



Department for
Communities and
Local Government

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Our Ref: APP/V3310/A/13/2197449
Your ref: 181122.000003

31 July 2014

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY BROADVIEW ENERGY LIMITED
SITE AT PILROW FARM, LAND EAST OF THE M5 AND SOUTH OF A38 BRISTOL
ROAD, ROOKSBRIDGE, AXBRIDGE, SOMERSET
APPLICATION REF: 24/12/00018**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Paul Jackson B Arch(Hons) RIBA, who held an inquiry into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Sedgemoor District Council ("the Council") to refuse planning permission for an application for planning permission for four wind turbines with a maximum overall height (to vertical blade tip) of up to 130 metres; together with new access tracks, hardstanding areas, anemometry mast, transformers/switchgear kiosks, a control building, cabling, a temporary construction compound, and other works and development ancillary to the main development, dated 22 June 2012, in accordance with application ref: 24/12/00018.
2. The appeal was recovered for the Secretary of State's determination on 14 October 2013, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, following the Secretary of State's announcement on 10 October 2013 of his intention to consider for recovery appeals for renewable energy developments to enable him to consider the extent to which the new practice guidance referred to in his announcement is meeting the Government's intentions.

Inspector's recommendation

3. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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Policy Considerations

4. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the adopted development plan comprises the Sedgemoor Core Strategy (CS) adopted on 12 October 2011 and the Secretary of State agrees that the most relevant policies for this case are those set out by the Inspector at IR15-22.
5. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (“the Framework”) and the planning practice guidance published 6 March 2014; the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3); the Overarching NPS for Energy (EN-1); and the Written Ministerial Statements on ‘Local Planning and onshore wind’ (DCLG) and ‘Onshore wind’ (DECC).
6. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has also paid special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess.

Procedural Matters

7. The Secretary of State notes that the Councils second reason for refusal relating to the potential for a significant effect on bird populations moving between internationally designated sites was not pursued at the inquiry and that Natural England withdrew their objections (IR4).
8. He also notes that since the close of the inquiry the Court of Appeal issued a judgement on 18 February 2014 in the case of Barnwell Manor Wind Energy Limited v East Northamptonshire District Council concerning the weight to be attached to harm to listed buildings and the overall balancing exercise that decision makers must undertake. Comments on these cases were invited from the parties and have been taken into account by the Inspector (IR8).
9. Following the close of the inquiry the parties were invited to submit representations on whether the planning guidance published 6 March 2014 affected their case on this appeal. The Secretary of State notes that the Inspector has taken this into account in his report (IR9).

Main issues

10. The Secretary of State agrees with the Inspector that the main considerations are those set out at IR292.

Landscape considerations

11. For the reasons given at IR293-IR306, the Secretary of State agrees with the Inspector’s conclusion at IR305. The Secretary of State acknowledges that the sensitivity of the receiving landscape is increased by the existence of Brent Knoll which largely defines this area of the Levels and that its existence as a conspicuous isolated element also increases the magnitude of the impact of any

turbines located near to it, which would compete with and diminish its significance (IR305). The Secretary of State notes the Inspector's findings with regard to the cumulative landscape impact (IR306).

Visual amenity

12. The Secretary of State has given careful consideration to the Inspector's analysis (IR307-IR313). The Secretary of State agrees with the Inspector (IR312) that, although the potential of removing the wind turbines after 25 years is important it does not mitigate for development that would affect the landscape character and visual amenity for a generation. For the reasons given by the Inspector (IR307-IR312) the Secretary of State agrees with his conclusion that there would be significant conflict with the landscape character and visual amenity protection aims of policies D4 and D14 of the CS, the NPPF and planning guidance (IR313).

Other matters

The effect on heritage matters

13. For the reasons given at IR314-IR319, the Secretary of State agrees with the Inspector's conclusion at IR320 that the height and moving blades of the turbines would significantly detract from the ability to appreciate the heritage significance of the hillfort although the magnitude of the effect would be moderate/major and that the harm caused would not amount to 'substantial harm' in terms of the Framework (IR320).

Residential amenity and living conditions

14. The Secretary of State has carefully considered the evidence and the Inspector's conclusions on the impacts of the proposals on residential amenity and living conditions (IR321-IR324). The Secretary of State agrees with the observations of the Inspector that many occupiers of individual properties would find their view altered to one of 'countryside including wind turbines' or 'Brent Knoll with wind turbines' and that most would find the change objectionable compared to their current outlook which despite the presence of the M5 and pylons in some views, is not dominated by man made structures (IR322). In most cases, due to the arrangement of windows, intervening features such as buildings or the M5, distance, vegetation and/or orientation, residential amenity would not be unacceptably affected.

Biological diversity and wildlife/nature conservation

15. The Secretary of State has had regard to the evidence (IR325-IR326) on this matter and for the reasons he gives, he agrees with the Inspector that this matter does not weigh against the proposal (IR326).

Aviation

16. The Secretary of State notes that a suggested condition requiring aviation lighting (IR327) and the suggested condition requires a physical shield to prevent downward illumination (IR328). For the reasons given by the Inspector the Secretary of State agrees that such lighting would only draw further attention to the

height and nature of the turbines and this matter counts against the scheme (IR328).

Noise

17. The Secretary of State has given careful consideration to the matter of noise and for the reasons given by the Inspector he agrees there is no reason to consider that operational noise from the development counts against the scheme (IR329) and that in terms of construction works the short term nature of the construction process and the control available on hours of working suggest these concerns can be acceptably mitigated (IR330).

Energy and wind resource

18. The Secretary of State has had regard to the the Inspector's observations about the energy benefits of the proposal and the level of Government subsidy. He agrees that wide environmental and economic benefits attach to all renewable energy proposals which is a very significant material consideration.

TV interference

19. Like the Inspector, the Secretary of State considers that the likelihood of TV interference is very low but should it occur, mitigation measures can be provided and controlled by condition (IR334).

Shadow flicker

20. For the reasons given by the Inspector, the Secretary of State agrees that this matter can be controlled by condition and that this matter does not weigh against the scheme (IR334).

Foundation and track design

21. The Secretary of State has had regard to the evidence on this matter at IR 335. He agrees with the Inspectors analysis and his conclusion that there is nothing to indicate that the foundation and track designs proposed are unreasonable given what is known from all parties about the ground conditions. He therefore considers this matter does not count against the scheme (IR336).

Highway safety

22. The Secretary of State notes that the level of traffic on the A38 is a serious matter of concern to residents of Rooksbridge because this busy road divides the village (IR337). He has had regard to the evidence (IR337-IR340) and for the reasons given by the Inspector and he agrees with his conclusion that there is no evidence that highway safety concerns should prevent the scheme going ahead (IR340) or that the proposals would give rise to an unacceptable risk or disadvantage to anyone (IR341).

Planning balance

23. The Secretary of State agrees with the Inspector that the proposals would provide a significant uplift in renewable energy and reduction in CO2 emissions and that

there would be some benefits to the local economy in terms of employment and a material improvement to wildlife habitat (IR345).

24. However, he also agrees that there would be a serious adverse impact on the landscape character and visual amenity for a significant area on the Somerset Levels. He further agrees that there would be a degree of harm to many views from the Mendips which are an ANOB and less than substantial harm to the setting of a scheduled ancient monument in the form of Brent Knoll Hillfort, limited harm to the setting of East Brent Church, and a significant deleterious cumulative impact on the residential amenity of at least two dwellings, considered together with the proximity of the M5. Like the Inspector the Secretary of State also considers that there are no means of mitigation for the landscape and visual harm (IR346).

Conditions

25. The Secretary of State has considered the Inspector's comments at IR277-IR290 and his recommended conditions as set out in Annex 2 to his report. The Secretary of State is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of Planning Guidance – Use of Conditions. However, he does not consider that they overcome his reasons for dismissing the appeal.

Section 106 Undertaking

26. The Secretary of State has also considered the Inspectors comments at IR291 with regard to the signed and dated unilateral undertaking. He agrees with the Inspector that the provisions of the undertaking meet the tests set out in the Framework and Regulation 122 of the Community Infrastructure Levy Regulations (2010)b but does not overcome his reasons for dismissing the appeal.

Overall conclusions

27. Overall, the Secretary of State considers that the substantial harm to the landscape and visual amenity coupled with the substantial harm to the setting of the scheduled ancient monument of Brent Knoll Hillfort, harm to other heritage assets and the significant adverse impact on residential amenity, clearly outweigh the need for the proposal and its wider economic benefits. He therefore considers that the factor in favour of the scheme would not overcome the overall harm so as to justify permitting the appeal scheme.

Formal Decision

28. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the erection, 25 year operation and subsequent decommissioning of a wind energy development comprising: four wind turbines with a maximum overall height (to vertical blade tip) of up to 130 metres; together with new access tracks, hardstanding areas, anemometry mast, transformers/switchgear kiosks, a control building, cabling, a temporary construction compound, and other works and development ancillary to the main development, dated 22 June 2012, in accordance with application ref: 24/12/00018.

Right to challenge the decision

29. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

30. A copy of this letter has been sent to Sedgemoor District Council, and a notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Richard Watson

Authorised by the Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Paul Jackson B Arch (Hons) RIBA

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

Date 23 April 2014

Town and Country Planning Act 1990

Sedgemoor District Council

Appeal by

Broadview Energy Ltd

Inquiry opened on 7 January 2014

Land east of the M5 and south of A38 Bristol Road, Rooksbridge, Axbridge, Somerset

File Ref(s): APP/V3310/A/13/2197449

INDEX

	Page
Preliminary Matters	1
The Site and its Surroundings	4
Planning Policy	4
The Case for Broadview Energy Ltd	9
The Case for Sedgemoor District Council	17
The Case for No Pilrow Ltd	28
Interested Parties	40
Written Representations	59
Planning Conditions	60
S106 Undertaking	61
Inspector's Conclusions	61
Formal Recommendation	75
Annex 1 – Appearances and Inquiry Documents	76
Annex 2 - Schedule of suggested conditions	79
Annex 3 - Core Documents list	94

File Ref: APP/V3310/A/13/2197449

Land east of the M5 and south of A38 Bristol Road, Rooksbridge, Axbridge, Somerset

- The application was recovered for decision by the Secretary of State by a direction, made under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, on 14 October 2013.
- The appeal is made by Broadview Energy Ltd against the decision of Sedgemoor District Council.
- The application Ref 24/12/00018, dated 22 June 2012, was refused by notice dated 8 April 2013.
- The development proposed is the erection, 25 year operation and subsequent decommissioning of a wind energy development comprising: four wind turbines with a maximum overall height (to vertical blade tip) of up to 130 metres; together with new access tracks, hardstanding areas, anemometry mast, transformers/switchgear kiosks, a control building, cabling, a temporary construction compound, and other works and development ancillary to the main development.

Summary of Recommendation: That the appeal be dismissed.

Preliminary matters

1. The development is known as the Pilrow Wind Farm. Turbines are referred to in the Report as T1, T2, T3 and T4¹. Before and during the site visit on 16 January 2014, turbine positions were marked on the ground with red flag markers.
2. Prior to the Inquiry, 'Rule 6' status was granted to a group of residents, NoPilrow Limited (NPL).
3. The planning application was accompanied by an Environmental Statement (ES) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) (EIA) (England and Wales) Regulations 1999, as amended. Following the applications, Further Environmental Information (FEI) was submitted including: an update to the noise assessment in response to the Institute of Acoustics A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise of May 2013²; further visualisations following the grant of development consent for Hinkley Point C nuclear power station in March 2013; and an Energy Generation Report following the issue of Planning Practice Guidance for Renewable Energy (PPGRE) of July 2013³.
4. The Council's second reason for refusal related to the potential for a significant effect on bird populations moving between internationally designated sites, namely the Severn Estuary and the Somerset Levels and Moors. Following the refusal, further survey information was received from the appellant, and the Council commissioned a further Habitats Regulations Assessment⁴ which concluded that subject to conditions, there would not be a significant effect on bird populations. Subsequently Natural England (NE) withdrew their objections on 2 July 2013 and this reason for refusal was not defended by the Council at

¹ See Figure 3.1 of Vol 2 of the Environmental Statement

² Core Doc (CD) 12.2

³ CD 2.9

⁴ Attached to the Council's statement of case

the Inquiry. Other objections were made on ecological grounds and these are considered in the body of this Report.

5. The Inquiry was opened on 7 January 2014. A large number of members of the public attended but due to the indisposition of one of the advocates, public sessions could not be started until the following day. Arrangements were made to ensure that any who wished to speak could be heard on a later date or at an evening session which was held at East Huntspill Village Hall on 14 January.
6. Although formal public sessions ended on 17 January 2014, the Inquiry was not finally closed until 17 February. This was because during the Inquiry, issues had arisen which required detailed responses from the appellant company and its specialist advisors⁵ which could not be completed within the allotted Inquiry time. Also, for unexpected reasons beyond their control, NPL were unable to prepare their closing remarks for the final sitting day. The adjournment allowed the appellant to respond to the various issues that had arisen, NPL to submit their closing remarks in writing (which were published on the Council's website), allowed time for the Council and NPL to respond to the appellant's further detail submissions and a final week for the appellant to provide any final response. The Inquiry was finally closed in writing on 18 February 2014.
7. A signed and dated section 106 (S106) unilateral undertaking⁶ (UU) was submitted by the appellant. The object of this is to provide an alternative route in the form of a permissive footpath for the construction period and the lifetime of the development which maintains a minimum distance between users and T4. I consider the UU in the body of the Report.
8. On 25 February 2014 the Secretary of State issued his decision to refuse an application for the erection of 4 wind turbines with a maximum overall height of up to 120m together with access tracks, hard standing areas, information board, electricity sub-station, temporary construction compound and amended vehicular access on land to the south of Poplar Farm, Puriton Road, West Huntspill, Highbridge (known as the Black Ditch Wind Farm)⁷. This site of this scheme is about 8 kilometres (km) to the south west of the Pilrow site. In a separate development, the Court of Appeal issued a judgement on 18 February 2014 in the case of Barnwell Manor Wind Energy Limited v East Northamptonshire District Council concerning the weight to be attached to harm to listed buildings and the overall balancing exercise that decision makers must undertake. Comments on these cases were invited from the parties⁸ and have been taken into account in this Report.
9. On 6 March 2014 the Department for Communities and Local Government published web based National Planning Practice Guidance (hereafter referred to as planning guidance in this Report⁹), previously in draft, which replaces a raft of planning guidance documents including the July 2013 PPGRE. Comments on the planning guidance were invited from the parties and these have been taken into account in this Report¹⁰.

⁵ Docs 61-67

⁶ Doc 68

⁷ Ref APP/V3310/A/12/2186162

⁸ Doc 71

⁹ In accordance with correspondence from the Planning and Development Minister in a DCLG briefing

¹⁰ Doc 72

The site and surroundings

10. The appeal site is situated near the village of Rooksbridge in Somerset, approximately 4km northeast of Burnham-on-Sea and 10km southeast of Weston-Super-Mare. The site boundary coincides with the M5 motorway where it diverts around an isolated hill, 'Brent Knoll'. The site comprises agricultural farmland mainly used for grazing. A Public Right of Way (PROW) crosses through the centre of the site running from the M5 in the west to Pill Road in the southeast. The field boundaries are predominately hedges and ditches with occasional trees. A line of 132 kv electricity pylons about 26 metres (m) high runs from north to south to the east of the site. The Hinkley Point 'C' nuclear power station has been granted a development consent order and this link will be updated as part of the power station development. The new 400 kv pylons will be a 'T' profile about 35m high¹¹.
11. Located within the Somerset Levels, the topography of the local area is predominately flat within which Brent Knoll and the Mendip ridge to the north are prominent features. The nearest designated landscape is the Mendip Hills Area of Outstanding Natural Beauty (AONB), located approximately 4.75km from the proposed development. The Quantock Hills AONB lies much further to the south but its high ground is visible and defines the southwestern extent of the Levels. The turbines lie between 1 and 2km from Brent Knoll, which although not designated, is an important landscape feature and a significant focal point in the western part of the Levels, visible from a wide area.
12. The turbines would have a generating capacity of between 2 and 3 Megawatts (MW) each. In total, the proposed development would have a rated generating capacity of between 8 - 12MW. The proposed grid connection point would be confirmed following receipt of planning permission for the proposed development. These works will either form the subject of a separate application or will be delivered pursuant to the local electricity Distribution Network Operator's permitted development rights.
13. The main access to the site for large components would be from the M5 to the A38 (Bristol Road) and then via a new access by the Stables Business Park¹² to the west of Rooksbridge. The overall construction period is anticipated to last approximately 11 months.

Planning Policy

14. For the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004, the adopted development plan comprises the Sedgemoor Core Strategy (CS) adopted on 12 October 2011. There are no relevant regional planning policies: the Interim South West Regional Spatial Strategy of 2000 (RSS) and the Somerset and Exmoor National Park Joint Structure Plan Review 1991 -2011 were revoked on 20 May 2013, save for policy 6 of the RSS which is concerned with the Bristol/Bath Green Belt. The evidence base and the reports undertaken by the Government Office South West and the South West Regional Assembly which informed the renewable energy policies in the draft RSS are not part of

¹¹ See Viewpoints (VP) 3 & 11 and Doc 35

¹² See ES Fig 3.5

the development plan nor are they supplementary guidance, but they contributed to the CS and are agreed to be a material consideration.

15. Policy D4 of the CS supports proposals that maximise the generation of energy from renewable or low carbon sources, provided that the installation would not have significant adverse impact taking into account the following factors:
- The impact of the scheme, together with any cumulative impact (including associated transmission lines, buildings and access roads), on landscape character, visual amenity, historic features and biodiversity;
 - Evidence that the scheme has been designed and sited to minimise any adverse impact on the surrounding area as far as is practical for its effective operation;
 - Any unreasonable adverse impact on users and residents of the local area, including the generation of emissions and noise; and
 - The extent of any direct benefits to the local area and community.
16. D4 goes on to say that wind turbine proposals in the vicinity of designated sites of international importance for nature conservation at the Severn Estuary or Somerset Levels and Moors, or within the areas between these sites, will need to be subject of rigorous assessment in respect of potential impacts on bird species. In all cases development will need to demonstrate that there are no significant adverse impacts on biodiversity interests as set out in policy D14: Natural Environment and policy D15: Bat Consultation Zones. In September 2010 Somerset County Council published a report on Bats and Wind Turbines¹³, with the intention of appraising the area within Sedgemoor for locating wind turbines in places where there would be minimal risk to bat mortality. The CS requires that any proposals for onshore wind pay regard to this report.
17. Policy D14 concerns the natural environment and insofar as relevant to this proposal, advises that outside of the AONBs, proposals should ensure that they enhance the landscape quality wherever possible or that there is no significant adverse impact on local landscape character, scenic quality and distinctive landscape features as identified in the Sedgemoor Landscape Assessment and Countryside Design Summary (SLA) of 2003¹⁴. This is to be achieved in particular through:
- Siting and landscaping that takes account of visibility from publicly accessible vantage points; and
 - The form, bulk and design of buildings having proper regard to their context in respect of both the immediate setting and the defining characteristics of the wider local area.

The SLA was commissioned in 1997 and was intended to satisfy a number of objectives, including analysis of the character of the landscape and to describe the way in which landscape has evolved, identifying current forces for change and identifying key issues with regard to landscape management as it affects

¹³ CD 9.6

¹⁴ CD 3.1

landscape character. It was updated in 2003 and formally adopted as a Supplementary Planning Document (SPD) on 27 March 2013.

18. Where there are reasonable grounds to suggest that a development proposal may result in a significant adverse impact on the landscape, the Council will require planning applications to be supported by Landscape and Visual Impact Assessments (LVIA). In exceptional circumstances, where development is necessary and could result in significant impact on the landscape, appropriate mitigation and compensation measures should be provided.
19. With regard to biodiversity, development proposals should contribute to enhancing and maintaining biodiversity, taking into account climate change and the need for habitats and species to adapt to it. Development will be supported where, as well as ensuring the protection of internationally and nationally designated sites, it protects the nature conservation interest of local sites designated for their nature conservation value; retains or enhances features such as wetlands, watercourses, coastal features, hedgerows, trees, copses and ponds which provide wildlife corridors, links or stepping stones from one habitat to another; and it makes positive provision for wildlife through appropriate urban and rural habitat creation/restoration including tree and hedgerow planting, and subsequent management.
20. Policies S3, S4, D16 and P6 are also relevant. S3 sets out broad sustainable development principles and indicates that development proposals will be supported where they contribute to meeting objectives including mitigating the causes of climate change and adapting to those impacts that are unavoidable; and minimising the impact on natural resources, avoid pollution and incorporate the principles of sustainable construction to contribute to energy efficiency, renewable energy, waste reduction/recycling, the use of sustainably sourced materials, sustainable drainage, reduced water use, water quality and soil protection; and protect and enhance the quality of the natural, built and historic environment improving their understanding, appreciation and sustainable use.
21. The preamble to policy S4 records that tackling climate change is a key aim for the Government. Amongst other things, the policy seeks development that minimises greenhouse gas emissions, incorporates energy efficiency, helps to reduce waste and encourages modes of transport other than the car; and utilises on-site or decentralised renewable energy where feasible. One aim of policy D16 is to protect residential amenity; development proposals that are likely to result in levels of air, noise, light or water pollution (including groundwater), vibration or soil contamination that would be harmful to other land uses, human health, tranquillity, or the built and natural environment will not be supported. Policy P6 says that new development outside of identified settlements will be strictly controlled but will be supported where it accords with other relevant policies contained in the CS that provide, exceptionally, for development in the countryside. Where development proposals in the countryside are not addressed by other policies of the CS, new development must relate to specific countryside needs, such as those of the local agricultural industry and local food producers, enhancement of the environment or where a countryside location is essential or more sustainable. There is no dispute that a countryside location is inevitable where large scale renewable energy is concerned.

22. Sedgemoor Council undertook a study in conjunction with Taunton Deane Borough Council and Somerset County Council to assess the potential for renewable and low carbon energy in Sedgemoor and to assist in the development of an evidence base on decentralised and renewable or low carbon energy to inform the Local Development Framework. This study entitled "PPS1 Supplement Study: Planning and Climate Change" (October 2010)¹⁵ (subsequently referred to as the PPS1 Study) indicates preferred locations for onshore wind and identifies an indicative potential capacity for onshore wind in Sedgemoor of 28MW.

National policy

23. As a result of EU Directive 2009/28/EC, the UK is committed to a legally binding target to achieve 15% of all energy generated from renewable resources, including electricity, heat and transport, by 2020. The 2006 Energy Review has an aspiration of 20% of electricity to be from renewable resources by 2020. The Climate Change Act of 2008 sets a target of at least an 80% cut in greenhouse gas emissions by 2050. The overarching strategy to reduce carbon emissions to meet the requirements of the EU Directive and the Climate Change Act is contained in the 2009 UK Renewable Energy Strategy and the UK Low Carbon Transition Plan; the lead scenario is that 30% of electricity is to be derived from renewable resources by 2020, though this is not binding. The UK Renewable Energy Roadmap (the Roadmap) was published in 2011 and focuses on 8 technologies which are considered to offer the greatest potential to deliver the infrastructure to meet the target, including onshore wind energy. An update to the Roadmap was published in November 2013¹⁶ which confirms that to the end of June 2013, there was a total of installed onshore wind capacity of 7.0 Gigawatts (GW). A total of over 19.5GW of onshore wind capacity was in operation, under construction or had entered the formal planning system, including the Pilrow scheme. The document records that very good progress has been made against the 15% target but that the Government retains strong ambitions for renewables deployment beyond 2020.
24. Not all of the developments anticipated in the Roadmap will be consented and not everything will be built, but the majority of new onshore wind developments will be in Scotland. There is no cap on capacity. The Roadmap advises that onshore wind, as one of the most cost effective and proven renewable energy technologies, has an important part to play in a responsible and balanced UK energy policy. The Government will continue to provide a stable long term investment framework for the sector.
25. The 2013 Update states that the Government recognises that some people have concerns about onshore wind developments and it remains committed to ensuring that projects are built in the right places, with the support of local communities; and that they deliver real local economic benefits. New proposals are needed to meet the 2020 ambition and longer term decarbonisation.
26. The National Planning Policy Framework (NPPF) of 2012 replaced the previous Planning Policy Statements (PPSs) and Planning Policy Guidance Notes, though PPS5 Planning for the Historic Environment Practice Guide (PPS5PG) remains extant. The NPPF says at paragraph 98 that applicants for energy development

¹⁵ CD 3.2

¹⁶ CD 6.33

should not have to demonstrate the overall need for renewable or low carbon energy. Applications should be approved¹⁷ if their impacts are (or can be made) acceptable. The NPPF advises that decision makers should follow the approach set out in the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3), read with the Overarching NPS for Energy (EN-1), both dated 2011.

27. The advice needs to be read as a whole. Particularly relevant to this case is paragraph 5.9.18 of EN-1 which advises that all proposed energy infrastructure is likely to have visual effects for many receptors around proposed areas and that a judgement has to be made on whether the visual effects on sensitive receptors, such as local residents and visitors to the area, outweigh the benefits of the project. EN-3 states at paragraph 2.7.6 that appropriate distances should be maintained between wind turbines and sensitive receptors to protect amenity, the two main impact issues being visual amenity and noise. Paragraphs 2.7.48/49 say that commercial wind farms are large structures and that there will always be significant landscape and visual effects for a number of kilometres around a site; the arrangement of turbines should be carefully designed to minimise effects on the landscape and visual amenity whilst meeting technical and operational siting requirements and other constraints. Paragraphs 2.7.52-62 concern noise impacts and indicate that ETSU¹⁸ should be used to assess and rate noise from wind energy development, taking account of the latest industry good practice.
28. The NPPF has a core principle at paragraph 17 that specifically supports the transition to a low carbon future in a changing climate and encourages the use of renewable resources (for example, by the development of renewable energy). Other core principles include that a good standard of amenity should always be sought for existing and future occupants of buildings and that planning should take account of the different roles and character of different areas.....recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.
29. A Ministerial Statement of 6 June 2013 draws attention to some local communities' genuine concerns that insufficient weight is being given to environmental considerations like landscape, heritage and local amenity. The subsequent advice in the planning guidance in the section titled 'Renewable and low carbon energy' advises that:
- the need for renewable or low carbon energy does not automatically override environmental protections;
 - cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases;
 - local topography is an important factor in assessing whether wind turbines and large scale solar farms could have a damaging effect on landscape and

¹⁷ Unless material considerations indicate otherwise

¹⁸ Doc 12.1 ETSU-R-97: 'The Assessment and Rating of Noise from Wind Farms'

recognise that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas;

- great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting;
 - proposals in National Parks and Areas of Outstanding Natural Beauty, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration;
 - protecting local amenity is an important consideration which should be given proper weight in planning decisions
30. The planning guidance carries forward the same objectives and also recommends the use of ETSU.
31. In accordance with the duty set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), special regard needs to be paid to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess. Special attention must also be given to the desirability of preserving or enhancing the character or appearance of conservation areas, as required by section 72(1) of the LBCA.

The Case for Broadview Energy Ltd

The main points are:

32. This proposal comes forward as a direct consequence of the urgent need to provide renewable energy provision and displace other carbon-emitting forms of energy. It must therefore be considered to bring significant benefits to be weighed in the planning balance. The nature and weight of objections to this proposal need therefore to be considered in that context.
33. There was nothing in the Council's evidence to support the argument that, in the light of the potential cumulative effect of multiple renewable developments being sited in one area, there might be an unacceptable cumulative impact. Potential cumulative impacts from forms of development other than the upgraded Hinkley C pylon line have never been an issue raised by either the Council or any statutory consultee.
34. The local landscape context includes not only Brent Knoll, but also the M5 motorway, electricity transmission lines and steel pylons, established settlements such as Rooksbridge and East Brent, and commercial development around the M5 service area, including the noticeable garden centre which has obtained planning permission for an expansion which will allow it to double in size. The overhead electricity lines will be upgraded for the purposes of the new Hinkley Point C nuclear reactor. Those new pylons will be erected, regardless of whether this proposal is built.
35. The SLA refers to transport corridors being one of the attributes of the Levels and Moors landscape character area (LCA), and that the M5 is a "dominant" landscape characteristic in this area. This landscape is relatively less sensitive to development of this nature, and that sensitivity will be further reduced when the

upgraded Hinkley C electricity transmission line is completed. The Pilrow site is part of an identified area of search for large scale wind turbines within the PPS1 Study. The area including the appeal site is identified as one of the "wind development zones", and called "Site 3" at page 16 of the Arup report and was discounted for no reason. The text says that this area "could be considered to be environmentally and visually sensitive" but that judgement is not explained in the text; and when the appellant asked the authors of the report to explain the evidence for that form of words, Arup confirmed that there was no evidence base. There is no reason why the part of Site 3 in which this proposal lies, which was never subject to an old Special Landscape Area designation, nor is it an Environmentally Sensitive Area¹⁹, should have been discounted by the Arup report. The Arup report does refer to the Inner Farm decision²⁰, but if that scheme (and its refusal) was relevant to Site 3 it would have been easy for the report to say so, in terms. No reason was given for not bringing Site 3 forward.

36. The CS does not, in relation to policy D4 (which refers to the PPS1 Study), endorse or reject any site or area for wind energy development, but does require that the district seeks to utilise the "important" 28MW capacity for wind turbines identified in it. There is little which distinguishes the Pilrow site from a number of sites in flat east of England landscapes - a particular example being the Little Cheyne Court site on the Romney Marsh in Kent, which is host to 20+ turbines of this scale - where wind turbines have been consented in large numbers. It cannot be:

- The proximity of residential properties (which are no closer to these turbines than many others which have been considered)
- The presence of public rights of way;
- statutory designations;
- the contrast between large scale flat landscapes and the verticality of wind turbines; or
- the present of extensive grazing marsh,

which could lead to a conclusion that this landscape cannot accommodate such turbines, whereas other flat, open large-scale landscapes can.

37. All that appears to be different is the presence of Brent Knoll, a natural hill feature with an ancient fort above the Levels and from which the observer would be closer to the proposed turbines. There is no doubt that Brent Knoll is considered 'special' locally but, in the broader picture, there is nothing so special that consent should be definitively withheld. Significant effects will not arise at the regional level. Factors such as remoteness, mysticism, wildness and desolation, aligned with the grazing marsh system's environmental importance, were regionally-important attributes of the landscape that would be affected. But self-evidently those characteristics are not strongly apparent, if indeed they are apparent at all, in this part of the Levels. The environmental importance of the grazing marsh system will not be affected.

¹⁹ See Map 4 at the end of the SLA

²⁰ Appeal ref APP/V3310/A/06/2031158 Inner Farm, Edithmead, Burnham-on-Sea issued 15 January 2008 (CD 5.16)

38. There is a difference of professional opinion on whether there would be a significant visual effect from the nearest part of the Mendip Hills AONB but there is no suggestion that there would be any such effect from the Quantock Hills or Blackdown Hills. None of the key characteristics and attributes as well as the references to Brent Knoll refer to any quality that raise it from being a feature of local relevance to one of more widespread importance at the regional level.
39. The Council does not allege a significant, unacceptable impact upon the AONB or its setting. The Council contends that there is an important element of intervisibility between the AONB, the Levels, and Brent Knoll - an assessment of landscape character which is not founded on anything in the local or regional landscape character assessment documents - such that significant landscape character effects will extend to 5km from the site of the turbines, but the detailed assessment of landscape character effects which might support such a conclusion was entirely lacking from the evidence.
40. In fact, there was little disagreement between the Council and the appellant as to the likely level of visual impacts. The Council's evidence did not contain any comprehensive, or indeed transparent, alternative assessment of landscape or visual effects. It was really only trying to make a case for a greater or "unacceptable" impact, despite failing to find anything inherently 'wrong' in the ES assessment of impacts. The Council acknowledges that significant visual effects are likely to be found up-to circa 5 km from the turbines or, at most, a little further in one or two cases.
41. The Council suggests that judgements should be viewed with caution because the concept of 'valency' (qualifying judgements in terms of positive or negative) should be avoided. If this were the case, then it is hard to understand how the Council's landscape witness could form just such a judgement in concluding that the effects were 'adverse'. His approach was to state that anything which was at odds with the baseline must be classed as negative, in other words change = adverse. That cannot be the case if one follows the approach in the GLVIA 3rd Edition²¹ definition of landscape (repeated from GLVIA 2nd Edition) that character is what makes one landscape different from another, not better or worse. A change in character as a result of wind farm development cannot, in itself, be better or worse. Such judgements as to whether effects should be regarded positively or negatively must be based on other factors than simply that a change has taken place.
42. The appellant set out why the scheme should be seen in a positive manner and, fairly, recognises plainly that there is a contrary opinion which, if based on fact and genuinely held, must be recognised and respected. It is a great pity that those holding that contrary opinion cannot or have not done the same. It is not the 'concept' of 'valency' that should be put aside, accordingly to the 3rd edition of the GLVIA, but use of that particular word itself. The Council's position on this, as on many other aspects of the landscape and visual impact, had been arrived at without proper (or any) regard to the source documents that should inform their approach.
43. A change in local landscape character is inevitable but there is nothing that would change the landscape irrevocably and which would be significant beyond the life

²¹ CD 7.2

of the wind farm in this undesignated, open, exposed, large-scale landscape. This will not result in the 'industrialisation' of the landscape²². Continuity is ensured in that the elements which are of value in cultural heritage terms will be maintained into the future²³.

44. It is agreed that the grid connection from Hinkley 'C' will give rise to a significant adverse effect. In cumulative terms, should the proposed wind farm be established, it would be in a part of the landscape converted in the Council's terms into an energy/infrastructure corridor. The Hinkley C upgraded pylon line will give rise to significant landscape and visual change on its own and that effect will extend well beyond the area of 5km around the Pilrow site, because of the much greater extent of that transmission line.
45. Noting that the matter which is of most relevance in landscape and visual terms relates to Brent Knoll, the first point to make is that the Inner Farm decision²⁴ is not some sort of 'precedent' as to how this application should be determined. A clear differentiation can be made in terms of the direction of the views out, the character of the views out, and the span of views potentially affected. Looking out from Brent Knoll it is clear that the development of the proposed wind farm would occupy a relatively narrow cone of view (around 14 degrees); would place it close to the 'developed countryside' perceptions associated with the M5/A38 'infrastructure corridor' – the large garden centre; the caravan site as well as other development; would place it between the M5 and the Hinkley 'C' grid connection and would be outwith the line of sight to Glastonbury Tor; would leave views to the Mendips in a northerly direction substantially unaffected; and would leave views to the Quantocks on a clear day substantially unaffected. Views to Brent Knoll would, from some directions, place the turbines in front of the Knoll but the difference between the visually 'light' wind farm and the 'mass' of Brent Knoll, would ensure that the latter would not be dominated by the former. From other directions, both would provide vertical counter-point to the vast horizontality of the Levels whilst maintaining separation between them.
46. The grid connection for the wind farm would be underground. The turbines would stand as a statement in their own right which will be viewed positively by a section of the population, but will give rise to harm to those who would regard it in an adverse light. It is inescapable that there will be a significant landscape and visual impact in the immediate proximity of the turbines. That is the case wherever such structures are built. Government policy recognises that significant landscape and visual impacts at close range to turbines will follow from the provision of renewable energy in the public interest.

Ecology

47. Turning to ecology, the Council's stance was that there is no ecological reason to refuse the proposal, but that conditions requiring post-construction monitoring of impacts upon birds were required. However in its proof of evidence on ecology the Council has now indicated that it does not consider such monitoring conditions are necessary. The appellant welcomes this sensible change of position

²² Reference made here to Mr Stevenson's proof at Section 8 Footnote 7 and Inspector Griffiths decision at Tedder Hill (CD 5.23)

²³ Mr Stevenson's proof paras 3-51–3.60

²⁴ CD 5.16

on the part of the Council. Natural England (NE) has subsequently confirmed that it adopts the Council's position on this matter.

48. A very late objection, relating mainly to the manner in which baseline bird surveys had been carried out for the purposes of the ES, was produced by a local resident in the second week of the public inquiry. It remains the case that the Council, and NE were satisfied with the assessment of effects on birds, and do not object to this proposal (or even seek conditions requiring post-construction monitoring of bird collisions).

Residential visual amenity

49. The appellant recognises that there are residential properties in relatively close proximity to the turbines and has provided an assessment of the impact. Those conclusions show that none of the properties will be affected, in terms of their outlook, to such an extent that it would be against the public interest to grant planning permission. The Council does not suggest that the public interest test is failed in relation to any of the residential properties closest to the appeal site.
50. Short of differences in opinion as opposed to fact, there is little with which to quibble. Concerning residential amenity, all those appearing before the inquiry to protest in residential amenity terms have to acknowledge that the appellant has indicated that residents will experience a significant visual effect which they will consider adverse and which will reduce the enjoyment of their private residential amenity and which they will consider will reduce the pleasantness of their property. But the properties will not 'fail' the Lavender 'test'²⁵. Whilst residents will consider their private interests, to be affected, this is not a case where the public interest engaged.
51. The appellant understands that many of those who live closest to the appeal site feel strongly that their views should not be changed by the introduction of these wind turbines. They are of course entitled to that view, but none of the closest properties are so singularly oriented towards the appeal site or would be so close to the appeal site, that the turbines will come to dominate their residential amenity, because views in other direction could not be obtained, and/or because the presence of the turbines might become inescapable. That will not arise here.

Cultural heritage

52. No expert evidence was produced in objection to this proposal. Mr Funnell on behalf of the National Trust did appear, the owner of the Brent Knoll hillfort (and Scheduled Ancient Monument (SAM)). His representation did not suggest that the proposal would cause substantial harm, for the purposes of the NPPF, to the SAM. It referred to significant harm, rather than substantial harm, and suggested that a balance should be struck between the benefits of the proposal and the harm it caused to the SAM. It concluded that the harm outweighed the benefits. If the National Trust did consider that substantial harm will arise to the SAM, which does not appear to be the case, then no explanation as to why substantial (or greater) harm will arise has been presented.
53. Mr Loader gave evidence on cultural heritage matters for NPL. Dr Colcutt's evidence explained that many of the points that Mr Loader made were based

²⁵ As set out in CD 5.18 the 'Enifer Downs' case.

upon an incomplete understanding of the nature of the heritage assets— particularly the Brent Knoll Hillfort— and a lack of appreciation of what contributed to heritage significance and how that might be affected by the proposed development.

54. In this case, although various listed buildings or other assets were referred to in Mr Loader's evidence, it is clear from Dr Colcutt's assessment for the appellant that none would experience a material effect upon their setting, let alone one which would not be decisively outweighed by the benefits that will arise from this proposed development. In particular, as regards the Brent Knoll Hillfort:

- the readily visible modern elements in the landscape (especially the large-scale infrastructure features), demonstrate that there has been great change in the setting of the hillfort, with a diminished contribution to heritage-significance capable of being experienced from the present characteristics of the surroundings;
- in addition to having been greatly damaged by quarrying, the hillfort is disadvantaged by a poor archaeological excavation record and very little is actually known of the Iron Age and Roman use of the site. Even in respect of what we actually do know, there is currently no public interpretation material on, or even signage to, the site;
- in views outward from the hillfort, the proposed turbines would only occupy a small proportion of the whole panorama available. The relationships with other historic sites (such as the neighbouring hillforts or Glastonbury) would remain entirely legible;
- the proposal site does not stand in a relationship with Brent Knoll (let alone with the hillfort of Brent Knoll) that corresponds with current axes, inward or outward, of active public interest; and
- the Pilrow proposal will be distinguished clearly from the cultural heritage aspects of the Inner Farm decision²⁶.

55. As a consequence the proposed development will result in less than substantial harm, for the purposes of the NPPF, and that harm is clearly outweighed by the renewable energy benefits of the proposal.

Highways

56. There has been no objection from the Highway Authority concerning the effect of the construction traffic resulting from the proposed development, or the proposed access arrangements, upon either highways capacity or highway safety. The effect upon highway capacity and safety was raised for the first time in written evidence submitted by NPL. The appellant has demonstrated that even if the likely numbers of construction vehicle movements were dramatically increased, the resulting trip generation during the construction phase would not exceed reasonable thresholds of capacity for the highway network, and would not in itself give rise to any real concern as to highway safety. The appellant recognises that highway safety and capacity, is a matter of genuine concern to local residents, but there is no evidence which demonstrates that its assessment

²⁶ See Dr Colcutt Summary proof at paragraphs S21-S18

and the stance of the Highways Authority (and the District Council) is likely to be wrong.

Other issues

57. Television reception and the potential impact of shadow flicker are commonly dealt with by the imposition of planning conditions, which require the approval by the local planning authority of schemes to address future complaints arising from either issue.
58. In terms of recreational amenity, walkers on promoted routes would not be subject to significant visual effects such as to compromise unacceptably their enjoyment of the wider amenity in all directions when 'out and about' and this applies not only to those in the wider landscape e.g. the Mendip Hills but also more locally at Brent Knoll.
59. The matter of the need for a decommissioning bond has been raised by one objector, at a very late stage. There is no reason to conclude that such a bond is any more necessary in this case than it would be in any other case. It is not government policy (or Development Plan policy) that such a bond should be required in any, let alone every case; there is nothing to suggest that such a bond is needed in relation to this site.

The planning balance

60. There does not appear to be disagreement between the appellant and the Council's planning witness that the only relevant target is the national target for provision of renewable energy by 2020, notwithstanding reference in the Council's evidence to the District having met "its target", and reference in questions from the Council to various witnesses to the fact that the County had "met its targets".
61. The principal relevant CS policies D4 and D14 state that compliance with those policies is dependant upon no significant adverse impacts resulting from a development proposal. If there can be no significant impacts, there can be no commercial scale wind energy. The PPS1 Study is predicated upon commercial scale wind energy, and it is notable that although it recommended that Site 4 (Huntspill) be brought forward for wind turbine development, both proposals sited in that area (Black Ditch and Withy Farm) were refused planning permission by this Council. It is nonsense to suggest that there is some location in the District at which 130m, 100m, or even 80m turbines could be sited without resulting in some significant landscape and visual impacts. Unfortunately the Council attempted to defend that nonsensical position in its evidence, which did it little credit.
62. If the relevant CS policies are to be construed in a manner which is compliant with the NPPF then they must be read in such a way that allows for a balance between the impacts of the proposal and its benefits. If any significant effects give rise to non compliance with those policies then the CS itself does not comply with the NPPF.

63. In *Colman v Secretary of State* [2013] EWHC 1138 (Admin)²⁷ the High Court held:

"...the relevant development plan policies not only supported renewable energy development only against the background of the 2010 target, but also expressly provided that planning permission should be refused where there was significant harm to important identified interests, including visual character, living conditions and landscape character. The central aim of the policies was to avoid such significant harm"; and

"The whole thrust of the relevant development policies was restrictive, intended to ensure that any significant harm to important identified interests was avoided, and to that extent they were in substance discouraging; by contrast the NPPF encouraged and supported the development of renewable energy schemes, so long as any adverse impacts could be "addressed satisfactorily" and were "acceptable" – a wholly different framework."

64. The court upheld the Inspector's conclusion that policies worded in such a manner did not accord with the NPPF.

65. There is still a long way to go to meet the national targets for operational renewable energy generation capacity, which should in any event be exceeded. Consideration of the position in relation to the historic regional targets shows that Somerset lagged behind in meeting the old 2010 regional targets, in any event.

66. It remains the case that Sedgemoor has failed to realise (and failed to grant planning permission for) any of the 28MW capacity for commercial scale wind energy, the utilisation of which the CS regards as "important"²⁸. The Development Plan contains a clear commitment to provide 28 MW of wind energy, and solar provision, something upon which the Council- misguidedly- relies, is additional to that capacity, not an alternative to it. The Council may not like what is set out in the CS but it cannot ignore it.

67. Despite some improvement in the deployment of renewable energy in the last 18 months, the Roadmap Update 2013 shows just how far the country still has to go to meet the statutory targets: nearly a fourfold increase. The NPPF makes it clear that all communities must assist in providing renewable energy– it is in the interests of a district such as Sedgemoor and a county such as Somerset, which are vulnerable to sea level rise and the effects of winter storm events, that all communities contribute to combating climate change– and despite some improved performance in Sedgemoor, and Somerset, largely as a result of solar installation, the Council has still not met the old 'benchmark' draft RSS figures.

68. Whilst there is a clear need to have regard to the impact on landscape character and visual amenity, the proper balance shows that there is still a very strong case on this site which outweighs any harm which will be caused to the local landscape. Brent Knoll in particular will continue to be appreciated as a localised feature both for existing residents and visitors to the area. The Mendips AONB will not experience any material effect as a consequence of this proposal.

²⁷ CD 4.6

²⁸ CD 1.1 para 5.39

69. Contributing towards the national targets, contributing towards exceeding them, and providing no-carbon electricity generation which contributes towards security of domestic supply, are matters which should carry very significant weight in the planning balance.
70. The 12MW (maximum) installed capacity of this proposal would offer a significant benefit, arising from its contribution to the national targets (the RSS targets having been abolished by December 2013), as the Secretary of State found in relation to the Weddicar Rigg proposal²⁹. Even if it seems likely that the national target of 15% of energy coming from renewable sources by 2020 would be met, that target should be exceeded, and if the contribution provided by a single 800kw turbine to exceeding the target was "significant" in the Poolway Farm decision³⁰, this proposal must therefore be considered to bring significant benefits. It is laughable for the Council to suggest, as it did in opening, that targets have been met and therefore this proposal should be treated as a "windfall" site that should only be approved if it had no, or even no significant, landscape and visual effects.
71. What this appeal comes down to is the extent to which the effect of the proposed development on the character and appearance of the landscape of, and surrounding, Brent Knoll would be unacceptable or not. The proposal will be seen as separate from, and not competing with, the knoll, in a landscape which is already strongly influenced by modern, urbanising, features. That effect- entirely reversible after 25 years- should not be considered unacceptable.
72. The landscape and visual impacts which will arise from this proposal are limited in extent, and modest. The national targets for renewable energy provision must be met and exceeded. There remains an urgent imperative for more renewable energy, which at present must include a very significant component of onshore wind. The CS identifies Sedgemoor as having the potential to accommodate up to 28 MW of onshore wind generation yet no progress has been made to utilise that capacity. The Pilrow site is part of an identified area of search for large scale wind turbines, but that area was discounted for no explained reason; at the same time the Council has failed to grant permission for any scheme within the areas of search for turbine development. In the meantime the reason for the national renewable energy targets- the dire consequences of unchecked climate change- has not gone away. The local landscape is valued locally but there are no local landscapes which are not valued by someone. The benefits of this proposal outweigh, decisively, the limited harm it will cause.

The Case for Sedgemoor District Council

The main points are:

73. The question is to what degree and extent does the perception that a wind farm landscape or sub-landscape extend.
74. The first issue is to consider the nature of the receiving landscape. In the Natural England (NE) National Character Profile 142/3 'Somerset Levels and Moors'³¹

²⁹ CD 46

³⁰ CD 50

³¹ CD 7.13

there are five distinct elements to the Levels and Moors landscape: the hills and islands; the peat Moors which lie between them; the clay Levels towards the coast; the dunes and tidal flats of the coast itself; and the sand banks or 'burtles' marking the position of former river channels. However, despite being easily described in terms of its component parts, the Somerset Levels and Moors have a strong unity and a distinctive character. The character area assessment quotes Hawkins who identifies how *'its ancient pristine atmosphere co-exists with the sea walls and sluices and pumping stations of more recent days. Indeed, a great deal of its charm and interest is due to its paradoxical character as being at once more wild and primitive and yet more artificial than any other part of England'*³².

75. The assessment continues in respect of the hills and islands that "from the hills there are expansive views across the Levels and Moors. These take on particular variety and richness where the small hillocks punctuate the moors, as they do south of the Mendip Hills or where a complex landform like the Isle of Avalon rises abruptly". In historical terms it is described as: *"The Moors lie within the inland basins formed by the hills. Many parts are largely treeless and are dominated by the strong rectilinear pattern of the 'rhynes'."* SDC's assessment is supported by the European Landscape Convention which promotes the view that the lack of designation does not imply that a landscape has no value. Some landscapes are strongly linked to cultural heritage, and value may be placed on a landscape due to its rarity or novelty within a particular area. The important juxtaposition between these low lying Levels and the extensive (Mendips AONB) or 'island' (Brent Knoll) upland areas contributes markedly to the distinct landscape value on both local and regional scales. This has created an overarching visual component across the landscape based on what might be termed a unique, relationship" not least of which can be attributed to the Levels being the largest lowland grazing marsh system in Britain and consequently an important landscape which is defined more by its virtues rather than just statutory and non-statutory character boundaries drawn on a map.
76. The overall impression is a highly valued landscape consisting of an open basin-like area stretching between the substantial hills and punctuated only by the occasional inland "island" such as Brent Knoll. A far removed description from the "part-corridor" landscape that was suggested by the appellant.
77. The appellant's landscape witness was questioned as to what was the magnitude of effect that would constitute a significant impact on the landscape to the extent that the landscape would be changed. He pointed to the ES and in particular the methodology as set out in the appendices and stated that the description under the heading 'Medium' would constitute a significant impact. "Medium" constitutes *'partial loss of or moderate alteration to, one or more key elements, features, patterns or characteristics of the baseline (ie pre-development landscape) and/or introduction of elements that may be prominent and uncharacteristic or substantially uncharacteristic with the attributes of the receiving landscape and which could co-characterise parts of the landscape.'*³³ The Secretary of State is asked to apply this description to the impacts as he reviews them and if those impacts mirror that description (or worse) then to consider them to be significant.

³² Quoted from National Character Profile 142/3 'Somerset Levels and Moors'

³³ Magnitude of Effect – The Landscape Resource (ES Appendix 6A-8)

78. Turning to the issue of scale, in the guidance put forward in 'Siting and Designing Windfarms in the Landscape' by Scottish Natural Heritage³⁴ the guidance is that the turbines should be less than one third of the key features in the landscape³⁵. Whilst this was dismissed by the appellant as being unworkable it remains a fact that in this case the similarity in size of the turbines and Brent Knoll (only a few metres), will cause the turbines to visually dominate the adjacent Knoll. This is therefore in direct conflict with the Guidance which at paragraph 4.32 warns that "large windfarms can dominate some landscapes." The appellant accepted that the scale of the turbines would be significant in landscape terms. The 130m turbines will be over three times the height of anything currently in the landscape that is not a landform, they will be taller than a football pitch is long. Even the new Hinkley pylons will be insignificant compared to the turbines.³⁶
79. The appellant has tried to suggest that the effect of the turbines is diminished because they will only be viewed in a narrow view as compared to the 360 degree view available. In most cases where a view is valued it is in a particular direction and the value is not merely the few degrees afforded but the general setting of that view. This has been held to be the case in previous wind farm Inquiries where it has been held that; "*Whilst the turbines might only occupy a few degrees of the panorama in places, the human eye does not see in cones of vision but takes in the sweep of the landscape, and the wind farm would be a major part of the landscape here.*"³⁷ This also answers the point raised by the appellant in terms of the width of the proposed development as opposed to the Inner Farm scheme as seen from the summit of Brent Knoll. In a document produced to the Inquiry, the degree of view was established as 27 degrees (Inner Farm) and 14 degrees (Pilrow).³⁸ This is however assuming a viewer in a fixed position and merely looking at a single fixed view. As Inspector Major noted this approach is artificial in that views are seen in a sweep and therefore the degree of impact is foreshadowed by the imposition such large structures will have in the largely unspoilt landscape.
80. Unusually the Secretary of State has reviewed the impact on this landscape of a scheme such as this before. The Inner Farm decision³⁹ was based on a similar number of turbines of approximately the same height. The appellants state that a crucial difference is that the Inner Farm site was further round Brent Knoll to the South and West than the current site. While this does place that site closer to the village of Brent Knoll and the larger urban settlement of Burnham-on-Sea in fact in the view of SDC this is not worse than the proposed site. For those in traffic and viewers from the North and East of the site the turbines will be more prominent and less shielded by the Knoll. This means from the important view points from the Mendips AONB and the Levels themselves the proposed turbines will be more prominent than those of Inner Farm. Moreover, the views from the summit of Brent Knoll would be of both sites but Inner Farm had the backdrop of Burnham and other urbanising structures whereas the proposed site will impede the views over the largely unspoilt Levels.

³⁴ CD 7.4

³⁵ CD 7.4 para 4.33

³⁶ See Mr Fancourt's photomontage 5.2

³⁷ CD 5.17 paragraph 25. Inspector Major

³⁸ Doc 15

³⁹ CD 5.16

81. In any event the Council says that the Secretary of State can be assisted by the findings of Inspector Brooks in that decision. It is firstly of note that the so called urbanising features of the landscape, (with the exception of Hinkley C grid link) were in fact considered by the Inspector in that case as well; *'From the top of Brent Knoll, a popular vantage point, there is a 360° view over the surrounding Levels and the wider landscape, bounded by the Mendip Hills to the north-east, the Quantocks to the south-west, and with Glastonbury Tor visible in the distance. The M5 Motorway and A38 together form a conspicuous movement corridor to the east, noise from which is clearly audible at times, and there are a number of urban influences in the landscape, including the extensive Garden World Garden Centre and other development along the A38, Brent Knoll village in the foreground, the Home Farm Holiday Park some 2 kms to the south-west and, more distantly, the built up areas of Burnham-on-Sea, Highbridge and Weston-super-Mare. However, none of these intrusions detract from the openness and generally tranquillity of the Levels between the hill and the edge of Burnham-on-Sea in which the proposed windfarm would be a central feature. Indeed, the presence of these urban elements in the landscape underlines the importance of that open break'*.
82. Inspector Brooks also considered the capability of the landscape to accept change such as the proposed development *'... I do not agree with the appellant's assessment of the landscape as essentially simple and its sensitivity as generally medium or low-medium. Whilst it may be simple in terms of its elements, namely flat grazing land, hedges and rhynes, the way these combine makes a fine-grained, attractive, pastoral landscape and, although in no sense remote in national terms, it is largely tranquil. It is certainly a good deal more than unremarkable farmland, as the appellant's planning witness described it.'*⁴⁰
83. As stated above, the current proposed development would be more intrusive in the link between the Knoll and the Levels than the Inner Farm scheme. The Inspector in that case found that wind farm development would compromise the relationship of the two: *'Inland, elevated viewpoints from which the windfarm could be seen are essentially confined to the Mendip Hills to the north and north-east. From Crook Peak (...) and Hellenge Hill, Bleadon (...), both around 7 kms away and within the Mendips AONB, the isolation of Brent Knoll in the surrounding Levels is very evident, as is the absence of strong vertical features in the landscape, other than Hinkley Point Power Station in the distance. Despite the presence of the M5, and development along the A370, the landscape is generally pastoral. Although Brent Knoll would partly conceal some turbines, the development as a whole would be dissonant in relation to the hill, the apparent height and standing of which would be diminished; and the motion of the blades would inevitably further distract and detract from the landform. Seen from lower ground the apparent height of the turbines would increase. Whilst neither the character of the AONB itself nor its setting would be harmed, the quality of the landscape to the south, as perceived by walkers on the West Mendip Way and others, could be adversely affected'*.⁴¹
84. The Inspector concluded as follows: *'Drawing together my conclusion on the effects on the character and appearance of the landscape, I consider the visual*

⁴⁰ Paragraph 40

⁴¹ Paragraph 55

*relationship between Brent Knoll and the surrounding Levels to be a key element in local character, principally as perceived in views from the area between the hill and Burnham-on-Sea, an area popular for local recreation, but also from some more distant viewpoints. Regardless of whether wind turbines are perceived positively or negatively in themselves, the appeal proposals would in my judgment seriously compromise that visual relationship to the detriment of local landscape quality and character. They would also adversely affect the setting of Brent Knoll village seen from the lower slopes of the hill and would be intrusive in a critical component of the landscape seen from the popular viewpoint on the summit of that hill. Whilst the local landscape is not formally protected in any way, and the area of maximum adverse impact is relatively limited in extent, that landscape is in my view of considerable distinctiveness and quality and of a scale and character that would not readily accommodate structures of the scale here proposed...."*⁴²

85. Thus even discounting any concept of 'valency', the effect on the landscape would be significant and adverse. The appellant may suggest that whether impact is adverse or 'acceptably adverse' is merely a concept of 'valency' but this has been discounted in a number of planning decisions⁴³.
86. So pulling these issues together, the size and location of this proposed development will create a wind farm sub-landscape up to 5 km, if not a separate landscape in its own right. The scale and nature of the turbines are such that they would be incongruous to the surrounding landscape character and would have an adverse impact. The extent of this impact is in the view of the appellant significant up to 2.5km from the turbines. The Council does not accept this but even if restricted to such an area the sphere of influence this would include most of Brent Knoll and at least 50% of the Levels between the Mendips AONB and Brent Knoll. It would also affect all the landscape between the villages of Mark, Rooks Bridge, Badgworth and the Knoll.
87. The effect on a landscape can extend to where clear views of the development exist. In this case views can be gained for up to 10km in some directions but the Council does not suggest that the impact on landscape extends that far. We do suggest that up to 6km the turbines will be prominent within the landscape. A viewer from the Mendips or Burnham-on-Sea or the Levels will be unlikely to say 'this is a levels and moorland landscape with a wind farm sub-landscape', they will say 'this is a wind farm landscape'. This is due to the large and domineering effect of the turbines. It is only when the viewer is sufficiently far away from the turbines that they 'shrink' into the wider landscape. If, as we suggest, the impact on the landscape is such that it is significantly changed up to 5 km from the development then the landscape will be significantly altered from Burnham on Sea to the Mendips and will completely encompass Brent Knoll. The appellant suggests that the 'robust' nature of Brent Knoll means that it will escape being classified as being within the wind farm landscape, however even if that were true the close proximity of the turbines and their height means that inevitably

⁴² Paragraph 63

⁴³ For example the Batsworthy Cross decision (CD 5.11) where at para 53;

"Where such effects do occur, I shall assume that they are adverse because the introduction of such large man made structures, with sometimes moving blades, cannot fail to harm the intrinsic character and beauty of the countryside. This is irrespective of whether the viewer has an "in principle" objection to the sight of turbines, or not; a concept sometimes referred to as valency."

they will detract from the Knoll and it will be impossible to consider it in landscape terms without reference to the development.

88. In conclusion on this point, the proposed development will have a significant adverse impact on a large area of the landscape around the site creating a wind farm landscape that harms an important asset in landscape terms. This is therefore, a significant material consideration against the grant of this permission.

Visual amenity

89. Turning to the area's visual baseline taken from the SLA *"the flat nature of the low land and the general absence of woodland creates a landscape of long views and wide panoramas.....Low-cut hedgerows often allow long vistas past the pattern of hedges and farmsteads, to distant church towers or the enclosing hills and knolls.....This issue of scale is particularly relevant in this flat landscape and structures such as electricity pylons...demonstrate the more intrusive impact of tall buildings. The larger modern agricultural buildings and industrial units can also tend to be locally prominent due not only to scale but also colour of materials'*.
90. It continues that the baseline visual resource (not related to a specific form of development) to visual impact and capacity for new development and key principles for new development within the LCA: *'Brent Knoll in particular provides a constant reference point from the coastal and inland valley lowland areas.....Brent Knoll and Nyland Hill are significant focal points and landmark features which could be adversely affected by new buildings. All development, including agricultural buildings, should be very strictly controlled.....Brent Knoll dominates much of the western part of the Levels'*.
91. In a similar fashion to landscape baseline and interrelated with it, under the GLVIA guidelines the visual amenity of the area, and in particular the Levels and the surrounding hills and Knolls have, what might be described as, a unique 'visual relationship'. The agreed magnitude of effect is assessed as being 'medium' and above. Medium magnitude of effect is defined as: *'Moderate change in view: which may involve partial obstruction of existing view or partial change in character and composition of baseline (i.e. pre-development) view through the introduction of new elements or removal of existing elements. Change may be prominent but not substantially different in scale and character from the surroundings and the wider setting. Composition of the view will alter. View character may be partially changed through the introduction of features which, though uncharacteristic, may not necessarily be visually discordant'*. To a certain degree the main parties agree that the effect of the turbines, in visual terms would clearly extend to 5 km+ from the site.⁴⁴ The effect of the turbines on the visual amenity is a matter of interpretation for the Inspector and the Secretary of State but the Council hopes that the particular value and sensitivity of the views in this area will be kept in mind.

⁴⁴ It was on this point that the inspector noted (and the appellant agreed) that in fact given the very flat, expansive landscape character the turbines will in fact be visible for over 10km.

Mendips AONB

92. The importance of the views from and to the Mendips AONB cannot be understated. The Management Plan 2009-2015⁴⁵ contains a Statement of Significance which at iv) states: *'It is as much for the views offered within the AONB as the views out from the Mendip Hills that the area is valued. Far-reaching, changing seasonal views across the Severn Estuary to Wales and views out across the misty Somerset Levels from which the mysterious Glastonbury Tor and eerie Hinkley Point appear. It is from many such viewpoints and other sites that the experience of tranquillity and dark skies remain significant and valued features of the area'*. This importance of the views to and from the Levels is continued in the replacement Draft Management Plan, where under the list of the AONB's special qualities it states: *"The views out including across the Severn Estuary to Wales and the Somerset Levels to Glastonbury Tor and the Somerset coast"* as one of the core special qualities. Clearly planning forward to the future the AONB custodians recognise the importance of the interplay between the Levels and the AONB and the views of the flat Levels landscape that are afforded to the high sensitivity receptors in the AONB. In the view of the Council, given the distance, we question whether this could be said to be a 'setting' of the AONB but it clearly falls within the guidance contained in the PPGRE at bullet point 5 under paragraph 15: *"proposals in National Parks and Areas of Outstanding Natural Beauty, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration"*.
93. The turbines can be viewed up to 10 km away especially, as in the case of the AONB, the viewer is in an elevated position. It is clear that the AONB will (through the views to and from it), be affected by this development. The sensitivity of this particular view is high and therefore the significant adverse impact will be more deeply felt than would otherwise be the case. This weighs against the acceptability of this wind farm.

Recreational users

94. The effect of the development on such users especially tourists will be markedly adverse. The appellant states that some may come to the area to view the turbines. In those cases they are more likely to either stop at the site or view it in passing from the M5 or from other major arterial routes. This is as opposed to those who use the PROW and the AONB and Brent Knoll as destinations in order to enjoy the landscape. If the landscape is changed we do not see the current users enjoying the change either in landscape or visual terms. The largely unspoilt landscape is a draw for a large number of people. Even in inclement weather and out of season many people use and enjoy this landscape. This is of course supplemented by the local inhabitants who enjoy this valuable asset on their doorstep. It would be a shame if such a resource was lessened or, in some views destroyed.

The 'gateway'

95. In dealing with an area such as the Levels there will be a number of 'gateways' dependant on the direction of approach (North, South, East or West). At the

⁴⁵ Appendix 3 of Mr Stevenson's evidence

Black Ditch appeal⁴⁶ Sedgemoor accepted that the gateway referred to in fact lay around where the current site is located. In any event, however the appellant tries to dismiss the 'gateway' argument, they cannot escape the feeling one receives as one descends on the M5 from the Bristol direction onto the Levels, past the Mendips and into the open landscape with the iconic Brent Knoll as the key dominant feature. The effect of the proposed development would change some (if not all) visitors initial view of the County.

Brent Knoll

96. Brent Knoll from any view is a unique and awe inspiring sight as a focal point and as a contrast to the otherwise flat landscape and open skies. Special regard needs to be paid to this particular iconic landscape feature and its importance to the area. The fact that it features on the covers of many books and indeed even landscape reports shows how valuable it is to the area both locally and further afield. The close juxtaposition of the turbines at Pilrow will clearly affect the views to and from the Knoll. It would be impossible in the Council's view to appreciate the Knoll in the landscape without reference to the wind farm and that would distract from its quality.
97. With regard to the adverse landscape impact, of the proposed Inner Farm turbines, when viewed from Brent Knoll, that Inspector opined "*I consider that the sheer scale of the turbines, and the motion of the blades, would be disturbing and intrusive in the otherwise generally tranquil landscape seen from the lower reaches of the path to the hill top*"..... "*At a distance of some 1.4 km to the closest turbine, the height of the turbines would be fully apparent, hub height and blade tip being respectively about 50m and 10m below summit level, contributing to the major significant visual impact assessed by the appellant*".
98. In the case of Pilrow the hub and blade height would be higher so that even if they are slightly further away it would give little reduction to the major significant visual impact. The position of Pilrow would have a greater effect on the intervisibility of the Knoll and the Levels as they are further to the east and north than Inner Farm. This was confirmed by the appellant's planning witness. Pilrow will also interrupt the view of the Knoll from a greater part of the Levels as the turbines will appear directly in the foreground and due to perspective would appear as large (if not larger) than the Knoll from numerous locations to the East. In these circumstances we disagree that the Knoll is robust enough to avoid being subsumed into the wind farm landscape. It would in our view be unacceptable if the Knoll merely became the 'hill' behind the wind farm.

Cumulative Effect/'Hinkley C'

99. The appellant has made reference to the Hinkley C nuclear power station and in particular the Panel Report and its findings⁴⁷. The proposed development will provide 3,260MW of power clearly in a very different league from the 8-12MW proposed from the current development. Indeed the Hinkley C project was as a result of the Government identifying an urgent need for such power and setting out strong policy support for such development⁴⁸. Indeed such was the drive to allow the development that the need could be taken as read and that such power

⁴⁶ Ref APP/V3310/A/12/2186162

⁴⁷ CD 5.21

⁴⁸ see 3.3-3.7 of CD5.21

stations should be constructed as soon as possible so that they could start generating as soon as possible. The weight attributable to the Hinkley scheme is completely different to that of the current proposed development.

100. In the Panel Report the section on Landscape and Visual effects commences at paragraph 4.156 on page 47. At paragraph 4.164 it states: "*Overall it is clear to us that the wider area is highly valued for its landscape quality which is claimed to attract visitors from all over the UK and beyond and it is said to be critical to the tourism offer that is claimed to be a central feature of the Somerset tourism economy.*" The value of the landscape clearly was important to the panel but as the appellant states they felt that the landscape could accommodate the Hinkley C proposal. However it is important to note that this conclusion was only reached because the Panel felt that there were already two other nuclear power stations on the coast (Hinkley A and Hinkley B) which would be integrated with the third station and that from a number of viewpoints Hinkley C would be hidden behind the other two power stations.

101. They also noted however, that during construction there would be a number of "structures of considerable height" and that these would have an adverse impact on the landscape. They would also have significant visual effects during the construction phase. They concluded that these significant adverse effects were acceptable because they "*would lessen as the site shrinks back to its final operational size and the landscaping mitigation measures ... mature.*" In contrast, the current proposal will be higher than anything planned at Hinkley C and of course it will be constant throughout its 25 year life. Further there will be no mitigating measures in this case. Also the effect of the new power pylons has been prayed in aid by the appellants who suggest that they would have a detrimental effect on the landscape and visual amenity. They will have some impact but will only be 9m higher than the existing pylons and less than one third of the height of the proposed turbines.

Proposed benefits/balance

102. In the PPGRE it is clear that "*the need for renewable or low carbon energy does not override environmental protections*". As the appellant's planning witness agreed, where substantial harm is caused to landscape and/or visual amenity unless a proposed development can be suitably mitigated it should not be granted. Protection of the landscape is at the heart of Government policy and a clear direction has been announced in the policies and guidance by the DCLG towards such protection. It is clear that landscape needs such protection, as once its quality has gone or been eroded it is hard if not impossible to reinstate it. On 13 June 2013 the Communities Secretary Eric Pickles issued new guidance on the planning regime for onshore wind farms. The Minister told the Commons that: "*We want to give local communities a greater say on planning, to give greater weight to the protection of landscape, heritage and local amenity.*" The balance in this case is for the Secretary of State but given the significant harm in landscape and visual terms no other conclusion but to refuse the development is available.

Renewable energy targets

103. There is no 2020 target applicable at the district level. There is the 28MW figure mentioned in the PPS1 Study and repeated in the CS. Insofar as that figure is a 'target' the current installed capacity of SDC is 28.047 (as per

RegenSW page 36)⁴⁹ and there has been at least 18.2MW of commercial photovoltaic (PV) since the RegenSW figures were compiled⁵⁰. Therefore 'at least' 46.2MW has been installed in Sedgemoor.

104. The appellant repeatedly stated that the 28MW target was for 'onshore wind' and therefore other forms of energy are irrelevant towards that target. Firstly it is not a target, it was an estimated amount of energy that ARUP thought that Area 4 in their study might provide. This site is in area 3 and therefore was not intended to provide any contribution to that figure. Secondly the technologies at the time Government policy was drafted did not include PV. Even the CS was unaware of the size of impact that PV would play in delivering renewable energy (RE). Thirdly, although abolished, the useful "as a benchmark" figures from the RSS have a target of 61-81MW for 2010 and a 2020 target of 850MW. The RegenSW figures for 2013 show an installed capacity of 851MW (i.e. several years ahead of time), and an installed capacity in Somerset at around 1GW which was unchallenged. Whilst the targets themselves have been cancelled, the regional, county and district's excellent performance in delivering RE must be a material consideration carrying great weight.
105. Fourthly, in terms of the appropriate technology, there is no formal wind farm quota or target applicable to Somerset or Sedgemoor. It is not government policy that all the future wind turbines in the United Kingdom be equally distributed amongst each county and district. The national target of 15% renewable energy target by 2020 does not represent a target for any particular sector or technology.
106. Some guidance is required. Is it, as is submitted by the appellant, that until the UK national targets have been met there remains considerable weight to new RE projects even if saturation of the landscape occurs; or is there a diminution in the weight to be ascribed to new projects? Sedgemoor considers that whereas in the present case an LPA has provided sufficient RE to satisfy the old 2020 targets, the burden of providing more should fall more heavily on those that have underperformed, thereby achieving the aim that "all communities should play their part". The burden should not fall as heavily on those that have achieved a considerable RE output. Clearly if this were not the case some LPA's would face overwhelming pressure to grant more and more RE schemes not least because landscape and visual concerns would have been overcome.
107. If no account was taken of the historical production of RE then this would discourage any LPA from taking a proactive policy. The appellant eventually accepted that the historic performance of a local planning authority, County or Region could be a material consideration to be weighed in the planning balance for a new RE development. In the present case the Council, the County and the Region have all performed well in terms of the provision of RE despite many landscape constraints. Therefore new developments such as the current site should be carefully considered and if significant harm is caused they should be refused.

⁴⁹ Mr Gomm's evidence page 29

⁵⁰ New schemes are coming forward all the time and therefore it is impossible to say without a full survey what the current position is.

Policy

108. The appellant's planning witness has confirmed that in his opinion the appeal proposal does not comply with either D4 or D14 of the CS. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The CS is up to date. The policies have been found to be sound. Therefore failure to comply with the policies should warrant a refusal.
109. It is claimed however that these policies are self-defeating because they only offer support for renewable energy proposals which do not have a significant adverse impact and that it is inevitable that all wind farm development will have a significant adverse impact. This is simply not the case. There is a number of wind turbines in Sedgemoor, where the local planning authority approved proposals because the Council concluded that they would not have a significant adverse impact and therefore not contrary to policy.
110. Sedgemoor has also dealt with two previous applications for large-scale wind farm developments at Black Ditch and Withy Farm. Both applications were recommended for permission by the planning case officer on the basis that those proposals were not judged to have a significant adverse impact and thus, unlike the current Pilrow, (and Inner Farm), they complied with Policy D4 and D14 (and others). Whilst the Planning Committee ultimately took a different view to the planning officers, this does not support the view that the policy is self-defeating, merely that the members' subjective opinions differed to those of their officers. In concluding this section, this proposal is against adopted current policy.

Lifetime of the permission

111. The lifetime of the permission if granted will be 25 years. This has been described in other wind farm Inquiries as being a 'generation' and indeed it is easy to see how many growing up in the area will not know anything other than the presence of the turbines. It should not be forgotten that repowering permissions will have the benefit of replacing what is present (normally with more advanced technology) but then increasing the effect for a further 25 years (a lifetime more than a generation). The Inner Farm Inspector dealt with this issue and we support his findings: *".....planning permission is sought for 25 years so that impact on the landscape is arguably more transitory than for other forms of development. However, as such a time period is roughly a third of an average lifetime. I have some difficulty in regarding it as "temporary" in any real sense. If the turbines would cause significant harm to landscape character, as I believe is the case here, that harm would not be made more acceptable by the prospect of their ultimate removal"*.

Conclusion

112. The Council considers that this wind farm will have a significant adverse impact on both the landscape and visual amenity of the area. While the landscape may not have any specific national protection it is clearly highly valued locally. The level and vehemence of the support shown for it by a large number of people, many of whom have attended at the Inquiry, shows the depth of the feeling that this landscape should be preserved. The CS contains

policies that seek to support the provision of RE whilst also preserving valued landscapes. There is an independent assessment of the area which can accommodate on-shore wind. The Pilrow site is not within that identified area.

113. With the advent of PV so many new developments have occurred within such a short period of time that Sedgemoor, with the Region, is well in excess of the now defunct 2020 targets and by a large margin. For these reasons and all the evidence in support of them the appeal should be dismissed.

The Case for No Pilrow Limited

114. The following is based on the closing submissions of NPL. Individual comments made by witnesses that appeared for NPL are appended in this section⁵¹.

The main points are:

115. It is not professed that NPL are experts on any of the topics raised. Neither the Parish nor ourselves have ever had the resources that would enable detailed scrutiny of the impact of the appellant's proposals on a local level, and by local level we mean the immediate Parishes of East Brent & Rooksbridge, and especially the Rooksbridge part of the Parish, as well as Brent Knoll, Mark, Chapel Allerton, and further afield in the valley to Compton Bishop and Cheddar.

116. East Brent & Rooksbridge, whilst one Parish, is divided into East Brent largely on the western side of the M5 and Rooksbridge on the eastern side. Rooksbridge itself is divided by the A38 running through its centre giving rise to some specific issues on visual impact, traffic and construction, and whose population lies nearest the proposed development. East Brent (and the adjacent Parish of Brent Knoll) have the mass of Brent Knoll, the "Isolated Lowland Hill" as described by the appellant, and the Iron Age Hill Fort SAM within its part of the Parish together with the associated footpaths and roads from which "the Knoll" can be enjoyed. It is also worth mentioning that the Parish has a population of some 1300 people and some 550 homes. The Inquiry also heard from witnesses describing a significant older population which might have less access to internet and sophisticated TV/satellite systems in the event of disruption.

117. We support wholeheartedly the opposition to this appeal by Sedgemoor Council on the grounds of adverse significant and dominant impact on the landscape caused by the proposal. We would have supported Sedgemoor's opposition on the grounds of impact on habitat and ecology but we can only record our disappointment as to the position taken by NE in withdrawing its objection on ecology grounds.

118. We would have liked to have said something about the potential for energy generation from this proposal, but we thought it had been made clear at our Pre-Inquiry Meeting that the Secretary of State was unlikely to be moved by argument about the efficacy of wind turbines as a method of renewable energy generation, but by letter of 31 December 2013 the appellants filed additional materials circulating all interested parties with notification that they were submitting an Energy Generation Report, (and Noise) but failing to tell those

⁵¹ See NPL proofs of evidence

parties that the Inquiry was to start on 7 January 2014, giving insufficient time to make any meaningful response. As it happened, the Inspector was able to receive submissions from Professor Peter Gold, and Dr Hugh Clancy in a public session and we would urge the Secretary of State to take careful note of that rapidly prepared evidence and consider the question that if "the views of local communities should be listened to", these materials need to be made available in good time to the people impacted, as here, two individuals living in the village and with a direct concern about the proposal.

119. It remains NPL's case that the appeal should be dismissed in respect of all or any of the following considerations:

- The adverse significant and dominant impact on the landscape caused by the proposal.
- The adverse significant and dominant visual impact to living conditions caused by the proposal, including shadow flicker.
- The adverse significant and dominant impact caused to heritage assets at the Iron Age Hill Fort on Brent Knoll, St Mary's Church and other listed buildings affected by the proposal.
- The adverse significant and dominant impact on existing residential development caused by the proposal, including but not limited to the adverse effect on television reception that has not been appropriately demonstrated to be acceptable by the appellant.
- The adverse and significant impact caused to local businesses by the proposal.
- The adverse and significant impact on public safety by reason of the proximity of the proposal to the M5, A38/A370, and to public footpaths and bridleways, including but not limited to distraction and shadow flicker where we say insufficient work has been done by the appellants to demonstrate that there will be no harm particularly to the villagers living in Rooksbridge, and its poor road safety history, by construction traffic.
- The application of the planning balance between these impacts and the production of renewable energy.

120. The appellants and Sedgemoor had agreed a Statement of Common Ground excluding from debate (save as to conditions) a number of specific local issues including impact on highway network, including construction traffic routing and disturbance to other road users, noise, cultural heritage, equine, physical impacts on rights of way, shadow flicker, public safety, human rights, by which we take to be the enjoyment of one's home life, and electro-magnetic interference and telecoms. We were the only group interested in putting a contrary point of view on these subjects. We observe that the Ministerial Statements accompanying the PPGRE suggest that "*Planning works best when communities have the opportunities to influence the decisions that affect their lives*" and that "*the views of local communities should be listened to*".

121. There was little challenge to the evidence given by the witnesses put forward by NPL. A thread running through the evidence of the Rendells, Mr Mogg & Ms Allen, Mr Phillips and Mr Mugford included house designs that fitted in to the local rural landscape, personal and family use as opposed to commercial

development; equine use to be for personal and family and not commercial; and screening and lighting mitigation, all for the benefit of not causing disturbance to neighbours.

122. Compare and contrast the absence of similar considerations for the neighbours of this intended development. Note also that in all cases the appellants gave a measurement of a distance to a turbine. Attention was not drawn by the appellant to the areas of land enjoyed by each of the householders as part of their land. Amenity is not simply about the house that the householder lives in but the setting of that house and what facilities are enjoyed with it. The fact is that in all cases, all four turbines would be visible, and there would be an arc or field of view in which the turbines would sit from each "Receptor". All of which will be of significance in determining whether the living conditions of these households become unbearable.
123. The appellant made criticisms of the format of letters and validity of objections from individuals, Parish Councils and others. Dr Colcutt for example conducted a detailed examination to distinguish between the heritage and the landscape and visual aspects of the objections. Mr Champion spoke of the limited resources a Parish Council such as East Brent has to be able to properly analyse a major application such as this. To us the Hill Fort and Brent Knoll are indivisible notwithstanding Dr Colcutt's forensic efforts to explain as a matter of law the need to distinguish them as he described. It is in the specific circumstances of this landscape and heritage a completely artificial way of proceeding when trying to analyse how *"the views of local communities should be listened to"*.

Heritage

124. We are encouraged by the references made by Dr Colcutt to Hill Lane, Oldbury-on-Severn with reference in the decision of Inspector Gray⁵² in paragraph 32 about Camp Hill Rockhampton *'It occupies a commanding position with extensive views over the Severn Vale and the Oldbury Levels. They comprise its setting and add to its significance, as the ES notes. The ES regards the setting of high sensitivity and the impact moderate but the effect slight and of no significance. I disagree. I am in no doubt that tall turbines with turning blades would be very prominent, occupying at least 16% of the available vista at a distance of less than 3km. The effect would be far more than slight, would be of at least moderate significance and damaging to it'*. Continuing in paragraph 33, *'...here the impact would be less severe because it does not dominate its setting which has been substantially altered over time. The ES regards the setting as of medium sensitivity, the effect negligible and its significance undiminished. Once again I believe the effect is under-rated. Although I agree about sensitivity, I consider that the effect would be approaching moderate in significance because all four turbines would be visible, occupying 19% of the horizon; and moving blades would appear prominent at a distance of 2.51(m from the camp's northern edge.'*
125. He concludes at paragraph 45 *'Although the effects of the proposed development on the setting of some important heritage features would be minimal, there would be a very significant effect on the setting of other, mainly*

⁵² CD 5.20

closer features. In my opinion they play a very important part in establishing the character of the Levels and are worthy of great care, notwithstanding the fact that not all of them enjoy the highest designations. The settings would all suffer, and the totality of the harm would be unacceptable, resulting in conflict with LP Policies..'

126. It is also worth looking at the public information available from English Heritage (EH) to assist the comparison with Brent Knoll. Camp Hill is List Entry Number 1004529, Grid Reference ST 65766 92766. Large multivallate hillfort. The highest point of the hillfort seems to be on the 55m contour line. Oldbury Camp is List Entry Number 1013187, Grid Reference ST 60939 92718. Iron Age Fort. The highest part of the fort seems to be on the 10m contour line and is partly surrounded by housing in an area of Oldbury known as "The Toot". Compare these heights to the 137m AOD of the Trig Point on the Knoll & 139m at the summit. If Camp Hill at 55m is in a "commanding position...over the Oldbury Levels" what does that make the Knoll?
127. We have received no evidence of the sort of forensic examination carried out by Dr Colcutt here that might have been carried out in Oldbury, but if the views of local communities should be listened to as opposed to forensic dissection of objections, and the random photography and art depictions on the internet, then even an asserted "slight significance" ought to be accorded greater weight. The attempt to gradate levels of importance to a listing of a nationally important monument in the way described by Dr Colcutt is divorced from the real life perceptions of those who do have the benefit of knowing about the Knoll and/or the Hill Fort whether or not a wider public knows of it and how to get there. Again this over-forensic analysis does not chime with local views and concerns.
128. To dismiss other heritage assets and their settings as insignificant or unimportant also does not resonate with the findings in cases such as Inspector Baird in Truthan Barton⁵³ on 23 August 2012 and Inspector Barton at Woodford Farm on 30 October 2013. The conclusion we invite the Secretary of State to draw from Truthan Barton is that whilst there may be no impact on the setting of a heritage asset when viewed from its immediate environs, it is the public views of the heritage asset from public footpaths for example– the lay observer– that have to be borne in mind when assessing developments within the setting of heritage assets, which include visual dominance, scale, vistas and movement. The unacceptable domination of the listed buildings referred to in Truthan House would be replicated here if the Pilrow development were permitted.
129. At Woodford Farm, it was found that the combination of a significant impact of a key element of the setting of the Grade 1 listed Church in Witheridge and a minor impact on the setting of the Grade II Coombe House and its locally Registered Garden were sufficient to outweigh the perceived benefits of the proposal. It must be unlikely that a reported decision on one wind farm appeal falls foursquare into the facts of another, but these cases can offer some assistance to the decision maker when examining the facts particularly those derived from physical viewing and experience of the landscape affected, and the heritage assets within it.

⁵³ CD 5.25

130. The appellant is seeking to minimise the impact. Even if they are right on findings of "less than substantial harm", with which we would disagree, there is sufficient comparison in other cases to result in minor impact being sufficient to refuse an application. Here, we say the Knoll is a significant feature whether in landscape or heritage terms or a combination of both, as is East Brent Church, as are a number of other listed buildings (about 25) conveniently scheduled in appendix 7A-2 of the ES where the first page and a half of Grade II (and Grade I in the case of the Church) lie within a distance from 1.08 km to 2.25 km (Yew Tree Farmhouse). Those details indicate that 4 out of 4 blade tips/nacelles will be visible.
131. Some assistance on impact is derived from the colourings in Figures 7.4a and 7.4b of the ES. The area of the Church and its surrounding buildings including the School and its playground are shaded in grey. Due north of the Church is the Parish Cemetery and Car Park accessed from Hill Lane. That is shaded green and yellow. Continuing due north just north of Brent Street which circles the Knoll the fields heading north are also shaded green and yellow. It will be from the footpaths heading in those directions that the Church will be most visible against the turbines, even though the appellants assert there will be no theoretical visibility from the Church itself.
132. Some additional assistance is derived from Figures 7.5a and 7.5b. If similar photomontages had been taken from Hill Lane and north of the village, the Church spire will hove into view. As it is Figures 7.5a and 7.5b offer a useful illustration of heritage impact as the view captures the setting of Knoll Farmhouse, Jarvis Lane (listed building 434383 at 1.63 km from T4) which may prove to be a useful comparator.
133. There are sufficient grounds on heritage alone to refuse this application.

Visual Amenity – Residential

134. The appellant's landscape witness, Mr Stevenson suggests that at Pilrow there are three ranges⁵⁴.
- Theoretical Wind Farm Landscape 700-800m;
 - Probable theoretical local landscape with wind farm sub type 1.5 km;
 - Possible theoretical local landscape with wind farm sub type 2.5 km.
135. He goes on to assert "*The effect would be significant; local rather than widespread; long term as opposed to permanent; relatively easily reversed... and depending on persuasion, positively regarded by some, of no account for others and adverse for the remainder*". The difficulty with this analysis is that Mr Stevenson has failed absolutely in assessing the weight to be ascribed to local impact by virtue of a failure to carry out any robust consultation similar to that which is now compulsory under section 61W of the Town and Country Planning Act 1990.
136. Using Mr Stevenson's 'JSA Methodology' as he describes it, a reader of section 61W might conclude "a majority of the persons (to be consulted) who

⁵⁴ Proof of evidence Table 3.1 on page 11, not page 15

live at or otherwise occupy premises in the vicinity of the land" as being either within a 700-800m radius, or a 1.5km radius, or even a 2.5 km radius depending on the size of the scheme and the nature of the landscape. The regulation has only been in force since 17th December 2013 but it has been widely trailed since 6th June 2013 and the appellant has failed to adjust anything in the ES and/or undertake any engagement with the people most obviously impacted if the development goes ahead.

137. Additional Figure A was produced for the Inquiry to show the 2.5 and 5.00 km radii from the site⁵⁵. The ES and in particular, the local engagement, must be measured against best practice today. If the regulation has been enacted it can only have been so enacted to remedy a defect in the process and in an attempt to ensure that local concerns are met. One of the troubles for practitioners in the law is that it keeps changing. One has to take current best practice into account. Here Parliament has spoken on what it wants to happen now; it must be assumed that it has been unhappy at what has been happening to communities up to now. There will undoubtedly be schemes which would pass the tests now required even on a retrospective basis - community led schemes for example - but this is not one of those.
138. We cite in aid of our propositions on impact the recent Secretary of State Decision Letter dated 19th December 2013 in Bozeat refs. 2140401, 2149434 and 2149437⁵⁶ which was handed in during the Inquiry, in particular passages that illustrate that the Secretary of State recognizes the extent of visual impact of turbine development. A formulaic approach should not be taken.⁵⁷
139. So in dealing with visual amenity, despite defining the radius in which there will be significant impact as 700-800m where the wind farm would be the defining key landscape characteristic, the appellants want more. They seek to persuade the Secretary of State that despite the assertion that "*an acknowledgement that a new windfarm landscape type would be created is itself a measure of the substantial impact of the proposed development*" they go on to suggest that "the Lavender Test" permits the development despite a number of homes within that perimeter.⁵⁸ Mr Stevenson urged us not to apply a formulaic approach for example in 2.8 of his statement where in the context of GLVIA methodologies he says "*The main difference is that GVLIA3 places greater emphasis on professional judgment and less emphasis on a formulaic approach*".
140. After spending several pages essentially arguing that the landscape character is "sufficiently strong" to accommodate the isolated lowland hill as well as a "theoretical wind farm landscape" in a range of 700-800m, he then argues that "the result of adding the proposed wind farm to the local environment would result in only local change within a very large landscape type." This is another pejorative term. It may be "only local" to the appellants but it is very much on the doorstep for people who live there. The appellants are applying geometrical formulae here in circumstances where the Secretary of State is clearly minded

⁵⁵ Doc 14

⁵⁶ Doc 7

⁵⁷ The full version of NPL's comments on these decisions is available in their closing remarks.

⁵⁸ See 4.21 of Mr Stevenson's Statement

in Bozeat to shy away from geometry and conduct a more accurate assessment⁵⁹.

141. They want to persuade the Secretary of State that in addition to the "substantial impact" of the development in the landscape at a local level, there's an insufficient impact on the householders already living within that landscape to prevent this development. What they are really saying is that the inner and outer edges of the wind farm landscape are between 500 and 800 metres of the turbines and that's an acceptable environment for those people to live in. We on their behalf disagree.⁶⁰
142. We perceive that in the apparent "slowdown in site availability and competition from other technologies" quoted by the appellant's planning witness, has resulted in searches in smaller and smaller neighbourhoods to position turbines and the obvious effects on individuals and communities. The fact that the Government has needed to legislate on compulsory consultation tells us of a failure for developers to communicate with neighbourhoods in a meaningful manner.
143. If a 61m turbine makes it unbearable to live 400m away, (Sydeham Farm) arguably a 130m turbine would be unbearable 850m away, and in the Pilrow landscape, the turbines would be impossible to disguise. There is sufficient material to refuse this appeal on this ground alone.⁶¹

Noise (Construction)

144. We have not heard live evidence from the appellant or any party on the questions of noise relating to the proposed development. We would like to draw the Secretary of State's attention to what Stephen Arnott said in his proof⁶² on construction noise, including piling: *'Concerns were expressed that construction noise would be an issue and that insufficient details on construction methods had been provided in the ES...section 3.7 of the updated ES outlined an indicative construction programme. There is no indication at this time that piling would be required on site so it's not possible to include this aspect in any assessment. When ION reviewed the noise assessment they observed that any potential noise impact was relatively minor so they did not bother to include a detailed construction noise review in their workscope. Subsequently I reviewed the assessment by AMEC. Some activities such as construction of the access track will be audible in the vicinity of the nearest receptors (Peak View Farm) but such works are of limited duration...'*
145. This is an example of a lack of consideration of those most directly affected, with no mention of the impact on the users of The Stables Business Park, whether Poplar Farm, (Patons) Mudgley Wall House (Donalds), Wintine and Paddocks (Mugford), and The Paddocks, Mudgley Road (Hodgson) would be affected. The context in which the AMEC ES was prepared and evidence filed

⁵⁹ Paras 10 & 11 of the decision letter

⁶⁰ NPL make a comparison with the Enifer Downs decision (Doc 5.18) which can be read in full in their closing remarks

⁶¹ NPL make detailed comparisons with the Sydeham Farm, Tiverton decision (Doc 5) which can be read in full in their closing remarks

⁶² Starting at paragraph 7.42

thus far is a pretty clear indication of lack of concern on something specific that impacts on those closest to the proposed development.

Ecology, specifically Ornithology

146. The Inquiry had the benefit of the public presentation made by Simon Tidswell during the public session on 14 January 2014 and to which the Inspector has already alluded as a topic on which additional work is needed by the appellants⁶³. It is disappointing that all the professionals concerned have not reached a consensus on ecology, particularly ornithology, and it has been left to a local resident to bring such issues to the attention of the Inquiry. We can do no more at this stage than draw the Secretary of State's attention to the protection of several species perhaps regarded as more "common" such as Peregrine Falcons, Barn Owls, Kingfisher and the others referred to by Mr Tidswell and which carry the full protection of Schedule 1 of the Wildlife and Countryside Act.
147. This suggests the ES (and subsequent Statements) remain unreliable as a description of the potential impact. This is particularly because as Mr Tidswell states: "Only data to answer the question "Is there bird traffic between the two SPAs?" has been gathered which is further limited to only a handful of species, so ignoring the majority of other species to their detriment".
148. The Inquiry also had the benefit of examples of the wildlife and landscape photography of David Hodgson which he added to his evidence at the Inquiry, including the Barn Owl in his own barn and the nesting Kestrels on his land, in proximity to the development site and the access to it across Mudgley Road, creating impacts that the appellants have not included in their ES.

Traffic, Construction issues

149. We say all issues relating to highway safety cannot await some additional Construction or Traffic Management Plans after consent is given, but need to be addressed now. The ability of local people to influence events after consent is nowhere near as robust as their ability to influence the debate pre-consent. What is particularly surprising is that the appellants who are not novices at building wind farms are unable to tell us with any great accuracy what construction impacts there are going to be. It beggars belief that such little information has been given about such a large construction project with seemingly not a single ground investigation done similar to Tony Rendell's site investigation the details of which he shared with the appellants and the Inquiry.
150. Important points have been made about the movements upwards in traffic numbers, the impact on the users of the Business Park, the impact on Mudgley Road users, the effects discussed on the site visit to Acacia Farm about National Grid works, the failures to assess traffic volumes on both stretches of the A38 either side of the proposed development and the absence of terribly important accident information.
151. No-one who was at East Huntspill Village Hall on Tuesday 14 January 2014⁶⁴ could fail to be moved by the composure of Pat Ireland when she relayed to the

⁶³ Responses received subsequent to the public sessions- Docs 65, 69 and 70

⁶⁴ At the public evening session

Inquiry in her anniversary month the terrible and distressing nature of her late husband's death.

152. What the appellants have found is that the locals know more about the living and working conditions in their area than they do and that by proceeding on a "desk top" assessment basis, the appellants proceed at their peril. What seems odd is the changing position of the appellant with regard to access to the site via the A38. Paragraph 11.5.7 in the ES was categorical that during construction the A38/Mudgley Road which provides access would remain open to minimise impacts on business park tenants, presumably because the assessor had determined that the construction traffic would have an adverse impact but that in "lighter" months the new site entrance would be shared between the developer and business park tenants. If that was true in June 2012, and we see no reason for it not to be true then when the application was being prepared, then it must still be true now. What is different now is that the ES traffic movements described in Table 11.6 have been uprated from 2193 loads, 4386 trips to (asserted worst case) 3718 loads, 7436 trips⁶⁵.
153. So more than ever, there is likely to be an adverse impact during the construction period; whether it becomes "lighter" in the terms envisaged by the ES has to be assessed against the 70% uplift measured between the AMEC ES and the Donaldsons Review⁶⁶.
154. The evidence given by Bill Walker of the planning history of the Business Park demonstrated the substantial efforts made by the developer to secure their A38 access on the grounds of improving the road safety of their own tenants, users, visitors etc, but also improving the road safety of their neighbours in Mudgley Road as shown in the many letters of support filed for the proposal.
155. Nevertheless, the ES argues that during construction the Business Park tenants must use Mudgley Road, presumably for their own safety and well-being, without recognizing that several years had been spent by Rose Farm Developments trying to avoid the need to use Mudgley Road for the good of neighbourly relations. Having seen Bill Walker's evidence and that of Nick Woolmington, the appellants then upgraded their estimates of volumes and say, in effect, it would be safe for Business Park users to share with the construction traffic. We disagree. It is noteworthy that the Mudgley Road access which given its planning condition, should have been permanently stopped up, is self evidently not, so it remains the case, that barring enforcement action, the Business Park users still have that access available to them, should the truth of the matter be that the appellants would really still wish to have exclusive access.

Traffic, generally

156. The appellant has failed to take local conditions into account as illustrated by the presentations made to the Inquiry by Pat Ireland and also David Maund of Lights for Life, and others about the School Bus issues in the village, and Wendy Griffin who at Yew Trees Nursery caters for up to 100 children at any one time with forty local members of staff.

⁶⁵ Review by William Tate –Donaldson Associates December 2013

⁶⁶ 'Review of Construction Volumes and HGV Estimates' December 2013

157. It is worth looking at a plan to illustrate starkly more for what is not revealed than what is. A convenient starting point is ES Figure 11.3 Accident Survey Area. What this reveals, or doesn't reveal as the case may be, includes the following:

- The stark absence of any accident assessment from the centre of Rooksbridge eastbound on the A38, nor comment on the continuation of the route to Cross which is the junction where quarry lorries join the A38 from Cheddar;
- Travelling northbound up the A38 from M5 Junction 22, the absence of any comment that where Harp Road joins the A36 at White Cross (more familiarly known to us as the Fox & Goose crossroads) northbound traffic must turn left to go back down to the roundabout and come back up the A38;
- Ditto, traffic leaving Sanders Garden Centre also must turn left and head back to the roundabout before coming back up the A38;
- That such safety features are not presently available to the users of the Battleborough Hotel and Ollie's Café, more or less opposite each other on the A38, nor to the users of the very busy carvery restaurant at Brent House Hotel, and Lakehouse Lane, again more or less opposite each other on the A38;
- That progressing along the A38 eastbound, no mention of Margaret Liddington's hazardous entrance to the A38 from her home at Chapel Farm, ditto the users of Mill Batch Farm;
- That whilst extolling the availability of the A38 access into the Stables Business Park, not commenting on the proximity of Peak View Farm (not shown on this edition of the OS Map) and Poplar Farm, and the minor road to the north of the A38 serving the Mendip Business Park (and which is the service access to the Southbound Sedgemoor Services).

158. We could continue in a similar detailed manner eastbound, and it may be argued that these are minor issues to be resolved 'later'. However the complete absence of any assessment eastbound means that the decision maker has no means of assessing impact. Further the absence of any assessment of the impact of the extensions to Sanders and the National Grid Connection project makes it unsafe to place any reliance on this part of the ES. Equally it is inappropriate to rely on any comment from consultees such as Somerset County Highways until it is shown that they have been supplied with proper and accurate information on which to base their responses.

159. Further, all narrative in the ES dealing with Severance (11.3.13), Driver Delay (11.3.17), Pedestrian Delay (11.3.18), Pedestrian Amenity (11.3.20), Fear and Intimidation (11.3.22) is all plainly unreliable.

Television

160. In this application the appellant claims that between 5250 and 6050 homes could be powered. It is all very well to suggest that those homes may be able to obtain power from the development, but Table 12.1 of the ES asserts that T1 potentially affects TV reception at 2354 homes, T2 affects 1484 homes, T3 affects 2016 homes and T4 affects 3525 homes.

161. It is not acceptable that those householders can't watch their TV or receive local programming, or have to pay out for mitigating costs without being sure that they will be reimbursed. This is a clear example of a failure to address local concerns. Maybe when section 61W is fully complied with, applicants will resolve such issues much earlier in the process rather than making assumptions that these are just residual issues to be looked at some stage after consent leaving locals vulnerable because of their inability to participate in post-consent matters.

Planning balance

162. To us there seems to be an unseemly scramble for apparently 28MW of wind power potential based on material noted some four years and more ago. The thrust of the appellant's approach is that because other areas are behind on "targets", whatever those targets are supposed to be, everyone else is required to contribute. Somerset is contributing a great deal. There is a raft of public documentation showing what Hinkley B is now producing (850+MWH).

163. The absurdity of the policy interpretation advanced by the appellants could be illustrated by this example. Nick van der Bijl, Chairman of Mark Parish Council, observed that Mark has no street lights. East Brent has precious few, and likewise Rooksbridge, away from the immediate centre of the village. Driving as one does on a regular basis down the M5 from the north the orange glow of the Bristol & South Gloucestershire conurbation of something like a half million souls becomes obvious from the peak of the hill past junction 14 and heading down to the M4. It is a substantial orange panorama. Driving through Bristol and out of the other side past Junction 20 (Weston super Mare) darkness starts to dominate. A lot of where we live is not lit.

164. So our rural community of some 1300 souls in East Brent and about 1500 in Mark, who enjoy little of the benefits taken for granted in conurbations such as super-fast broadband to name an obvious one, are expected to have a substantial impact on their landscape and visual amenity because half a million metropolitans won't switch their street lights off to save energy?

165. How can it be regarded as a reasonable planning balance that a failure of major population areas "to pull their weight" as it were should result in a substantial and disproportionate impact on a small population? We see nearly 38MW of commercial solar energy approved since January 2011 making its impact on the Sedgemoor landscape compared (in an entirely unscientific way) to 8 or so turbines at and around the Avonmouth/Sevenside industrial zone as the visible contribution of a half million population to renewable energy.

166. The real truth here is that the appellant has spotted an opportunity because of the PPS1 Study. It might produce 28 MW, and the appellants want to get hold of it before anyone else does. This is a simple pursuit of a commercial opportunity by this appellant and others and should be looked at and assessed in that context, and not in the asserted context of seeking to mitigate whatever the impacts might or might not be of climate change.

167. On Europe, we wanted to put to the appellant an anticipated public announcement from the EU Commission on 22 January 2014 but this was suggested as equivalent to bringing a rabbit out of the hat. The issue had already been put to the Inquiry by Professor Peter Gold on 14 January 2014 in

his penultimate paragraph of his statement on page 3: "*Finally, Mr Collett informed us last week that Sedgemoor will meet its renewable energy targets for 2020 and I note that the European Commission has accepted that EU members will not have to set renewable targets for 2030 in addition to targets for the reduction in CO2 emissions. So it will no longer be justifiable to argue that we must have on-shore wind farms in order to meet binding government targets for renewable energy. Britain will be free to meet its CO2 emission targets by whatever means it chooses*".⁶⁷

168. Professor Gold gave the reference:⁶⁸ it was that press cutting that we wished to put to the appellant's planning witness as he had not mentioned in his evidence any observations on or challenge to Professor Gold's evidence in this regard. It should now be noted that the EU Commission has issued its press releases, and comment has appeared in many journals and will no doubt continue to do so in the time between now and the Secretary of State reaching his decision on this appeal. A Rule 6 Party could not hope to make any detailed analysis of the changes this new approach will bring, but a brief perusal of these materials⁶⁹, would suggest that much of his argument is now swept away. Member states would now be able to meet their greenhouse gas reduction targets in the most cost effective manner in accordance with their own specific circumstances, and there are no targets as to how those reductions might be achieved through renewables. In passing, press comment suggests the nuclear industry seems to be happy with the outcome, the wind lobby less so.

169. So taken to a logical extension, if a brave government legislated for us all to drive at 50mph on the motorways, or even strictly enforced current urban and trunk road limits, or switched off the street lights, insulated and draught proofed the housing stock, to name but a few, then those would be an acceptable means of achieving reductions in greenhouse gas emissions without any of the substantial landscape, visual amenity, heritage, construction and traffic impacts that would otherwise be visited on this neighbourhood, and we could all watch local TV without interruption, remembering to switch off rather than leaving on standby. We are not being entirely facetious here. The scope for reducing greenhouse emissions by adjusting, or "nudging" human behaviour in that direction seems limitless.

170. Mr Dobson for the appellant chided Sedgemoor and stated in 6.4 quoting from the 'Strategic Objective', '*Promoting coastal and surface water management, minimising greenhouse gas emissions, encouraging energy efficiency, renewable energy generation, sustainable construction, climate change resilience, habitat compensation and adaptation will all be necessary.*' It would now seem that Sedgemoor was ahead of the EU here, and a more up to date expression of policy would now be those words with the added '*in accordance with our own specific circumstances*'.

NPL witnesses

171. This is a summary of other points made by some of the other NPL witnesses who submitted proofs of evidence. **Ed Champion** explains the consultation

⁶⁷ Doc 31

⁶⁸ www.thetimes.co.uk/tol/environment/article3972094.ece

⁶⁹ At http://ee.europa.eu/energy/2030_en.htm

process insofar as East Brent Parish Council was concerned and draws attention to the potential impact on businesses set up as a result of farm diversification and other matters. Appendix C to his evidence includes a petition opposing the wind farm, carried out in 2011. **Nick Woolmington** makes observations on a number of aspects including traffic generation, the capacity of the local road network to absorb additional traffic and the fact that delays, severance and pedestrian amenity are ignored by the appellant. Dr and Mrs David James spoke about the effect on amenity at their property, South Common Farm, and expressed other concerns including the potential for shadow flicker on people and dwellings; road accidents in the area; the appellants' activities in promoting wind power; and tv reception. **Colin Loader** has had a career in the aerospace and automotive industries but has a great interest in archaeology and heritage. He emphasises the potential impact on the historic interest of the area focussing on Brent Knoll hillfort and other heritage assets including the Church of St Mary at East Brent. **Gary Robinson** operates a camping and caravanning site and motor home hire business at Acacia Farm in Rooksbridge which he considers would be adversely affected by the development as well as the Hinkley C pylons which will pass near to the boundary. **Bill Walker** is Parish Councillor for East Brent and is the Footpath officer. He considers that the views from almost all the local footpaths looking east would be spoilt. He is also concerned for the occupiers of the Stables Business Park and the implications for the safety of users of the A38.

172. **Terry Mogg** lives at Willow Tree Farm (formerly Vole Farm) and draws attention to the visual impact the turbines would have this property which is near the southern boundary of the site, which he considers is understated by the appellant. Comments on the effect of the proposal on their properties are also made by **Margaret Liddington** of Chapel farm, **Graham and Jean Donald** of Mudgely Wall House, **Mandy Phillips** of East Brent Piggeries; and **Paul Paton** of Poplar Farm. **David Hodgson** lives at The Paddocks and is a wildlife photographer. He provided copies of calendars and photographs that he sells⁷⁰ and draws attention to inaccuracies in the appellant's description of his property and the potential visual impact. He is also concerned about the effect that the turbines could have on the kennels that he runs from the site. **Anthony Rendell** has planning permission to build a bungalow but these plans have been put on hold pending the result of the Inquiry. He also points out that boreholes on his land at a depth of 25m do not reveal any solid rockbed or bottom. **Gill Wall** is concerned for the future of her holiday business in East Brent.

Interested parties

173. Many of the points made by interested parties are also made by the appellant, the Council, NPL or repeated by others. Where the same points have been made by several interested parties, they are not repeated in this summary.

In favour of the proposal:

174. **Even Clarke** says that use of finite sources such as fossil fuels and nuclear will run out eventually. The wind will always blow, the tide will always rise up

⁷⁰ Doc 19

and down and the sun will always shine. Wind turbines are now a proven technology. Whilst wind, like solar and tidal, is not a constant provider of energy we must accept that others are not either. Coal, gas, oil and nuclear are dependent on market forces and nuclear carries with it risks as Fukushima has recently demonstrated. The only environmental impact of wind turbines is that expressed by people who do not like the view. The sight of wind turbines is a sign of hope, a sign of sanity. Whilst some may dislike such a view how would they feel if the entire shores of the Severn estuary, the English Channel, the Irish Sea and beyond was without life should a similar accident to Fukushima happen down the road at the Hinkley site.

175. The view of wind turbines now is less objectionable than the sight of a nuclear meltdown at Hinkley. The West Country is beautiful, fertile and full of life. The great power of nature should be harnessed and is free.
176. **Mrs Margaret Stewart Fisher**, a resident of Mark, says that the European Union's aim in reducing both energy consumption and greenhouse gas emissions is to preserve the planet from any further damage, and to try to repair the incalculable harm done by centuries of fossil fuel use. No-one can remain unaware of the dangers of nuclear power. She speaks as a member of the panel appointed in 2000 to discuss the decommissioning of Hinkley Point. The long term danger to the planet far outweighs the short-term benefit of cheap fuel. Wind farms provide clean, renewable power. The Somerset Levels provide an ideal area to capture wind. In many beautiful areas of the world, people point with pride at their local windfarms or banks of solar panels: they do not consider that showing their commitment to renewable energy sources detracts in any way from the splendour of their surroundings. She agrees that Brent Knoll is an attractive feature of the landscape but urges people also to consider the beauty of seeing a windmill in operation, in the knowledge that it is producing clean, renewable, non-polluting energy and by so doing, is contributing to the preservation of the planet.
177. Further support comes from **Mrs J Brown** who says that in Somerset there is an urgent need to replace electricity from the Hinkley Point nuclear site. The two Hinkley A Magnox reactors have been shut down and defueled. The two Hinkley B AGR reactors will need to be shut down before 2016 due to age related structural failures and increasing risk of core meltdown. The siting of the Pilrow turbines is appropriate as any noise will be obscured by the continuous traffic noise from the nearby M5 motorway. Visual impact is a matter of personal perception; some people find wind turbines unattractive; others think they are aesthetically pleasing. There can be no justification for refusing to allow a safe electricity supply on the grounds of idiosyncratic visual perception. Pilrow wind farm will provide safe and secure electricity for many local communities and once Pilrow goes ahead other Somerset renewable projects like wave, tidal, hydro and solar can expect more support from national and local planning authorities and local communities.
178. **John Sturman** of Brean makes similar points adding that the debate about how we replace the quarter of electricity generation capacity shutting down over the next 10 years is a real and urgent one. Central to it is the challenge of doing so while cutting the amount of carbon dioxide the UK's power plants release into the atmosphere. Onshore wind is the cheapest form of low-carbon generation currently available, and its inclusion into the generation mix will

displace gas generation, lowering overall demand and thus lowering gas prices – as well as emissions. The amount of onshore wind that can be deployed is limited by multiple planning constraints and there is no argument for refusal on the grounds of there being more suitable places to site wind farms –there are no locations more suitable. Developers of wind farms, have, for years, spent huge amounts of time and money, at risk, in the search for suitable sites in a highly constrained planning system, in a very densely populated country.

179. It is not democracy when minority special interest groups, through local Council pressure, have been allowed to prevent wind power from growing to meet our national target. Developing renewable energy is a nationally important policy. This is going to receive even greater importance as the EU is in the process of setting binding 2030 renewable energy targets. It is a shame that nimbyism is hampering the development of renewable energy in the UK. For instance, a stance of not siting turbines closer than 1km to houses is ludicrous. What about roads, electricity pylons, mobile phone masts? If these infrastructure developments were to be sited say 1km from houses on the grounds of noise or visuals then nothing would progress. People happily live close to major roads and in large cities and don't complain about any noise related health impacts. It is the burning of fossil fuels that causes real and measureable health impacts.
180. He says it is appropriate to address peoples concerns, but there is a great deal of misinformation and inconsistency from the anti-wind power lobby and many members of the public adopt the misinformation. Anti-windfarm campaigners argue that the government is throwing money at electricity companies to put up turbines where they won't generate much electricity. However, (unlike other forms of generation e.g. tax breaks for fossil fuels) turbines which do not generate electricity do not receive subsidies.
181. They also argue that as renewable energy sources "produce power intermittently, they cannot replace gas, coal and nuclear as they require spinning reserve backup." This demonstrates that they have failed to understand spinning reserve and the role wind can play in our power mix. The UK already has spinning reserve which is required for the frequent times when nuclear power stations experience emergency shut downs, instantly dropping around 1GW off the grid. Wind energy is actually more robust than this as this scenario does not happen. Also, wind turbines generate electricity 80-85% of the time, allowing a reduction in the quantities of fossil fuels needed to burn to generate electricity. It is not wind that needs backup- gas needs a wind supplement in order to avoid consumer bills skyrocketing.
182. The local Council have failed to take into account the economic benefits the development would have to the local community and on cutting energy bills generally and providing national energy security. With regards to ecological and visual impact arguments for the local Council's refusal, the site in question is not a natural landscape that requires special protection. It is industrially farmed land that has been created by human activity. The Somerset Levels, originally marshland, are a human creation as a result of drainage. Brent Knoll was an island before human drainage and so now sits in an entirely artificial man made setting. This landscape includes `un-natural' fences, agricultural sheds, crops, buildings, roads etc. The views from Brent Knoll are of an industrially farmed

landscape dominated by a motorway, so the addition of some wind turbines is of very little significance.

183. The local Council also argue that a defining character of the landscape is its flat and level nature. This is scale dependent. The area immediately around the turbines is flat, but not the wider visual landscape, e.g. Brent Knoll and the surrounding hills, sit within the wider landscape. A flat landscape is not at odds with wind turbine development. The turbines would add interest to what would otherwise be a flat and boring industrially farmed landscape. Just because a landscape is flat does not give it any intrinsic value affording it special protection status. It is no reason to refuse planning permission.
184. Tourists do not come to Somerset to see the flat landscape. Most tourists in the area are families with young children who visit because of Brean Sands. Children would find the wind turbines an exciting addition to the landscape. The local Council's concept of a 'key gateway to Somerset' is spurious and of no significance. People driving into Somerset on the M5 do not afford any significance to crossing a county boundary line, or 'being in Somerset'. The only indication you are entering Somerset is a small brown sign which is quickly followed by a very much larger sign for Sedgemoor Services, advertising RoadChef and Costa Coffee. Contrary to the local Council's view, the presence of a wind farm will send out very positive 'green' associations with Somerset for people entering the county.
185. Landscape impacts cannot be given a scientifically assigned value. It is purely down to individual aesthetic values and opinion. One person's opinion has no lesser or greater value than someone else's. Every geomorphologic relationship is different and unique because no two sites are identical. The 'type' of geomorphologic relationship described by the Council is not nationally unique eg the Lincolnshire Escarpment set against the flat Lincolnshire flood plain – which now contains many windfarms. Not forgetting that the Somerset Levels are a man made feature.
186. There should be an equally thorough assessment of positive impacts. Whilst driving along the M5 one's experience will be enhanced by the presence of wind turbines. The landscape and visual impact assessment conclusions are unfairly biased towards the negative. The wind turbines will be experienced, not just by local residents, but by millions of people travelling along the M5. Every national survey on wind turbines shows the majority of people are in favour of them.
187. The Hinkley C nuclear power station was granted planning permission and the visual impact is hugely greater than Pilrow wind farm. It seems wholly inconsistent to argue the Pilrow wind farm should be refused planning consent on visual impact grounds. Environmental damage by farmers is at least an order of magnitude greater than wind farms - for example the habitat destruction of small mammal species that are the staple food of barn owls; not to mention the millions of birds killed every year by the millions of domestic cats, windows on houses and offices and vehicles on the roads. Out of every 10,000 bird deaths, less than 1 is caused by wind turbines whilst 1000 are caused by cats, 700 are caused by vehicles and 5500 are caused by buildings or windows. And nobody suggests house building should stop to stop killing birds⁷¹.

⁷¹ source: Erickson et al. 2002, Summary of Anthropogenic Causes of Bird Mortality

188. The site has no significant sensitivities. It is saddening and disappointing to see a vociferous minority stifling the industry's growth, against the best interests of the country, based on misinformation, short sightedness and nimbyism.
189. **Mr WR Cudlipp** is a strong local supporter of renewable energy and points out that the Council have not been completely consistent in their approach to successive applications for wind energy projects. He also says that if this wind farm takes renewable energy production in Sedgemoor above the 28MW target then that is a good thing.

Objecting to the proposal

190. **Compton Bishop Parish** is located on the southern slopes of the Mendip Hills and encompasses the villages of Cross, Compton Bishop and Webbington. The proposed four 426 feet high wind turbines will have substantial detrimental impact on the countryside in the vicinity of the parish. When considered in conjunction with other schemes such as the row of 150ft high pylons proposed in the Hinckley C Connection project, the picturesque and ecologically rich Somerset Levels are under serious-threat, damaging both the natural environment and the local holiday industry. Should the scheme be approved, there will be unacceptable desecration of a unique landscape.
191. The scale and appearance of the proposed turbines would represent an unacceptable visual intrusion into the flat, flood plain landscape of the Somerset Levels, a potential World Heritage Site. The intervisibility between the significant features of The Mendip Hills AONB, Somerset Levels and Brent Knoll would be despoiled by the installation of visually intrusive vertical structures.
192. The landscape does not provide natural features to mitigate against the impact of large wind turbines. The visual harm that would occur to the historic landscape could not be outweighed by any limited benefits in terms of tackling climate change. The turbines will be located immediately next to the M5 and A38. Both carry very large volumes of traffic and represent the gateway for tourists visiting Somerset and The South West. The leisure industry relies on the natural beauty of The Levels welcoming the visitors as they approach Sedgemoor via the M5 or A38 into Somerset. The appearance of large wind turbines would have a negative impact on the holiday industry. Massive turbines would be a distraction to passing motorists and significantly increase the inherent risk of accidents.
193. There would be unacceptable noise pollution, leading to sleep disturbance, overbearing visual impact and shadow flicker. There would be adverse and unacceptable impact on bird life, mammals, bats and the wealth of the local ecology. The 'inducement' to the local community for accepting the proposal does not address the long term impact on the larger community and the landscape environment, if indeed any inducement could mitigate the damage to the natural environment.
194. The border of **Chapel Allerton Parish** is about a mile from the Pilrow site. The proposed wind turbines would be visible from many properties in the Parish, especially properties in Stone Allerton (which is a Conservation Village) and Top Road (Allerton). The wind farm would be visible from both the Wheatsheaf Pub and from the historic Ashton Windmill which is open to tourists during the

summer months. Stone Allerton is located on rising ground looking south towards Brent Knoll and the Quantocks. Residents value their views across the unspoilt, rural Somerset levels and, in a flat, big sky landscape, Brent Knoll is a much loved landmark. Broadview's proposed turbines which are effectively the same height as Brent Knoll will inevitably diminish the Knoll. As one resident put it: "It will look like a spoil heap behind the turbines."

195. Brent Knoll is an important historic monument. The history of Brent Knoll is inextricably linked with that of Glastonbury, Cadbury castle and the area that was historic "Avalon". It is now under the care of the National Trust which is strongly opposed on the grounds that those who climb Brent Knoll do so in the expectation of outstanding views across the Axe/Brue valley towards Glastonbury, and not of a view of the rotating blades of 4 wind turbines. The walk up Brent Knoll is popular with many parishioners and this September some took part in a guided walk organised by the Axbridge and Archaeological History Society which drew attention to Iron Age features and the possible site of a Roman Temple on the summit of Brent Knoll.
196. There has been no survey of traffic movements between Rooksbridge and the Cheddar quarry during the construction phase. It is probable that lorries will carry aggregate between Cheddar and Rooksbridge along the A38. The flow of traffic along the A38 is constant at busy times of day as there are no traffic lights between Rooksbridge and Winscombe. This makes it difficult to get on to the A38, especially if there is a need to cross oncoming traffic and travel north.
197. In the next five years traffic is set to increase on this section of the A38 due to increased numbers of passengers using Bristol Airport (estimated to double in the next decade). The Hinkley C Connection will significantly increase traffic movements between Cheddar and Rooksbridge. Cheddar Reservoir 2 is going to planning early in 2014. This is another huge construction project which could lead to significant increase of traffic movements on the A38 between Cross and Weare. Broadview's estimates of traffic movements between Rooksbridge and M5 during the construction phase are 4,500. NPL estimates that the volume of traffic through Rooksbridge will double during the Pilrow construction phase. Chapel Allerton Parish Council is concerned about the cumulative effects of so many major construction projects on traffic on the A38.
198. The Parish is visited by tourists who value the pristine setting of our villages on the edge of unspoilt, tranquil moors. There are some holiday lets. Four 130m turbines so close to the Parish will deter tourists. There is concern about lights on the 4 wind turbines for air traffic. This lighting would be particularly jarring in an area which has very little light pollution. The Parish looks out over largely uninhabited (below sea level) moors. Many bedrooms in Stone Allerton face the wind turbines.
199. With regard to bats, a map in the Sedgemoor Council report on "Bats and Wind Turbines"⁷² includes the site of the proposed Pilrow windfarm marked in red. Red areas are areas where wind turbines should not be sited. The Levels have only recently been surveyed for bats and a number of rare species which were previously unrecorded in this part of England have been logged. The nature of the Levels – low population of people and dark night skies – has made

⁷² CD3.3

the Levels an area which is particularly suitable for bats in an otherwise heavily populated part of the UK.

200. The **Campaign to Protect Rural England** (CPRE Somerset) does not oppose all wind farm proposals, especially if they are carefully screened or offshore, but this proposal is opposed for three main reasons: the importance of Brent Knoll as a historic monument, the need to take fully into account the effect of the turbines on wild life, especially the local bat population: and the cumulative effect of all recent proposals on the local area.
201. CPRE agrees with the National Trust that tourists and residents who climb Brent Knoll do so in the expectation of outstanding views they will find. They do not expect rotating blades of four wind turbines in front of them. The extensive wind farms in Yorkshire 'Bronte' country have completely ruined the walks from Haworth rectory up on to the moors to reach the original site of Wuthering Heights. CPRE does not want to see that happen in Somerset. Hardly anyone uses the Haworth walk anymore and this will happen to Brent Knoll if the turbines go ahead, reducing the tourist numbers and forcing a change to the long established habits of local residents.
202. CPRE wants to know what has changed in the last three years to contradict the recommendations of the Council's "Bats and Wind Turbines" report. If anything there are more bats around now than there were then. The nature of the Somerset Levels, with few people and relatively dark skies, are just what bats like and a number of rare species previously unrecorded in this part of England have recently been logged. Bats who go near wind turbines can die as a result of the change of air pressure caused by the movement of the blades of the wind turbines which damages their lungs: the taller the wind turbines the more catastrophic the damage to bat populations. Moreover, other species, including migrating birds, are likely to suffer bird strikes, as the proposed wind farm would be on the path between the Levels and their feeding grounds in the Bristol Channel.
203. This proposal is not the only one affecting the residents of this area. There is the Hinkley Point Nuclear Power Station and the pylons. The Atlantic Array may return. CPRE is concerned that the construction of these turbines will add to the traffic movements and disruption to local residents. Whereas the amount of electricity generated by Hinkley C, by the Atlantic Array and carried by the pylons is enormous and economically justifiable, these four turbines will add only a minimal amount of electricity, which because of its intermittent nature will require new back-up sources of fossil fuel generators thus making climate change worse.
204. **The National Trust** (NT)⁷³ has a statutory duty under the National Trust Acts to promote the conservation of places of historic interest and natural beauty. This includes Brent Knoll, the summit of which is owned by the Trust. **Mark Funnell** addressed the Inquiry on their behalf. In respect of renewable energy, there have been some mixed messages from Government regarding onshore wind, with statements being made in June 2013 that local people would be given more grounds to block wind farms. NT's own position on renewable energy is that whilst it supports a major increase in renewable energy

⁷³ See the NT statement which accompanied their letter dated 25 July 2013

generation, it also believes that each development proposal should be located, designed and on a scale that avoids compromising the special qualities of its locality. In these respects the Trust has major concerns.

205. In landscape terms, Brent Knoll hill is a locally iconic landscape feature set within the flat landscape of the Somerset Levels. It also forms part of the wider setting of the Mendips AONB. The Knoll is well-used by walkers, who appreciate its panoramic views of the Somerset countryside and across to South Wales. The Knoll is itself highly visible from viewpoints within the wider landscape. Paragraph 109 of the NPPF states that the planning system should protect and enhance valued landscapes, whilst paragraph 114 states that local planning authorities should protect and enhance distinctive landscapes. Brent Knoll would easily qualify as a distinctive landscape feature.
206. From the perspective of the Trust, and indeed the Council and its landscape officer, the proposed wind farm would lead to a major adverse impact from a number of directions, including views to and from Brent Knoll. This was brought into focus by the Inner Farm appeal decision. That decision is a relevant material consideration in the determination of the current appeal. In the appeal decision, the Inspector made frequent reference to Brent Knoll hill, concluding that that scheme would be harmfully intrusive in landscape terms.
207. The current proposal could equally be said to be harmfully intrusive in the landscape seen from Brent Knoll hill, given that the extra distance would to some degree be undermined by the greater height of the turbines. The perception of large, moving structures close by in the landscape would still be there. The Inspector's conclusion that the proposal would be harmfully intrusive from certain more distant viewpoints in which the hill and turbines would be seen together continues to apply. The Inspector also did not give much credence to the argument that the turbines would be 'visually permeable'.
208. On the issue of other local development, the M5 motorway and existing (and possible future) power lines may harm the local landscape, but that does not in itself justify further - and much more significant - landscape harm.
209. Brent Knoll hillfort and its associated field system comprise a scheduled monument, meaning that the summit of the hill is a designated heritage asset under the terms of the NPPF. The proposed four wind turbines as close as 1.8 km to the heritage asset — and appearing as high as the hill itself — would have a profound effect on its setting. The ES refers to: "...the inextricable contribution that setting makes to the heritage significance of such a hillfort combined with the prominence of Brent Knoll within an otherwise flat landscape and the relatively close proximity of the proposed turbines...". The Inner Farm Inspector cited harm to the setting of Brent Knoll in his reasons for dismissing the Inner Farm appeal, stating that "I consider that it is important to the historic understanding and appreciation of the Hill Fort that its isolation in the landscape be maintained, free from strong visual competition".
210. The list of core planning principles in the NPPF does not identify renewable energy as meriting greater weight than any of the other principles, including the conservation of the natural environment and of heritage assets. The proposed wind farm would cause significant harm to Brent Knoll as a feature of landscape and heritage importance, and that harm would not be outweighed by the renewable energy benefits of the proposal. The proposed development would

not therefore amount to sustainable development as defined in the NPPF, and from the NT's perspective the appeal should therefore be dismissed.

211. **Hugh Clancy** and his family have lived at Rooksbridge for over 10 years. They have considerable doubt that the wind speed at Pilrow will be the same as that anticipated in the ES using Modern Era Retrospective Analysis for Research and Applications (MERRA) data. On average, the data shows the mean wind speed at Pilrow to be lower - a comparison of 6.3 metres/second (m/s) at Pilrow versus 6.9 m/s⁷⁴.
212. However, the real difference on a comparable basis would seem to be even greater than this, as the meter at Pilrow was at a height of 70.8m as opposed to 50m for the MERRA data. The report earlier shows the impact of "shear" in terms of how wind speed increases with height above the ground. Figure 2 on page 10 shows the relationship between wind speed and height for Pilrow. The highest data reading plotted on the graph, indicated by the uppermost 'box' data point, shows the 6.3 m/s reading at 70.8m, but moving down the slope to where the 50m height horizontal line intersects the graph, this shows an estimated wind speed of some 5.7 to 5.8 m/s.
213. This means that the equivalent comparison with the MERRA data would appear to be 5.8 m/s versus 6.9 m/s, a significant difference in average wind speed from the local baseline comparison. The report also appears to provide the reason for this significantly lower wind speed, although the issue is not really addressed in detail. The wind rose for Pilrow shown in Figure 1 on page 9 appears to be very different to that for the baseline station for the MERRA data shown in Figure 3 on page 12. The frequency of readings of wind direction at Pilrow is greatest for wind from the North West. This contrasts with the regional baseline data which shows that the prevailing wind direction for this area to be from the West and South West (ie the three segments below the main direction observed for Pilrow).
214. Paragraph 4.1.2 on page 9 says "the local topography, notably the Brent Knoll summit is likely to have some influence". Given that Brent Knoll is to the West of the Pilrow site and given the proximity of the proposed site to Brent Knoll, that appears to be an understatement. Given that the MERRA wind rose shows the frequency of higher wind speed readings are also concentrated on the segments for the wind directions from the West and South West it seems entirely to be expected that average wind speeds would be lower at Pilrow. It appears that the proposed wind farm site is in the wind shadow of Brent Knoll summit, which protects the site from the prevailing wind directions for this part of the country.
215. In paragraph 4.2.2 on page 12, the report says that the MERRA wind rose "shows reasonable agreement" with that for Pilrow — which seems a surprising conclusion to draw given the different shapes of the frequency distributions. Paragraph 4.2.2 then goes on to say "although the localised terrain effects seen in the Pilrow data are not reflected in the modelled data". No further explanation is given. If these local effects were to be modelled, energy output might be affected.

⁷⁴ See Appendix C 'Report on energy potential' and Doc 66

216. It appears that the siting of this wind farm has to be questioned given that the average wind speeds are significantly lower than those of the representative baseline data for the region, with this lower wind speed appearing to be related to the wind farm being in the shadow of Brent Knoll summit.⁷⁵
217. **Stephanie Clancy** is concerned about the potential impact on riding, caused by blade flicker, noise and general loss of amenity.
218. **Nick van der Bijl** is Chairman of Mark Parish Council. The Knoll is a favourite observation platform across the Somerset Levels and was once a Roman outpost, an Iron Age Fort, a beacon, a 1940s observation post and is now a scheduled monument entrusted to the National Trust.
219. From the summit one can see shimmering ponds of silver, not of picturesque small lakes and ponds, but of acres of solar panels. One can see the pylons carrying power from Hinckley B and the roughly parallel route of pylons proposed by National Grid to support Hinckley C providing power to Bristol and elsewhere. Looking down towards Rooksbridge, one can envisage the Pilrow turbines rising to the level of the summit of Brent Knoll and the tranquillity of the view disturbed by the 'white' sound of the turning blades.
220. The parish of Mark is about two miles to the south of the proposed site. The village consists of about 550 properties spread along a mile and half of the Causeway and farms and a few isolated houses dotted around a landscape that is flat and agricultural. The population is about 1500. On most days, there are unimpeded views north to the Mendip Ridge and a gateway to the Somerset Levels at Crook Peak; east to Glastonbury Tor; south to the Polden Hills and west to Brent Knoll. The Grade I listed Church has a tower typical of the Somerset Levels and dates from the 13th century and sits on the only high ground in the village. There are 30 Grade II listed buildings in the village and an iron river bridge built in 1824 which is the oldest of its type in Somerset. A five minute drive from the M5, Mark has become an increasingly popular village in which to live and is on a route taken by visitors and tourists alike travelling to Wells, Cheddar Gorge and beyond, and accessing the Somerset Levels. It has a number of facilities popular with locals and visitors.
221. Several progressive farmers have diversified from complete dependence on agriculture into running small businesses feeding into the local economy, such as providing caravan and camping sites, stables and holiday cottages. It is notable just how much of Brent Knoll can be seen from across the pastures. Buildings and high trees are the main obstructions. If Brent Knoll can be seen, then so will the turbines.
222. Mark Parish Council recognises the Government enthusiasm for alternative and renewable energy supply, but not at any cost. It recognises that 'all communities have a responsibility to contribute to energy generation from renewable or low carbon sources'. We take some comfort from Government policies, however anxiety has been articulated that planning applications for wind farms elsewhere have been granted largely on the remit of 'public need' in conurbations - in spite of strong local objections.

⁷⁵ Rebutted by Broadview- see Doc 69

223. There may be low levels of protest lodged on websites, but the number of 'No Pilrow' posters in Mark is a significant indicator of opinion. Our objections can be summarised as: an adverse impact on residential businesses, visitor numbers, tourism and attracting economic activity; the turbines give very little advantage, if any, to Mark in terms of community benefit and local employment; the size, design, colour and operation of the turbines will degrade the beauty of the Somerset Levels, of which Mark is part; the Parish will be dwarfed by the height and noise of the turbines; the carbon footprint, disruption and noise during the construction phase; the probability that the site will be so damaged that during the commissioning phase it will become, by default, a 'brownfield' site and therefore available for another industrial project. Developers do not have a good record for 'making good'.
224. Our objections need to be set in context that over a substantial period, Mark has been one of several parishes in this part of Somerset that have more than contributed to renewable energy: hosting the pylons since Hinkley A was first switched on, and now Hinkley B; supporting residential solar panel applications by individuals taking personal responsibility; and supporting solar panel fields. While unsightly and at risk from seagulls, at least most can be screened by hedges and trees. On the ground that alternative technology exists, it is correct that Mark very strongly objects to the industrialisation of the countryside by erecting 36m high T-Pylons, each carrying a 31m cable spread, across the Parish. The major, long-term economic, environmental and visual impact is already being felt. The Broadview proposal simply adds to the industrialization of Mark and this part of the Somerset Levels with very little benefit of any sort.
225. Further, Mark Parish Council cannot and will not give its support to a technology that sees operators being paid 'constraint payments' to switch off turbines because too much power is being produced or it is too windy. It is the considered view of Mark Parish Council that the overwhelming public opinion from the residents of Mark is that they are opposed to the wind farm at Pilrow.
226. **J H Denbee** is the County Councillor for the Brent Ward, which includes the section of A38 road between Axbridge and the A370 Junction at Brent. He draws attention to the additional traffic that will be generated on the A38 by the construction works for the Hinkley C link as well as a 2nd reservoir for Bristol Water in the Mendips,⁷⁶ materials for which would be coming from Cheddar and Shipham. There are already major delays at peak times especially in the holiday period. There are serious traffic issues on this road with fatalities on a regular basis. There are ongoing proposals to improve the Junctions at Cross and Biddisham and also crossings at Rooksbridge, though these are at a relatively early stage. Work is just about to commence on improvements to the A38 where it joins the M5 Motorway at Junction 22 in order to alleviate traffic problems. The proposal would add a very significant burden in terms of construction traffic.
227. **Mr S Harding** is a resident of East Brent and is not against green energy development but is against intrusive and inappropriate development. Brent Knoll has been an historical site since the Bronze Age due to its unrivalled

⁷⁶ At the time of the Inquiry, not finally approved

location for views and need to protect the inhabitants over the centuries, after all it is National Trust land and is considered as important by English Heritage.

228. This inappropriate development will have a major visual impact on tourism as entering the outstanding Somerset Levels from the north on the M5 the first greeting of this beautiful landscape will be of the vast wind turbines as the eye is always drawn to man made structures, also the reverse will be true on the visual impact viewed from the South towards the Mendips. The turbines in Avonmouth have had a detrimental impact on what is an industrial landscape.

229. It is not possible for any form of landscaping to lessen the impact. Sedgemoor has already done its bit for green energy production with the solar parks that are currently under construction. At the end of production on the site the reality is the turbines will not be dismantled as the owners will not take the responsibility and will leave them in place; it will then fall on the Council and will then fall on the locals in the form of costs added to the council tax for residents and businesses. The position of this site is also of concern due to its close proximity to numerous properties, and the impact of flicker and low level sound waves from the turbines, plus distraction to drivers on the M5.

230. **Michael Hare** has lived in Rooksbridge for more than 40 years and he said that he has the privilege of living in a Grade II listed 16th century house of great charm and character: Bachelors Hall (a reference to its one time ownership by the monks of Glastonbury Abbey). The house is in Gills Lane and is barely 1 km from the site of the nearest turbine. Being a very old house it is built of stone with no proper foundations. He is very concerned that the construction works for the windfarm will involve the movement of very heavy vehicles and the driving of piles and that this work could damage the property. The sub-soil is solid clay and it behaves like a jelly transmitting vibrations long distances. The house shakes when heavy vehicles pass. The intense activity during the construction of the windfarm could prove disastrous.

231. This is the wrong place for a windfarm with such vast turbines. Most tourists arrive by the M5 and descend onto the Somerset Levels after passing Crooks Peak. The Levels are spread out before them stretching to the Polden and Quantock hills with the view only interrupted by the ancient hill fort of Brent Knoll. That is now. If the turbines are built their view will be broken by these turbines that will stand as high as Brent Knoll and will dominate the view for miles around. The Levels are flat. The sky is huge. That is their magic.

232. **James Heapey** is a resident of Axbridge and a local politician. It has always been deeply unfortunate that Broadview have considered trying to site these enormous turbines on a landscape that offers absolutely nothing to hide them. Our local economy depends to a large degree on tourism and yet from the moment one crosses into Somerset on the M5 southbound these turbines would be in view. They would scar the countryside, ruin views to and from Brent Knoll and all for an amount of energy that is dwarfed by that to be produced at Hinkley C. They are also far less reliable than what could be generated if the untapped tidal resources were utilised that are just three miles further to the west.

233. Of the community as a whole: there is great depth of feeling over concerns over safety, health, traffic and the impact on their properties. In the wider area - and crucially once out of sight of the proposed turbines - support for wind

power generally is less than 20% of those who have responded to our surveys. In East Brent, Brent Knoll, Rooksbridge, Biddisham, Tarnock, Edingworth, Badgworth and the Allertons, there is hardly anyone who supports this proposal.

234. When the planning application was rejected by Sedgemoor Council, the Councillors – our locally elected representatives – were not exercising their own private agendas nor were they being partisan. They stood unanimous, across party lines and whether they represented an "affected" ward or not, in their rejection of the proposal because they knew what was best for this area and they knew that they had the overwhelming support of local people.
235. The Secretary of State has recently tweaked the direction to planning authorities so that local views must be valued. The community and their elected representatives could not have put forward a more united and compelling opposition to this proposal. They have spoken with one voice at every stage in this planning application and they have said, resoundingly, 'No'.
236. **Pete Mugford** lives at Winscombe but acquired the land towards the bottom of Mudgley Road where a bungalow is. The ES states "*..the house and ground will be well beyond the dominant range of the turbines.... and the presence of the wind farm will not reduce the present degree of pleasantness to unpleasant levels*"⁷⁷. He disagrees. He built the stables, put in the arena and the infrastructure including the access track, hard standing, drainage system, new water mains, electric supply, boundary and field fence. This has achieved a good environment for the whole family to come together and enjoy quality time. The facilities are used by friends from the equestrian fraternity from far and wide, who benefit from a safe and sound setup that from novice to the most experienced riders come and enjoy all sorts of equestrian fun.
237. He was granted planning permission in May 2013 to build a new home and has been clearing the site ready for construction over the last 18 months. Wintine Farm is registered as a smallholding. He is starting out breeding rare breed sheep, poultry for sale and producing eggs and making hay to use and sell. Now this is on hold with the wind farm appeal. The initial concern is to the safety of his family due to increased traffic. In the months of October through to March when it is dark, the 3-4 horses are led on the road from the stables to Wintine in the mornings and back down in the afternoons. The rhines⁷⁸ are deep and on both sides of the narrow one lane road. There are no pull-ins and only one place to pass.
238. The stables would become of little use to us with the building and heavy use of the proposed access road through The Stables Business Park which would seem to be within 10 m of the eastern boundary. He would no longer be able to enjoy the safe and quiet environment that is needed for the safe husbandry and riding of horses. The horses are also ridden out from the stable block along Mudgley Road (which is a Public Bridleway) up to the A38 and along Pill Road. This would not be possible if this construction goes ahead.
239. **Mr & Mrs Mark Johnson** live in Vole Road. They say the area is one of great beauty and tranquillity which they frequently use for walks whilst bird

⁷⁷ Receptor 31

⁷⁸ Local drainage ditches

watching. This would be completely spoilt by the erection of turbines which would have a deleterious effect on the environment. The whoosh and thump of rotating blades would cause unacceptable noise pollution and would be frightening to children. The light flicker from the blades at certain cadences makes Mr Johnson feel very unwell and disorientated. Broadview cannot diminish in any way the impact these would have on the landscape.

240. **John Rigarlsford** lives in Rooksbridge and cannot claim to have expert knowledge of the technicalities of civil engineering and drainage but has the experience of having lived and worked on the land in this area of the Levels for over 60 years. His concern is the overall affect that the erection of the four wind turbines will have on drainage in the area of Pilrow. There are no tall structures approaching anything as much as half the height of the proposed 130 metre turbines anywhere on the flat area of the Levels. This is because of the water table. A hole more than 2 to 3 feet deep here will reveal water. The ground is like a sponge, no more so than in the fields where the turbines are proposed.
241. The concrete foundations and pilings needed in this soft earth to counteract the stresses and torque produced by the wind will be enormous⁷⁹. This along with the necessary access roads and other solid surfaced areas will have a detrimental affect on the already delicate drainage of the moors in general. The Pilrow turbines would be perilously close to two important tributaries which help to take water away from the moors. These are the 'Pilrow Cut' and the Mark-Yeo river, both of which run through the village of Rooksbridge.
242. **Professor Gold** opposes the establishment of Pilrow wind farm as proposed because of the adverse visual impact on his property at Old Bristol Road, East Brent. However, he is also against it because of cumulative impact. The M5 leads to one of the busiest tourist areas in the country and is therefore heavily used for a good part of the year. The arterial A38 could be described at times as the M5 relief road. When there is any kind of transport disruption due to accidents or bad weather on the M5 or on the A38 itself the whole of the road network in the vicinity becomes gridlocked. The disruption caused by thousands of construction vehicle journeys over a considerable period of time would be highly unwelcome to residents and tourists alike and would make a bad situation considerably worse.
243. The wider area has to deal with the nuclear power station at Hinkley Point and the long-term increase in heavy vehicles that will be created by the construction of Hinkley Point C, and then closer to home the new T-pylon route to Avonmouth which will replace the existing pylons, plus the creation of Cheddar Reservoir Two. That is already enough for this part of Somerset, without the addition of a wind farm dominating the skyline. Pilrow would add further to the cumulative impact of excessive infrastructural blight already suffered.
244. The company argues that the visual impact of turbines would be less significant because the designated area already has the M5 and high voltage power lines. This view is entirely misconceived. The proposed turbines are neither consistent nor appropriate. It implies that because the local landscape

⁷⁹ Rebutted in Doc 69

is already spoilt it is acceptable for a few huge wind turbines to make it worse. For local residents these are precisely reasons not to add four wind turbines to the landscape or to the visual impact (which cannot always be readily separated). The turbines would not add to the sense of place or add to the landscape identity and distinctiveness as suggested by the appellant. There is already a major feature that adds to the sense of place and serves as a landscape identity and distinctiveness: it is called Brent Knoll.

245. People who live in the local community see the Knoll and this part of the Somerset Levels as an integrated landscape that is indivisible – just as those who live at the other end of the Levels see Glastonbury Tor as an integral part of their landscape. So the presence of wind turbines would add nothing positive to the landscape, but would seriously subtract from its predominant characteristics.
246. The second reason for his opposition to Broadview's appeal is because the company has not made an adequate case for the placement of a wind farm in this location. There are compelling objections from residents whose properties will, according to Broadview, be "less pleasant" but not "unpleasant" as a result of the proximity of the turbines. He also shares Mr Clancy's doubts about the likely energy generation potential of the scheme and voices concerns about the ability of the National Grid to deal with the excess production of electricity and the costs of compensating the operators.
247. **Simon Tidswell** lives in Rooksbridge. He has no scientific qualifications but is a bird watcher who carries out a limited number of bird surveys for the British Trust for Ornithology. He makes observations about the Avian Ecology reports that Broadview have commissioned, which although are not in the main part of the appeal do have relevance to the Inquiry and the local community who enjoy the wildlife in this part of the Somerset Levels. He provides detailed observations alleging that the extent of the surveys and the species recorded are very limited and do not reflect the diversity or sensitivity of the site in question⁸⁰.
248. Visibility at low level during the surveys will have been greatly reduced due to the many closely placed hedgerows. Fields in which lapwing feed and snipe rest and feed during the day would have been missed. Nocturnal surveys were carried out over 5 days between 28 Nov 2012 and 6 March 2013 with 18.75 hours of observation but the information was considered to be inadequate, so radar surveys were carried out for 5 days between 12-17 January 2013 and again between 26-28 January 2013. This is a very limited period to measure a broad range of species and would not have been able to measure any migrating species in the Spring and Autumn, or feeding birds in the breeding season. Herons and peregrines feed at night and a significant number of migrating birds also fly at night, and the turbines would represent a serious hazard should they encounter them in the dark.
249. He says any 'birder' who has a local patch to watch knows that while many days are the same, there are many that are different compared to the last, and only by continued observation can an accurate assessment of the avian species be formed.

⁸⁰ Subject to rebuttal, Doc 69

250. The conclusion drawn by Alastair Campbell for the appellant is that there is no significant risk of collision or effect on the snipe population of the Somerset Levels and Moors European site following a decision not to carry out a risk assessment, as the species was not recorded in flight during the 2010/ 2011 surveys, although two flocks of 5 & 42 birds were observed by the night radar study. This is considered to be further proof of the inadequacy of the surveys, as Mr Tidswell has personally recorded numbers, 7, 10, 27, 90 and 100 between 2008 to 2012 in fields immediately adjoining the site to the north, which sounds similar to the reference made in the radar study. Snipe are renowned for sitting tight until almost walked over, and therefore in the absence of proof, he considers that the species has been underestimated in the Broadview surveys.
251. With regard to lapwing, the BTO Breeding Bird Survey 2012 reports that lapwing have suffered a 41% decrease between 1995 & 2011, and Somerset Ornithological Society reports a decrease in breeding pairs from 160 in 1995 to 107 in 2012. Lapwing is an iconic species of wetland such as the Somerset Levels, and in all of the surveys, large numbers, up to 300, were detected flying, and on the ground, immediately adjacent and over the site. Lapwings are skittish birds and frequently take to the air at height, so increasing the risk of turbine impact. Even though Somerset has a very high number of lapwings in winter months, any reduction in numbers could put further strain on an already declining breeding population. He has seen breeding behaviour in fields adjacent to the site in the past and there would be a hope that breeding would be successful here in the future.
252. No allowance has been made for the displacement of birds from the flooding on the other parts of the Somerset Levels. At present, both Tealham Moor and King's Sedge Moor are under feet of water, places where many of the Lapwing and Snipe winter. Over the lifespan of the turbines, he expects there will be many other times when similar flooding will push the birds out to other areas, including the Rooksbridge area. A lot of time and money has been spent by the RSPB and English Nature in creating the Avalon Marshes which now holds the highest number of bittern and is the only breeding site in Great Britain of Great Egret and Little Bittern. In addition, the reintroduction of Cranes at Aller Moor, now under water, so the birds are dispersed, was chosen partly due to the lack of wind farms in the county.
253. What is more disturbing in many ways is the lack of consideration for the more common species, which seem to be expendable. Schedule 1 of the Wildlife and Countryside Act gives unlimited protection to several species that exist in this part of Somerset, namely:
- Peregrine Falcon: these breed on the Mendips and have been seen perching on the electricity pylons and hunting over the fields;
 - Barn Owl: uncommon breeder, now roosting at a recorded site on edge of the site, amber listed;
 - Kingfisher: seen frequently in winter around the rhyes, can fly high when travelling to other areas, amber listed;
 - Fieldfare and Redwing: common in winter and frequently seen in large flocks at height when travelling to new areas.

- Harriers, all species, but here, Marsh & Hen: Marsh harriers are now breeding in the Avalon Marshes and winter visitors increases numbers.
 - Cetti's Warbler: now establishing territories and evidence of breeding outside the site, declining in numbers from 110 records in 2009 to 71 in 2012.
254. Only data to answer the question of whether there is bird traffic between the two SPAs has been gathered, which is further limited to only a handful of species, ignoring the majority of other species to their detriment. It is also necessary to consider other species such as Mute Swan, Starlings, Gulls and raptors. At least three pairs of swans breed in the ditches on the east side of the site and in winter it has been known for herds with numbers to the mid 40's to feed in the fields. Swans are very underpowered after takeoff and find it difficult to manoeuvre away from obstacles and within 7 days in Feb 2004 he found two carcasses under the National Grid pylon/wires that cross Pill Rd. The revolving blades of the turbines will be a serious hazard to the ponderous birds.
255. Starling and the winter murmurations over the Avalon Marshes are fast becoming a nationally known event, drawing many thousands of people over the winter to see the spectacular. The fly path of the birds passes through the site as they disperse in the morning from the Ashcott roost, but the larger flocks that return in the evening were not recorded or illustrated in the reports. During the afternoons, the birds gather in the area to the north of the Knoll on the grassland and around the farms, and then gather and fly over or near the site to the roost. The Knoll acts as a funnel, forcing them towards the site. Some flocks can number many hundred in size and the turbines will pose a real risk of collision and death. Starlings have suffered a 53% decline, 1995-2011.
256. Gulls. Figure 5 and 6 of the radar report show a very marked passage of gulls, mostly poorly or not identified at all, flying through the site. Observation during dusk on any day shows flights towards the coast roosts, often between 5-10 individuals, in V formation at medium to high altitude, at turbine height.
257. Two species of Raptors have been ignored, Buzzard and Kestrel. Buzzards breed in the locality and are known for their soaring hunting flights at heights that will easily be within the killing zone. Rising thermals from the access roads may well attract the birds to the turbines as well as carcasses on the land. Kestrel, which have suffered a 30% decline in the South West 1995-2011⁸¹ have bred one field away from the site this last year and again are at risk from the turbines.
258. What is very apparent from a study of the information is that there has been no allowance in the calculation of effects on either the cited species or others, due to the trend in population increases or decreases. The planning for the turbines will be for 25 or 50 years, no one has provided an accurate forecast of population trends and while a species could be common now, in 25 years time they could be endangered.
259. The appellant considers that should the development go ahead, there is no need to mitigate or monitor the site, post construction⁸². This is contrary to the

⁸¹ All statistics based on British Trust for Ornithology figures

⁸² Mr Campbell's Proof of Evidence -Ornithology 7.10.4

recommendations from NE⁸³ where they say that it is important to monitor deaths at such sites so that the accuracy of desktop predications can be assessed. He considers that such requirements must be bedded within binding planning conditions for the duration of the life of the site at the cost of the present developer and future owners. This should include the cost of the enhancement measures set out in the ES⁸⁴ for every year the site is operating.

260. **David Maund** is Chairman of the local charity Lights for Life which has been working tirelessly to slow the traffic down through Rooksbridge. Of primary concern are the many school children who live in the village. Over the last couple of years they have carried out a number of actions to improve safety.⁸⁵ The one thing that cannot be done is reduce the high number of vehicles travelling through our village. He draws attention to the difficulty people have trying to cross the A38. Most people get impatient and either dash across or stop in the middle and this is an accident waiting to happen.
261. **Pat Ireland** objects to the proposed Pilrow Wind Farm for many reasons; these include the harm to wildlife and the adverse visual impact upon the landscape, especially the iconic Brent Knoll with its associated Hill Fort. However her primary concern is road safety. Despite the claims that the wind farm will not be a distraction to motorists, she believes human nature, being naturally curious, will result in motorists being distracted. These turbines will be very close to the M5, one of the busiest motorways, especially during the summer holiday season. Sedgemoor services are in close proximity to the proposed wind farm. Vehicles leaving and joining the services on an extremely congested section of the motorway result in several accidents. The additional distraction of the wind farm can only make things worse.
262. She is concerned about the increase in HGV movements along the A38 during the construction phase. Much of this traffic will be lorries transporting aggregate from the quarries around Cheddar. Many residents live on the south of the road whilst the village Post Office, shop and pub lie on the north side. The schoolchildren of Rooksbridge attend the Cheddar Valley schools and are transported by school bus. When returning from school, in the late afternoon and the start of the evening 'rush hour' the children are dropped off on the southbound side of the A38. Children being children wish to go to the local shop which is on the opposite side of the road. Frequently children crossing the A38 without checking the traffic and putting their lives in great danger. Since there is no street lighting along this stretch of the A38, this danger is worse during the dark winter months. The significant increase in HGV movements associated with this proposal will lead to a tragic accident.
263. Broadview claims there will not be a problem with the increased HGV traffic subject to drivers driving at all times with due care and attention. Rooksbridge had a fixed speed camera in Rooksbridge; over a two year period this camera recorded 14,000 speeding motorists, nearly twenty motorists a day. Surely, this is concrete evidence that motorists do not always obey the law. Six years ago this January, her husband whilst crossing the A38 in Rooksbridge was killed by a speeding motorist. That morning, her husband became a number on a piece

⁸³ Natural England Technical Information Note TIN069, page 2-3 (CD 10.2)

⁸⁴ ES 9.11.8

⁸⁵ Set out in Mr Maund's statement Doc 38

of paper, a mere statistic and she became a widow. Behind these statistics there is a human story, a tragic story of pain, anguish, grief, tears and anger. No statistic can convey this human tragedy. Six months after her husband's tragic death, she founded the registered charity 'Lights for Life', which continues to campaign to improve road safety in Rooksbridge. The increased HGV movements, associated with the construction of this proposal, will only make an unsafe road even more dangerous.

264. **Wendy Griffin** is the owner of Yew Trees Nursery, which is situated on the A38 at Tarnock. The nursery is less than 2 kilometres from the nearest turbine. She has deep concerns for the reasons previously stated (endangerment to wildlife, adverse effect on tourism in the area, despoilment of an recognized beautiful area, visual impact, light flicker and many other reasons already expressed) but also the adverse effect it will have on her personally and the very successful business she runs.
265. Yew Trees Nursery caters for up to 100 children at any one time and employs forty members of staff who live within the local community. A large part of the children's education and development, within the guidelines set out by the government, is Forest School. Groups of children are taken daily into the local countryside, especially Mark Moor and local wetlands so they can appreciate the wildlife and encourage them to value and interact with nature and the environment. To erect a number of large turbines in the close proximity of the nursery and grounds will firstly put an end to such activities in this area for the children to enjoy, and secondly this will send out the wrong message to them that this generation has such little care for the environment we are supposed to be preserving for them and future generations in the hope of short-term profit, which is without subsidy, questionable.
266. The nursery operates twice daily school runs for children to several schools locally and of particular concern are the junctions of Kingsway at Tarnock, Notting Hill Way at Weare and the turning to Axbridge at Cross, all with the A38. Even now, these junctions are a concern due to the volume of traffic. The proposed construction of the wind farm would necessitate the transportation of a large amount of aggregate, which could be as many as 7500 HGV movements along the A38 which has a speed limit of 50 mph and runs right by the entrance to the nursery. This stretch of road is busy enough already with a number of accidents having occurred over the last few years with at least two fatalities. If the number of heavily laden lorries increases during construction, this greatly increases the risk of further such incidents occurring, especially at peak times for the nursery when children are being dropped off and collected.
267. During the construction phase, parents may take their children to an alternative nursery since they will perceive the traffic risk, along this section of the A38, as too great a risk. When the construction of the proposed wind farm is completed, this could well have a further adverse effect on her business as prospective parents may well question whether or not to send their children to a nursery, which will then be so close to the turbines, due to the potential and as yet unknown health risks associated with them.
268. **Kevin Archer** is a resident of Brent Knoll and a Director Principal of Isuzu Truck in Bristol. The appellant claimed the wind turbines would not result in industrialisation of the countryside. There would not be any permanent jobs

created; they are operated remotely. This means that there is no local job creation. Government policy needs to empower local Councils in encouraging local job generation in rural areas and to aid new business growth in these difficult economic times. The family job prospects in the future are not great whilst Government continues to follow this inefficient form of generating electricity. Credible on line power sources such as clean coal and nuclear power stations are needed now and it will take ten years to build one.

269. **Nichola Collins** is a resident of Mill Batch Farm at East Brent. Broadview's proposed site is in a designated flood plain and she is seriously concerned about the effect of pouring tonnes of concrete on the surrounding clay based fields will have on farming, animals and especially the wildlife. Only yesterday the starlings gathered almost certainly over the site of the turbines as they head across the moor to the wetlands. Mill Batch Farm has planning consent for new offices and units. This falls inside the 1.0 km zone of the nearest wind turbine. She is worried about the adverse effect of shadow flicker on this building and the detrimental effects upon potential tenants. Difficulty in renting this new office unit could seriously impact upon the financial viability of the business.
270. **Nicholas Woolmington** has 45 years experience in the construction industry as a surveyor. Amongst other points, he draws particular attention to the risks to bats especially the rare barbastelle bat that is known to be at medium risk from turbines, pointing out that the ES records the presence of barbastelle bats 27 times during May/June⁸⁶.

Written Representations

271. A large number of written representations are submitted both in support and against the proposal. The support or objections expressed generally fall in line with those made by others at the Inquiry. The following points reflect points raised that are not already summarised above or are of particular interest.
272. The **Somerset Drainage Boards Consortium** advise that the proposal would not materially affect the Board's or the riparian owner's ability to maintain the land drainage network.
273. Health concerns are expressed, including the potential impact on an epileptic relative of occupiers of a dwelling in East Brent.
274. It is suggested that the large concrete foundations will disrupt the natural water flow in an environment subject to flooding, and will leach into the ground over many years.
275. **F Ball** of East Brent draws attention to the fact that people climb Brent Knoll to take in the views of the Bristol Channel on one side and the 'exquisitely pastoral scenery' towards the 'majestic hill known as Glastonbury Tor' on the other⁸⁷, stating that the proposal amounts to an industrial site in the foreground of this magnificent view. Further detailed remarks are made on the likelihood of nuisance that might arise as a result of 'aerodynamic modulation'.
276. A number of supporters express the view that wind turbines are elegant.

⁸⁶ Paragraph 8.4.32

⁸⁷ As described in Bradshaw's Handbook of 1863

Planning conditions

277. The wording of the suggested conditions in Annex 2 is generally that agreed at the Inquiry and are set out here without prejudice to my consideration of the issues. The conditions have been considered in the light of the advice contained in the planning guidance which has superseded Circular 11/95 *The Use of Conditions in Planning Permissions* (though not Appendix A) and they have been adapted in accordance with the recommendations therein where appropriate, to ensure the wording is precise, necessary, relevant and enforceable. Should the Secretary of State decide to grant planning permission, it is recommended that they are imposed for the reasons stated. I have had regard to all the comments on the proposed conditions made at the Inquiry and subsequently.
278. The following are conditions that attracted controversy and drew comments at the Inquiry, or because they require explanation or important rewording.
279. Condition 1: A three year **time limit on commencement** is imposed because a 5 year limit is a long time during which local occupiers would have uncertainty and in view of the national need for new RE generation.
280. Condition 4: the enforceability of this **decommissioning** condition is not diluted by there being more than one landowner. Whilst the reasons for a bond to be deposited are understood, the local authority confirmed that it has all the powers it needs to ensure that decommissioning takes place and the turbines are removed. For this reason, there is no need for such a bond.
281. Condition 5 **Non-productive decommissioning** allows 6 months of non-production, rather than 12, before a scheme must be submitted for the repair or removal of a turbine. That is a reasonable period for the operator to want to do something about non-production, bearing in mind that a defective turbine would not be producing power for that period.
282. Condition 6 **Construction Traffic Management Plan** does not include any provision to control the number of vehicle movements per hour as such a requirement would be unreasonable and very difficult to enforce.
283. Sufficient controls are retained by the Council in condition 7 **Construction Method Statement** to deal with any noise or vibration generated by piling operations, by reference to the updated 2009 BS 5228.
284. Condition 8 **Construction hours** is altered to avoid any reference to 'unforeseen events' which is insufficiently precise. A further restriction on working hours is unnecessary in view of the relative isolation of the turbine sites themselves and to avoid the construction period being longer.
285. Condition 11 **Appearance** provides flexibility for the Council to consider the visual effect of different colours.
286. Condition 15 **Micrositing** is altered to reflect the requirement of the Drainage Board that no building or structure can be sited within 9 metres of any watercourse. Foundations are included in view of the likelihood that turbine foundations (the construction of which is currently unknown) would be likely to affect the drainage characteristics of the subsoil. Restrictions are placed on the ability to microsite certain turbines closer to certain properties in view of the

potential impact on outlook from those properties or an associated group of properties, following the site visit.

287. There is no reason why safe access would not be available to the occupiers of Peak View Farm following the construction of a new junction off the A38 in accordance with condition 19 **Highways**. The design would be subject to approval by the Council.
288. Condition 21 **Aviation** reflects the further consultation with the Western Counties Air Operations Unit and the National Police Air Service⁸⁸ which mandates visible red aviation warning lighting.
289. Condition 22 **Television Interference** is altered to reflect concerns that other places where people reside such as hotels and residential homes reasonably need to be included in a mitigation scheme in an area where a large proportion of elderly people live and tourists visit. The implementation clause is revised to be more precise. The overall risk to TV reception is considered very low and no other changes to the suggested condition are proposed.
290. Condition 23 **Shadow Flicker** is amended slightly to provide that remedial measures should be such measures as are under the control of the developer, and do not depend on any actions by the occupiers of the affected property.

S106 Undertaking

291. The signed and dated S106 UU ensures the provision of a permissive footpath scheme approved by the Council before any construction can take place. The scheme would include provisions for maintenance and management for the operational life of the development together with signage. The provisions of the undertaking are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make the development acceptable in terms of the safety of passing walkers. They meet the tests set out in Paragraph 204 of the NPPF and Regulation 122 of the Community Infrastructure Levy Regulations (2010)b.

Inspector's conclusions

In this section, numbers in brackets [] refer to the main paragraphs in this report that are of relevance to my conclusions

292. Following from the reasons for refusal, the main considerations upon which the decision on this application should be based are as follows:
- The effect of the proposed development on the landscape character and visual amenity of the surrounding area; and
 - Whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that might be caused.

Landscape considerations

293. The appeal site is identified as being within the Levels and Moors National Landscape Character Area 142 (NCA)⁸⁹. This NCA is characterised by a flat

⁸⁸ See paragraph // above and Doc 67.

⁸⁹ See ES Figure 6.6 and CD 7.13

landscape extending across a wide area of Somerset from Clevedon to Langport⁹⁰ adjoining the Bristol Channel. It is circumscribed by the Mendips to the north east (Mendip Hills NCA, also an AONB) the Quantocks to the south west (Quantock Hills NCA, also an AONB) and the hills to the south east including Glastonbury Tor (Yeovil Scarplands NCA). Within this, and less significantly, the Poldens and the Isle of Wedmore gently rise (Mid Somerset Hills NCA). The site lies within this flat landscape of rivers and wetlands which have been artificially drained since the 18th century to allow farming.

294. The NCA profile identifies key features including the fact that the Levels comprise the largest lowland grazing marsh system in Britain. However, it is not a designated landscape. Raised ground at Glastonbury Tor, Burrow Mump and Brent Knoll are identified as features that form distinctive skylines. Glastonbury Tor lies towards the edge of the NCA and Burrow Mump is relatively low, but the limestone outcrop at Brent Knoll is 137m high (AOD) and is a particularly distinctive feature because of its steep sided isolation in a wide expanse of otherwise flat land near the coast. The M5 to the east of the knoll and the main railway line to the west provide important arterial transport links and are separately listed, along with industrialisation from nearby towns, as a key characteristic of the NCA.
295. The SLA provides further guidance. Although originally published in 1997 and updated in 2003, there has been little change in the area. Brent Knoll is included as one of the Isolated Hills, a subdivision of the Lowland Hills Local Landscape Character Area (LCA) along with the Isle of Wedmore and the Polden Ridge. It advises that Brent Knoll in particular provides a constant reference point from the coastal and Brue valley lowland areas. It indicates that Brent Knoll and Nyland Hill are significant focal points and landmark features which could be adversely affected by new buildings; all development, including agricultural buildings, should be very strictly controlled. Map 6 indicates that Brent Knoll is a visually prominent area of high quality landscape and shows areas of high sensitivity in relation to road corridors including a broad corridor along the M5, advising that here, priority should be given to conservation and enhancement measures. Despite the area being the location of urban development, coastal holiday sites and the M5 motorway, much of the countryside retains a sense of quiet and unspoilt rural charm. It says that whilst very little of the Levels area is included in the designated "Somerset Levels and Moors Environmentally Sensitive Area", the Levels are nevertheless an important component of a distinctive Somerset landscape. [37,75,76,182]
296. Near to Brent Knoll, there is a distinct difference in the landscape on each side of the M5. The area of the Levels to the east in which the turbines would be situated consists of flat small scale irregular fields bounded by hedges, some intermittent, and 'rhynes' (drainage ditches) interspersed with trees. Villages, occasional farmhouses and groups of dwellings associated with farmsteads pepper the area, their location influenced by the avoidance of flood risk; but there are no large built up areas. [35]
297. The M5 passes by the site on slightly raised ground about 350m from the nearest turbine location T4. Traffic on it is a dominant feature here; the pylons

⁹⁰ Taken from the 2013 assessment CD 7.13

add to a sense that the site is close to a 'corridor' of transport and distribution activity. However the influence of these intrusive features diminishes quickly within a short distance. T2 would be about 900m from the motorway and from here the M5 is hard to perceive. At the site visit, it was clear to me that the predominant and defining characteristic of the landscape including the site area is pastoral, mainly for grazing with some hay or silage, with a backdrop provided by the Mendip hills and the Knoll nearby. There is some industrial and retail activity on the opposite side of the motorway but this does not influence the site itself. The landscape is essentially man made over many years, but in a way that has allowed the development of productive agriculture at the same time as facilitating natural biological diversity through the maintenance of the small scale fields and the frequent rhynes. [35,44,90]

298. Seen from the western side of the motorway, the site would be beyond a ribbon of M5 traffic, augmented by the busy A38. From much of this area the turbines would be perceived in the context of a much more mixed landscape of farming land compromised by a motorway service area, transport links, a large garden centre with a very diverse retail offering, caravans, light industry and hotel uses. The pylons are also visible. The extent and character of the Levels beyond is harder to perceive over the embankment of the M5, though the Mendips are apparent. However, from here, Brent Knoll is closer and has a defining presence that looms over the surrounding countryside. [76,90]
299. The capacity of the existing landscape to accept change is affected by existing landform and vegetation. In principle, the wide extent of the Levels and its flat and open nature suggest a lower level of landscape sensitivity to wind turbine development of the scale envisaged⁹¹. It is put forward that in this case they would redefine only a small part of an area already compromised by a transport and electrical distribution corridor. They would nevertheless bring about a significant change. The ES acknowledges a 'reasonably small wind farm landscape and local landscape with wind farm sub-type' would be established in the environment east of Brent Knoll. This is indicated as extending approximately as far as a 2.5km radius⁹² which includes Rooksbridge and the summit of the Knoll.
300. The appellant asserts that the Knoll would be separate from and distinct from the 'Wind Farm landscape' and the 'Levels with Wind Farm sub-type'. However the landscape is unquestionably dominated by Brent Knoll. The addition of 4 turbines of very similar height in proximity to its eastern slopes (about 1.4-2 km away from the lower slopes and 1.9-2.5 km from the summit) in the flat surroundings means that the landscape significance of the Knoll itself would be changed. The landscape would become 'Brent Knoll with Wind Farm' sub-type rather than 'Levels and Clay Moors with Wind Farm'. It is the isolation of the steep Knoll in the flat landscape that is the essence of the area's character, or the main defining key landscape characteristic. The gap between the wind farm and the Knoll, which is relied upon by the appellant in asserting the reducing its impact, is insufficient to avoid a significant level of change. [37,39,71,87,98,140,205,207]

⁹¹ Referring to the work of Lovejoy in Lancashire and Coates in Cumbria (ES Table 6.6 and text)

⁹² ES Fig 6.11b and Doc 14

301. Inasmuch as local landscape character is already affected by the transport/electricity corridor, the impact would not be so significant, but those effects are very limited. A much wider area is not noticeably affected by the M5, A38 and pylons and would not be appreciably affected by the anticipated replacement 'T' pylons; but would be significantly changed by 130m high turbines. The impact would extend as far as the landscape significance of the Knoll extends, in other words for a significantly greater radius than 2.5 km. Movement of the blades and the man made characteristics of the turbines would exacerbate the scale of the change and the magnitude of the effects. That would be determinant in views from a wide area to the north, east and south of the Knoll. The turbines would be hidden in views generally from the west. [44,78,85,86]
302. Moreover the broad and far reaching landscape visible from the summit and main approach to the top of Brent Knoll from Brent Knoll village are currently unaffected by any man made inclusions of any comparable height or scale. Church towers at East Brent and Brent Knoll village are vertical built forms but are clearly associated with village settlements. The M5 is a distinct and sinuous element that has spawned development along its length and particularly around road junctions and the A38 under the Knoll, but this is low in height and does not greatly impinge on the character of the Levels as a whole. Indeed it is not part of many views eastwards from the top of the Knoll but is hidden beneath its slopes. What would be prominent from the Knoll would be turning blades and hubs within what would be a Levels with Wind Farm landscape which would partly obscure wider views to the Mendips to varying degrees. I give little weight to the idea that turbines possess a great deal of transparency; the movement of the blades and the speed of the blade tips would be a major distraction in an otherwise tranquil outlook. The appellant acknowledges there would be a significant visual effect. [42,43,45,78]
303. This would be a substantial adverse change. The turbines would contrast strongly with the intimate and generally small scale irregular field and rhyne pattern and would compete with the dramatic form of the Knoll. Their prominence would not leave the broader pre-existing elements untouched but would compromise the key landscape characteristics of the Levels for a radius of about 2.5 km and the key landscape characteristics of Brent Knoll and its setting for a much greater varying distance, depending on the angle of view. [244]
304. Turning to the effect on the landscape quality of AONBs, the Quantocks are about 23 km to the north. Whilst Brent Knoll is visible from there, it only contributes to the setting of the Quantocks as a focal point within the broad Levels which are visible through vegetation⁹³ and the turbines would be seldom seen against the Mendips. On the other hand, the much nearer south western slopes of the Mendips face and define the extent of the Levels and the contrast between the steep scarp and the flat land contributes strongly to their landscape character and interest. The Mendip Hills management Plan Statement of Significance says at paragraph (iv) *'It is as much for the views offered within the AONB as the views out from the Mendip Hills that the area is valued. Far-reaching, changing seasonal views across the Severn Estuary to Wales and*

⁹³ ES Viewpoints 24-27

views out across the misty Somerset Levels from which the mysterious Glastonbury Tor and eerie Hinkley Point appear. It is from many such viewpoints and other sites that the experience of tranquillity and dark skies remain significant and valued features of the area'. The intrinsic landscape beauty of the Mendips themselves would be unaffected but the turbines would be visible in the Levels setting, in the context of the Knoll. As incongruous large man made structures, there would be a degree of harm to views which are a valued feature of the AONB. [39,92,93]

305. To conclude on landscape impact, the sensitivity of the receiving landscape is increased by the existence of the high and isolated Brent Knoll which largely defines this area of the Levels. That sensitivity is only reduced marginally by man made intrusions around its base. The existence of Brent Knoll as a conspicuous isolated element also increases the magnitude of the impact of any turbines located near to it, which would compete with and diminish its significance.

306. As for cumulative landscape impact, the refusal of the Huntspill (Black Ditch) proposal (7.5 km away) by the Secretary of State has removed the scheme which was most likely to be visible in the same landscape context as the Pilrow proposal. Without any firm proposal in respect of Withy End⁹⁴ (7.0 km), there are no other existing, planned or proposed wind energy schemes of such a scale that would lead to additional cumulative impact being an important factor⁹⁵. The planned 'T' pylons do not add significantly to the visual impact of those they would replace⁹⁶. [99,101]

Visual amenity

307. Visual receptors include residents, people working in the area, those travelling through and recreational users such as walkers and horse riders. For travellers on the M5, Brent Knoll is a major physical feature which requires the motorway to deviate around it. This brings it into greater focus. The curve of the M5 would also draw the attention of travellers to the turbine development. On the other hand, the views available to travellers would be north east/south west, the only axis in which the wind turbines would be seen as separate from the Knoll; the motorway would pass between them. However there are opportunities near the Knoll for motorway travellers to stop and appreciate the Levels and the turbines would impinge on their experience of the area to some extent⁹⁷ seen through vegetation.

308. Descending from the Mendips into Somerset in a southerly direction from junction 21, Brent Knoll comes into view at the same time as the Levels are spread out in front of the viewer in a broad panorama⁹⁸. This is referred to as a 'gateway' to Somerset/Sedgemoor by many, though there is a number of potential 'gateways' brought about by combinations of landform and visual experience on the route. The turbines would be an incongruous feature in this rural view but in the context of a road traffic corridor, would not unacceptably

⁹⁴ Withdrawn at the current time.

⁹⁵ ES analysis at 6.10 and Figures 6.10.1 etc. Pear Tree farm comprises a single 35m turbine near Wedmore.

⁹⁶ See FEI updated visualisations Appendix B

⁹⁷ See ES viewpoint 7

⁹⁸ VP 11 is the nearest ES viewpoint

compromise the experience of travellers. Similar considerations apply in respect of those on the A38 and other trunk roads. [95,96, 184,192]

309. There is a complex network of footpaths and bridleways throughout the Levels and across Brent Knoll⁹⁹ but only a few near the appeal site itself. From many of these, within a 5 km radius, the turbines would be seen in conjunction with Brent Knoll which is the most prominent feature in the experience of the viewer. For the reasons explained above, the M5 and other built features do not greatly influence the experience of the landscape except from locations relatively close to the motorway and the A38. The prevailing experience of people (and the reason many come to the area) is the tranquillity of the pastoral fields, the attractiveness of the setting (encompassed by the Mendips) and relative lack of human occupation. The Knoll forms an important reference point in that experience which the turbines would significantly diminish due to their similar height and proximity. [57]
310. That applies to a greater extent for those climbing the Knoll; as a vantage point with far reaching 360 degree views, it is a popular destination, as indicated by the condition of the paths. For people climbing the slope from Brent Knoll village, the gradual revealing of turning turbine blade tips, followed by hubs and towers, between the viewer and the wide panorama of the eastern Levels and Mendips, without any immediate indication of the motorway or industrial activity in the foreground, would reduce the quality of the experience¹⁰⁰. On reaching the Jubilee stone at the summit, the full height of the turbines would be revealed at a distance of about 1.9 km, in an area of irregular pasture, hedges and rhynes. At this point, the full extent of the motorway would be visible but it does not impose on the landscape to the extent that the turbines would, a point well demonstrated by the photomontage¹⁰¹. The appellant finds virtue in the turbines providing 'vertical counter-point to the vast horizontality of the Levels' but that characteristic is exactly what would tend to diminish perception of an important landscape quality. The turbines would significantly compromise the perception of the valued Somerset landscape referred to in the SLA, seen from here. [45,79,82,98,182,195,205]
311. Significantly, other elevated viewpoints are available somewhat further away on the Mendips. Although 10 km or more away from the appeal site, these are enjoyed for their views across the Levels, which comprise the setting for the Mendips AONB on the south western side. Viewpoints 13 and 17 illustrate the visibility of the turbines in the broad expanse of the Levels with the Bristol Channel beyond, but the turbines would also be visible from other vantage points further along the scarp such as the hills above Cheddar and Draycott in which they would appear closer to the Knoll¹⁰². In good visibility with long views, the turbines would be seen close to the Knoll against the backdrop of the Bristol Channel and their moving blades would be an eye catching feature, especially when silhouetted against the setting sun. There are no other comparable visible man made objects in this panorama and none currently proposed (the M5 can only be seen from a limited part of the western slopes-

⁹⁹ See ES Fig 6.4

¹⁰⁰ ES VP 6

¹⁰¹ See ES Viewpoint 6 and Appendix B similar

¹⁰² ES viewpoints 21 and 22

see viewpoint 13 at Crook Peak). To the observer, they would seriously compete with and diminish the significance of the Knoll as an isolated hill in the flat, tranquil Levels landscape. [45,79,80,82-84]

312. The potential for the development to be removed after 25 years is important but does not mitigate for a development which would affect landscape character and visual amenity for a generation for many people living in and visiting the area. [71,111]
313. In conclusion on landscape and visual impact, there would be significant conflict with the landscape character and visual amenity protection aims of policies D4 and D14 of the CS, the NPPF and planning guidance.

Other matters

The effect on heritage assets

314. There is no reason for refusal relating to the effect on heritage assets, but serious concerns are raised by the National Trust and others. Whilst there are many designated and non designated heritage assets within the 5 km ES study area, the potential impact on the Brent Knoll Iron Age hillfort, a scheduled ancient monument, generates the most responses and is the only issue considered to be significant in the ES (in terms of the EIA regulations). The density of listed buildings in the area is relatively low within 5 km of the appeal site (1.7 per square km as opposed to 2.9 nationally; and 0.8 within 2 km).
315. The ES appendix 7D sets out a summary of the appellant's analysis of indirect effects on designated heritage assets, with reasons. Having visited the heritage assets (or the immediate environs) referred to by interested parties including some beyond the study area, I concur in general with the conclusions reached. In no case is an asset directly affected by the proposal. Indirect effects on the settings of listed buildings occur but are almost always mitigated by distance, orientation, vegetation and/or other features in the view such as major roads or pylons, such that the magnitude of change is usually low or negligible. In views of the tower of the Church of St Mary at East Brent (Grade I) from the area to the north west, turbines beyond would tend to diminish the setting of the church as an architectural landmark and centre for the village. However the effect would be mitigated by local vegetation screening and T1 would be more than 2km away. I consider the overall magnitude of the impact to be low/moderate and less than substantial in terms of the NPPF. None of the listed buildings identified rely upon the contribution made by the appeal site for their special interest or possess heritage significance that would be more than marginally affected by turbines of the height proposed. Nevertheless any harm to the settings of listed buildings must be given considerable weight in the overall balance. [54,128,130,132]
316. There are 4 conservation areas within 5 km of the appeal site at Lymsham, Loxton, Weare and Stone Allerton. Partial views of the turbines would occur from some domestic premises and through trees from parts of these. The nearest conservation area is at Stone Allerton to the east approximately 3 km from T2, but whilst the turbines would be noticeable in the rural surroundings towards Brent Knoll they would have only a negligible impact on its setting. The character and appearance of these conservation areas would be preserved and there are no others that would be affected. [54]

317. Turning to Brent Knoll hillfort, this encompasses the whole of the top of Brent Knoll, an area of about 1.6 hectares. The upper part of the Knoll consists of various raised areas comprising the remains of ramparts and earthworks. The heritage significance of the hillfort derives from its archaeological and heritage interest. The ES advises that 'the importance of Brent Knoll as an iconic geological landmark is augmented by the less visible ramparts of the fort.¹⁰³*Its siting and setting is therefore an integral part of its historic interest and is one of the key aspects by which its archaeological interest is understood; the landscape setting of the hillfort contributes greatly to its heritage significance.*' All this leads to the conclusion that the fort is of high sensitivity, with which I agree. [52]
318. Whilst any defensive use of the hillfort is now unclear, its function clearly derives from the location on a high point with extensive and panoramic views in every direction. Those qualities are unchanged; development over the years has not diminished them. Although the wind farm would occupy an angle of about only 14 degrees¹⁰⁴ it would significantly alter one of the main views across the Levels towards the Mendips. There is no explanation or exposition of the layout of the hillfort for the benefit of visitors or anything on the site about its history, which is thought to originate in the Iron Age. Without any on-site interpretation, it is unclear to what extent visitors appreciate that the hillfort exists. The site would be visited anyway for its views. Nevertheless I consider that local people would be well aware of the provenance of the hillfort and other aspects of local history including possibly the association with King Arthur and its candidacy as the site of the important early medieval battle of Mons Badonicus. For these people, the heritage significance of the views from the top would be enhanced. It is these people that would expect to be able to appreciate the heritage quality of the fort and whose experience of it would be more diminished as a consequence. [54,123,205,209]
319. There are 2 signposted approaches to the hillfort from the villages on each side. It is considered that the approach from East Brent is the original route and this would provide a more or less constant view of turbines towards the east¹⁰⁵ which would partially obscure the emerging views of Glastonbury Tor and the Mendips. This would be distracting for those who come to appreciate one of the supposed historical purposes of the fort as a lookout and communication point. They would come as a surprise to those using the route from the south/west, from Brent Knoll village, on reaching the summit.
320. I conclude that the height and moving blades of the turbines would significantly detract from the ability to appreciate the heritage significance of the hillfort. However I concur with the appellant's judgement in the ES that the magnitude of the effect would be moderate/major and that the harm caused would not amount to 'substantial harm' in terms of the NPPF.

Residential amenity and living conditions

321. I visited all those properties where the occupiers wished me to inspect the potential impact of the development though in some cases only one property

¹⁰³ Paragraph 7.8.12

¹⁰⁴ Doc 15

¹⁰⁵ ES Fig 7.5

was inspected as being representative of a group, such as at East Brent. The impact on individuals living in any particular dwelling varies depending on factors including the possible layout of furniture relative to windows in rooms, dwelling orientation, the location of outside recreation space and the availability, type and location of any screening. There is 'no right to a view', meaning that it is not possible to protect a property simply on the basis that an attractive or cherished view would be adversely affected by development. The parties accept that where turbines are present in such number, size and proximity that they represent an unpleasantly overwhelming and unavoidable presence in main views from a house or garden, there is every likelihood that the property concerned would come to be widely regarded as an unattractive and thus unsatisfactory (but not necessarily uninhabitable) place in which to live. It would not be in the public interest to create such living conditions where they did not exist before. Private and public interests could coincide in such a way that the outlook from a dwelling would be so harmed as to be generally regarded as unacceptable.¹⁰⁶

322. Many occupiers of individual properties would find their view altered to one of 'countryside including wind turbines' or 'Brent Knoll with wind turbines'. Most would find the change objectionable compared to their current outlook which despite the presence of the M5 and pylons in some views, is not dominated by man made structures. In most cases, due to the arrangement of windows, intervening features such as buildings or the M5, distance, vegetation and/or orientation, residential amenity would not be unacceptably affected. There is one dwelling which was visited where a main view from a habitable room would be dominated by a turbine or group of turbines. That property is The Paddocks in Mudgeley Road (ES property 27). T1 would be about 880 m from this dwelling which has its main living room window facing the group. T1, T3 and T4 would be visible from the main seating area in the living room looking south across the front garden and T2 would be seen at a more acute angle to the east through vegetation. There are no other views out from the main living area of the house for the occupier to enjoy. Although the view would be affected by vegetation depending on the time of year, nearby bushes also tend to frame the view of T1 and it would be the main focus of anyone sitting in the room. The associated garden extends for some distance to the north and here the noise of the M5 is very noticeable at a distance of about 400 m. For occupiers enjoying the garden, T1 would be very prominent to the south. [51]

323. Where a dwelling is already significantly affected by an environmental detractor it would not be in the public interest to add to that if the result would be that the amenity of the occupier would be unacceptably affected by cumulative impact. As the appellant acknowledges (to paraphrase) *'the view from the house is just one component amongst a number which combine under the heading residential amenity... including amongst other things, aural and olfactory conditions...'*¹⁰⁷ In this case, the garden of the property is affected by background (mainly motorway) noise averaging 55 dB¹⁰⁸. The relief from this afforded inside the house would be significant but as a new unavoidable incongruous element would dominate the only view out from the main living and

¹⁰⁶ See Enifer Downs, CD 5.18

¹⁰⁷ Evidence of Mr Stevenson paragraph 4.1

¹⁰⁸ ES Figure 4.9, based on measurements taken at Mudgeley Lodge Farm

relaxation area, this is likely, in combination, to seriously affect the living conditions of the occupier. The magnitude of the combined impact is a subjective assessment, but is assisted here by the fact that the proposed height of the turbines would be 130m, in the upper range of turbines currently being constructed and with a concomitant extended visual impact. Although not visited, using the information from the assessment in the ES¹⁰⁹, there would be a similar cumulative impact at Mudgley Lodge Farm (property 26). For occupiers of these properties there would be a poor standard of amenity which conflicts with a core principle of the NPPF. [36,49,50,122,141]

324. For other properties occupiers would experience a slight/moderate adverse change in their visual amenity and some would be able to see all 4 turbines from their main living areas. In no case would the impact be so severe as to indicate these dwellings would become unpleasant places to live. I conclude on residential amenity that the wind farm would add very significantly to the noise experienced from the M5, leading to a serious detrimental impact on the residential amenity of the occupier of The Paddocks. This weighs against the proposal.

Biological diversity and wildlife/nature conservation

325. The substance of the objections raised by NPL on this subject revolves around the detailed observations by Simon Tidswell¹¹⁰ and his concerns that the quality of survey and the times when survey information was obtained were insufficient. A comprehensive response was submitted by the appellant's consultants¹¹¹, many of which were accepted by Mr Tidswell¹¹² in a fair commentary. Subsequently the differences between the parties have narrowed further¹¹³. I conclude from this useful exchange that although there is a possibility that some birds may collide with turbine blades, there is an acceptable risk to local populations and more specifically to protected species. The enhancement of the species-poor hedgerows and other environmental improvements would benefit local bird and bat species. This is the subject of a suggested condition.[48,146]

326. Neither NE, the Royal Society for the Protection of Birds (RSPB), the County Ecologist or Sedgemoor's Ecologist have objected to the development on the grounds of inadequate survey effort. NE, in conjunction with the Council's ecologist and the RSPB has withdrawn the earlier recommendation of a condition to monitor and mitigate bird mortality¹¹⁴. I conclude that this matter does not weigh against the proposal.[146-148,199,202,247-259]

Aviation

327. The Ministry of Defence (MOD) requested aviation lighting with 25 candela omnidirectional red lighting or infrared lighting with an optimised flash pattern of 60 flashes pre minute of 200 to 500 ms duration at the highest practicable point on the turbines, in practice meaning the upper surface of the hubs. The

¹⁰⁹ Appendix 6.E property 26 and wireframe at ES Fig 6.3.6

¹¹⁰ Doc 37

¹¹¹ Doc 65

¹¹² As part of Doc 69

¹¹³ See final response in Doc 70

¹¹⁴ See letter dated 16 December 2013

National Police Air Service (NPAS) requires visible red aviation warning lighting as their helicopters are not yet equipped to detect infrared¹¹⁵.

328. The suggested condition requires a physical shield to prevent downward illumination, which is agreeable to the NPAS. The proposed red lights would be at a low level of intensity (equivalent to a car's rear side light) and would be difficult to see from a distance. However revolving blades would reflect red light on the hubs, which would be visible. A focussed red light not shining downward would also be seen from nearby much higher ground including Brent Knoll from dusk. They would only draw further attention to the height and nature of the turbines. For this reason, this matter counts against the scheme. [198]

Noise

329. The noise section of the ES is updated in the FEI following the issue of the Institute of Acoustics Good Practice Guide¹¹⁶. There is no reason for refusal concerning the impact of noise and the noise assessment¹¹⁷ indicates that in most cases the worst case (downwind) noise level produced by the turbines would be exceeded by the level of background noise by a considerable margin, mainly due to motorway noise. In cases where the margin is predicted to be less such as at Nut Tree Bungalow and Old Vole Farm, it is pertinent to record that ETSU seeks to achieve a level of noise which is reasonable and which would allow the nearest neighbours acceptable living conditions. What it does not seek to do is reduce wind farm noise to a level which would always be inaudible to local occupiers or such that no-one will ever be disturbed by it. I have drawn conclusions on the potential for a cumulative impact due to existing background noise and visual amenity at 2 properties but there is no reason to consider that operational noise from the development counts against the scheme.
330. With regard to noise that would result from construction activities, Heavy Goods Vehicle (HGV) traffic would use the route planned for access¹¹⁸ past the Stables Business Park. Users of that group of buildings and some occupiers of nearby residential properties nearby such as Peak View Farm would notice this, additional to existing traffic on the A38. Traffic on the new access alongside 'Wintine' would be noticed by the owners and is likely to be heavy enough to disturb grazing horses. However the construction period is likely to last in total for around 11 months and conditions can be used to restrict traffic movements to reasonable hours. Even accepting that the appellant may have underestimated the number of HGV movements, the short term nature of the construction process and the control available on hours of working suggest these concerns can be acceptably mitigated. [144]

Energy and wind resource

331. Some objectors draw attention to the energy benefits of the proposal and the level of Government subsidy, but wide environmental and economic benefits attach to all renewable energy proposals and that is a very significant material consideration. There is nothing in planning policy to indicate a cut off point at which turbines become unacceptably inefficient. The question of subsidies is for

¹¹⁵ Doc 67

¹¹⁶ CD 12.2 and FEI Chapter 5. See also Sqn Ldr Hale's response in Doc 70

¹¹⁷ ES section 4 and Fig 4.2 onwards

¹¹⁸ ES Fig 3.5

central Government. It is evident that adjustments are likely in the future as onshore wind capacity targets are approached; when and if that occurs, the viability of the scheme may change, but that is not a matter for my consideration.

332. Matters relating to the ability of the national grid to absorb wind generated power and the need for back up 'spinning' reserve are material considerations, but no objections have been received from any power distribution company. I give these concerns little weight. Representations on the impact of Brent Knoll on wind speed and direction at the appeal site have been addressed in detail by the appellant and whilst I concur that in certain wind directions, there probably would be some effect on the flow of air at the appeal site, it is difficult to conclude that this would be so significant as to meaningfully reduce the generation of electricity¹¹⁹. [211-215]

TV interference

333. A comprehensive response to NPL's detailed comments on the likelihood of TV interference was received subsequent to the Inquiry¹²⁰ and commented on. This indicates that the likelihood of TV interference is very low but that should it occur, mitigation measures can be provided. This is the subject of a suggested condition. [57,160-162]

Shadow flicker

334. ES Figure 5.2 shows the potential for shadow flicker and indicates that several properties could be affected in certain weather conditions at certain times of the year. A suggested condition requires a scheme setting out a protocol for the assessment and remediation of shadow flicker, should it occur. The remediation element of the scheme should be by means of turbine control measures instigated by the operator and not by the occupier of the affected property, because the operator has no control over the use of blinds or screening. With such a condition, this matter does not weigh against the scheme.

Foundation and track design

335. This concern stems from the knowledge and experience of local soil conditions expressed by local residents, particularly Mr Woolmington and Mr Rendell on behalf of NPL. The issue is linked to the amount of HGV traffic that would be necessary to provide sufficiently adequate foundations for the turbines and safe access for heavy plant and components across the wet conditions anticipated. The appellant's consultants (Donaldson Associates) have reviewed the ES design methodology drawing upon information obtained from the British Geological Survey, Mr Rendell's ground investigation¹²¹, the ES and borehole records including those for the M5. They reach the conclusion that the estimates provided are reasonable and that the piled foundations anticipated are sufficient to provide support in the mudstone layer expected below a depth of 24 m, accommodating the 'sponge-like' conditions referred to by local residents.

¹¹⁹ Doc 66

¹²⁰ Doc 62

¹²¹ In connection with plans for a new dwelling

336. Taking account of all the information and the responses, I find nothing to indicate that the foundation and track designs proposed are unreasonable given what is known from all parties about the ground conditions. In any event, apart from obligations under other legislation such as the Building Regulations and Health and Safety at Work Act (as amended), the construction of the scheme would be subject to a Construction Traffic Management Plan and a Construction Method Statement which would require details of phasing and the construction of all hard surfaces and tracks. This matter does not count against the scheme. [240-241]

Highway safety

337. The level of traffic on the A38 is a serious matter of concern to residents of Rooksbridge because this busy road divides the village. The Inquiry heard that new civil engineering projects are planned as well as the appeal proposal, which are likely to increase the amount of HGV traffic passing through Rooksbridge and other villages on the A38 and the linked A371, which have been the scene of several fatal accidents. Planning permission has been granted for an extension to the Sanders Garden World at Battleborough which is likely to generate additional traffic¹²². These points led to a detailed response from the appellant's consultant¹²³ Transolutions (Scotland). [196,197]

338. None of the accident information provided suggests any clusters, trends or a type of event that stems from a particular location or defect in road design. There is no objection from the Highway Authority or the Somerset Road Safety Partnership (RSP). Given that the A38 carried around 12-13000 vehicles a day near to the proposed appeal site access in 2012, and that accident rates have declined since 2010 (though fatalities appear to be rising slightly) according to figures from the RSP and Dr James, it is difficult to show that an unacceptable risk to highway safety is likely to result from additional traffic generated by the scheme, which would generate only a small proportion of that number for a limited period. [149]

339. The development of the Hinkley Point C connection works itself is subject to cumulative traffic assessments and it is unclear that the construction of that scheme will necessarily occur contemporaneously. The Cheddar Reservoir 2 project has not yet been determined but construction is programmed to start in 2018 and even then the number of HGV movements on the A38 is likely to rise by 4%, equivalent to 38 movements a day.

340. There is no question that the A38 is busy and that from time to time, it provides challenging driving conditions for local people accessing it from small rural roads at congested times. It is a dangerous road for pedestrians where it passes through settlements where drivers may care little for speed limits. The fear that large numbers of HGV movements associated with the wind farm would dramatically increase these difficulties is understood but there is no evidence that they would actually lead to an unacceptable increase in highway safety risk. That would be the case even if the projected number turned out to be an underestimate. There are ongoing proposals to improve the A38. I

¹²² A maximum of 80 movements in and out (Transport Statement accompanying the application)

¹²³ Doc 64

conclude on this issue that there is no evidence that highway safety concerns should prevent the scheme going ahead. [56,151]

341. I have taken account of all the other matters mentioned by objectors, including the likelihood of hedge removal due to the need for visibility splays; the temporary highway alterations necessary to deliver large components; the safety implications for walkers and horse riders; and the potential for distraction of drivers on the M5 and other roads. However there is no evidence to show that any of these would give rise to an unacceptable risk or disadvantage to anyone. [156-158,226,260-263]

Whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that might be caused

342. There is no dispute from any party that there is strong support at all levels of policy for large scale renewable energy development. Onshore wind is a key technology in the development of the renewable energy sector. Supporting the transition to a low carbon future in a changing climate is one of the core planning principles of the NPPF and is supported by the CS. The appeal proposal forms part of the pipeline of onshore wind projects anticipated in the 2013 Roadmap update. Whilst the current pipeline has the potential to fulfil the Government's ambition for onshore wind, there is no certainty and at the present time there is no lessening in the drive to increase onshore wind capacity. There are no technology specific targets, only illustrative 'central ranges' which do not limit the Government's ambition. [63,106,168]

343. The NPPF says that it is the responsibility of all communities to contribute to energy generation from renewable sources. The Written Ministerial Statement from the Secretary of State for Energy & Climate Change in June 2013 says that the Government is determined that the UK will retain its reputation as one of the best places to invest in wind energy and renewables more generally. The general thrust of the Statement is the further encouragement of onshore wind to provide certainty for developers and as an important sector that is driving economic growth. There is no suggestion of a lessening of the need for new RE including onshore wind projects in order to reach the level necessary for energy security and renewable energy goals. The achievement of RSS RE targets within Sedgemoor by other means of RE such as PV does not weigh heavily against further RE schemes, particularly if it involves wind generation, which would tend to complement PV as a RE resource. In principle, new RE proposals are to be welcomed. The proposed energy generation of 8 - 12MW (equivalent to the supply for 5750 homes, depending on the selected turbine) would contribute very substantially to renewable electricity in the area and towards Sedgemoor's aspiration to derive 28MW from onshore wind. [69,103,104,106]

344. The PPS1 study identifies 5 areas of 'least restraint' with potential for wind energy in Sedgemoor. The criteria for selection are limited and exclude many considered inappropriate in a district scale study, such as archaeological and historic landscape features and flood plains¹²⁴. The appeal site lies within 'wind development zone' 3 which extends eastwards from the M5 across flat land towards Wedmore¹²⁵. No landscape or visual assessment was undertaken as

¹²⁴ As explained at Appendix G2

¹²⁵ Map at Fig 4.2 Appendix H

part of the study, which notes that detailed studies might further erode or expand the potential sites. Zone 3 is discounted in the study because it could be considered to be environmentally and visually sensitive¹²⁶ but no further explanation is given for it being discounted and none was provided at the Inquiry. I do not consider there is sufficient evidence for this to weigh against the appeal proposal which I have considered on its own merits. [36]

345. To summarise, the benefits of the proposal consist of a very significant uplift in renewable energy supply from onshore wind in Sedgemoor and a reduction in CO₂ emissions assisting in mitigating climate change which would contribute towards the national target to achieve 15% of all energy generated from renewable resources by 2020. These are very important factors in favour, which should be coupled with some benefits to the local economy in terms of employment and a material improvement to wildlife habitat.

346. Against those benefits, there would be a serious adverse impact on landscape character and visual amenity for a significant area on the Levels, diminishing with distance, reinforced by aviation lighting, conflicting with development plan policy. There would be a degree of harm to many views from the Mendips which are a valued feature of the AONB. There would be harm (but less than substantial) to the setting of a scheduled ancient monument in the form of Brent Knoll Hillfort, limited harm to the setting of East Brent Church, and a significant deleterious cumulative impact on the residential amenity of at least two dwellings, considered together with the proximity of the M5. There are no means of mitigating for the landscape and visual harm, which cannot be made acceptable. This matter is sufficient to justify dismissing the appeal on its own.

Formal recommendation

347. I recommend that the appeal should not be allowed to succeed. Should the Secretary of State disagree, then I recommend that the conditions set out in Annex 2 to this Report should be attached to any permission.

Paul Jackson

INSPECTOR

¹²⁶ Page 16

Annex 1 APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Gavin Collett	Of Counsel, instructed by Sedgemoor District Council
He called	
Steven Fancourt CMLI MPhil BSC (Hons)	Arup
Christopher Gomm BA (Hons) MTP MRTPI	Principal Planning Officer, SDC

FOR THE APPELLANT:

Jeremy Pike	Of Counsel, instructed by Eversheds Solicitors
He called	
Jeffrey Stevenson MA MPhil Dip Econ Dev CMLI MRTPI MinstEnvSci FRGS	JS Associates
Dr Simon Colcutt MA (Hons) DEA DPhil FSA	Oxford Archaeological Associates Ltd
Mervyn Dobson MA MPhil MRTPI MRICS	Pegasus Planning Group

FOR NOPILOW LTD:

Martin Keegan

He called
Ed Champion
Nick Woolmington
David James
Colin Loader
Gary Robinson
Bill Walker
Steve McGreavey
John Rigarlsford
Terry Mogg
Margaret Liddington
Gill Wall
Anthony Rendell
Mandy Phillips
David Hodgson
Paul Paton
Graham Donald

INTERESTED PERSONS:

Chris Lewis	CPRE
Mark Funnell	Planning Advisor to National Trust SW Region
Hugh and Stephanie Clancy	Residents of Rooksbridge
Nick van der Bijl	Chairman, Mark Parish Council
Cllr Denbee	County Councillor Brent Ward and Deputy Chairman, Somerset CC
Peter Osborn	Brent Knoll Parish Council
WR Cudlipp	Resident of Bridgewater
Kevin Archer	Resident of Brent Knoll
Louise Allen	Local resident
Richard Earthy	Resident of Burnham-on-Sea
Fiona Torrens-Spence	Chapel Allerton Parish Council
S Harding	Resident of East Brent
Michael Hare	Resident of Rooksbridge
James Heappey	Resident of Axbridge
Peter Mugford	Resident of Winscombe
Mark & Susan Johnson	Residents of Mark
Professor Peter Gold	Resident of East Brent
Simon Tidswell	Resident of Rooksbridge
Peter Briggs	
Dr Erin McKenzie	Resident of East Brent
Ms Hobhouse	
Paul Jacobs	Resident of Rooksbridge
David Maund	Resident of Rooksbridge
John Sturman	Resident of Brean
Nigel Lloyd-Jones	Resident of East Brent
Pat Ireland	Resident of Rooksbridge
Wendy Griffin	Owner of Yew Trees Nursery
Kevin Archer	Resident of Brent Knoll
Nichola Collins	Resident of East Brent
Klaus Kemp	
Gaynor Brown	Resident of Burnham-on-Sea

DOCUMENTS SUBMITTED DURING THE INQUIRY

- 1 Representation from Compton Bishop Parish Council
- 2 Letter from Campaign to Protect Rural England
- 3 Plan of the appeal proposal relative to the 2008 Inner Farm proposal
(replaces appendix // of Mr Fancourt's evidence)
- 4 'Planning for Onshore Wind Farms' House of Commons Library Note dated 3
December 2013 supplied by the Council
- 5 Appeal Decision ref APP/X1118/A/12/2189089, provided by NPL
- 6 Appeal Decision ref APP/Y1138/A/12/2177072, provided by NPL
- 7 Ministerial Decision refs APP/Y0435/A/10/2140401,
APP/K0235/A/11/2149434, APP/H2835/A/11/2149437 (Bozeat), provided by
NPL
- 8 Minutes of Sedgemoor District Council Development Committee on 24 April

- 2012 concerning application ref. 52/10/00018, provided by Mr Cudlipp
- 9 Statement of Steve McGreavey, provided by NPL
- 10 Statement from The National Trust
- 11 Statement of Hugh Clancy
- 12 Statement of Nick van der Bijl
- 13 Map showing the property of Mr Hodgson, supplied by NPL
- 14 Plan illustrating 2.5 and 5 km buffer, provided by the Council
- 15 Plan illustrating angle of view of proposal seen from Brent Knoll compared to Inner farm scheme, supplied by the appellant
- 16 Submissions from Mr Cudlipp dated 8, 11 and 26 January 2014
- 17 Submission from Cllr J H Denbee
- 18 Witness statement of David James
- 19 Bundle of 'Somerset Scenes' wildlife images and calendar provided by David Hodgson of The Paddocks
- 20 Statement from Mr Harding
- 21 Statement from Michael Hare
- 22 Statement from James Heapey
- 23 Email from Jonathan Richards, Planning Liaison Officer, Mendip Hills AONB Unit
- 24 Copies of planning permissions granted to Mr & Mrs P Mugford refs 24/13/00007, 24/09/00014 & 24/09/00009
- 25 Statement from Peter Mugford including plan showing land owned by Mr Mugford
- 26 Photographs showing access from Mudgley Road into The Stables Business Park, provided by Mr Mugford
- 27 Statement from Steven McGreavy
- 28 Statement from Mr & Mrs Johnson
- 29 Statement from John Rigarlsford
- 30 Statement from Mr Clarke
- 31 Statement from Professor Peter Gold
- 32 Statement from Peter Briggs
- 33 Letter from Margaret Stewart Fisher
- 34 Statement from Mrs J Brown
- 35 Additional visualisations and statement from the appellant in respect of Hinkley 'C' connection 'T' pylons.
- 36 Invitation to visit Ashton Windmill, from Cllr Fiona Torrens-Spence
- 37 Statement from Simon Tidswell
- 38 Statement from David Maund
- 39 Statement from John Sturman (plus separate folder of photographs)
- 40 Statement from Pat Ireland
- 41 Statement from Terry Mogg
- 42 Statement from Wendy Griffin, Yew Trees Nursery
- 43 Statement from Kevin Archer
- 44 Statement from Nichola Collins
- 45 Statement from Klaus Kemp
- 46 Copy of SoS decision ref APP/Z0923/A/13/2191361 (Weddicar Wind Farm) supplied by the appellant
- 47 Paras 110-122 of Doc 46, supplied by the Council
- 48 Clarification of witness statement from Colin Loader
- 49 Note on satellite reception supplied by Steven McGreavy
- 50 Copy of appeal decision ref APP/P1615/A/12/2184035 (Poolway Farm) supplied by the appellant

- 51 Copy of appeal decision ref APP/P0119/A/11/2154175 (Stoneyard Lane Wind Farm) supplied by NPL
- 52 Draft Mendip Hills AONB Management Plan, supplied by the Council
- 53 Statement from Gary Robinson
- 54 Statement from Gaynor Brown
- 55 Letter from Mr Cudlipp dated 16 January 2014
- 56 Copy of High Court case no. CO/12832/2012, Colman v SSCLG ref [2013] EWHC 1138 (Admin), supplied by the appellant
- 57 Statement from Even Craig Clarke
- 58 Planning permission for change of use of land in East Brent to form a playing field ref 24/13/00023, supplied by Nigel Lloyd-Jones
- 59 Statement of Chapel Allerton Parish Council
- 60 Email from Paul Hipwell

Documents received after the public sessions:

- 61 Appellant's proposed conditions with micrositing plan, supplied by the appellant
- 62 Television reception briefing note, supplied by the appellant
- 63 Construction Statement, supplied by the appellant
- 64 Traffic Statement, supplied by the appellant
- 65 Ornithology Statement, supplied by the appellant
- 66 Statement on Energy and Wind matters, supplied by the appellant
- 67 Aviation lighting briefing note and letter, supplied by the appellant
- 68 S106 Unilateral Undertaking
- 69 Bundle of responses to Docs 61-67 from NPL, received 10 February 2014
- 70 Bundle of final responses to Doc 69 from the appellant, received on 17 February 2014
- 71 Bundle of responses to Inspector's request for comments on the decision of the Court of Appeal in Barnwell Manor Wind Energy Limited v East Northamptonshire District Council [2014] EWCA Civ 137, and the Secretary of State's recent decision on the Black Ditch Wind Farm (Appeal Reference: APP/V3310/A/12/2186162)
- 72 Bundle of responses to the issue of the March 2014 planning guidance

Annex 2

Schedule of suggested conditions

Time Limits and Site Restoration

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

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

(2) The development hereby permitted shall be carried out in accordance with

the following approved plans:

- Figure 1 Planning Application Location Plan; and
- Figure 2 Proposed Wind Farm Layout Plan

Reason: For the avoidance of doubt and in the interests of proper planning.

(3) The planning permission hereby granted is for a period of 25 years from the date of first export of electricity from the wind turbines to the electricity grid ("First Export Date") after which the development shall be removed. Written notification of the First Export Date shall be given 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 the interests of safety and amenity once the plant is redundant.

(4) No later than 12 months prior to the end of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the wind turbines and associated above ground works approved under this permission and details of the depth to which the wind turbine foundations will be removed. The scheme shall also include the management and timing of any works and a traffic management plan to address potential traffic impact issues during the decommissioning period, location of material laydown areas, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats and details of site restoration measures. The turbines shall be decommissioned, the foundations and buildings removed in accordance with the approved scheme and timetable within 12 months of the expiry of this permission.

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

(5) If any wind turbine generator hereby permitted ceases to export electricity to the grid for a continuous period of 6 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 6 month period for the repair or removal of that turbine. The scheme shall include as relevant a programme of remedial works where repairs to the relevant turbine are required. Where removal is necessary the scheme shall include a programme for removal of the relevant turbine and associated above ground works approved under this permission, details of the depth to which the wind turbine foundations will be removed and for site restoration measures following the removal of the relevant turbine. The scheme shall thereafter be implemented in accordance with the approved details and timetable.

Reason: In the interests of visual amenity.

Construction Traffic Management Plan and Construction Method Statement

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

Reason: In the interests of highway safety.

(7) No development shall take place until a Construction Method Statement (CMS) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved CMS. The CMS shall include:

- a) Details of the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
- b) Details of the proposed storage of materials and disposal of surplus materials;
- c) Dust management;
- d) Pollution control measures in respect of:
 - Water courses and ground water
 - Bunding of storage areas
 - Foul sewerage;
- e) Temporary site illumination during the construction period including proposed lighting levels together with the specification of any lighting;
- f) Details of the phasing of construction works;
- g) Details of surface treatments and the construction of all hard surfaces and tracks to include their decommissioning and subsequent reinstatement of the land;
- h) Details of emergency procedures and pollution response plans;
- i) Siting and details of wheel washing facilities;
- j) Cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway;
- k) A site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats;
- l) Areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
- m) Details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound;
- n) Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities

shall be adopted as set out in British Standard 5228 Part 1: 2009.

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

Construction Hours

(8) All construction and decommissioning works shall only take place between the hours of 07:00 to 19:00 Monday to Friday inclusive and 08:00-13:00 Saturdays. No construction or decommissioning works shall take place on a Sunday or a Public Holiday. Exceptions for work outside these hours, including turbine erection because of weather dependence, may be carried out only with the prior written approval of the Local Planning Authority. Emergency works may be carried out at any time provided that the operator retrospectively notifies the Local Planning Authority in writing of the emergency works undertaken within 24 hours.

Reason: In the interests of amenity to restrict noise impact and the protection of the local environment.

Delivery Hours

(9) The delivery of any construction materials or equipment for the construction of the development, other than turbine blades, nacelles and towers, shall be restricted to the hours of 07:00 to 19:00 on Monday to Friday inclusive, 07:00 to 13:00 on Saturdays with no such deliveries on a Sunday or Public Holiday unless otherwise approved in writing by the Local Planning Authority having been given a minimum of two working days notice of the proposed delivery.

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

Appearance

(10) All wind turbine generators shall be of three bladed construction. The blades of all wind turbine generators shall rotate in the same direction. The overall height of the wind turbines shall not exceed 130 metres to the tip of the blades when the uppermost blade of the turbine is in the vertical position as measured from natural ground conditions immediately adjacent to the turbine base.

Reason: In the interests of visual amenity.

(11) 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 and of the finish and colour of the meteorological mast shall be submitted to and approved in writing by the Local Planning Authority. No name, sign, or logo shall be displayed on any external surfaces of the turbines or any external transformer units or the meteorological mast other than those required to meet statutory health and safety requirements. The approved colour and finish of the wind turbines and any external transformer units shall be implemented prior to the turbines becoming operational and shall not be changed without the prior consent in writing of the Local Planning Authority. The development shall be

carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

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

Reason: In the interest of visual amenity.

(13) All electrical cabling between (1) the individual turbines (2) the turbines and the on-site electricity substation and (3) the on-site electricity substation and the boundary of the application site shall be installed underground only.

Reason: In order to ensure a satisfactory appearance in the landscape.

(14) There shall be no permanent illumination on the site other than a passive infra-red operated external door light for the substation building door to allow safe access; temporary lighting required during the construction period or during maintenance; or emergency lighting; and aviation related lighting.

Reason: In the interests of visual amenity.

Micro-Siting

(15) The turbines and meteorological mast hereby permitted shall be erected at the following grid co-ordinates:

T1	336235	150824
T2	336744	150923
T3	336428	150550
T4	335949	150427
Met Mast	336205	150656

Notwithstanding the terms of this condition, the turbines and meteorological mast may be micro-sited within 25 metres of the above coordinates in accordance with drawing number RSB-026C in order to respond to local variations in ground conditions, subject to the following restrictions and subject to an absolute requirement that in no case would turbines be micro-sited closer than 200 metres to trees with high bat roost potential as identified on Drawing 4 within Appendix 8.D to the Environmental Statement and turbines and foundations and associated crane pads cannot be micro-sited closer than 9m to watercourses: -

- (a) Turbine T2 can only be micro-sited to the west and south of its indicative location to avoid over-sailing the development site boundary;

- (b) Turbine T3 cannot be micro-sited between 53 and 234 degrees on its indicative location to avoid an unacceptable impact on a JRC scanning telemetry link;
- (c) Turbines T3 and T4 cannot be micro-sited any closer to property 65 (Old Vole Farm);
- (d) Turbine T4 cannot be micro-sited any closer to property 66 (Willow Tree Farm);
- (e) Turbines T1 and T2 cannot be micro-sited any closer to property 26 (Mudgeley Lodge Farm); and
- (f) Turbines T1 and T4 cannot be micro-sited any closer to property 21 (East Brent Piggery).

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

Reason: To allow for any minor movements in turbine locations to respond to local ground conditions.

Ecology

(16) No development shall take place until a Habitat Enhancement Plan (HEP) has been submitted to and approved in writing by the Local Planning Authority. The HEP shall include:

- a) the establishment of at least 500m of 6m wide field grass margins to provide additional habitat and enhance the value of adjacent hedgerows for a range of species including plants, mammals, reptiles, amphibians and invertebrates;
- b) provision of approximately 50m of species-rich hedgerow planting to compensate for the loss of species-poor hedgerow;
- c) the enhancement of the quality of the existing hedgerow network through the adoption of a low intensity hedgerow management scheme;
- d) the improvement of 250m of drains through rotational dredging, bank re-profiling and vegetation management to enhance the site for water vole; and
- e) a timetable for implementation.

The measures specified in the HEP shall be completed in accordance with the approved HEP and timetable within 12 months of the First Export Date.

Reason: In the interests of nature conservation.

(17) Prior to the commencement of development, a specification and timetable for otter and water vole surveys must be submitted to and approved in writing by the Local Planning Authority. The surveys shall be undertaken by a qualified ecologist in accordance with the approved specification in the last suitable season prior to site preparation and construction work commencing. The survey results, a programme of any mitigation measures required as a consequence and a timetable for any such mitigation measures shall be submitted to and approved in writing by the Local Planning Authority prior to any works associated with the development taking place. The programme of mitigation work shall be implemented as approved under the supervision of a qualified ecologist.

Reason: In the interests of nature conservation and to safeguard protected species.

Archaeology

(18) Prior to the commencement of development a written scheme of investigation including a programme of archaeological work and timetable for carrying out this work shall be submitted to and approved in writing by the Local Planning Authority. Work shall be carried out in accordance with the approved programme of archaeological work and approved timetable.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government advice in the NPPF section 12.

Highways

(19) No development shall take place until details of the proposed construction, materials and surfacing of the site access road and its junction with the public highway have been submitted to and approved in writing by the Local Planning Authority. No other part of the development shall commence until the site access has been completed in accordance with the approved details.

Reason: To ensure that an adequate and safe access is provided to the site.

(20) Prior to the commencement of development, details of a scheme for the provision of a right hand island on the A38 at the point of access to the site shall be submitted to and approved in writing by the Local Planning Authority. No other part of the development shall commence until the right hand island has been provided in accordance with the approved details and timescale.

Reason: In the interests of highway safety.

Aviation

(21) Each turbine hereby permitted shall be fitted with:

- (i) an infra-red warning light with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point; and
- (ii) a 25-50 candela red light which shall incorporate a physical shield to prevent downward illumination.

The turbines shall not be erected without this lighting installed and the lighting shall remain operational whilst the turbines are in existence.

Reason: In the interests of air safety.

Television Interference

(22) Prior to the First Export Date a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to

television caused by the operation of the turbines shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a lawfully occupied dwelling, residential institution or hotel for the purposes of this condition as a building within Use Classes C1, C2, C3 or C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission, where such complaint is notified to the developer by the Local Planning Authority within 12 months of the First Export Date. The scheme shall provide for a qualified television engineer to investigate such complaint within 14 days of first notification of the complaint to the developer. Where impairment is determined by the engineer to be attributable to the wind farm, mitigation works shall be carried out in accordance with the approved scheme. All complaints are to be resolved and relevant mitigation works completed by the developer within 42 days of first notification of the complaint to the developer.

Reason: In the interests of amenity for nearby residents.

Shadow Flicker

(23) Prior to the First Export Date a written scheme shall be submitted to and approved in writing by the Local Planning Authority setting out a shadow flicker protocol for the assessment and remediation of shadow flicker in the event of any complaint from the owner or occupier of a dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission. The written scheme shall provide for the turbine(s) identified in a complaint notified to the developer by the Local Planning Authority as being the source of the shadow flicker to be turned off for the duration of the period in each day identified in the complaint as the period when shadow flicker occurs from the date of first notification by the Local Planning Authority to the developer until such time as the complaint has been investigated and where necessary remedial measures, which can only be measures under the control of the developer, have been carried out and completed. The scheme shall provide for all complaints to be investigated and any necessary remedial works carried out and completed by the developer within 28 days of first notification of the complaint to the developer. The approved protocol shall be followed unless the Local Planning Authority gives its prior written consent to any variations.

Reason: In the interests of amenity for nearby residents.

Operational Noise

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

(A) Prior to the First Export Date, the wind farm operator shall submit to the Local Planning Authority for written approval a list of proposed

independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.

- (B) Within 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 wind farm operator shall, at its expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Local Planning Authority made under this paragraph (B), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the Local Planning Authority in the format set out in Guidance Note 1(e).
- (C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Local Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.
- (D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the Local Planning Authority pursuant to paragraph (C) of this condition shall be undertaken at the measurement location approved in writing by the Local Planning Authority.
- (E) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (F) of this

condition, the wind farm operator shall submit to the Local Planning Authority for written approval a proposed assessment protocol setting out the following:

- (i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions.
- (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 necessary to fully assess the noise at the complainant's property. 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 and the attached Guidance Notes.

- (F) The wind farm operator shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 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 wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (F) above unless the time limit for the submission of the further assessment has been extended in writing by the Local Planning Authority.
- (H) The wind farm operator shall continuously log wind speed and wind direction at the permanent meteorological mast erected in accordance with this consent and shall continuously log power production and nacelle wind speed, nacelle wind direction and nacelle orientation at each wind turbine all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine and the permanent meteorological mast shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance

Note 1(e) of the attached Guidance Notes to the Local Planning Authority on its request within 14 days of receipt in writing of such a request.

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

Table 1 – Daytime (07:00-23:00) - Noise level dB L_{A90} , 10-minute

Location (easting, northing grid Coordinates)	Wind speed standardised at 10 metres height (m/s) within the site averaged over 10 minute periods											
	L_{A90} Decibel Levels											
	1	2	3	4	5	6	7	8	9	10	11	12
R1 Old Vole Farm (336332,149998)	45	45	45	45	45	45	46	48	51	53	55	57
R2 Nut Treet Farm (336537,149708)	42	42	42	42	43	44	46	48	50	53	55	57
R3 Knoll View Farm (336383,149797)	42	42	42	42	43	44	46	48	51	53	55	57
R4 Willow Tree Farm (335598,149795)	42	42	42	42	43	44	46	48	51	53	55	57
R5 Rookery Farm (335306,149718)	42	42	42	42	43	44	46	48	51	53	55	57
R6 The Paddocks (336185,151687)	58	59	60	61	61	61	61	61	62	63	64	65
R7 Mudgley Lodge Farm (336139,151552)	58	59	60	61	61	61	61	61	62	63	64	65
R8 Rose Farm (336460,151911)	58	59	60	61	61	61	61	61	62	63	64	65
R9 Laurel Farm (335166,149685)	42	42	42	42	43	44	46	48	51	53	55	57
R10 Old Homestead Farm (337839,150116)	41	41	41	41	41	41	41	44	48	48	48	48
R11 The Paddons (337954,151376)	43	43	43	43	43	44	45	47	49	51	52	54
R12 Slade Farm (338008,152049)	43	43	43	43	43	44	45	47	49	51	52	54
R13 Rose Farm (nr Slade Farm) (338011,152010)	43	43	43	43	43	44	45	47	49	51	52	54
R14 Manor Farm (337848,152447)	43	43	43	43	43	44	45	47	49	51	52	54
R15 Sunnyside (337045,151802)	50	50	50	50	50	50	50	51	52	53	55	55
R16 The Acres (336962,151944)	50	50	50	50	50	50	50	51	52	53	55	55
R17 Lake House (335571,150980)	60	60	60	60	60	61	61	61	61	61	60	59
R18 East Brent Piggery (335323,150807)	60	60	60	60	60	61	61	61	61	61	60	59
R19 Smithfield Farm (335058,150444)	60	60	60	60	60	61	61	61	61	61	60	59
R20 Nut Treet Bungalow (336400,149859)	42	42	42	42	43	44	46	48	50	53	55	57
R21 New Homestead Farm (337854,150169)	41	41	41	41	41	41	41	44	48	48	48	48
R22 Proposed Property at Former Pilrow Farm (337079,150192)	41	41	41	41	41	41	41	44	48	48	48	48

Table 2 – Night-time (23:00-07:00) - Noise level dB L_{A90} , 10-minute

Location (easting, northing grid Coordinates)	Wind speed standardised at 10 metres height (m/s) within the site averaged over 10 minute periods											
	L_{A90} Decibel Levels											
	1	2	3	4	5	6	7	8	9	10	11	12
R1 Old Vole Farm (336332,149998)	45	45	45	45	45	45	45	45	47	52	57	62
R2 Nut Treet Farm (336537,149708)	43	43	43	43	43	43	43	44	47	52	57	62

R3 Knoll View Farm (336383,149797)	43	43	43	43	43	43	43	43	44	47	52	57	62
R4 Willow Tree Farm (335598,149795)	43	43	43	43	43	43	43	43	44	47	52	57	62
R5 Rookery Farm (335306,149718)	43	43	43	43	43	43	43	43	44	47	52	57	62
R6 The Paddocks (336185,151687)	51	52	52	53	53	53	54	55	56	58	61	65	
R7 Mudgley Lodge Farm (336139,151552)	51	52	52	53	53	53	54	55	56	58	61	65	
R8 Rose Farm (336460,151911)	51	52	52	53	53	53	54	55	56	58	61	65	
R9 Laurel Farm (335166,149685)	43	43	43	43	43	43	43	44	47	52	57	62	
R10 Old Homestead Farm (337839,150116)	43	43	43	43	43	43	43	43	43	43	43	43	
R11 The Paddons (337954,151376)	43	43	43	43	43	43	43	43	45	49	54	60	
R12 Slade Farm (338008,152049)	43	43	43	43	43	43	43	43	45	49	54	60	
R13 Rose Farm (nr Slade Farm) (338011,152010)	43	43	43	43	43	43	43	43	45	49	54	60	
R14 Manor Farm (337848,152447)	43	43	43	43	43	43	43	43	45	49	54	60	
R15 Sunnyside (337045,151802)	44	44	44	44	44	44	45	46	48	51	55	55	
R16 The Acres (336962,151944)	44	44	44	44	44	44	45	46	48	51	55	55	
R17 Lake House (335571,150980)	53	54	54	54	54	54	53	53	53	54	55	57	
R18 East Brent Piggery (335323,150807)	53	54	54	54	54	54	53	53	53	54	55	57	
R19 Smithfield Farm (335058,150444)	53	54	54	54	54	54	53	53	53	54	55	57	
R20 Nut Treet Bungalow (336400,149859)	43	43	43	43	43	43	43	44	47	52	57	62	
R21 New Homestead Farm (337854,150169)	43	43	43	43	43	43	43	43	43	43	43	43	
R22 Proposed Property at Former Pilrow Farm (337079,150192)	43	43	43	43	43	43	43	43	43	43	43	43	

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.

Guidance Notes for Noise Condition

1 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 emissions 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 BS EN 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 calculated and applied in accordance with Guidance Note 3.

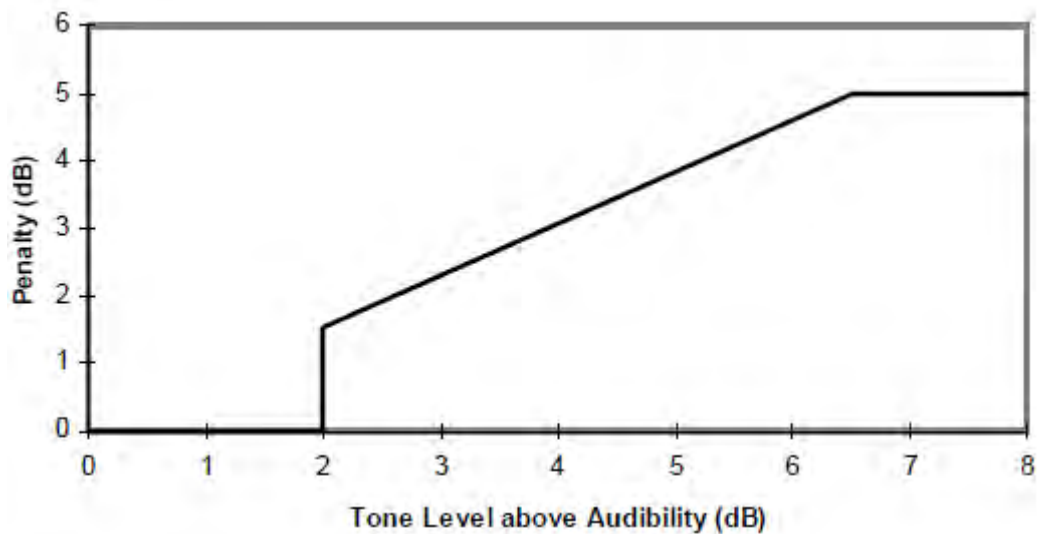
- (b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The $L_{A90,10\text{-minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).
- (d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in metres from north in each successive 10-minute period at the permanent meteorological mast erected in accordance with the planning permission on the site. Each 10 minute arithmetic average mean wind speed data shall be standardised at a height of 10 metres using a roughness length of 0.05m. It is this standardised 10 metre height wind speed data which is 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). The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated during each successive 10-minute period for each wind turbine on the wind farm. 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.
- (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 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). The wind farm operator shall submit details of the proposed location of the data logging rain gauge to the Local Planning Authority prior to the commencement of measurements.

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 wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
 - i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved noise assessment protocol

under paragraph (E) of this condition.

- ii. The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.

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.

Annex 3

Core Document list

2 Adopted Development Plan Documents		
SDC	1.1	Sedgemoor Core Strategy (adopted 12 October 2011)
3 Planning Policy and Legislation		
BEL	3.1	DCLG: National Planning Policy Framework (March 2012)
BEL	3.2	Written Statement to Parliament, Local Planning and Onshore Wind, The Rt Hon Eric Pickles MP, DCLG, 6 June 2013
BEL	3.3	Written Statement to Parliament, The Rt Hon Edward Davey MP, DECC, 6 June 2013 & DECC Press Release of same date
BEL	3.4	Circular 02/99: Environmental Impact Assessment
BEL	3.5	Circular 11/95: The Use of Conditions in Planning Permissions
BEL	3.6	Town and Country Planning (Environmental Impact Assessment) Regulations 2011
BEL	3.7	Town and Country Planning (Development Management Procedure) (England) Order 2010

BEL	3.8	The Planning System: General Principles (ODPM 2005)
BEL	3.9	DCLG: Planning practice guidance for renewable and low carbon energy July 2013
4 Other Local Planning Authority Documents		
SDC	4.1	The Sedgemoor Landscape Assessment and Countryside Design Summary (Revised Edition, 2003)
SDC	4.2	PPS1 Supplement Study: Planning and Climate Change, ARUP (October 2010)
	4.3	Somerset County Council report on Bats and Wind Turbines (September 2010) (see CD9.6)
SDC	4.4	Draft Revised RSS for the South West Incorporating the Secretary of State's Proposed Changes – For Public Consultation, July 2008
SDC	4.5	South West Renewable Energy Progress Report, RegenSW, July 2013 (Extract – Policy RE1)
SDC	4.6	Sedgemoor Economic Development Strategy 2011 to 2026 Update http://www.sedgemoor.gov.uk/CHttpHandler.ashx?id=9570&p=0
SDC	4.7	Schedule of 'Saved' Policies of the Sedgemoor District Local Plan (1991-2011) together with Extracts
SDC	4.8	Sedgemoor Annual Monitoring Report 2007-2008, December 2008
SDC	4.9	Sedgemoor Annual Monitoring Report 2008-2009, December 2009
SDC	4.10	Sedgemoor Annual Monitoring Report 2009-10, December 2010
SDC	4.11	Sedgemoor Annual Monitoring Report 2010-11, December 2011
SDC	4.12	Sedgemoor Annual Monitoring Report 2011-12, March 2013
5 High Court Decisions		
BEL	5.1	Derbyshire Dales District Council v Secretary of State for Communities and Local Government [2009] EWHC 1729
BEL	5.2	R (Hulme) v Secretary of State for Communities and Local Government [2010] EWHC 2386
BEL	5.3	R (Lee) v Secretary of State for Communities and Local Government, Maldon District Council, Npower Renewables [2011] EWHC 807 (Admin)
BEL	5.4	Michael William Hulme v Secretary of State for Communities and Local Government and RES Developments Limited [2011] EWCA Civ 638
BEL	5.5	Sea & Land Power & Energy Ltd v Secretary of State for Communities and Local Government, Great Yarmouth Borough Council [2012] EWHC 1419 (Admin)
BEL	5.6	Coleman v Secretary of State for Communities and Local Government and others [2013] EWHC 1138 (Admin)
BEL	5.7	Gerald David Bayliss v Secretary of State for Communities and Local Government, Purbeck District Council, Purbeck Windfarm LLP [2013] EWHC 1612 (Admin)

BEL	5.8	Tesco Stores Ltd v Dundee City Council [2012] 2 P&CR 162
BEL	5.9	Bedford Borough Council v Secretary of State for Communities and Local Government and Nuon UK Ltd [2013] EWHS 4344 (Admin)
6 Various Wind Farm Appeal Decisions and Section 36 Electricity Act Decisions		
BEL	6.1	Chiplow (APP/V2635/A/11/2154590) and Jack's Lane (APP/V2635/A/11/2158966)
BEL	6.2	Burnthouse Farm (Decision Letter and Inspector's Report conclusions) (APP/D0515/A/10/2123739 and APP/D0515/A/10/2131194)
BEL	6.3	Cleek Hall (APP/N2739/A/12/2172629)
BEL	6.4	Carland Cross (APP/D0840/A/09/2103026)
BEL	6.5	Airfield Farm, Podington (APP/K0235/A/09/2108506) dated 23 February 2010 and 13 August 2012
BEL	6.6	Chelveston (APP/K0235/A/11/2160077 and APP/G2815/A/11/2160078)
BEL	6.7	Spaldington (APP/E2001/A/10/2137617 and APP/E2001/A/10/2139965)
BEL	6.8	Carsington Pastures (APP/P1045/A/07/2054080)
BEL	6.9	Cotton Farm (APP/H0520/A/09/2119385)
BEL	6.10	Alaska Wind Farm (APP/B1225/A/11/2161905)
BEL	6.11	Batsworthy Cross (APP/X1118/A/11/2162070)
BEL	6.12	Earls Hall Farm (APP/P1560/A/08/2088548)
BEL	6.13	Low Spinney (APP/F2415/A/09/2109745)
BEL	6.14	Bradwell (APP/X1545/A/06/2023805) dated 25 January 2010
BEL	6.15	Frodsham (s36 consent) (Inspector's Report Extracts and Decision Letter)
BEL	6.16	Inner Farm, Edithmead, Burnham-on-Sea (APP/V3310/A/06/2031158)
BEL	6.17	Bradwell (APP/X1545/A/06/2023805) dated 10 September 2007
BEL	6.18	Enifer Downs (APP/X220/A/08/2071880)
BEL	6.19	Common Barn (APP/H0520/A/12/2188648)
BEL	6.20	Hill Lane, Oldbury on Severn (Stoneyard Lane) (APP/P0119/A/11/2154175)
BEL	6.21	Report of the Panel to the Secretary of State in connection with the proposal to construct and operate Hinkley 'C' Nuclear Power Station
BEL	6.22	The Secretary of State's Acceptance of the Report of the Panel (see above)
BEL	6.23	Tedder Hill, Pilmar Lane, Roos (APP/E2001/A/09/2097720)
BEL	6.24	Silton (APP/N1215/A/11/2160839)
BEL	6.25	Truthan Barton Farm (APP/D0840/A/11/2163691)

BEL	6.26	Thackson's Well Farm (APP/E2530/A/08/2073384)
BEL	6.27	Steadings Wind Farm, DECC 25 March 2010
7 Planning, Renewable Energy and Climate Change Documents		
BEL	7.1	Department of Energy and Climate Change: National Policy Statement, Overarching Energy EN1 (July 2011)
BEL	7.2	Department of Energy and Climate Change: National Policy Statement, Renewable Energy EN3 (July 2011)
BEL	7.3	Energy White Paper – 'Meeting the Energy Challenge' (2007) (Extract)
BEL	7.4	DECC: The UK Renewable Energy Strategy (UKRES), July 2009
BEL	7.5	DECC: The UK Low Carbon Transition Plan, (LCTP) White Paper in (July 2009) (Executive Summary)
BEL	7.6	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
BEL	7.7	The Coalition Government: "Our Programme for Government" (2010)
BEL	7.8	The Renewable Energy Review, Committee on Climate Change (2011)
BEL	7.9	UK Renewable Energy Road Map (July 2011)
BEL	7.10	Electricity Market Reform White Paper (July 2011)
BEL	7.11	National Infrastructure Plan (November 2011)
BEL	7.12	Delivering Our Low Carbon Future (December 2011)
BEL	7.13	The Annual Energy Statement (2012)
BEL	7.14	Renewable Energy Roadmap Update (December 2012)
BEL	7.15	Natural England, "Making Space for Renewable Energy" (2010)
BEL	7.16	Natural England, "Sustainable Energy Policy" (2008) (Archived)
BEL	7.17	Natural England, "Position on Wind Energy" (2009) (Archived)
BEL	7.18	Natural England "Climate Change Policy" (2008) (Archived)
BEL	7.19	DECC, June 2012, 'Special Feature – renewable energy in 2011
BEL	7.20	DECC 'Energy Trends' Report of March 2013
BEL	7.21	DECC - Renewable Electricity in Scotland, Wales, Northern Ireland and the regions of England in 2011', Special Feature Renewable Electricity (September 2012)
BEL	7.22	DECC - Onshore Wind Call for Evidence : Government Response to Part A (Community and Engagement and Benefits) and Part B (Costs) Department of Energy and Climate Change June 2013
BEL	7.23	Natural England, "Natural England Position Statement: Renewable Energy and Protected Landscapes (Areas of Outstanding Natural Beauty and National Parks (2010) (Archived)

BEL	7.24	The Stern Review, October 2006 (Extract)
BEL	7.25	The Energy Act 2008
BEL	7.26	The Climate Change Act 2008
BEL	7.27	European Renewable Energy Directive (2009/28/EC)
BEL	7.28	National Renewable Energy Action Plan for the UK
BEL	7.29	The Promotion of the Use of Energy from Renewable Sources Regulations, SI No. 243
BEL	7.30	Renewable Energy Capacity and RSSs, ARUP, 2009
BEL	7.31	Appraisal of Sustainability for the revised draft National Policy Statement for Renewable Energy Infrastructure (EN-3), DECC, October 2010
BEL	7.32	Annual Energy Statements 2010, 2011, 2012
BEL	7.33	Renewable Energy Roadmap Update, November 2013
BEL	7.34	Planning our Electric Future: a White Paper for Secure Affordable and Low Carbon Electricity, July 2011 – see CD 6.10
BEL	7.35	The Energy Bill (Extract)
BEL	7.36	DECC Energy Security Strategy, 2012
BEL	7.37	PPS22 Planning and Renewable Energy Companion Guide, http://www.waveney.gov.uk/site/scripts/download.php?fileID=822
BEL	7.38	Assessment of Sustainability to NPS EN-3, - see CD 6.31 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/47786/1932-aos-main-report-en3.pdf
BEL	7.39	Planning Applications for Wind Turbines Sited near to Trunk Roads 12/09 http://www.hugag.co.uk/attachments/File/Appendix07ammended.pdf
SDC	7.40	DCLG Statement: 'New Step for Localism as every regional plan has gone', 27 March 2013
8 Landscape and Visual (including public perception) Documents		
BEL	8.1	The Landscape Institute, Institute of Environmental Management and Assessment, 2002 'Guidelines for Landscape and Visual Impact Assessment', second edition.
BEL	8.2	The Landscape Institute, Institute of Environmental Management and Assessment, 2013 'Guidelines for Landscape and Visual Impact Assessment', third edition.
BEL	8.3	Landscape Character Assessment: Guidance for England and Scotland (The Countryside Agency and Scottish Natural Heritage 2002)
BEL	8.4	Siting and designing Wind farms in the landscape, Version 1 (Scottish Natural Heritage December 2009)
BEL	8.5	Photography and Photomontage in Landscape and Visual Assessment, Landscape Institute Advice Note 01/2011 (2011)

BEL	8.6	Visual Representation of Wind Farms: Good Practice Guidance (Scottish Natural Heritage 2006)
BEL	8.7	Scottish Natural Heritage, "Guidance Assessing the Cumulative Impact of Onshore Wind Energy Developments" Version 3, (March 2012)
BEL	8.8	Department of Energy and Climate Change, "DECC Public Attitudes Tracker – Wave 1", July 2012 and updates
BEL	8.9	Ipsos Mori, "Wind Power Omnibus Research", April 2012
BEL	8.10	'Public Attitudes to Wind Farms' Scottish Executive 2003
BEL	8.11	'Green on Green Public Perceptions of Wind Power in Scotland and Ireland, Nov 2005'
BEL	8.12	GLVIA 3 LI/IEMA Statement of Clarification 1/13
BEL	8.13	Natural England, National Character Area Profile, '142 Somerset Levels and Moors' http://publications.naturalengland.org.uk/publication/12320274?category=587130
BEL	8.14	"The Impact of Renewable Energy Farms on Visitors to Cornwall" South West Research Company (November 2013)
9 Cultural Heritage		
BEL	9.1	"Wind Energy and the Historic Environment", English Heritage, 2005
BEL	9.2	"The Setting of Heritage Assets: English Heritage Guidance", English Heritage, 25 October 2011
10 Ecology		
BEL	10.1	"Bat Surveys: Good Practice Guidelines", Bat Conservation Trust, 2007
BEL	10.2	"Handbook for phase 1 habitat survey – a technique for environmental audit", JNCC, 2010
BEL	10.3	"Bats and Onshore Wind Turbines, Interim Guidance, 2 nd Edition", Natural England Technical Information Note 051, 2012
BEL	10.4	"Bat Mitigation Guidelines", Mitchell-Jones, A.J. English Nature, 2004
BEL	10.5	"Bat Surveys: Good Practice Guidelines, 2 nd Edition", Hundt, L. Bat Conservation Trust, 2012
SDC	10.6	"European Protected Species in Sedgemoor. Bats and Wind Turbines", Burrows, L. Somerset County Council, 2010
11 Ornithology		
BEL	11.1	"Survey methods for use in assessing the impacts of wind farms on bird communities", Scottish Natural Heritage, Aberdeen, 2005
BEL	11.2	"Assessing the effects of onshore wind farms on birds", Natural England Technical Information Note TIN069, Sheffield, 2010
BEL	11.3	"Bird Monitoring Methods" Gilbert, G., Gibbons, D. & Evans, J. RSPB, Sandy, Beds, 1998
BEL	11.4	"Effecten van windturbines op de fauna in Vlaanderen" Everaert, J. Brussels: Instituut

		voor Natuuren Bosonderzoek, 2009
BEL	11.5	JNCCa (2001) http://jncc.defra.gov.uk/pdf/UKSPA/UKSPA-A6-63.pdf
BEL	11.6	JNCCb (2001) http://jncc.defra.gov.uk/pdf/UKSPA/UKSPA-A6-69.pdf
BEL	11.7	"Base-line investigations of birds in relation to an offshore wind farm at Rødsand" Desholm, M., Petersen, I. K., Kahlert, J. & Clausager, I. Denmark: National Environmental Research Institute, Ministry of the Environment, 2003

12 Planning Application Documentation		
BEL	12.1	Planning application and supporting documents (provided in the Appeal Bundle)
BEL	12.2	Environmental Statement (provided in the Appeal Bundle)
BEL	12.3	Decision Notice dated 8 April 2013
BEL	12.4	Officers Report dated 8 April 2013
BEL	12.5	Further Environmental Information (provided in Appeal Bundle)
SDC	12.6	Ion Acoustic's Noise Assessment, 26 February 2013
13 Noise		
	13.1	ETSU-R-97 The Assessment and Rating of Noise from Wind Farms, 1996, ETSU for the DTI
	13.2	The Institute of Acoustics Good Practice Guide to the application of ETSU-R-97 for the assessment and rating of wind turbine noise



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.