lee) v Secretary of State for Communities and Local Government & Maldon District Council & RWE Npower Renewables [2011] EWHC 807 (Admin)
CD9.2	R (Hulme) v Secretary of State for Communities and Local Government [2010] EWHC 2386 (Admin)
CD9.3	Michael William Hulme v Secretary of State for Communities and Local Government & RES Developments Limited [2011] EWCA Civ 638
CD9.4	The Queen on the Application of Cala Homes (South) Limited v Secretary of State for Communities and Local Government & Anr [2011] EWCA Civ 639 – Decision of 27th May 2011
CD9.5	1) Derbyshire Dales District Council (2) Peak District National Park - and - (1) Secretary of State for Communities and Local Government (2) Carsington Wind Energy Limited [2009] EWHC 1729 (Admin)
CD9.6	R(on the application of Samuel Smith Old Brewery Tadcaster) v Secretary of State for Climate Change & National Grid Electricity Transmission plc [2012] EWHC 46 (Admin)
CD9.7	Bradwell (APP/X1545/A/06/2023805) (decision letters dated 10 September 2007 and 25 January 2010)
CD9.8	Crook Hill – Coronation Power (APP/P4225/A/08/2065277) Secretary of State Decision Letter and Inspector's Report (Extracts)
CD9.9	Yelvertoft (APP/Y2810/A/10/2120332)
CD9.10	Burnt House Farm Decision and Inspector's Report (APP/D0515/A/10/2123739 and APP/D0515/A/10/2131194)
CD9.11	Carland Cross (APP/D0840/A/09/2103026)
CD9.12	Carsington Pastures (APP/P1045/A/07/2054080)
CD9.13	Hempnall (APP/L2630/A/08/2084443)
CD9.14	Kirkharle (APP/P2935/A/10/2136112)
CD9.15	Spaldington Airfield (APP/E2001/A/10/213761729)
CD9.16	Pauls Moor (APP/X1118/A/08/2083682) and Bickham Moor (APP/Y1138/A/08/2084526)
CD9.17	Cotton Farm (APP/H0520/A/09/2119385)
CD9.18	Kelmarsh (APP/Y2810/A/11/2154375)
CD9.19	Kiln Pit Hill (APP/R2928/A/08/2075105)
CD9.20	Sober Hill (APP/E2001/A/09/2101421) (Decision Letter and Inspector's Report)
CD9.21	Watford Lodge (APP/Y2810/A/11/2153242)
CD9.22	The Old Airfield, Weston Longville (APP/K2610/A/11/2156693)
CD9.23	Woolley Hill (APP/H0520/A/11/2158702)

CD9.24	Chiplow APP/V2635/A/11/2154590 and Jack's Lane (APP/V2635/A/11/2158966)
CD9.25	Beaully-Denny Section 37 Inquiry Report (Extracts)
CD9.26	Dorenell Wind Farm, Electricity Act 1989 application: Report to the Scottish Ministers and Decision Letter (Extracts)
CD9.27	Baillie Wind Farm, Electricity Act 1989 application: Report to the Scottish Ministers and Decision Letter (Extracts)
CD9.28	NOT USED
CD9.29	Middlemoor, Electricity Act 1989 application: Report to the Secretary of State and Decision Letter (Extracts)
CD9.30	Opinion of Lord Malcolm in the Petition of William Grant & Sons Distillers Ltd re the Section 36 application by Dorenell Limited (UK), Outer House, Court of Session, [2012] CSOH 98
CD9.31	Withernwick (APP/E2001/A/05/2088796)
CD9.32	Westnewton (APP/G0908/A/10/2132949)
CD9.33	Barnwell Manor (APP/G2815/A/11/2156757)
CD9.34	North Forest, Forest Hill Road, Halifax (APP/A4710/A/11/2166509)
CD9.35	Willow Bank (APP/C3105/A/09/2116152)
CD9.36	Langford (APP/P0240/A/11/2150950)
CD9.37	Low Spinney (APP/F2415/A/09/2109745)
CD9.38	Deeping St Nicholas (APP/A2525/A/02/1099738)
CD9.39	Winwick (APP/Y2810/A/11/2156527)
CD9.40	Chelverston (APP/K0235/A/11/2160077 and APP/G2815/A/11/2160078)
CD9.41	Spring Farm Ridge (APP/Z2830/A/11/2165035)
CD9.42	<i>The Hollies, Croft, Skegness (APP/D2510/A/04/1155199)</i>
CD9.43	<i>Newton Marsh Lane, Tetney, Grimsby (APP/D2510/A/08/2090543)</i>
<b>Miscellaneous</b>	
CD10.1	The Economic Impacts of Wind Farms on Scottish Tourism', A Report for the Scottish Government, Glasgow Caledonian University, The Moffat Centre and Cogentsi (March 2008) (Extracts)
CD10.2	The University of the West of England's (UWE) (2004) Report 'The Potential Impact of Fullabrook Wind Farm Proposal, North Devon: Evidence Gathering of the Impact of Wind Farms on Visitor Numbers and Tourist Experience'
CD10.3	Visit Scotland, "Wind Farm Consumer Research" (2012)
CD10.4	Renewable UK and DECC: "The direct and indirect economic impacts of the commercial on-shore wind sector in the UK", Biggar Economics (2012)
CD10.5	Renewable UK, Research into Attitudes to Wind Farms, Ipsos MORI (2012)
CD10.6	English Heritage: "Wind Energy and the Historic Environment" (2005)
<b>Inquiry Documentation</b>	
CD11.1	Statement of Matters
CD11.2	Notes of Pre-Inquiry Meeting held on 28 May 2012
CD11.3	Statement of Common Ground between the Council and the Applicant
CD11.4	List and map of Inquiry site visits viewpoints
CD11.5	Email dated 23 July 2012 from Eversheds to the Programme Officer, regarding the mitigation strategy referred to in the correspondence from the Joint Radio Company Ltd.

CD11.6	<i>Draft Section 36 and deemed planning permission conditions dated 2 August 2012</i>
CD11.6.1	<i>Draft Section 36 and deemed planning permission conditions, including those put forward by NATS</i>
CD11.7	<i>Site Visit Itinerary – Friday 3 August</i>
CD11.8	<i>Agreed List of East Midlands Onshore Wind Farm Developments</i>
CD11.9	<i>Renewable energy statistics for the United Kingdom, DECC August 2012</i>
CD11.10	<i>List of East Midlands Onshore Wind Farm Developments dated 3 August 2012</i>

## **INQUIRY DOCUMENTS** *[italics denote documents submitted during the Inquiry]*

### **NEXT GENERATION LIMITED DOCUMENTS**

ECO/1/SoC	Statement of Case of Next Generation Limited
ECO/1/OS	<i>Opening Statement of Next Generation Limited</i>
ECO/1/CS	<i>Closing Statement of Next Generation Limited</i>
ECO/GD/1	Proof of Evidence of Gavin David, Ecotricity Limited
ECO/GD/2	Summary Proof of Evidence of Gavin David
ECO/GD/3	Figures to Proof of Evidence of Gavin David
ECO/GD/4	Appendices to the Proof of Evidence of Gavin David
ECO/DB/1	Summary Proof of Evidence of David Bell of Jones Lang LaSalle
ECO/DB/2	Proof of Evidence of David Bell
ECO/DB/3	Appendices to the Proof of Evidence of David Bell
ECO/DB/4	Rebuttal Proof of Evidence of David Bell
ECO/DB/5	Further Rebuttal Proof of Evidence of David Bell
ECO/BP/1	Summary Proof of Evidence of Brian Plumb of WSP
ECO/BP/2	Proof of Evidence of Brian Plumb (including Appendices)
ECO/BP/3	Rebuttal Proof of Evidence of Brian Plumb
ECO/AB/1	Summary Proof of Evidence of Dr Bullmore of Hoare Lea Acoustics
ECO/AB/2	Proof of Evidence of Dr Bullmore
ECO/AB/3	Appendices to the Proof of Evidence of Dr Bullmore
ECO/SNC/1	Written Statement of Dr Simon Colcutt of Oxford Archaeological Associates Ltd
ECO/SNC/2	Technical Note of Dr Simon Colcutt on Liquefaction

### **NORTH KESTEVEN DISTRICT COUNCIL DOCUMENTS**

NKDC/1/SoC	Outline Statement of North Kesteven District Council
NKDC/RD/1	Proof of Evidence of Robert Doughty
NKDC/RD/2	Summary Proof of Evidence of Robert Doughty
NKDC/RD/3	Appendices to Proof of Evidence of Robert Doughty
NKDC/WB/1	Proof of Evidence of Wendy Buckingham
NKDC/WB/2	Summary Proof of Evidence of Wendy Buckingham
NKDC/WB/3	Appendices to Proof of Evidence of Wendy Buckingham
NKDC/1	<i>Extract from the web page of East Lindsey District Council, Local Plan, Landscape Character</i>
NKDC/2	<i>Landscape sensitivity layout plan</i>
NKDC/3	<i>List of East Midlands Onshore Wind Farm Developments</i>
NKDC/4	<i>Closing Statement of North Kesteven District Council</i>

**OBJECTOR DOCUMENTS**

OBJ3/1	Outline Statement of Graham Castle
OBJ5/1	Outline Statement of Mr & Mrs Claridge
OBJ6/1	Outline Statement of Miss Barbara Glass
OBJ7/1	Outline Statement of Miss D Glass
OBJ11/2	Letter withdrawing objection from Alison Stevens
OBJ121	Outline Statement of R A Thomas
OBJ13/1	Outline Statement of Miss D White
OBJ15/1	Outline Statement of Chris Pavely
OBJ15/2	Proof of evidence of Chris Pavely
OBJ15/3	Rebuttal Proof of evidence of Chris Pavely
OBJ15/4	Response by Chris Pavely to rebuttal proof of evidence of David Bell
<i>OBJ15/5</i>	<i>Further visual showing comparative height of proposed wind turbine</i>
<i>OBJ15/6</i>	<i>Photographs of windmills</i>
<i>OBJ15/7</i>	<i>Email dated 5 August 2012 to the Programme Officer regarding radar mitigation</i>
<i>OBJ15/8</i>	<i>Email dated 6 August 2012 to the Programme Officer regarding commencement of the development</i>
OBJ28/1	Outline Statement of K C Aley
OBJ28-29/2	Proof of evidence of K C Aley
<i>OBJ28-29/3</i>	<i>Email dated 7 August 2012 to the Programme Officer regarding radar mitigation</i>
<i>OBJ28-29/4</i>	<i>Letter dated 7 August 2012 to the Programme Officer regarding radar mitigation</i>
OBJ30-31/1	Outline Statement of Mr and Mrs Dunkley
OBJ30-31/2	Proof of evidence of Mr and Mrs Dunkley
<i>OBJ30-31/3</i>	<i>Extract from Countynews, summer 2012</i>
OBJ35/1	Outline Statement of South Kyme Parish Council
OBJ35/2	Proof of evidence of South Kyme Parish Council
<i>OBJ35/3</i>	<i>Further Proof of evidence of South Kyme Parish Council</i>
<i>OBJ35/4</i>	<i>Email dated 6 August 2012 to the Programme Officer regarding radar mitigation</i>
<i>OBJ35/5</i>	<i>Closing Statement of South Kyme Parish Council</i>
OBJ53/1	Outline Statement of John Bowler
OBJ53/2	Proof of evidence of John Bowler
OBJ54/1	Outline Statement of Maria Hobbs
<i>OBJ54/2</i>	<i>Proof of evidence of Maria Hobbs</i>

**CONSULTEE DOCUMENTS**

CON12/1	Outline Statement of the Ministry of Defence
CON12/2	Letter dated 24 July 2012 from David Boyd, Principal Safeguarding Officer to the Programme Officer, updating the position of the Ministry of Defence
<i>CON17/1</i>	<i>Letter dated 8 August 2012 from NATS conditionally withdrawing their objection</i>

## **ANNEX 1**

### **Recommended conditions in the event that consent is granted.**

#### **Section 36 conditions**

In relation to the construction by Ecotricity (Next Generation) Limited ("the Company") on the area of land delineated by a solid red line on the drawing number 4038\_A0085\_03 of a wind turbine generating station on land at Six Hundred Farm, Six Hundred Drove, East Heckington, Lincolnshire ("the Development") and to the operation of that generating station.

1. Subject to paragraph 2, the Development shall be over 50MW rated capacity and up to rated 66MW capacity and comprise:
  - (a) 22 wind turbine generators with a capacity of up to 3MW, each with a height of no greater than 125 metres to the tip of the blades when the turbine is in the vertical position as measured from natural ground conditions immediately adjacent to the turbine base;
  - (b) Access tracks;
  - (c) An electricity substation building and underground electrical cabling connections within the site;
  - (d) Enabling works for the delivery of turbine components and for the erection of turbines, namely crane pads adjacent to each turbine position and a temporary construction compound to house machinery and materials;
  - (e) An amended vehicular access to the site from the A17.
2. Subject to any minor changes which may be approved by the Local Planning Authority (as defined in the conditions of the deemed planning permission ("the Planning Conditions") set out in paragraph 7 - 28 below), the Development shall be constructed and operated in accordance with the details contained in the Environmental Statement insofar as these do not conflict with any provision of the Planning Conditions or paragraphs 3, 4, 5 and 6 of this consent, or with the requirements of the Planning Conditions or the terms of any scheme, strategy, programme, statement, plan, details, procedure or report to be approved by the Local Planning Authority under the Planning Conditions.
3. The Development shall be commenced before the expiration of five years from the date of this consent, or such longer period as the Secretary of State may hereafter direct in writing.
4. No development shall commence unless and until a Radar Mitigation Scheme has been submitted to and approved in writing by the Secretary of State, having consulted with the Ministry of Defence and NATS (En Route) plc, to address the impact of the wind farm upon air safety.

In this condition, "Radar Mitigation Scheme" means a scheme designed to mitigate the impact of development upon the operation of the Watchman Primary Surveillance Radars at RAF Coningsby, RAF Cranwell and RAF Waddington ("the Radars") and the air traffic control operations of the Ministry of Defence which are reliant upon the Radars; and to mitigate the impact of the development on the Primary Radar Installation at Claxby and the air traffic management operations operated by NATS (En Route) plc. The Radar Mitigation Scheme shall set out the appropriate measures to be implemented to mitigate the impact of the development on the radars and shall be in place for the operational life of the development provided the radars remain in operation.

5. No turbines shall become operational unless and until all measures required by the approved Radar Mitigation Scheme to be implemented prior to the operation of the turbines have been implemented and the Secretary of State, having consulted with the Ministry of Defence and NATS (En Route) plc, has confirmed this in writing. The development shall thereafter be operated fully in accordance with the approved Radar Mitigation Scheme.
6. 200 candela aviation lighting shall be installed on the nacelles of Turbine 1, Turbine 11, Turbine 20 and Turbine 21 as shown on Figure 4.1 [drawing No 4038\_T0237\_06] of the Environmental Statement. Ministry of Defence accredited 25 candela omni-directional aviation lighting OR infra-red aviation lighting shall be installed on the nacelles of the remaining eighteen turbines shown on Figure 4.1. The turbines shall be erected with this lighting installed and the lighting shall remain operational until such time as the wind turbines are decommissioned and removed from the site.

### **Deemed planning permission**

In the event that the Secretary of State directs that planning permission for the Development be deemed to be granted subject to the following conditions:

In these conditions, unless the context otherwise requires:

"Dwelling" means a building within Use Class C3 or C4 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent;

"First Export Date" means the date upon which electricity is first exported from any of the wind turbines to the electricity grid;

"Company" means Ecotricity (Next Generation) Limited and its successors in titles and assigns;

"Development" means the onshore wind turbine generating station on land at Six Hundred Farm, Six Hundred Drove, East Heckington, Lincolnshire and associated infrastructure and ancillary development as outlined in paragraph 1 above;

“Environmental Statement” means the document titled ‘Heckington Fen Wind Park’ Environmental Statement’ dated July 2011;

“Local Planning Authority” means North Kesteven District Council and their successors as local planning authority for the area in which the Site is located;

“Site” means the area of land delineated by a solid red line on drawing Number 4038\_A0085\_03;

References in these Planning Conditions to any scheme, strategy, programme, statement, plan, details, procedures or report to be approved by the Local Planning Authority or to doing of anything in accordance with any approved document shall be construed as including references to such amendments, modifications or substitutions of an approved document as shall have been agreed in writing by the Local Planning Authority.

#### Commencement of Development and Duration of Permission

7. The development hereby permitted shall be commenced before the expiration of 5 years from the date of this permission. The Company shall provide written confirmation of the commencement of development to the Local Planning Authority no later than one week after the event.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

8. This permission is for a period of 25 years from the First Export Date. At the end of the 25 year period the Development shall be decommissioned and the Site reinstated in accordance with the approved decommissioning and site restoration scheme referred to in condition 9 below. The Company shall provide written confirmation of the First Export Date to the Local Planning Authority no later than 14 days after the event.

Reason: In recognition of the expected lifespan of the wind farm and in order to restore any loss of amenity occasioned by the development.

#### Decommissioning and Site Restoration

9. Not later than 24 months before the expiry of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the wind turbines and associated above ground works approved under this permission and for the removal of the turbine foundation to a depth of at least 1 metre below the ground. The scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period, location of material laydown areas, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats and details

of site restoration measures. The approved scheme shall be fully implemented within 18 months of the expiry of this permission.

Reason: To ensure that the development is decommissioned and the site restored at the end of the permission.

10. If any wind turbine generator hereby permitted ceases to export electricity to the grid for a continuous period of 9 months, unless otherwise agreed in writing with the Local Planning Authority, then a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 9 month period for the repair or removal of that turbine. The scheme shall include either a programme of remedial works where repairs to the relevant turbine are required, or a programme for removal of the relevant turbine and associated above ground works approved under this permission and the removal of the turbine foundation to a depth of at least 1 metre below ground and for site restoration measures following the removal of the relevant turbine. The scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: To ensure appropriate provision is made for a turbine or turbines requiring repair or for a turbine or turbines which require decommissioning.

#### Construction Traffic, Site Access and Construction Method Statement

11. No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall include proposals for the routing of construction traffic, scheduling and timing of movements, a management plan for the duration of the construction of the new access from the A17 onto the Site including signage and temporary traffic management measures, the management of junctions to and crossings of the public highway and other public rights of way, details of escorts for abnormal loads, temporary warning signs, temporary removal and replacement of highway infrastructure/street furniture, reinstatement of any signs, verges or other items displaced by construction traffic, and banksman/escort details. The approved Construction Traffic Management Plan including any agreed improvements or works to accommodate construction traffic where required along the route, shall be carried out as approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

12. No development shall take place until details of the new access from the A17 to the Site have been submitted to and approved in writing by the Local Planning Authority. The details shall include the gradient of the access, the details of the surface treatment and construction of the first 50m of the access track leading into the Site from the new access point, the details for the new culvert to be constructed as part of the new access and the details of the visibility splays to be created in conjunction with the new vehicular access. The construction of the new access, visibility splays, and culvert shall thereafter be carried out in accordance with the approved details.

Reason: To ensure a satisfactory means of access is provided in the interests of highway safety.

13. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall be adhered to throughout the construction and post-construction restoration period, subject to any variations approved in writing by the Local Planning Authority. The Construction Method Statement shall include:
- (a) Details of the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
  - (b) Details of the proposed storage of materials and disposal of surplus materials;
  - (c) Dust management details;
  - (d) Pollution control: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;
  - (e) Temporary site illumination during the construction period including proposed lighting levels together with the specification of any lighting;
  - (f) Details of the phasing of construction works;
  - (g) Details of surface treatments and the construction of all hard surfaces and tracks;
  - (h) Details of emergency procedures and pollution response plans;
  - (i) Siting and details of wheel washing facilities;
  - (j) Details of cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway;
  - (k) A site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats;
  - (l) Areas on the Site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
  - (m) Details of the measures to be taken to ensure that the visibility splays remain free of obstacles exceeding 0.6m in height throughout the construction and post construction restoration period;
  - (n) Details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound;
  - (o) Details of coordination with any approved scheme of archaeological works;
  - (p) Details of temporary noise barriers to be used to control noise levels during the construction of the access to the site;
  - (q) Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009.

Reason: To ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process.

### Construction Hours

14. Construction work shall only take place between the hours of 0800 - 1800 hours Monday to Friday inclusive and 080 - 1300 hours on Saturdays with no such work on a Sunday or Public Holiday. Exceptions for work outside these hours including turbine erection because of weather dependence may be carried out with the prior written approval of the Local Planning Authority. In the event that emergency works are required, such works may be carried out at any time provided that the Company retrospectively notifies the Local Planning Authority in writing of the emergency and works undertaken within 24 hours of the commencement of the emergency works.

Reason: In the interests of amenity to restrict noise impact and to minimise disturbance to local residents during the construction process.

15. The delivery of any construction materials or equipment for the construction of the Development, other than turbine blades, nacelles and towers, shall be restricted to the hours of 0800 – 1800 on Monday to Friday inclusive, 0800 to 1300 on Saturdays with no such deliveries on a Sunday or Public Holiday.

Reason: In the interests of minimising disturbance to local residents during the construction process.

### Appearance

16. All of the wind turbines shall have three blades, and the blades of all wind turbines shall rotate in the same direction.

Reason: In the interests of visual amenity.

17. Prior to the erection of any wind turbine, details of the colour and finish of the towers, nacelles and blades and any external transformer units shall be submitted to and approved in writing by the Local Planning Authority. No name, sign, or logo shall be displayed on any external surfaces of the turbines or any external transformer units other than those required to meet statutory health and safety requirements. The approved colour and finish of the wind turbines and any external transformer units shall not be changed without the prior consent in writing of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity

18. All transformer units shall be set a minimum of 3 metres above ground level.

Reason: To reduce the impact of potential flooding.

19. Prior to the commencement of the construction of the electricity substation, details of the design and the external appearance, dimensions and materials for the substation building and any associated compound or parking area and details of surface and foul water drainage from the substation building shall be submitted to and approved in writing by the Local Planning Authority. The development of the substation building and any associated compound or parking area shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

20. All electrical cabling between the individual turbines and between the turbines and the electricity substation on site shall be installed underground.

Reason: In the interests of visual amenity.

#### Ecology

21. Prior to the commencement of development a specification for protected species surveys shall be submitted to and approved in writing by the Local Planning Authority. The survey results and a programme of any mitigation required as a consequence shall be submitted to and approved in writing by the Local Planning Authority prior to any works associated with the development taking place. The surveys shall be undertaken by a suitability qualified ecologist in the last suitable season prior to site preparation and construction work commencing, and the programme of mitigation work shall be implemented as approved.

Reason: In the interests of nature conservation.

22. Prior to the commencement of development, a specification for checking surveys for nests of breeding birds on the development site to be carried out by a suitably qualified independent ecologist shall be submitted to and approved in writing by the Local Planning Authority. The specification shall include the methodology for the surveys, and a timetable for the checking of surveys and submission of a report detailing the results of the survey. The report shall also identify any mitigation measures required as a result of the survey for any construction works or clearance of vegetation between 1 March and 31 August. The specification and mitigation measures shall be implemented as approved.

Reason: In the interests of nature conservation.

23. Prior to the commencement of development an Ecological Enhancement Plan shall be submitted for the written approval of the Local Planning Authority. The scheme shall include a programme and details of new hedgerow planting, the enhancement of existing hedgerows, the provision of nesting boxes for sparrows and starlings and barn owls, planting and management protocols for set-aside land, ditches and field boundaries to improve breeding bird habitat and to encourage invertebrates which are a food source for birds, the provision of cultivation headlands and uncultivated margins and the creation of skylark scrapes and beetle banks. The Plan shall include details of replacement planting for plants which become diseased or are destroyed or die within five years of the date of planting and shall also include details of management responsibilities and maintenance schedules for the operational life of the development. The scheme shall be implemented as approved in writing by the Local Planning Authority.

Reason: In the interests of nature conservation.

### Shadow Flicker

24. Prior to the construction of the first turbine, a written scheme shall be submitted to and approved in writing by the Local Planning Authority setting out a protocol for the assessment of shadow flicker in the event of any complaint to the Local Planning Authority from the owner or occupier of a Dwelling. The written scheme shall include remedial measures to alleviate any shadow flicker attributable to the development. Operation of the turbines shall take place in accordance with the approved protocol unless the Local Planning Authority gives its prior written consent to any variations.

Reason: In the interests of local amenity for nearby residents.

### Electro-magnetic Interference

25. Prior to the First Export Date a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to terrestrial television caused by the operation of the turbines shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a lawfully occupied Dwelling, where such complaint is notified to the developer by the Local Planning Authority within 12 months of the First Export Date. Where impairment is determined by the qualified television engineer to be attributable to the wind farm, mitigation works shall be carried out in accordance with the scheme which has been approved in writing by the Local Planning Authority.

Reason: In the interests of amenity for nearby residents.

26. No development shall take place until a scheme to mitigate the impacts of the Development on the regulated links operated by Western Power Distribution has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved in writing by the Local Planning Authority.

### Aviation Safeguarding

27. Prior to the erection of the first turbine, written confirmation shall be provided to the Local Planning Authority of the anticipated date of completion of construction; the height above ground level of the highest structure in the Development and the position of each wind turbine in latitude and longitude.

Reason: In the interests of aviation safeguarding.

### Archaeology

28. No development shall commence until the Company has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any archaeological remains present are preserved, either by being left in situ or recorded before they are damaged or destroyed.

Operational Noise

29. The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in Tables 1 and 2 attached to these conditions and:
- (A) Prior to the First Export Date, the Company shall submit to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.
  - (B) Within 21 days from receipt of a written request of the Local Planning Authority, following a complaint to it alleging noise disturbance at a Dwelling, the Company shall, at its expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Local Planning Authority made under this paragraph (B), the Company shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the Local Planning Authority in the format set out in Guidance Note 1(e).
  - (C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all Dwellings at that location. Where a Dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the Company shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's Dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's Dwelling. The submission of the proposed noise limits to the Local Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's Dwelling.

(D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the Company shall submit to the Local Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the Local Planning Authority pursuant to paragraph (C) of this condition shall be undertaken at the measurement location approved in writing by the Local Planning Authority.

(E) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions, the Company shall submit to the Local Planning Authority for written approval a proposed assessment protocol setting out the following:

(i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) under which the rating level of noise immissions is to be determined;

(ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the Local Planning Authority under paragraph (B), and such others as the independent consultant considers likely to result in a breach of the noise limits. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Local Planning Authority.

(F) The Company shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority made under paragraph (B) of this condition unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

(G) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the Company shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (F) above unless the

time limit for the submission of the further assessment has been extended in writing by the Local Planning Authority.

- (H) The Company shall continuously log nacelle wind speed, nacelle orientation, power generation and nacelle wind direction for each turbine in accordance with this consent, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine shall be retained for a period of not less than 12 months. The Company shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the Local Planning Authority on its request within 14 days of receipt in writing of such a request.

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

Property Easting, Northing	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
	L <sub>A90</sub> Decibel Levels									
1 - 4 New Cottage, Side Bar Lane 518616, 345176	40.0	40.4	40.9	41.6	42.3	43.0	43.8	43.8	43.8	43.8
2 Council House, East Heckington 520190, 343985	46.9	47.6	48.3	49.0	49.7	50.2	50.2	50.2	50.2	50.2
Catlins Farm 521762, 344327	40.0	40.0	40.0	40.9	42.5	44.2	46.0	47.7	47.7	47.7
College Farm 521901, 344438	40.0	40.0	40.0	40.9	42.5	44.2	46.0	47.7	47.7	47.7
Derwent Cottage, Side Bar Lane 518666, 344950	40.0	40.4	40.9	41.6	42.3	43.0	43.8	43.8	43.8	43.8
Elm Grange Farm, East Heckington 519065, 344484	46.9	47.6	48.3	49.0	49.7	50.2	50.2	50.2	50.2	50.2
First Cottage, Side Bar Lane 518697, 344809	40.0	40.4	40.9	41.6	42.3	43.0	43.8	43.8	43.8	43.8
Five Willow Wath Farm, Side Bar Lane 518592, 346871	40.0	40.0	40.0	40.0	41.2	43.0	44.8	46.8	46.8	46.8
Glebe Farm, Side Bar Lane 518472, 346187	40.0	40.0	40.0	40.0	41.2	43.0	44.8	46.8	46.8	46.8
Home Farm, East Heckington 519347, 344435	46.9	47.6	48.3	49.0	49.7	50.2	50.2	50.2	50.2	50.2
Mill Green Farm 519952, 347320	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.7	40.7	40.7
Rakes Farm, East Heckington 520807, 343779	46.9	47.6	48.3	49.0	49.7	50.2	50.2	50.2	50.2	50.2
Rectory Farm House, East Heckington 519660, 344208	46.9	47.6	48.3	49.0	49.7	50.2	50.2	50.2	50.2	50.2
Six Hundreds Drove, East Heckington 520605, 343705	46.9	47.6	48.3	49.0	49.7	50.2	50.2	50.2	50.2	50.2
Spinney Farm 522812, 346067	40.0	40.0	40.0	40.0	40.0	40.4	44.5	49.1	49.1	49.1
Swineshead House 521150, 343583	46.9	47.6	48.3	49.0	49.7	50.2	50.2	50.2	50.2	50.2
The Chapel House, Side Bar Lane 518378, 345871	40.0	40.4	40.9	41.6	42.3	43.0	43.8	43.8	43.8	43.8
The Old Church 521899, 347226	40.0	40.0	40.0	40.0	40.0	40.4	44.5	49.1	49.1	49.1

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

Property Easting, Northing	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
	L <sub>A90</sub> Decibel Levels									
1 - 4 New Cottage, Side Bar Lane 518616, 345176	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
2 Council House, East Heckington 520190, 343985	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Catlins Farm 521762, 344327	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.1	49.1	51.3
College Farm 521901, 344438	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.1	49.1	51.3
Derwent Cottage, Side Bar Lane 518666, 344950	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Elm Grange Farm, East Heckington 519065, 344484	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
First Cottage, Side Bar Lane 518697, 344809	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Five Willow Wath Farm, Side Bar Lane 518592, 346871	43.0	43.0	43.0	43.0	43.0	43.0	43.0	44.3	48.9	51.5
Glebe Farm, Side Bar Lane 518472, 346187	43.0	43.0	43.0	43.0	43.0	43.0	43.0	44.3	48.9	51.5
Home Farm, East Heckington 519347, 344435	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Mill Green Farm 519952, 347320	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	44.3
Rakes Farm, East Heckington 520807, 343779	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Rectory Farm House, East Heckington 519660, 344208	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Six Hundreds Drove, East Heckington 520605, 343705	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Spinney Farm 522812, 346067	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	48.1	48.1
Swineshead House 521150, 343583	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
The Chapel House, Side Bar Lane 518378, 345871	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
The Old Church 521899, 347226	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	48.1	48.1

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

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## Guidance Notes for Noise Condition

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

### Note 1

- (a) Values of the  $L_{A90,10\text{-minute}}$  noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting IEC 60945:2003 "Electroacoustics – sound calibrators" Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- (b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's Dwelling and be not more than 35 metres from it. Measurements should be made in "free field" conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the Company shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The  $L_{A90,10\text{-minute}}$  measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).

- (d) To enable compliance with the conditions to be evaluated, the Company shall continuously log arithmetic mean nacelle wind speed (duly corrected for the presence of the rotating blades) arithmetic mean nacelle orientation, nacelle wind direction and arithmetic mean power generated during each successive 10-minute period for each wind turbine on the site. The hub height wind speeds recorded from the nacelle anemometers or as calculated from the power output of each turbine shall be supplemented by standardised ten metre height wind speed data calculated for each 10-minute period from those measured at hub height assuming a reference roughness length of 0.05 metres and using the equation given on page 120 of ETSU-R-97. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary. Standardised 10 metre height wind speed data shall be correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c).
- (e) Data provided to the Local Planning Authority in accordance with paragraphs (E) (F) (G) and (H) of the noise condition shall be provided in comma separated values in electronic format.
- (f) A data logging rain gauge shall be installed within 3m of any sound level meter installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

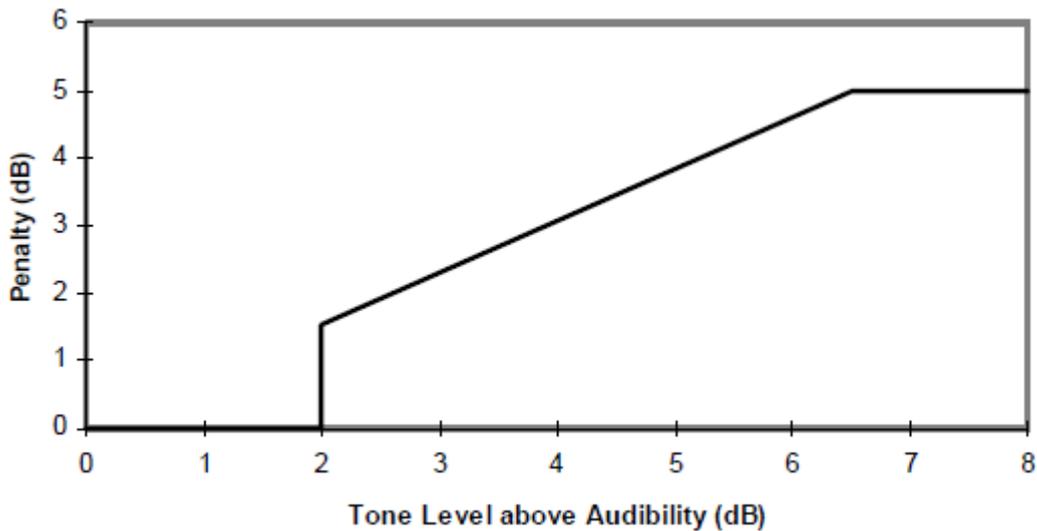
### **Note 2**

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

### **Note 3**

- (a) Where, in accordance with the approved assessment protocol under paragraph (E) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.

- (b) For each 10-minute interval for which  $L_{A90,10\text{-minute}}$  data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.
- (c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.
- (d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- (e) A least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.
- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



**Note 4**

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

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