



Department for
Communities and
Local Government

Michelle Smith
Eversheds LLP
Bridgewater Place, Water Lane
Leeds
West Yorkshire
LS11 5DR

Our Ref: APP/Y0435/A/12/2186522
Your Ref: 156396.000125

29 July 2014

Dear Madam,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY RWE INNOGY UK LTD (FORMERLY RWE NPOWER RENEWABLES
LTD)
AT LAND AT HILL FARM, HAVERSHAM, MILTON KEYNES, MK19 7DY
APPLICATION: 11/02028/FULEIS**

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 a public local inquiry which opened on 23 July 2013 into your client's appeal against the non-determination of an application by Milton Keynes Council (the Council) for a 'Proposed wind farm to include the following elements: five wind turbines with a maximum overall tip height of up to 127m; transformer/switchgear kiosks associated with each turbine; permanent anemometry mast; crane pads associated with each turbine; on-site access tracks; temporary construction compound and temporary anemometry mast; control building and compound; and on-site cables. Site to be decommissioned after 25 year operational period' at Land at Hill Farm, Haversham, Milton Keynes, MK19 7DY in accordance with application reference 11/02028/FULEIS dated 16 September 2011.
2. On 5 June 2013 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990 because the appeal relates to proposals of major significance for the delivery of the Government's climate change programme and energy policies.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission be granted subject to conditions. For the reasons given below, the Secretary of State disagrees with his recommendation. A copy of the Inspector's report (IR) is

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enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

4. In reaching this position the Secretary of State has taken into account the submitted Environmental Statement, the Supplementary Environmental Information, Further Environmental Information including a revised Residential Visual Amenity Study, the update of the cumulative baseline and additional viewpoint illustrations, together with the Inspector's comments at IR3-4 and the Inspector's Ruling at Annex 1 of the IR. The Secretary of State is content that the Environmental Statement complies with the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and that sufficient information has been provided for him to assess the environmental impact of the application.
5. Like the Inspector (IR5), the Secretary of State has taken into account the revised wireframe drawings (inquiry document 9 identified on page 93 of the IR) that were provided to give an indication of the locations and appearance of the external transformers and the control building.

Matters arising after the close of the inquiry

6. Since the close of the inquiry the Secretary of State is in receipt of a letter dated 29 November 2013 from the Council to the Planning Inspectorate which refers to the adoption on 16 October 2013 of the Milton Keynes Wind Turbines Supplementary Planning Document and Emerging Policy (the SPD). He is also in receipt of an email dated 10 December 2013 from DLP Planning Consultants sent on behalf of Stop Haversham Wind Farm Action Group to the Planning Inspectorate. This enclosed a copy of a final adjudication by the Advertising Standards Authority (ASA) in respect of a complaint made about the Appellant, and the email also referred to the publication of the SPD. The Secretary of State does not consider that it is necessary for him to refer back to parties on the matters raised in this correspondence. He is satisfied that the core components of the draft SPD that was considered at the inquiry were carried through into the adopted SPD and he also notes that the policy in respect of non-long distance routes, which was an addition to the final SPD, reflects the 2013 British Horse Society advice which was also before the inquiry. In respect of the ASA adjudication, the Secretary of State does not consider it raises any new issues which affect his decision.
7. The Secretary of State wrote on 19 March 2014 to the main inquiry parties, inviting comment on the implications of the Court of Appeal decision in *Barnwell Manor Wind Energy Limited v East Northamptonshire District Council and others* [2014] EWCA Civ 137 for this case; and on the planning guidance which was published on 6 March 2014. The responses received were circulated to the main parties for further comment on 3 April 2014. In coming to his decision on the appeal before him the Secretary of State has taken into account the representations received in this respect, which are listed at Annex A to this letter.

8. The Secretary of the State is also in receipt of the correspondence listed at Annex B of this letter which was either submitted too late for consideration by the Inspector, or received by the Secretary of State following the inquiry. He has carefully considered these representations but is satisfied that they also do not raise new matters that would affect his decision and that it is not necessary to circulate them to parties before his determination of this appeal. Copies of the representations identified in paragraph 6 and in Annexes A and B are not attached to this letter but will be provided on application to the address at the bottom of the first page of this letter or to PCC@communities.gsi.gov.uk.

Policy considerations

9. In deciding the application, 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.

10. In this case, the development plan comprises the 2013 Milton Keynes Core Strategy (CS) and the saved policies of the 2005 Milton Keynes Local Plan. The Secretary of State agrees with the Inspector (IR23) that whilst saved policy NRM6 of the South East Plan remains part of the development plan, it is not relevant to the appeal proposal. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR24 to IR32.

11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework); the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3); the Overarching NPS for Energy (EN-1); the Written Ministerial Statements on 'Local Planning and onshore wind' (DCLG) and 'Onshore wind' (DECC); the planning guidance; Planning Policy Statement (PPS) 5 Planning for the Historic Environment Practice Guide; and the documents referred to in IR34-36. The Secretary of State has also taken into account the SPD and the emerging wind turbine policy.

12. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Secretary of State has 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. He has also paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main issues

13. The Secretary of State considers that the main issues are those identified by the Inspector at IR261-262 and whether proposals are in accordance with the development plan.

Planning policy

14. The Secretary of State has had regard to the Inspector's comments about development plan policies at IR263-267. He agrees that policy CS14 merits little weight in the context of this appeal (IR263). However he disagrees that, where renewable energy is concerned, only limited weight can be given to policy CS19 which includes requirements to 'protect and enhance' heritage assets, green infrastructure and the condition and strength of the Borough's landscape (IR264-265). The Secretary of State considers that CS19 is in broad conformity with national policy set out in the Framework including paragraph 109, which sets out that the planning system should contribute and enhance the natural and local environment by protecting and enhancing valued landscapes, and paragraph 131, which sets out that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. Notwithstanding this, in reaching his overall decision on this appeal the Secretary of State has had full regard to paragraph 98 of the Framework and he agrees with the Inspector (IR265) that the public benefits of a proposal have to be weighed in a proper assessment of the balance.
15. The Secretary of State has had regard to the Inspector's comments at IR266 and agrees that saved LP policies HE1, HE5 and HE6 resist any adverse impact on heritage assets and are almost 8 years old. Having regard to paragraph 215 of the Framework he considers that these policies lack consistency with the Framework and he agrees with the Inspector that they merit only very limited weight (IR266). In relation to those saved LP policies identified at IR267, he agrees that they are consistent with the Framework. Overall, as set out at paragraph 32 below, the Secretary of State considers that the proposals are in conflict with the development plan.

Landscape impact

16. The Secretary of State has carefully considered the Inspector's assessment of landscape impact at IR268-277. He agrees that the cumulative effect on the landscape would not be unacceptable and would not conflict with LP policy D5 (iii) in this respect (IR276). He agrees with the Inspector that the turbines would unquestionably dominate the immediate vicinity but also agrees that it would redefine only a small proportion of the elements that contribute to landscape character overall (IR277). Like the Inspector, the Secretary of State considers that the impacts of the turbines on landscape character would be moderate (IR277). He considers that this impact should be given weight, but agrees with the Inspector's overall conclusion that there would be no conflict with the landscape protection aims of saved LP policies D5 and NE4 when read together (IR277) and nor does he find conflict with CS19.

Visual impact

17. The Secretary of State has carefully considered the Inspector's comments at IR278-288. He agrees that the most serious visual implications would be at Hill Farm, but that this property would be financially involved in the scheme and this is a material consideration (IR281) and he also notes the support for the scheme expressed at the Inquiry (IR215-219) on behalf of the farm's owners. In respect

of Old Mill View, he notes that at least 3 of the turbines would be immediately visible on higher ground over the roof of the house on entering the gate; that T5 would be a prominent feature seen from the rear garden to the north; and there would be a 'stacking' effect with T1 and T3 (IR281). The Inspector reports that mitigation has been proposed in the form of planting along the boundary of the farm, the specification, arrangement and maintenance of which could be the subject of a condition and is the subject of a section 106 undertaking (IR281). However, the Secretary of State considers that the evidence before him does not give him confidence of the level of mitigation that would be provided by the planting. This is particularly the case over the short term, while planting becomes established, notwithstanding the Appellant's comment that judicious planting of 6m high extra heavy standards could be specified in the plan (IR64). In light of this he gives limited weight to any effects of the proposed mitigation and, overall, considers that the visual impact in respect of Old Mill View is likely to be greater than the moderate / substantial level concluded by the Inspector (IR281).

18. The Secretary of State agrees with the Inspector's assessment of the visual impact on those settlements and properties identified at IR280 and IR282-284 and, like him, considers that there would be a moderate / substantial visual impact at Hanslope Lodge and Bullington End Farm (IR283).
19. In respect of public rights of way, the Inspector reports that the development would occupy only a small part of the overall experience of those on a longer walk on the Swan's Way, Three Shires Way, the Midshires Way or the Ouse Valley Walk (IR285). However, the Secretary of State also notes that Appendix 4H of the Environmental Statement describes the effects on both Midshires Way and Swan's Way as being 'substantial negative'. In respect of the Hanslope Circular Ride, he has had regard to the Inspector's comments at IR285 but he also notes the assessment at paragraph 8.1.15 of the proof of evidence put to the inquiry by Michelle Bolger on behalf of the Council that the introduction of the turbines would totally alter the experience of using this promoted route. He has taken into account Ms Bolger's view that the effect can be described as 'major adverse'. Notwithstanding his views on the impacts on the Hanslope Circular Ride, for the reasons given at IR286-287, the Secretary of State agrees with the Inspector that the potential impact on horses and riders would be suitably mitigated (IR287).
20. The Secretary of State notes that the planning guidance is clear that protecting local amenity is an important consideration which should be given proper weight in planning decisions. For the reasons given at paragraphs 17-19, he considers that the overall harm to visual amenity would be substantial, and is in conflict with criterion iii) of saved LP policy D1.

Living conditions

21. The Secretary of State has carefully considered the Inspector's assessment of the impact on living conditions at IR289-296. All parties accept that in renewable energy cases, 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 unattractive and thus

unsatisfactory (but not necessarily uninhabitable) place in which to live (IR289). The Secretary of State agrees with this analysis and agrees with the Inspector (IR289) that it may not be in the public interest to create such living conditions where they did not exist before.

22. Setting aside Old Mill View, the Secretary of State agrees with the Inspector's assessment of the impact on living conditions at those properties identified at IR291-295 and, in respect of these properties, agrees with the Inspector's assessment that the impact on living conditions would be adverse but not unacceptable and would not conflict with the amenity protection aims of LP policy D1 (IR296).

23. In respect of Old Mill View, the Secretary of State notes that the turbines would be most visible on first entering the property and using the rear garden, but there would be no overt or direct views of turbines from any of the habitable rooms, and shares the view of the Inspector that the front garden and drive is essentially formal and decorative and would not be likely to be used for recreational purposes (IR292). He has taken into account the occupier's view, as described in the Council's case at IR124, that the rear garden can be seen as entirely integral to the enjoyment of the property and furthermore agrees with Council's case that it would be contrary to the public interest to render such a property unattractive by virtue of denying it all sensibly usable garden space (IR124). While he notes that the garden has other open aspects away from the direction of the turbines, he agrees with the Inspector that the turbines, particularly T5, would dominate views to the north (IR292) and he notes that there would be a 'stacking' effect with T1 and T3 (IR281). The Secretary of State further notes that around the main seating area in the garden, revolving blades would be a constant distraction for a proportion of those present and that no-one would be unaware of the presence of turbines (IR292). The Secretary of State does not consider that the turbines would be an avoidable presence for users of the garden.

24. The Inspector reports that the garden is unlikely to be used every day all year (IR292). The Secretary of State agrees, but he has also found in the preceding paragraph that the garden should be seen as integral to the enjoyment of the property and as such considers that there is no reason to assume that it would not be frequently used. He has taken into account that the turbines would be seen over trees and a wall (IR292), but he considers that any mitigation that would be provided by the proposed screening planting merits limited weight for the reasons given at paragraph 17 above.

25. Drawing these issues together, the Secretary of State concludes that the impact of the proposals on the Old Mill View as a whole is sufficient to make the property an unattractive place to live, and is in conflict with the amenity protection aims of LP policy D1 and also with the core planning principle of the Framework to always seek a good standard of amenity for all existing and future occupants of land and buildings.

Cultural heritage

26. The Secretary of State has carefully considered the Inspector's analysis at IR297-306 including the harm identified by the Inspector in relation to the settings

of heritage assets at Tyringham Hall (IR297-300), Gayhurst Court (IR301), and Hanslope Church (IR303-304), and the Hanslope Conservation Area (IR303). He agrees with the level of harm described by the Inspector in relation to each heritage asset and attributes considerable weight and importance to the harm in accordance with the recent Court of Appeal decision in Barnwell Manor Wind Energy Limited v East Northamptonshire District Council and others [2014] EWCA Civ 137. He agrees with the Inspector (IR307) that while there would be harm to the significance of heritage assets because of a degree of harm to setting, in no case would there be substantial harm. In reaching this conclusion he gives little weight to the fact that any planning permission would be for a limited period of 25 years (IR307). He shares the Inspector's view that this is a long time (IR307) and does not consider that the non-permanent nature of any permission would have a significant effect of reducing the overall level of harm to the heritage assets. The Secretary of State considers that the harm that he has identified in respect of the heritage assets described in this paragraph leads to conflict with policy CS19. Overall, the Inspector concludes that it has not been shown that the harmful impact of the proposed wind farm would be substantial or that the ability to appreciate these important assets would be significantly harmed (IR308). The Secretary of State agrees that there is less than substantial harm to the significance of designated heritage assets and in accordance with paragraph 134 of the NPPF has weighed the harm to heritage assets against the benefits of the proposal.

Noise

27. The Secretary of State agrees with the Inspector's comments on noise issues outlined at IR309-313. He agrees with the Inspector that the predicted calculated cumulative noise immissions from the appeal development in conjunction with existing permitted wind farms and the proposed Stoke Heights Wind farm would be below the 'best fit' background curve and well below appropriate ETSU limits at the Hill Farm Conversions (IR310). The Secretary of State notes that the appeal site is relatively peaceful and Linford Wood retains a sense of isolation (IR312). He agrees that the appeal development would undoubtedly add to the existing noise environment, but also agrees that the change would not constitute a strong reason to refuse the scheme (IR312). The Secretary of State agrees with the Inspector's view that the likelihood of a northerly wind leading to T1, T3 and T5 causing OAM perceivable at Old Mill View due to 'stacking' has not been demonstrated by any credible means (IR313).

Ecology and ornithology

28. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR314-322. He agrees with the Inspector (IR317) that, having regard to the requirements of the Habitats Directive, there is a possibility that harm could occur to the protected species, dormice and great crested newts, but that the 3 tests set out in Regulation 53 of the Habitats Regulations have been met. He also shares the Inspector's conclusion (IR322) that the effect on biodiversity and wildlife of the proposed wind farm would accord with the aims of saved LP policies NE1 (iii) and NE2.

Other matters

29. The Secretary of State agrees with the Inspector's reasoning and conclusions on those matters considered at IR323-327.

Overall balance

30. The Secretary of State has had regard to the Inspector's comments at IR328-331. He agrees with parties that there is strong support at all levels of policy for large scale renewable energy development (IR328). He also agrees with the Inspector that the benefits of the proposal in terms of an increase in the supply of renewable energy and a reduction in CO₂ emissions, assisting in mitigating climate change, are very important factors in favour, coupled with some benefits to the local economy and a degree of improvement to wildlife habitat (IR331).

31. The Secretary of State agrees with the Inspector (IR332) that against this there would be significant change to the character of the landscape within 2-3km of the site, lessening with distance, but the overall character of the landscape would not be fundamentally changed. He also agrees that there would be no significant cumulative effects including constructed and permitted wind farms (IR332). However, the Secretary of State has found that the overall harm to visual amenity would be substantial and furthermore that the impact of the proposals on Old Mill View would make the property an unattractive place to live. He has found at paragraph 26 above that there would be harm in relation to the settings of the heritage assets identified there and also to the Hanslope Conservation Area and, while he considers that in no case would there be substantial harm, he attaches considerable weight and importance to this harm. As set out at paragraph 26 above, the Secretary of State gives little weight in this respect to the time-limited nature of any permission. He agrees with the Inspector that it has not been shown that the effects on biodiversity and wildlife would be unacceptable or cannot be adequately mitigated (IR332).

32. Having regard to the Inspector's comments at IR333, the Secretary of State has found no conflict with saved LP policies D5 (iii), NE1 (iii), NE2 and NE4. However he has identified conflict with saved LP policy D1 (iii) in respect of the impacts on visual amenity and on living conditions at Old Mill View, and conflict with CS policy CS19 in respect of the impacts on heritage assets that he has identified. Because of the weight he gives to these issues and to the conflict with these policies, the Secretary of State takes the view that the proposals are in overall conflict with the development plan. He also considers that the overall impacts of the proposals are unacceptable, and because of their nature, cannot be made acceptable, and there is conflict with national policy as set out at paragraph 98 of the Framework. Given his conclusion at paragraph 15 regarding LP heritage policies, and having regard to paragraph 14 of the Framework, the Secretary of State considers that these development plan policies are out of date and that this is a case where planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. However, the Secretary of State is satisfied that the adverse impacts that he has identified in this letter do significantly and demonstrably outweigh the benefits of the proposals and that allowing the appeal cannot be justified.

Conditions

33. The Secretary of State has considered the schedule of suggested conditions at Annex 2 of the Inspector's report, the reasons for the suggested conditions set out at IR247-259, national policy as set out in the Framework, and the planning guidance. He is satisfied that the proposed conditions are reasonable and necessary and would meet the other tests set out at paragraph 206 of the Framework. However, the Secretary of State does not consider that they overcome his reasons for dismissing the appeal.

Obligations

34. The Secretary of State has considered the two signed and dated unilateral undertakings that the appellant has submitted, and the Inspector's comments at IR260. He agrees with the Inspector that the planning obligations meet the tests set out in Paragraph 204 of the Framework. However, the Secretary of State does not consider that they overcome his reasons for dismissing the appeal.

Overall Conclusions

35. The Secretary of State has found that the benefits of the proposals would include an increase in the supply of renewable energy and a reduction in CO₂ emissions, assisting in mitigating climate change which he considers are very important factors in favour. However he has also found that there would be substantial harm to visual amenity and that there would be harm in relation to the setting of heritage assets though that harm would be less than substantial. He also considers that the impact on living conditions at Old Mill View would be such that it would become an unattractive place to live. The Secretary of State considers that the overall impacts of the proposals are unacceptable, and because of their nature, cannot be made acceptable, and there is conflict with national policy as set out at paragraph 98 of the Framework. Taking into account paragraph 14 of the Framework he also considers that the adverse impacts of the proposals significantly and demonstrably outweigh its benefits.

36. Having weighed up all relevant considerations, the Secretary of State concludes that the factors which weigh in favour of the proposed development do not outweigh its shortcomings and the conflict identified with the development plan. He considers that there are no material considerations of sufficient weight which would justify allowing the appeal.

Formal Decision

37. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for a 'Proposed wind farm to include the following elements: five wind turbines with a maximum overall tip height of up to 127m; transformer/switchgear kiosks associated with each turbine; permanent anemometry mast; crane pads associated with each turbine; on-site access tracks; temporary construction compound and temporary anemometry mast; control building and compound; and on-site cables. Site to be decommissioned after 25 year operational period' at Land at Hill Farm, Haversham, Milton Keynes,

MK19 7DY in accordance with application reference 11/02028/FULEIS dated 16 September 2011.

Right to challenge the decision

38. 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.

39. A copy of this letter has been sent to Milton Keynes Council and Stop Haversham Wind Farm Action Group. A notification letter or e-mail has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

James Henderson

Authorised by Secretary of State to sign in that behalf

Annex A

Representations received in response to the Secretary of State's letter of 20 March 2014 and the email of 11 April 2014	
Correspondent	Date of letter
David Hardy, Eversheds LLP on behalf of the appellant	25 March 2014
James Croucher, DLP planning consultants on behalf of SHWFAG	1 April 2014
Mark Lancaster TD MP	1 April 2014
Richard Sakyi, Milton Keynes Council	2 April 2014

Annex B

Correspondent	Date
Mark Lancaster TD MP	19 July 2013
Warmingtons <i>(Rural Property & Development Consultants)</i>	31 July 2013
Eileen Stephenson	22 October 2013
Jim Harvey	22 October 2013
Lee Bannister	22 October 2013
Gary Metherell	22 October 2013
John Clifford	22 October 2013
Gillian Toosey	22 October 2013
Harvey Gilbert	22 October 2013
Kate Russam	22 October 2013
Kay & David Leese	22 October 2013
Julia Upton	22 October 2013
Fiona Muldoon	22 October 2013
Richard and Colleen Carter	23 October 2013
G Walsh	23 October 2013
Jane Dawes	23 October 2013
Steve Dawes	23 October 2013
Eileen Price	26 October 2013
Ann Robinson	27 October 2013
Sheilagh Loomes (two emails)	28 October 2013
Patrick Upton	29 October 2013
Deanna Marle	30 October 2013
Mike & Hilary Reed	31 October 2013

Richard Godber	04 November 2013
R Westwood	04 November 2013
Candida Godber	04 November 2013
Julia Upton	12 November 2013
Mark Lancaster TD MP	13 November 2013
Pamela Williams	18 November 2013
Kevin Coetzee	21 November 2013
Helen Coetzee	21 November and 26 November 2013
Richard Sakyi Milton Keynes Council	29 November 2013
Mandie Grillo	05 December 2013
Pino Grillo	09 December 2013
James Croucher, DLP Planning Consultants	10 December 2013
Richard Pryor	11 December 2013



The Planning
Inspectorate

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: 14 October 2013

Town and Country Planning Act 1990

Milton Keynes Council

Appeal by

RWE Npower Renewables Ltd

Inquiry opened on 23 July 2013

Land at Hill Farm, Haversham, Milton Keynes MK19 7DY

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Land at Hill Farm, Haversham, Milton Keynes MK19 7DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by RWE Npower Renewables Limited against Milton Keynes Council.
- The application Ref 11/02028/FULEIS is dated 16 September 2011.
- The development proposed is for a proposed wind farm to include the following elements: five wind turbines with a maximum overall tip height of up to 127m; transformer/switchgear kiosks associated with each turbine; permanent anemometry mast; crane pads associated with each turbine; on-site access tracks; temporary construction compound and temporary anemometry mast; control building and compound; and on-site cables. Site to be decommissioned after 25 year operational period.

Summary of Recommendation: That the appeal be allowed, and planning permission granted subject to conditions.

Preliminary matters

1. The development is known as the Orchard Way Wind Farm. Turbines are denoted on the application drawings as T1, T2, T3, T4 and T5, T1 being the most northerly. Before and during the site visit on 6 August 2013, 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 objectors, Stop Haversham Wind Farm Action Group (SHWFAG).
3. The planning applications were accompanied by an Environmental Statement (ES) including Supplementary Environmental Information (SEI) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, as amended. Following the applications and after discussions with the Councils' officers, Further Environmental Information (FEI) including a revised Residential Visual Amenity Study (RVAS) and an update of the cumulative baseline were prepared together with additional viewpoint illustrations. I have taken these documents into account.
4. At the start of the inquiry I was asked by the appellant to rule on one matter, that the Environmental Statement (ES) submitted was sufficient to meet the terms of the Part I of Schedule 4 to The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 in respect of ecological evidence. SHWFAG had alleged in their opening submissions that the ES falls short of the requirements set out in respect of its impact on ecology, later clarified to mean protected species, namely great crested newts, dormice and reptiles. The ruling is annexed to this Report.
5. During the Inquiry, revised wireframe drawings¹ were provided to give an indication of the locations and appearance of the external transformers and the control building. I have taken these into account.

¹ Doc 9

6. In addition to accompanied site visits held on 6 August I carried out extensive unaccompanied visits in the surrounding area at other times including viewpoints identified in the ES and by other parties, including listed buildings and other heritage assets drawn to my attention.
7. An additional evening session was held on 31 July to allow members of the public, who could not attend during the day, to address the Inquiry.
8. On 29 July 2013 the Department for Communities and Local Government published new Planning Practice Guidance for Renewable and Low Carbon Energy (subsequently referred to in this Report as NPPG). This had been anticipated in the Written Statement to Parliament about Onshore Wind issued on 6 June 2013. It replaces Planning for Renewable Energy: A Companion Guide to PPS22, which is cancelled. Representations were made on this at the Inquiry and I have taken the NPPG fully into account.
9. A signed and dated section 106 Unilateral Undertaking (UU) was submitted during the Inquiry². This covers the provision of a new permissive route for horse riders as an alternative to an existing route closer to the intended locations of T1 and T2.
10. After the public sessions but before the Inquiry was closed, a further s106 UU³ was provided covering in addition the retention and maintenance of mitigation planting for a property known as Old Mill View. I have considered both of the UUs later in this Report.
11. MKC failed to make a decision on the planning application in the required amount of time. Had it been able to do so, it would have refused the application for the following putative reasons (the exact wording taken from the Statement of Common Ground):

1) The submitted details, including the Environmental Statement, fail to demonstrate that the proposed development would not have an adverse effect on the setting and visual amenity of settlements and individual properties as well as on key routes, such as the Swans Way and Hanslope Circular Ride which traverses the site, and fail to demonstrate how they protect and improve their character or distinctiveness. The proposal therefore conflicts with saved policies D5(iii), D1(iii) and NE4 of Milton Keynes Local Plan, and policy CS20 of the Core Strategy, Revised Proposed Submission Version October 2010;

2) The submitted details, including the Environmental Statement and the SEI, fail to demonstrate that the proposed development would not have adverse visual intrusion into the landscape by virtue of proximity to neighbouring residential properties. In addition, two other wind farms (one existing at Petsoe Manor, Emberton (Milton Keynes Wind Farm) and the pending application for 15 turbines by Ecotricity at Stoke Goldington) to the north and east of the site will be likely to cause cumulative impact that will be likely to result in local residents and other residents in Hanslope, Gayhurst, Filgrave and Stoke Goldington feeling as if they living in a 'wind farm landscape' with turbine developments being seen in relatively close proximity in three directions. The

² Doc 57

³ Doc 58

proposal is therefore contrary to the provisions of policy D5(iii) of the Milton Keynes Local Plan 2012;

3) The submitted details, including the Environmental Statement, fail to demonstrate that the proposed development with particular regard to Turbine 1 and its proximity to Little Linford Wood, a Wildlife and Nature Reserve Site would not have significant adverse impact on protected bat species and several bird species of conservation status including Red Kite and Buzzards in the locality. The proposal is therefore contrary to policy NE1(iii) and NE2 of the Milton Keynes Local Plan 2001 - 2011 and the statutory obligation under Schedule 5 of the Wildlife and Countryside Act 1981;

4) The proposed development would by reason of the scale, number of turbines and their proximity to residential properties known as Hill Farm, Pineham Farm, New Buildings Farm, Field House, Amen Cottage, Hillside, The Gate House and Hill Farm Conversions result in an unacceptable and significant harmful impact on the living conditions of those residential properties. The proposal would therefore be contrary to the adopted Milton Keynes Wind Turbines Supplementary Planning Document and Emerging Policy adopted July 2012 and paragraph 98 of the National Planning Policy Framework March 2012 and therefore contrary to saved policy D5 of the Milton Keynes Local Plan adopted 2005.

12. On 26 July 2013, a Supplementary Statement of Common Ground⁴ between RWE Npower Renewables Limited and Milton Keynes Council was submitted relating to Ecology and Ornithology and as a result, the Council withdrew putative reason for refusal 3. SHWFAG remains as an objector on ecological and ornithological grounds and the Inquiry continued on this basis.

The site and surroundings

13. The following description is partly drawn from the SOCG⁵ between the appellant and the Council. I have taken account of the comments of the action group on the SOCG⁶.
14. The appeal site is located approximately 4 kilometres (km) north of central Milton Keynes and 2.2km west of Newport Pagnell, between the settlements of Little Linford and Haversham within the Parish of Haversham cum Little Linford. It encompasses an area of approximately 228 hectares and is located on the north side of the broad valley of the River Great Ouse. The nearest settlements are Haversham which is located about 1km to the south, Little Linford approximately 900metres (m) to the east, New or West Haversham 1.4km to the south-west, Castlethorpe 2.6km to the west and Hanslope 2.7km to the north-east. Stoke Goldington and Filgrave lie further to the north east beyond the M1. A scattering of individual dwellings, farmhouses and former farm dwellings lie within approximately 1km of the turbines. The largest group of these is known as the

⁴ Doc 5

⁵ Doc RWE 11.7

⁶ Added behind p22 of the SOCG

- Hill Farm conversions at the junction of Mill Lane and the Haversham- Little Linford Road to the south east of the site.
15. The Chilterns Area of Outstanding Natural Beauty is located 26km to the south east of the appeal site, too far to be materially affected by the appeal development⁷. There are no national landscape designations within the 10km radius detailed study area however a local landscape designation, the Ouse Valley Area of Attractive Landscape (AAL) lies to the north-east, east and south.
 16. The M1 motorway passes about 1.5km away from the centre of the appeal site to the north east. The main west coast railway line between London and the north west passes approximately 2.5km to the west. A large complex of old and modern buildings at Hanslope Park, 1.5km to the north west, houses Her Majesty's Government Communication Centre (HMGCC) including a tall communication mast.
 17. The appeal site lies within the Bedfordshire and Cambridgeshire Claylands national Landscape Character Area (LCA) No. 88⁸ whose key characteristics are described as being gently undulating topography and plateaux divided by broad, shallow valleys; predominantly open and intensive arable landscape; with river corridors; flood plain grasslands, riverine willows and hedges; variable woodland cover; smaller plantations with concentrated river valleys with settlement patterns clustered around major road and rail corridors.
 18. At a local level (as defined in the Milton Keynes Draft Landscape Character Assessment of 2007)(MKDLCA)⁹ the appeal site falls within the Yardley Ridge LCA which is subdivided into two separate areas, the Yardley Chase Fringe (sub unit 1a) and the Hanslope Plateau (sub unit 1b). The site is located at the southernmost end of the Hanslope Plateau and is surrounded to the west, south and east by the Ouse Valley Northern Slopes LCA. Further south is the Ouse Valley Urban Fringe LCA which borders the built up area of Milton Keynes. Much of this area of lakes and woodland along the Great Ouse is designated in the local development plan as a Linear Park.
 19. Hill Farm is comprised of a variety of arable crops and improved grasslands. It retains a herd of dairy cattle. The fields are generally angular in shape and bounded by hedgerows with occasional trees. Tathall Brook runs along the northern boundary and there are five ponds within the development site. Away from areas of woodlands, trees and hedgerows, the landscape has a relatively expansive character with panoramic views across the Ouse Valley and to the west.
 20. The general area has a dense network of public rights of way some of which form part of more extensive long distance routes. The Midshires Way is a 360km long route running from Bledlow in Buckinghamshire which runs in a northerly direction across the appeal site before joining the Hanslope Circular Ride (a 32km circular route) and the Swan's Way, a 106km route that crosses Northamptonshire, Buckinghamshire and Oxfordshire. These routes cross the appeal site in a north-easterly direction before linking in with the Three Shires Way, a 60km bridleway route from Hanslope to Grafham Water in

⁷ See Es viewpoint 25

⁸ Doc RWE 7.17

⁹ Doc RWE 7.15

Cambridgeshire. The initial section of the Three Shires Way runs along the north eastern edge of Little Linford Wood, a non statutory Local Wildlife Site which lies immediately to the north east of the turbine group between it and the M1 motorway. The Ouse Valley Walk is a 240km long walk from Syresham in Northamptonshire to the Wash and the closest section follows the minor road through Little Linford that marks the southern boundary of the site.

21. There is a significant number of designated and non-designated heritage assets in the vicinity, the most important of which are Gayhurst Court and Park (a Grade I listed church and Grade II* house in a Grade II Registered Park and Garden (RPG)); Tyringham Hall and Park (Grade I and a church listed Grade II* and about 14 other listed structures including a bridge at Grade I) in a Grade II* RPG; churches at Hanslope, Haversham and Little Linford listed at Grades I and II*; and a variety of individual houses and structures. All the heritage assets are listed in the ES¹⁰.
22. There are no statutory designated nature conservation sites within 2km of the appeal site. As well as Little Linford Wood, there are two other Local Wildlife Sites within 2km of the appeal site and eleven Biological Notification Sites. The Grand Union Canal-Stanton Local Wildlife Site lies approximately 980m to the south-east. The closest Biological Notification Site is the River Ouse approximately 220m to the south-east.

Planning Policy

Local development plan policy

23. For the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004, the adopted development plan consists of the Milton Keynes Core Strategy (CS) which was adopted shortly before the Inquiry opened in July 2013¹¹ and saved policies of the Milton Keynes Local Plan (LP)¹² adopted in December 2005. Whilst saved policy NRM6 of the strategic South East Plan remains part of the development plan, it concerns the Thames Basin Heath Special Protection Area and is not relevant to the appeal proposal.
24. The numbering of CS policies has changed since the Council considered the proposal. Policy CS20 referred to in the putative reasons for refusal is now renumbered CS19. Policy CS15 is now CS14.
25. Policy CS20 (now CS19) concerns the historic and natural environment. It advises that developments will protect and enhance the significance of the City's heritage assets; proposals must consider the character, appearance and setting of sites, buildings, structures, areas, parks and gardens and landscapes that are of historic, architectural, cultural, biodiversity or archaeological significance. Green Infrastructure will be protected and enhanced; the policy says that the linear parks system along the Ouse and Ouzel valleys amongst others will be extended to provide multi-purpose green infrastructure that is attractive, safe and well used for recreation and which achieves a net gain in biodiversity.

¹⁰ Appendix 5A

¹¹ Doc 1

¹² Doc 4

26. The Council advises in the policy that development will protect and enhance the condition and strength of character of the different landscapes and respect their local and Borough-wide significance as identified in a Landscape Character Assessment. The explanatory text advises that the draft MKDLCA¹³ identifies the distinctive characteristics of the landscapes across the Borough. It provides the basis for their protection and the enhancement of the landscape. Guidance for future policies on development, restoration and management will be in the Plan:MK, a new policy document that is due for adoption in 2015 and which will include a full review of the CS. The Plan:MK will also include detailed policies on heritage protection and landscape and nature conservation based on the Green Infrastructure Plan, the MKDLCA, the Biodiversity Action Plan and other relevant strategies. There is a range of protection and enhancement measures within the MKDLCA, such as restrictions on the level of development and the materials used within developments; promoting traditional methods of hedgerow management; promoting extensions of uncropped or grass field margins to enhance biodiversity; and retaining key views to local landmarks.
27. In order to maximise biodiversity, CS19 says that the Council will, amongst other things, ensure that damage to the biodiversity and geological resource of the Borough will be avoided wherever possible. Where unavoidable it will be minimised through mitigation, or if mitigation is not possible, by compensation, by provision of replacement habitat of higher quality to achieve a net gain in biodiversity. The creation and enhancement of habitats to help wildlife adapt to the impact of climate change is another relevant objective.
28. Reference was made during the Inquiry to CS policy CS14. Under the heading 'Sustainable buildings' CS14 has a sub-heading 'Community Energy Networks and Large Scale Renewable Energy Schemes', advising that the use of renewable energy schemes is promoted where it can be demonstrated that there will not be any negative social, economic, or environmental results. The text refers to low or zero carbon development and energy efficiency buildings. The explanatory text says at paragraph 12.28 that the criteria for controlling the impact of large scale standalone renewable energy development projects on residential amenity and the environment will be contained in Plan:MK.
29. The LP encourages the development of renewable energy production. Relevant saved LP policies include D5 which states that planning permission will be granted for proposals to develop renewable energy resources unless there would be i) significant harm to the amenity of residential areas, due to noise, traffic, pollution or odour; ii) significant harm to a wildlife species or habitat; or unacceptable visual impact on the landscape. The policy advises that wind turbines should avoid unacceptable shadow flicker and electromagnetic interference and be sited at least 350m from any dwellings. The explanatory notes at paragraph 4.22 advise that wind energy is one of the main renewable energy sources in the area. It goes on to say that possible locations for wind turbines include rural areas with high wind speeds, for example the Brickhills or the north of the Borough near the M1. Policy D1 concerns the general impacts of all development and as far as relevant to this proposal, resists additional traffic generation which would overwhelm the existing road network or cause undue disturbance, noise or fumes; unacceptable visual intrusion; damage to statutorily

¹³ Doc 7.15

- protected built and natural features and wildlife habitats; and unacceptable pollution by noise or other emission.
30. Saved policy NE1 indicates that development which is likely to harm the biodiversity or geological conservation value of a site of county wide or local importance will only be permitted if the importance of the development outweighs the local value of the site. NE2 says that permission will be refused for development if it would be likely to adversely affect animal or plant species or their habitat specifically protected by law; where necessary, planning conditions will be attached to permissions to require steps to secure the protection of the species or habitat affected. Policy NE4 seeks to conserve and enhance landscape character.
31. The open countryside that strategic policy S10 aims to protect is defined as all land outside the development boundaries on the proposals map. It includes all of the appeal site. The explanatory text says that certain development such as wind turbines may be acceptable as exceptions under policy D5. Policy S11 concerns Areas of Attractive Landscape (AAL) which include the Ouse Valley north and west of Newport Pagnell around the parkland associated with Tyringham Hall and Gayhurst. The policy says that within such areas, development should not damage the special character of the area; should enhance important landscape features where possible; protect and enhance features of nature conservation value; and retain and improve public access and opportunities for public recreation. The AAL designation is not being taken forward in the new generation of development plan documents, though it has been saved pursuant to saved policy S11. Neither of the strategic policies S10 or S11 are mentioned in the putative reasons for refusal. The appeal site is outside the AAL but visible from parts of it.
32. LP policies HE1, HE5 and HE6 seek to protect in sequential order, archaeological sites, the setting of listed buildings and the setting and character and appearance of conservation areas. HE1 and HE5 resist any adverse impact at all and HE6 advises that development proposals should preserve or enhance the character or appearance of conservation areas.
33. Milton Keynes Council adopted Supplementary Planning Guidance in July 2012, the Wind Turbines Supplementary Planning Document and Emerging Policy ('the Wind SPD'). This was challenged in the High Court and found to be in conflict with LP policy D5 in one respect. However, the whole of the Wind SPD was quashed. New 2013 SPD and emerging policy is in the process of consultation¹⁴. The objectives are to protect public safety from any unintended impacts of wind turbine development and clarify the approach for assessing individual applications. The consultation period extends to 11 September 2013. Because of the very early stage the emerging SPD has reached, no weight can be attached to it.

¹⁴ Docs 2 & 3

National policy

34. 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 set an increased target 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 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. 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 December 2012 which confirms that to the end of June 2012, there was a total of installed onshore wind capacity of 5.3 GW. By August 2012, there was a total of over 18.2 Gigawatts (GW) of onshore wind capacity that had entered the formal planning system, including the Orchard Way scheme.
35. The Digest of United Kingdom Energy Statistics (DUKES)¹⁵ indicates that using the methodology set out in the 2009 EU Directive, provisional calculations show that 4.1% of UK energy consumption came from renewable sources in 2012. This is an improvement against the 3.8% in 2011. The average of 3.94% between 2011 and 2012 is within the margin of error around the target of 4.04% set out in the Directive, though this has to be seen in the context of the revised target of 20% by 2020 in the 2006 Energy Review.
36. Not all of the developments anticipated in the Roadmap will be consented and not everything will be built. Bearing in mind the likely attrition rate, the Roadmap update concludes that the current pipeline is likely to represent the appropriate quantity of deployment to fulfil the central estimated range in the 2011 Roadmap for onshore wind of 10-13 GW. However, the majority of the new schemes will be in Scotland. There is no cap on capacity. The Roadmap advises that new proposals are needed to meet the 2020 ambition and longer term decarbonisation. It is the Government's aspiration, set out in the Climate Change Act, to cut carbon dioxide emissions against the 1990 baseline by at least 80% by 2050.
37. The National Planning Policy Framework (NPPF) of 2012 replaced the previous Planning Policy Statements (PPSs) and Planning Policy Guidance Notes, though the PPS5 Planning for the Historic Environment Practice Guide (PPS5CG) remains extant. The NPPF says at paragraph 98 that applicants for energy development should not have to demonstrate the overall need for renewable or low carbon energy. Applications should be approved¹⁶ 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.

¹⁵ Doc 16

¹⁶ Unless material considerations indicate otherwise

38. The NPPF has a core principle at paragraph 17 that a good standard of amenity should always be sought for existing and future occupants of buildings. Another core principle 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).
39. 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 2.7.52-2.7.62 concern noise impacts and indicate that ETSU¹⁷ should be used to assess and rate noise from wind energy development, taking account of the latest industry good practice. The 2013 NPPG also recommends its use.
40. The 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. In order to get the balance right in line with the NPPF, the subsequent guidance in the NPPG is intended to help decision makers on 4 points:
- the need for renewable energy does not automatically override environmental protections and the planning concerns of local communities
 - decisions should take into account the cumulative impact of wind turbines and properly reflect the increasing impact on (a) the landscape and (b) local amenity as the number of turbines in the area increases
 - local topography should be a factor in assessing whether wind turbines have a damaging impact on the landscape (i.e. recognise that the impact on predominantly flat landscapes can be as great or greater than as on hilly or mountainous ones)
 - 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.

The Proposal

41. The 5 turbines, the anemometry mast and the control building are shown on the application drawings¹⁸. The turbines would be spread in a relatively compact

¹⁷ ETSU-R-97: The Assessment and Rating of Noise from Wind Farms, Doc RWE 8.1

¹⁸ Doc RWE 11.1

group in an area of mixed agricultural fields to the north of Hill Farm on a plateau between the Great Ouse and the Tathall Brook. Little Linford Wood lies approximately 150m from T1 at its closest point. The rotor diameter of the turbines would be 92.5m. They would generate between approximately 24790 and 29648 MWh of electricity per year which could serve between 5300-6300 homes. The rating capacity of each turbine would be between 1.8 and 3 MW. The construction period would be approximately 12 months and would include a network of new access tracks and crane hardstandings which would lead off the Haversham - Little Linford road.

The Case for RWE Npower Renewables Ltd

The material points are:

Landscape character and visual amenity

42. The appeal site lies within an area of countryside that has not been identified as being of such value that it has attracted a national or local landscape designation. The host landscape is not designated and is not special. It is ordinary, normal countryside, relatively pleasant and attractive but not exceptional or with a particular quality of sensitivity. Whilst there would be significant localised effects on landscape character, there would not be an unacceptably significant effect on landscape character types overall. The proposed development would not unacceptably harm the key characteristics of the broader underlying landscape of the local area, and would respect its scale and composition. It would not compromise visual comprehension and appreciation of the underlying surrounding agricultural landscape.
43. The proposed development would be located in a simple, large scale and contemporary plateau landscape, one of the landscape character types best suited to accommodating wind farm development within the region. There is a strong rationale for a wind farm located on an elevated area close to an urban area of electricity consumers. The landscape is pleasant but is not of high quality, nor is it rare or fragile. Views south from the edge of the plateau or Northern Slopes of the Ouse Valley are extensive but the wind farm would be behind the viewer. Successive layering of trees, hedges and small woodland copses serve to limit and contain visibility. The wind farm would be a compact, well designed array and of a scale which would be satisfactorily accommodated.
44. The scale of the turbines would be most noticeable from elevated or open viewpoints viewing across the Ouse Valley in comparison to smaller buildings. A comparison of scale can seldom be avoided in this region and turbines are better located adjacent to larger farm buildings such as Hill Farm. Significant landscape and visual effects are contained by the wooded M1 corridor, HMGCC and Little Linford Wood, the west coast mainline and Milton Keynes itself. The wind farm would be experienced in the strategic context of Milton Keynes, itself a forward thinking new town with a diversity of built form encapsulating modern planning, architecture and design.
45. Turbines at this location seen in the backdrop of views from lower lying valley landscapes would be viewed in areas that have undergone substantial change and which will continue to undergo substantial change as a result of the Linear

Park concept. The Ouse Valley is an important recreational resource for the city; it is clear from consideration of the development plan documents that the area has been a strategic focus for growth for a long time. The Linear Park concept is set out in Policy S12 and extends from the administrative boundary in the west to the M1 in the east. As the Local Plan records, the area is a mix of public and private ownership and the vision has been to establish a more cohesive, higher quality recreational resource readily accessible from the nearby urban area. Mineral extraction and house building will all play their part but all manner of recreational oriented developments including equestrian centres, golf courses and retail garden centres are supported. Considerable change to the Linear Park is specifically encouraged.

46. There would be changes to local landscape character in the local and wider area as a result of operational and consented wind energy schemes and other schemes already in the planning system. The separation distance between these schemes and the nature, scale and character of the landscape is such that unacceptable adverse cumulative landscape character or visual effects would not arise, including the creation of a 'wind farm landscape'. The design of the proposed development is in keeping with the existing overall scale and landscape context of the appeal site. In this connection, it should be noted that the visualisations prepared by Mr. Charsley for SHWFAG have not been produced to any recognised standards.
47. Landscape character effects are only one consideration to be taken into account in assessing planning applications. Effects may be deemed significant and even harmful but they do not have to be rendered harmless to be acceptable, a position which has been endorsed by Natural England. The putative reasons for refusal do not identify an issue with landscape character impact. The Council's landscape consultee did not find the landscape character impact unacceptable¹⁹. Mr. Haynes, the Senior Landscape Officer in the Council, a chartered landscape architect with experience of dealing with two previous large wind farms at Nun Wood and Stoke Heights, undertook a comprehensive assessment of the proposed development. He exercised his own professional judgement, disagreed with the Appellant's material in some regards, demonstrating confident and independent thought, and concluded overall that he "would not raise an objection within the context of landscape impact". In fact, it is clear that this was his shorthand for saying that he saw no objection based on likely significant effects on landscape character or visual amenity considered on its own or on a cumulative basis.

Public rights of way

48. Turning to public rights of way (PROWs), significant effects experienced by recreational users of the landscape are predicted over sections of the local routes used by walkers, cyclists and horse riders. However, it is important to take into account the nature of the route, whether or not any given section of a walk or ride would be walked or ridden in isolation and the potential shielding effects of topography and vegetation. The potential effects of the turbines would vary considerably for recreational users along different stretches of the rights of way.

¹⁹ Docs MKC 11.5 and 17

49. No unacceptable impacts on equestrian, cycling or walking would occur and the relationship between turbines and PROWs is one seen and successfully accommodated in many places across the United Kingdom. There is a matrix of PROWs and alternative routes when travelling in all directions. Whilst the appellant does not believe that any unacceptable impacts would result, it offers a further alternative permissive route pursuant to a S106 UU which would take users away from the turbine array and comply with the most recent British Horse Society (BHS) Guidance for England (2013). This was specifically agreed by Mr. Pryor for SHWFAG.
50. The density of public rights of way is typical of this area and the matrix of alternative routes offers genuine choice. The leaflets associated with the Long Distance Routes (LDR) do not draw attention to any particular special qualities or features of interest on those parts of the route which would be most affected by the proposed development. There is nothing special about this part of the LDR network other than expansive views (in front of the turbines), Little Linford Wood (screened by woodland), and views of Hanslope Church (in the other direction).
51. It is difficult to see what particular harm there would be, other than a change to the route, the addition of a new feature which walkers may regard with positive interest, or not be concerned about; together with a small percentage who will not like it. There is no credible evidence to suggest that members of the public would not use and properly enjoy any part of the PROW network, were the wind farm to be built. The Council suggests that simply because in other wind farm decisions Inspectors have concluded that walkers would not be deterred from using PROWs, does not mean that they support the test of 'deterrence' as defining the threshold of unacceptable change; but this is incorrect. It is precisely because they have felt it appropriate to define the point at which the public interest bites on the question of use of a public right of way in this way that previous decisions are expressed like this.
52. As for cumulative landscape and visual effects, assuming the existence of all existing and consented wind farms with the addition of Orchard Way, the cumulative effect would be a landscape where there are occasional views of a wind farm, appearing as isolated features, well within the landscape capacity for this area. No party before this inquiry suggests that planning permission should be refused for the proposed development on the basis of cumulative landscape or visual effects.

Equestrian activity

53. The starting point is that there is nothing in law, regulation or policy guidance which requires even a separation distance of 200m between a turbine and any bridleway. The distance of 200m appears to have originated with the 200 yard distance stand off in the Turnpike Act of 1822. There is no clear rationale for the increased distances now sought by the BHS for either local riding routes or national routes. However, even this guidance has to be read carefully because the suggested 4 x tip height separation distance for national trails and 3 x tip height distance for other bridleways are themselves only the starting point and not a necessary requirement of the guidance. The guidance indicates that 200m would normally be the minimum. The guidance trickles down even further to suggest alternative routes, mitigation measures and even simple payment of

money to improve other routes in the area. Accordingly, the proposed development does comply with the BHS guidance.

54. A very high percentage of operational wind farms are in rural locations in which horse riding can and does take place; there is no reliable empirical evidence to demonstrate that commercial wind turbines are unsafe for horses and riders. The Scottish BHS Advice Note²⁰ which is more recent than the BHS guidance²¹ (only updated in February 2013 to change references to the NPPF) is very positive in tone, recognising that horse riding and wind turbines can happily and safely co-exist. It also provides very practical advice regarding habituation and riding with a wind farm buddy horse on a first trip.
55. As was found by the Inspector at Spaldington Airfield²² amongst others, turbines start very slowly and gradually pick up speed and are unlikely to frighten all but the most highly strung horses. If there was a tangible and unacceptable risk of horses being frightened by turbines, with likelihood of injury to them, their riders and third parties, it is likely that it would have been addressed in national planning policy guidance a long time ago. It is certain that it would have been made available to wind farm inquires up and down the country. There is nothing so special about the concentration of horse activity here in this part of Buckinghamshire nor the nature of horse related business to warrant a different decision being reached.
56. Good horsemanship requires riders to be alert to potential dangers and when choosing where to ride, to recognise their own abilities and the sensitivities of their mounts and it is unrealistic for riders to expect all risks to be excluded from anywhere they may choose to ride. To do otherwise would effectively exclude turbines – and indeed many agricultural and other activities - from most of rural England.
57. Whilst it does not accept the need for such a condition, in the event that the decision maker thought it Circular 11/95 compliant, the appellant has been prepared to offer a scheme of horse familiarisation days for riders. The appellant has also proposed a new permissive path to provide an alternative bridleway route along the north eastern boundary of the site. This will be secured by S106 Unilateral Undertaking. This route was described by Ms Bolger for the Council as a “very attractive” route in scenic terms.

Residential amenity

58. No individual has the right to a particular view but there comes a point when, by virtue of the proximity, size and scale of a given development, a residential property would be rendered so unattractive a place to live that planning permission should be refused. The test of what would be unacceptably unattractive should be an objective test albeit that a professional judgement has to be made on the facts of any particular case. There needs to be a degree of harm over and above an identified substantial adverse effect on a private interest to take a case into the category of refusal in the public interest. Changing the outlook from a property is not sufficient. Indeed, even a fundamental change in outlook is not necessarily unacceptable.

²⁰ Doc RWE 6.39

²¹ Doc RWE/SHWFAG 6.38

²² Doc RWE 5.19

59. The visual component of residential amenity should be assessed “in the round” taking into account factors such as distance from the turbines, the orientation, size and layout of the dwelling, internal circulation, division between primary and secondary rooms, garden and other amenity space, arc of view occupied by the wind farm, views through the turbines and the availability of screening. Each case has to be decided on its own merits but other appeal cases provide a useful benchmarking exercise. Specific consideration has been given to Enifer Downs, Hempnall, Carland Cross, Burnt House Farm and Spaldington Airfield²³, Earls Hall Farm, Bradwell 1 and 2 and Cotton Farm²⁴. Granting permission here would be entirely in line with such decisions.
60. The articulations of the public interest test at Enifer Downs and Carland Cross refer to main views from a house or garden having the potential to render a property an unattractive place in which to live. Whilst the Appellant accepts that it is possible that a single view from either a house or garden is capable of rendering an entire property an unattractive place in which to live, it submits that it will be a rare situation indeed when sufficient of the attractiveness of a property as a place in which to live is bound up with the garden, such that it would justify refusal of planning permission.
61. Both the Council and SHWFAG identify Old Mill View as the only property at which the public interest test would be failed. However, it is notable that Ms Bolger on behalf of the Council did not go that far in her written evidence, rather, her overall conclusion was that “the garden will become an unattractive place in which to spend time” (proof of evidence paragraph 9.3.3). Mr Charsley on behalf of SHWFAG concluded in his written evidence that the main garden area would be “a significantly less attractive place to recreate” (proof of evidence paragraphs 4.41, 5.11). These conclusions fall very far short of what would be required to support a finding that Old Mill View as a property would be rendered an unattractive place in which to live.
62. Old Mill View is a very substantial and attractive property with a high degree of amenity. Neither the Council nor SHWFAG contend that the house would be affected. There are two garden areas. In the main garden, the land slopes north to south and reasonably open views are available in the opposite direction to the turbines. Given the wall to the east, it is quite reasonable to assume that the focus of attention will be southwards.
63. There can be no reasonable contention that the presence of views of the wind turbines in one direction only would render the garden unusable for rest and recreation or would significantly detract from the use of the garden as a play area for children and family, or would prevent the occupiers from enjoying the views to the south when sitting in the garden. The garden would continue to make a contribution to the overall amenity of the property. In terms of views of the turbines that would be obtained from the garden space, any stacking of turbines is not particularly harmful; there is enough space to distinguish each turbine and a slight overlap such as this would be readily understood.
64. The Habitat Management Plan and the proposed S106 UU would secure the implementation and maintenance of a new hedge and hedge tree planting along

²³ Docs RWE 5.15, SHWFAG 5.31, RWE 5.5, RWE 5.3, RWE 5.19

²⁴ Appeal refs APP/P1560/A/08/2088548, APP/X1545/A/06/2023805, APP/H0520/A/09/2119385

the entire length of the boundary of Old Mill View on the other side of the Haversham-Little Linford road for the life of the development. Judicious planting of 6 m high extra heavy standards could be specified in the plan to be submitted and approved by the Council.

65. Viewed objectively, taking the property as a whole, Old Mill View will remain an attractive place in which to live, albeit with a view of a wind farm.

Ecology and ornithology

66. Natural England (NE) has withdrawn its objection. As Dr. Simpson for SHWFAG agreed, it has been provided with and had time to understand all of the evidence before this inquiry; SHWFAG is simply left to disagree with the view taken by the statutory consultee. The Council has also withdrawn its objection and signed the detailed Supplementary Statement of Common Ground.
67. The Inspector has heard the submissions of SHWFAG on the sufficiency of environmental information and ruled that there is indeed sufficient environmental information upon which to lawfully base a judgement. The case of *R v Cornwall County Council ex parte Hardy* [2001] Env.LR 25 is not an appropriate parallel to the situation before this inquiry. All likely significant environmental effects have been recognised and assessed at this stage, as they must be. It is important to distinguish properly between sufficient environmental information at the point of determination, the extent and adequacy of such information required at the point of determination if in fact the use of mitigation would remove any likely significant environmental effects; and the extent of environmental information required at the time of discharge of planning conditions, licence applications and detailed construction management. The decision maker clearly does have sufficient environmental information upon which to make a lawful planning determination and does not need to have all environmental information which might be required to see the project through construction, operation and ultimate decommissioning.
68. Based on the evidence the appellant submits that the proposed wind farm would accord with policy NE1(iii) of the Milton Keynes Local Plan.

Bats

69. With respect to bats, the proposed development would not cause unacceptable impacts on local bat populations by reason of TIN051²⁵ compliant stand-off distances and a Bat Mitigation Strategy which would reduce any risk of collision to negligible levels. When assessing impacts, the decision maker needs to distinguish between individual casualties and mortality that affects populations.
70. It is misleading to suggest that the absence of at height monitoring is a serious omission. Section 10.5.6 of the Bat Conservation Trust 2012 Guidelines²⁶ (BCT 2012) makes clear that unless a meteorological mast has already been erected or the proposed development would be located in woodland (where foraging above the canopy may not be detected by ground based detectors) then at height detectors would be of limited value. At Orchard Way, all turbines are at least 100m from any woodland and at least 150m from Little Linford Wood.

²⁵ Doc RWE 9.6

²⁶ Doc RWE 9.5

71. Dr. Simpson's opposition to a cut-in speed of 5.5 m/s is based on evidence from a single Canadian study. There is other reliable evidence to suggest that it makes no discernible difference to bat mortality whether the cut-in speed is 5 metres per second (m/s) or 6.5 m/s. Curtailment would mean that bats would not be killed at speeds below 5.5 m/s and that there would be acceptable levels of bat mortality above that speed.
72. There is no evidence that turbines create a barrier effect to bats. Dr. Simpson confirmed that he had not been able to produce any evidence to substantiate this assertion.
73. In terms of barbastelle bats, the 2011 surveys recorded very low numbers of passes. The medium risk status used for barbastelle populations reflects the precautionary approach used by Natural England in TIN051 and endorsed in the BCT 2012. The low numbers combined with the fact that the species is not considered to fly at altitude means that a significant effect on barbastelle populations is extremely unlikely.

Birds

74. Turning to the effect on birds, studies relied on by Dr. Huckle for the appellant demonstrate that the presence of a wind farm does not affect the integrity of bird life. Dr. Simpson for SHWFAG agreed with the methodology and approach of the survey work; he also agreed that the survey effort was sufficient in terms of raptors. The survey effort employed in the bird surveys is justified in the ES and it is reasonable to conclude that had the data from bird surveys suggested that bird activity was high during any period, additional survey effort for specific target species groups would have been recommended for subsequent seasons. The activity recorded did not justify additional surveys.
75. The 2013 survey work was not intended to provide a Vantage Point assessment in line with Scottish Natural Heritage (SNH) guidance for the purpose of Collision Risk Modelling (CRM). Instead, the aim was to provide supplementary information regarding bird flights over the appeal site. The principal purpose was to undertake a breeding bird survey of the woodland and appeal site which it did. There are inherent limitations with any modelling exercise and these are known and were taken into account in the CRM.
76. In terms of waders, T5 is about 1km from the nearest of the gravel pits and the access track is about 300m at its closest point, separated by the River Ouse itself. It was accepted by SHWFAG that birds at the Great Linford Gravel Pit would not be displaced by Turbine 5.

Great Crested Newts, Dormice and Reptiles

77. The appellant's case on these species relies on the contents of Dr. Huckle's letter in response to SHWFAG's submission regarding insufficiency of evidence²⁷.

Cultural heritage

78. Likely effects on cultural heritage assets did not form part of the putative reasons for refusal from the Council. English Heritage (EH) does not object

²⁷ Doc 11

notwithstanding that a number of higher order heritage assets lie within the study area. It has applied a discerning, proportionate approach and appropriate weight needs to be given to the fact of its non-objection. Proper protection of cultural heritage assets was one of the four bullet points raised in the Ministerial Statement of 6th June 2013 and consensus amongst the Appellant, Council and English Heritage is to be seen.

79. The proposed development would cause no material harm in terms of EIA significance. Should the Inspector feel that all negative effects, no matter how small, should be carried forward to the planning balance, the Appellant submits that the sum of all effects, taken individually and cumulatively would constitute considerably less than substantial harm.
80. In policy terms, LP policies HE1, HE5 and HE6 are all inconsistent with the NPPF and accordingly, breach of their strict wording should be accorded limited weight. Policy CS19 of the CS does not contain a balancing provision and is also inconsistent with the NPPF. The NPPF supersedes most previous national policy in this area although considerable continuity is apparent. One of the core planning principles in paragraph 17 is the conservation of heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations. Significance is something that is experienced through an understanding of the heritage asset and which should be expressed in terms of archaeological, architectural, artistic or historic interest²⁸.
81. The EH document Conservation Principles²⁹ sets out a differently worded value based approach. Conservation Principles was originally intended as guidance to English Heritage officers, but it pre-dated PPS5 and its approach was not followed in PPS5 itself or the NPPF. The differences are material because as EH sets out itself, the value based approach in Conservation Principles is more discretionary and less objective than the special interest based approach in the NPPF. The hierarchy of primary legislation in the Listed Building and Conservation Area Act 1990, national planning policy, PPS5PG and then below those three, English Heritage guidance (which includes Conservation Principles), is clear and set out in Figure 1 of the 2011 EH document 'Guidance on Setting of Heritage Assets'³⁰.
82. Significance is not the same thing as general visitor amenity; nor is it the same as a contemporary landscape and visual amenity assessment. Any assessment of the significance of a heritage asset should include the contribution of its setting. Any assessment should recognise that elements of the setting may make a positive contribution to, better reveal, remain neutral or detract from the heritage significance of the asset. In other words it is not protection of the setting for the sake of setting; it is protection of what is required to understand the importance of the asset itself.
83. The NPPF, PPS5PG and the EH Guidance on Setting do not use terms like 'wider setting' or 'landscape setting'. These are simply working terms and should not be used in place of the policy definition in Annex 2 to the NPPF. When an asset is likely to be affected, significance must be assessed in its entirety. This involves

²⁸ See definition in NPPF p56

²⁹ Doc RWE/SHWFAG 10.4

³⁰ Doc RWE 10.1

looking at setting 'in the round'. Particular views may be more important (because they were designed or because they convey more heritage relevant information) than others but an assessment must not be restricted merely to views in which a development may have an effect.

84. Dealing with each asset that SHWFAG rely upon for its case:

Gayhurst Court and Park

85. The appeal site makes a limited (if any) contribution to the heritage significance of each of the assets individually and the group assemblage other than the fact that it forms part of the wider agricultural landscape. There are no significant views towards Gayhurst Park across the appeal site. As a result of woodland around Gayhurst Court, the church and the majority of the adjacent listed buildings there would be very limited views from these buildings and their immediate surroundings towards the turbines. The upper parts of the turbines would be seen in conjunction with Gayhurst Court and the church from a section of the drive and from part of the public footpath that crosses the park. The proposed development would cause limited harm to the heritage significance of the park and very limited harm to the heritage significance of the various listed buildings.

Tyringham Hall and Park

86. Again, the appellant submits that the appeal site makes a limited (if any) contribution to the heritage significance of each of the assets individually and the group assemblage. There are no views towards Tyringham Park across the appeal site. As a result of topography and trees, in many key views, the turbines would not be visible or would be only partially glimpsed. Clearer views would be available from the higher sections of the park and gardens and from the upper floors of the Hall. The proposed development would cause limited harm to the heritage significance of Tyringham Park, its listed buildings and Scheduled Ancient Monument.

Haversham St. Mary's Church

87. The one location from which it would be possible to obtain a clear view of the proposed development would be on the north side of the Church where there is a gap in the encircling trees. This is an amenity view, out towards the turbines and away from the church. The appeal site makes a limited contribution to the significance of the asset. The church is principally approached from the east and south and from these directions the turbines would not be seen, blocked by the built form of the church and surrounding trees. The proposed development would not be seen in any important views in front of or juxtaposed with the Church. The proposed development would only cause moderate harm to its heritage significance.

Wolverton Deserted Medieval Village (DMV) and Castle

88. The appeal site make no contribution to the significance of this heritage asset. The proposed development would cause only limited harm to the heritage significance of Wolverton DMV and Castle.

Church of St. James the Great, Hanslope

89. The role of the church spire as a local landmark contributes to its heritage significance and that of the Hanslope Conservation Area. There are a small number of views from the south east of the appeal site in which the spire would be prominent and the turbines would be seen, either together with the spire or between the viewer and the spire. The proposed development would cause limited harm to its heritage significance.
90. Whatever view is taken of the potential impacts on cultural heritage for the duration of the wind farm, there can be no loss or destruction of cultural heritage value after 25 years. There are no physical impacts on any designated heritage assets arising from the proposed development. All the potential effects are indirect, affecting the way in which the setting or surroundings of heritage assets are experienced. That having been said, there would be no unacceptable impacts on the historical significance or value of any of the identified designated heritage assets even if the effects were to be considered as permanent. In this case, it is clear that something which will be recovered in 25 years time cannot and will not have been destroyed. The worst that can be asserted is that certain limited elements of heritage significance will be veiled for a time to be fully recovered in 25 years time.

Noise

91. The noise assessment has been carried out in accordance with ETSU-R-97³¹ together with application of the Institute of Acoustics (IoA) Bulletin from March/April 2009³² and IoA Good Practice Guidance³³ (GPG) and it demonstrates that noise levels will fall within the relevant limits of acceptability for all locations, at all wind speeds and directions, at all times. Appropriate planning conditions which are in identical form to those which have been employed previously and which have been tested in the High Court are proposed by the appellant. SHWFAG did not produce any evidence from a qualified acoustician.
92. The background noise survey was undertaken over an extended period of over three weeks during which a variety of wind directions and speeds were experienced. For the three closest survey locations to the motorway (Dairy Farm, Hanslope Park and The Gate House), all background noise levels have been excluded when downwind of the motorway. The exclusion of noise collected under these downwind conditions is clear from paragraph 4.3.7 of the Hoare Lee Associates Technical Report³⁴ and Table C.5 for The Gate House. There is a systematic difference in measured noise levels of approximately 7 dB between when The Gate House was upwind and downwind from the M1 motorway. The resultant noise data set for The Gate House therefore corresponded to the lower levels experienced under the upwind conditions claimed by SHWFAG to predominate in the summer months. Thus the approach actually adopted by the appellant's noise adviser, which ensured that the typical lower levels of background noise were used for the purpose of setting noise limits, is in stark contrast to the SHWFAG claim of 'the appellant's deliberate attempt to increase

³¹ Doc RWE 8.1

³² Doc RWE 8.2

³³ Doc RWE 8.6

³⁴ Appendix 10A to the ES

the recorded background noise'³⁵. Under cross examination on this point SHWFAG's witness acknowledged to have not accounted for the exclusion of the downwind noise data from The Gate House measurements when preparing his evidence.

93. The request by SHWFAG for a fixed lower daytime limit of 35 dB is based on the allegation that the background noise survey was flawed. But there is no basis for the setting of a fixed 35 dB lower limit across all wind speeds in either ETSU-R-97 or the GPG other than in the absence of any measured background noise data. In the present case appropriate background noise data, which has been collected and analysed with the necessary care to ensure its applicability across all identified proxy locations, is available. In addition, any residual concerns over potential uncertainty in any part of the noise assessment process must be tempered by the fact that the calculated wind farm noise immission levels at the Hill Farm Conversions are always more than 5 dB below the derived noise limits³⁶. This margin exists even though the calculated noise immission levels assume worst case downwind propagation from the wind turbines to the properties (which does not correspond to the prevailing wind direction for the site) and have additionally and properly accounted for the higher levels of wind shear experienced.
94. As for other (or 'excess') amplitude modulation (OAM), it is common knowledge that there have been some instances at some wind farms of unusual noise characteristics which could not be attributed to normal blade 'swish'. Although Government sponsored research suggested a low incidence of occurrences, such findings were based on descriptions of noise characteristics and later re-interpretation of the data has suggested that the incidence may be higher, albeit still very uncommon.
95. There is no consensus amongst acousticians as to the trigger for OAM. There are a number of suggested causal factors, including transitory stall of the blade which is emerging as a likely candidate. There is no agreement as to how to define or measure OAM, or what levels would constitute a problem in amenity terms. In any event, ETSU-R-97 anticipates an element of amplitude modulation and this is taken into account in the ETSU noise limits. In terms of Circular 11/95, because the likelihood of OAM itself cannot be predicted and there is nothing to suggest that the appeal site would be particularly prone, or even likely to such tendencies, the imposition of a condition cannot be claimed to be necessary in the sense of mitigating foreseeable impacts. Similarly, asking the question "whether planning permission would have to be refused if the condition were not imposed", the answer would be 'no' because there is no evidence of demonstrable harm. Because there is so little understanding of OAM, any condition set would be arbitrary. An OAM condition would be unnecessary, imprecise, unenforceable and unreasonable and therefore outside Circular 11/95 and unlawful. The Council does not ask for one. None should be imposed.

Overall balance

96. This appeal is not finely balanced. When the balancing exercise is carried out properly, the answer is clearly in favour of the grant of planning permission. The

³⁵ SHWFAG Proof of Evidence on Living Conditions, paragraph 4.5

³⁶ See Tables C.12 and C.13 on page 94 of 304 of Appendix C to Dr Bullmore's Proof of Evidence

flavour of the inquiry has been that the Council has had to jettison important parts of its case and SHWFAG has adopted a scattergun approach in the hope that something gets hit. There really is not anything to reasonably object to at this site.

97. A key submission at the close of this inquiry is that in order to meet vital policy objectives, the threshold of acceptable change has to be set at the right level; it has to be set at a level which provides adequate protection for the local environment and communities but which allows us to 'get on with it'. In accordance with paragraph 98 of the NPPF, this appeal should be allowed if the impacts of the proposed development are (or can be made) "acceptable". This does not mean that the scheme has to display perfection; it means "satisfactory" or "generally agreeable". The policy imperative can be translated to mean "as many schemes as possible and as fast as possible, providing that in each case the impacts of a given scheme are acceptable". Mr. Godfrey appeared to suggest that this sort of language related to the PPS22 world, a point pursued by the Council. It clearly does not. The language and sentiment comes directly from EN-1, and is re-emphasised in Paragraph 6 of the NPPG, where planning authorities are instructed to "maximise" deployment. "Acceptable" can be interpreted to mean that planning permission should follow unless interests of acknowledged importance would be "unacceptably harmed". Unacceptable harm is clearly not the same thing as a "significant effect" identified for the purposes of the EIA Regulations. It must indicate something of much greater overall gravity.
98. The only way to give expression to the overwhelming policy drive is to interpret paragraphs 14 and 98 of the NPPF in such a way as to set the threshold of acceptable change on the various interests of acknowledged importance at a level which allows sufficient schemes to go through in sufficient places. If Government had some limit or target in mind when it wrote the NPPF then it would have not have said in effect that all renewable energy developments should be granted planning permission provided that any resulting impacts are or can be made acceptable. There is no reference in any policy document to phrases such as 'provided there is still a need to be met' or 'providing targets have not been reached' or 'taking account of progress towards meeting the Roadmap' upon which the Council and SHWFAG rely. The very recent NPPG requires local planning authorities to "maximise renewable and low carbon development", which gives no support whatsoever to the contentions of the Council or of SHWFAG. The position is as the Appellant has always said; all contributions, big or small are to be welcomed and positively supported, provided that in any case, the planning impacts are or can be made acceptable. In the evidence it has called, the appellant has demonstrated that the proposal complies with the relevant and up-to-date development plan policies, that it is compliant with the NPPF and the NPPG and that environmental, economic and social impacts of the proposed development would be acceptable or could be made acceptable with the imposition of conditions and use of the two unilateral undertakings.

The Case for Milton Keynes Council

The material points are:

Landscape character and visual amenity

99. It is our case that the appellants have significantly underestimated the harm and that the harm outweighs the benefits. It was accepted that there was a considerable measure of agreement between the assessments arrived at in the ES and in the evidence of all the various landscape witnesses. This fact, however, should not disguise the fact that the assessments as to the acceptability of the effects identified were very different.
100. It is the invariable policy of Natural England not to comment on landscape matters concerning sites which do not affect either Areas of Outstanding Natural Beauty or Natural Parks. Accordingly, their lack of objection in this case means nothing.
101. The appellant has made great play of the fact that the Council's landscape officer had not objected to the scheme. Much effort was put into securing admissions that the Landscape Officer was viewed as a competent and qualified professional. Such considerations must, however, fall before the actual content of his consultation response. The most significant feature of that response is his indication that the Council should secure the services of an independent landscape consultant who was experienced in dealing with windfarm matters. This had already been done in the case of the Nun Wood application, which was one of the ones which the officer indicated he had already dealt with. Furthermore, examination of the details of the response makes plain that they consist primarily of a recitation of the content of the ES. Critical analysis of the effects is highly limited; indeed, the Landscape Officer did not even undertake a consideration of the effects on the local landscape character areas. This is a matter which is fundamental to a proper assessment.
102. The new third edition of the GVLIA³⁷ suggests that landscape sensitivity is to be assessed by a consideration of landscape "susceptibility" and landscape value. Only with those matters properly assessed can an assessment of magnitude of change give a true understanding of the landscape and visual impacts of a scheme. The appellant relied upon two documents which were entirely inappropriate for the purpose. The Ove Arup regional capacity study³⁸ was explicitly relied upon by Miss Rylott (see paragraph 3.5.11 of her proof) and she accepted under cross-examination that she had relied upon it for background purposes. Even that use, however, was inappropriate. The document on its face was clear (see paragraph 3.1) that it was not to be used as a development control document. More pointedly, the introduction to Appendix D1 made plain that it was wrong to use the study even "to inform" development control decisions. "Inform" must include reliance upon it for background purposes. The use Ms Rylott makes of that study, therefore, was entirely misplaced and should be disregarded.
103. The appellant also relies on the Aylesbury Vale capacity study³⁹. This was not a document which had been commissioned by the Council but instead had been prepared by landscape consultants who extensively and exclusively work for the developer side of the wind industry. It had been prepared in support of a particular planning application. It had therefore been prepared with a particular purpose and had not been subjected to any form of public consultation or

³⁷ Doc RWE 7.2

³⁸ Doc RWE 7.20

³⁹ Doc 19

scrutiny. The fundamental flaw however, was the apparent disregard of the landscape characteristics of the Ouse Valley northern fringe landscape character area which immediately adjoins, and gives direct context to, the location of the turbines. Ms Rylott's main detailed examination of landscape susceptibility – by reference to sensible and acceptable criteria – was contained in her Table 3 (pages 26 to 27). In her proof, she explicitly describes this as an analysis of the landscape characteristics "of the Hanslope Plateau". In questions to Ms Bolger, Ms Rylott's evidence was characterised as having dealt with the entirety of the Ouse Valley (including Northern Slopes area) in her sections (3.6) on the Ouse Valley Landscape Character Area. In fact, on proper analysis, that section of her evidence deals only with the area around Linford Lakes (character area 2b: Ouse Valley: Urban Fringe). Accordingly, Ms Rylott was forced to assert that her consideration in table 3, although explicitly said to be of the Hanslope Plateau in fact also included an analysis of the landscape sensitivity of the Northern Slopes area.

104. This matter is of fundamental importance, not just a matter of "point scoring", because it was accepted by all the landscape experts that regardless of the sequence in which the analysis was performed, it was necessary to have regard to the landscape sensitivity, not just of the character area in which the turbines were to be placed but also of the entire surrounding landscape in which the turbines would be experienced. One way or another, the exercise of "melding" the landscape sensitivity analyses together to produce an overall picture must be done. Such an exercise can only be properly undertaken if sensitivity analyses of all the relevant areas have been properly performed. Furthermore, as a matter of detail, it should also be noted that both Ms Bolger and the authors of the ES regarded T5 as not just adjacent to, but actually within, the Northern Slopes character area.
105. There is a very real likelihood that the assessment of sensitivity of the Northern Slopes is materially different from that of the Plateau itself. As is entirely apparent from Ms Bolger's Figure 02, the topography map, the location of the turbines themselves lies upon in a spur of the Hanslope Plateau. The topography is also of fundamental importance to a proper assessment of landscape sensitivity to wind turbines. Ms Rylott's understanding of sensitivity appeared to be based solely upon her belief that the landscape was of a predominantly flat and open nature with large-scale agricultural fields being the principal characteristic. Indeed, at times in her proof she lapsed into suggesting that the site displayed a "high capacity" (paragraph 3.5.29) and that the site was in a landscape "best suited" (paragraph 3.9.5 (i)) for wind turbines. These assertions were, of course, at variance with her overall assessment that the sensitivity of the landscape was "medium".
106. In fact, the contours on the Northern Slopes in two places in the immediate vicinity of the appeal site (on the river bluff to the North of Linford Lakes and in the subsidiary valley between Hanslope Park and the appeal site) are relatively steep and produce slopes which would ordinarily tend to increase the sensitivity of a landscape to wind turbines. It is a topography which no doubt explains the decision of the authors of the MKDLCA to designate the areas as being within the Northern Slopes in the first place.
107. It should be noted that in consideration of landscape value, the appellant has understated the value of this local landscape. The approach appeared to be

that the density of public rights of way was unexceptional compared to other local areas. This is an overly narrow focus. It cannot sensibly be argued that this area of countryside, which lies on the Plateau beyond the river valley of the River Great Ouse and is thus the first opportunity that residents of Milton Keynes have to enjoy such a landscape to the north of the city, does not provide a valued landscape and recreational facility. That fact cannot be gainsaid by the mere fact that there is an equivalent density of foot paths in other areas. On a proper comparison of location and quality, these public rights of way clearly play an important role for local residents and the residents of Milton Keynes generally, as borne out by evidence from the third parties. It must also be noted that the recent Ministerial Statements to Parliament, and the NPPG, make plain the importance of attributing appropriate weight to local views as to the value of local landscapes.

108. The overall landscape sensitivity analysis of Ms Bolger is therefore much to be preferred. Her view is unequivocally that the overall sensitivity should be regarded as medium to high. Furthermore, the differences between Ms Bolger and Ms Rylott should not be dismissively referred to as "half a notch". They are of considerable importance to the assessment of the acceptability of these turbines. An assessment of medium to high is of course only just short of the categorisation of "high sensitivity" which would characterise landscapes such as those found in AONBs and National Parks. In a scale based solely on low, medium and high, "half a notch" can have a considerable influence on the overall assessment of the acceptability of turbines.
109. The turbines are large industrial structures which will be imposed on an area where there is nothing that in any way resembles them in terms of height and very few features which protrude above the natural landscape. They greatly exceed the height of the few tall structures in the vicinity. They would stand clear of any surrounding woodland or other landscape features. In any near or medium distance views, they will dominate and dwarf any existing structures. A useful tool for assessment is that the turbines would be more than three times the height of the woodland with which they share the plateau. This comparison of scale provides a useful basis for translating the views represented in the photomontages into an appreciation of what would actually be seen should these turbines be built. The appearance of the turbines is entirely functional; by their very nature, they do not purport to respond in any way to a local vernacular and thus in terms of materials, form and functionality they are entirely alien to the local landscape. Moreover, due to the rotation of the blades, the effect on the landscape will be constantly changing and the eye will be constantly drawn. The orientation of the turbines will also be ever changing, as the turbines respond to changes in wind direction. The turbines will induce a sensation of increased industrialisation in a rural area which will, together with the visual and noise effects tend to bring about a reduction in the remaining sense of remoteness and tranquillity.
110. It should be noted that Ms Rylott's assessment of the effect of the turbines did not begin, as suggested above, from the proposition that that turbines are large "industrial" structures. Instead she confirmed under cross-examination that she regarded them as "neutral elements" and that they can be viewed as architectural objects in their own right and that they were "in some ways soporific". She confirmed under cross-examination that she had assessed the

- impact of the turbines on this basis. This may go some way to explain her assessment of their acceptability.
111. It must be remembered that whilst the permission is sought by one particular operator, the permission (if granted) would run with the land. The identity of the particular operator is not a material planning consideration. Accordingly, any confidence as to the aesthetic appeal of the turbines (which was based upon the use of turbines of the most modern tapered and sculpture design) can only be relied upon if the Secretary of State imposes a condition which guarantees that such turbines will be erected on the land, if necessary by permitting the local planning authority to have an appropriate measure of control. If a proper consideration of planning and commercial considerations means that no such condition is imposed, then no weight can be placed on their aesthetic appeal.
112. A "high" magnitude of effect means in reality a "total change that would be large in scale and/or extent and include the loss of key landscape characteristics, or the addition of new uncharacteristic features or elements, that would become the dominant characteristics of the landscape and change the overall landscape quality, and character." A "medium" magnitude of effect means a "noticeable/prominent change of more limited scale and extent including the loss of some key landscape characteristics or elements, or the addition of some new features or elements, that would potentially change the landscape character".
113. A "high" magnitude visual change should be understood as "a major change or obstruction of a view may be directly visible, appearing as a prominent and contrasting feature and/or appearing the foreground/middle ground." A "medium" visual change must be understood as "a moderate change or partial view of the new element within the view that may be readily noticeable, directly or bleakly visible including glimpsed, partly screened or in intermittent views, appearing as a noticeable feature in the middle ground."
114. It is important to note that these changes will be entirely adverse in their effect. This was accepted by all parties as the appropriate basis for consideration and assessment. These statements of the effects must be read alongside the justifications provided by the appellant for concluding that the landscape effects would be limited and acceptable. The justification for this was based on the suggestion that the turbines would "lack a sense of immediacy" and be perceived as being "over there". Examination of the relevant photomontages suggests that this would be very far from the overall effect. This overly optimistic view of the effects, combined with systematic underestimation of the landscape sensitivity indicates that the appellant's assessment of the acceptability of the impacts cannot be relied upon.
115. The appellant asserts that none of the key landscape characteristics of the Hanslope Plateau would be significantly affected. However, this appeared to be based on the surprising assertion that the key characteristic of "Extensive views towards Milton Keynes and the river valleys of the Ouse and Tove" would not be affected, because the viewer would have their back to the turbines. This totally ignores those walkers on public rights of way who would walk through the windfarm whilst being orientated towards Milton Keynes and the Ouse Valley. This view had been formed on the basis of a consideration of what Ms Rylott considered to be the best viewpoint, namely just to the south west of the

turbines. Whilst it may be true that this is the best viewpoint, it is by no means the only viewpoint and this approach is suggestive of a degree of selectivity which casts doubt upon the overall reliability of the assessment.

116. The guidelines for MKDLCA Yardley Ridge LCA in relation to development⁴⁰ have as their final objective to “protect the plateau from development that would impinge on or disrupt the existing woodland skyline as seen from within or outside the area”. It is entirely plain that there would be an infringement and disruption on those key views of the wooded skyline from any vantage points.
117. There is a very strong interaction between landscape effects and visual effects. The submissions made with respect to landscape matters apply with equal force to the visual impact. There was considerable technical debate at the inquiry as to the issue of using 50 mm or 75 mm focal length images. SNH are stating their preference for 75 mm images and the consultation is as to how that preference should now be expressed in ongoing guidance. Any fair reading of the consultation notes suggest that SNH regard the issue of 50 mm versus 75 mm as being settled. The 75 mm images produced, for example by the Action Group provide a better and more accurate representation of the size of landscape features, and the size of the turbines within that landscape than the 50 mm images which form the basis of the ES. Those 75 mm images (and even as a very close estimation, the 70 mm images) are commended as the best basis for understanding the impact of these turbines on a visual basis.
118. It is clear on the evidence that the effects of the scheme are unacceptable, because: (i) the subtle topography of the area would be overwhelmed by the scale of these turbines; (ii) in a landscape consisting primarily of small scale elements the incongruity of scale of the turbines would be hugely prominent; (iii) there are currently no significant visual detractors in the landscape, certainly not of the incongruent and vertically focused nature of these turbines; and (iv) considerable damage would be done to the positive perceptual qualities of a landscape which is highly valued locally. The scheme is both contrary to local plan policy D5 and does not have impacts which are (or can be made) acceptable within the meaning of paragraph 98 of the NPPF.
119. The Council advances no case based on cumulative impact. The stand-alone impacts are quite sufficient to justify refusal.

Public rights of way

120. Two features stand out. The first is the very high hurdle used by the appellant in making its assessment that there would not be a sufficiently adverse effect for the threshold of “unacceptability” to be reached. It appears to be the appellant’s case that the effect should be that walkers would be deterred from using the path. It is submitted that such a test is simply arbitrary. There is no support in planning policy for such a stringent requirement and the mere fact that some Inspectors have observed that walkers “would not be deterred” does not mean that they support that concept as a threshold of unacceptability. Indeed, it is difficult in those circumstances to see where the appellant could ever conclude that there was an unacceptable impact on footpaths. There is also an apparent desire to underplay the value of the public rights of way in the vicinity

⁴⁰ Bolger appendix 3 p10

of the site. These turbines will have a pronounced, harmful and ultimately unacceptable impact on public rights of way which are of considerable local importance.

Residential amenity

121. The residential effects must form part of the planning balance against the scheme. It is to be remembered that the 'Lavender'⁴¹ test is only a test for determining whether or not a scheme should be refused on residential amenity grounds alone. It does not follow that if the Lavender test is not met that these effects should simply be disregarded.
122. With respect to one property, Old Mill View, it is plain that the 'Lavender' test is indeed met and the public interest is engaged and suggests a refusal of the scheme. As a preliminary matter, it is no obstacle to the engagement of the public interest that the effects of the turbines will be experienced primarily by the users of the garden of this property. The effects on its garden will be startling and wholly unacceptable. As is starkly illustrated by the wire frame and photomontage⁴², all five turbines will be in clear view on rising ground. The location benefits from partial screening of turbine size by the trees but a small movement within the garden would remove this effect. The closest turbine is indicated to be only 690m away and its base may well be visible. Three of the turbines (T5, T1 and T3) would be "stacked", thus magnifying their visual impact.
123. The appellant puts forward 3 grounds on which it sought to suggest that the effect was acceptable. First, it was suggested that the predominant view from the garden was not in the direction of the turbines but instead in the opposite direction, towards the Ouse valley. For such reason, it was said, the effect of the turbines lessened, but it is obvious that the garden is to be enjoyed as a whole. Users of the garden do not constrain their view simply to the southerly and south-easterly directions. Even cursory examination of the photographic material indicates that the garden is set up, at least in part, with furniture to enjoy views in all directions. Finally, one's enjoyment of a leisure facility would be affected by ever present constant of the turbines, even if one was not directly looking towards them.
124. It was then suggested that the mere fact that the garden was wholly prejudiced by the proximity to the turbines would not render the property as a whole and unattractive place in which to live. This submission must be judged in the context of the house which already exists. It is undeniable that it is a large and pleasant property but it is a property which demands a functional garden in order to be properly attractive as a place in which to live. The representation from the occupier of the property makes the entirely unsurprising point that the occupiers regard the garden as entirely integral to the enjoyment of it. Any occupier would. It would be entirely contrary to the public interest to render such a property unattractive by virtue of denying it all sensibly usable garden space. The suggestion that the inner courtyard can be regarded as garden in any normal sense is plainly entirely wrong.

⁴¹ See Enifer Downs decision Doc RWE 5.15

⁴² FEI Fig 2

125. Finally, the appellant places great store by its intended mitigation scheme. It must firstly be observed that such a scheme only emerged, in any proper formulated way, during the inquiry itself. As was accepted, no investigation as to the practicality of the scheme had yet been undertaken. The necessary large trees (up to a required height of some 6 m) would necessarily take time to establish (within the context of a scheme intended to last only 25 years). The effects of the scheme at close hand would be experienced on a daily basis by real people for whom those effects would seem anything but temporary or reversible.

Meeting the need for renewable energy

126. The first consideration is the contribution which the scheme would make to meeting the national need for sources of renewable energy. The starting point is taking the proper approach to these matters is the policy of the NPS. The words of the NPS in EN-1⁴³, are highly instructive. Paragraph 3.2.3 suggests that "The IPC should therefore give substantial weight to considerations of need. The weight which is attributed to considerations of need in any given case should be proportionate to the anticipated extent of a project's actual contribution to satisfying the need for a particular type of infrastructure." The appellant accepts that this is the appropriate starting point for the assessment of the need case. In performing that assessment, it is impossible to begin without understanding what the true nature of the need is. The clear policy of EN-1 makes plain that the appellant's blanket approach, of simply assuming that "the need case is unabated", cannot now stand.

127. There are no longer any regional or sub-regional targets. Nor is there any national policy that where targets are neared, they should automatically be raised. These are fundamental differences in the policy regime, even post-dating the national policy statements. The reality of the need – the urgency or otherwise of that need – must therefore be judged in a national context alone. There is no policy support for the notion that every region must contribute a fixed percentage of the target or for notions that each region "must take its share". Indeed NPPG paragraph 6, final bullet states that "there is no quota which the Local Plan has to deliver". There are of course good reasons based on topography, landscape and natural resources, and wind resource, which suggest that the contribution which can sensibly be expected from each region will necessarily be different. The DUKES report⁴⁴ at paragraph 6.57 stated that: "The UK has an excellent onshore wind resource, with wind speeds particularly good in Scotland, Northern Island and Wales (less so in England, *particularly the South East*)" (emphasis added). In short, it does not matter where the renewable schemes are within the United Kingdom – the only target is a national target.

128. In that context, the 2012 UK Renewable Energy Roadmap Update⁴⁵ and Mr Godfrey's updated table 4⁴⁶, must be considered. This was accepted by the appellant as being based on the most accurate information currently available and arithmetically accurate. It shows that with the schemes either operational (6.78GW), under construction (1.39GW) and in receipt of planning

⁴³ Doc 6.9

⁴⁴ Doc 16

⁴⁵ Doc 6.21

⁴⁶ Proof of evidence, page 25

permission/awaiting construction (5.18GW) the upper aim of the Roadmap for 2020, 13 GW, has already been achieved (cumulative total of 13.35 GW).

129. Not all schemes which are consented will be built out, but the very aim of the Roadmap and its Update was to outline policies which will assist with these matters and to monitor their delivery. In coming to the predictions in the Roadmap as to the range of achievements to be sought, it can be presumed that the Government was aware of the detailed constraints which may affect delivery. Appendix A to the Roadmap Update indicates that the government believes it is taking the necessary steps to ensure that the potential of already consented schemes is properly released. Furthermore, the planning policy improvements suggested by the Roadmap have already been brought to fruition through the NPPF. For that reason, it is unsurprising to find that the Update itself states at 2.33: "While we cannot be certain which projects will go forward, the current pipeline is likely to represent the appropriate quantity of deployment to fulfil the central estimated range in the 2011 Renewable Energy Roadmap for onshore wind deployment."
130. It is not the Council's case that the Roadmap and its Update impose an upper limit or target. What the position with respect to achievement of the upper end of the Roadmap's range of onshore wind does, however, suggest is that some of the urgency to be associated with the delivery of onshore wind has abated. It is entirely plain that the Roadmap process sets out the actions that need to be taken, with respect to individual technologies, in order to achieve a target in 2020. Achievement of the central ranges in each technology will lead to the overall 2020 target for renewables being met. It is further to be noted that the Roadmap Update, whilst obviously not seeking to impose limits or targets does contemplate the fact (paragraph 2.13) that some technologies may end up "requiring less deployment" than originally intended.
131. Nor can the appellant's "unabated need" case be justified by reference to the position after 2020. No target for onshore wind can be derived from the overall objective of decarbonisation. First, as made plain by the contents of paragraph 95 of the NPPF, decarbonisation may involve many more aspects than merely the production of energy from renewable sources. Second, EN1 does not purport to set any form of target for any source of renewables post 2020. References to the recommendations of the Committee on Climate Change, (a purely advisory body) within EN1 paragraph 3.4.1 cannot be construed as targets. Had the government wished those recommendations to be understood as targets, it would surely have said so in plain language. Third, the government is actually resistant to the setting of specific renewables targets for the post-2020 period. The statement from the Secretary of State for Energy and Climate Change as recently as 4th June 2013⁴⁷ makes this explicit.
132. Therefore, it can be said with certainty that the position adopted by the appellant that "we need as much as we can get, as soon as we can get it" is no longer tenable. Instead, the consequences for the planning balance must be properly considered. In undertaking that consideration, a useful starting point is the position adopted by the Secretary of State – and happily embraced by developers - for many years in the past.

⁴⁷ Doc MKC 2.7

133. The Secretary of State has accepted the case that where targets had been missed an appeal proposal should be afforded extra weight as an exercise in "catching up" (see the Coronation Power cases⁴⁸ at paragraph 16). However, if extra weight was claimed for any factor, the necessary corollary was that the project could do more harm, and still be permissible, than in other circumstances. It is submitted that this formulation cannot be escaped when it is sought to be asserted that extra weight should be accorded because of any particular factor; it is indeed the essence of the testing of the planning balance.
134. By inevitable corollary, if the need is less urgent, schemes which are to be permitted should be allowed now to do less harm than would be acceptable in circumstances where the need was still urgent. This approach has already found favour, as a matter of principle, in previous decisions. In the Ellands Farm, Hemington inquiry⁴⁹, the Inspector noted that in a context where he believed relevant targets had been met that "the fact that [a target] could be met relatively easily and could be substantially exceeded *reinforces the need for caution* in dismissing other objections in favour of the renewable imperative." (Paragraph 40, emphasis added).
135. The Inspector's decision which was said by the appellant to disprove this line of logic (Sober Hill⁵⁰) does nothing of the sort. This was a decision in which a local target was expected to be met or exceeded. It was suggested that it was inappropriate to alter the threshold of acceptability for other schemes, because the remainder of the region was seriously behind its targets. It was judged inappropriate for schemes in one local area to receive a higher level of scrutiny in the planning balance when other local areas in the same region were seriously deficient. Such considerations are of no relevance now that regional targets no longer exist. The only standard is the national standard; if the position compared to the ranges within the Roadmap means that renewables schemes are permitted to do less harm now, that is a national phenomenon. The disparity in treatment which concerned the Secretary of State in Sober Hill does not arise now.
136. The appellant's approach to this matter seemed somewhat confused. When the approach of Coronation Power was first put, it was accepted that, when a target was met or neared "less weight goes on the need case". This is indeed the Council's case. It was then asserted, under questioning by both the Inspector and the Council, that the principles in Coronation Power still applied because there remains "a massive gap" between achievement and targets. That is a very odd position in the circumstances. The Roadmap Update states (para 2.23) that the current pipeline is already likely to fulfil the central estimated range. Examination of the trajectory towards the achievement of the 15% target by 2020 also emphasises the unreality of the appellant's position. The trajectory in the Renewable Energy Strategy is as set out in Mr Godfrey's proof⁵¹ and the achievement of those objectives is considered in the DUKES report, upon which the appellant relied. Aside from the ongoing considerable increases in renewable energy production, the final bullet point of the Key Points indicates that across 2011-2012, 3.94% of energy consumption came from renewable sources, against

⁴⁸ Doc RWE 5.17

⁴⁹ Doc RWE 5.30

⁵⁰ Doc RWE 5.23

⁵¹ Para 3.7 (page 12)

a target of 4.04%; this is described as being “within the margin of error around the estimate”.

137. In these circumstances, a suggestion that there is “a massive gap” is simply unsustainable. We are firmly on the right trajectory and the pipeline is already (7 years before 2020) such that the right quantity of onshore wind needed to meet the 2020 target is likely to be achieved.
138. Despite the compelling force of these arguments, the appellant’s main approach was simply to ignore them. They relied heavily on paragraph 98 of the NPPF, first bullet, which suggests that the overall need for renewable developments should not be questioned. That passage, as Mr Horner explained in his evidence in chief simply means that a planning inquiry is not the place to question the fact that there is an overall need for renewable energy, a need which is reflected in the support in policy for renewables which has already been considered. What it does not mean is that an Inspector must simply close his eyes to the factual situation which now exists with respect to the provision of onshore wind and simply assume that there is the same urgency of need, in an unlimited fashion with no end. No sensible balancing exercise could be performed in that way.
139. The appellant also relies upon the statements in the national policy statements to the effect that there is an urgent need for schemes. It is always to be remembered that these Statements are directed towards large nationally significant infrastructure projects (NSIPs) and the considerations of need may be different. Furthermore, as with any material considerations, the weight to be applied to them must vary as the factual scenario changes. The NPSs were drafted prior to the considerable increase in the provision and consenting of onshore wind schemes which is recorded in the Roadmap Update. The suggestion in the Update (paragraph 2.5) that there is still an urgent need refers to all renewables and does not make reference to the favourable position of onshore wind, and, in addition, refers to large-scale schemes. In a policy framework which includes NSIPs, this scheme can barely be described as large-scale in this context. Accordingly, there is no longer the same urgent degree of need as once existed and this fundamental fact must be taken account of in the planning balance.

Energy Output

140. The first benefit which falls to be assessed is the actual production by the scheme of energy from a renewable source. From a climate change perspective, gaining some sort of understanding of the amount of energy which will actually be produced is the first step to understanding how much displacement there would be of energy produced from fossil fuel sources. The first and decisive factor in determining capacity is the wind resource which is available. It is also influenced by the detailed design factors. The appellant provided a report on the expected energy output from the site.
141. The wind speed at the site is lower than would be expected on the basis of the NOABL data (6.3 m/s at 45m). The appellant estimates a long term mean wind speed of 6.1 m/s at 50m which translates to a wind speed of around 5.9 to

6.0 m/s at 45m. The 2001 evidence base used a cut off wind speed of 7 m/s at 45m⁵². Therefore this site is not a good site for a wind farm.

142. The appellant has only provided output estimates for the two 2.05 MW turbine types referred to in the ES. There is no evidence for the likely capacity factor for the 3 MW option. However, it can safely be assumed that the capacity factor for the 3MW option will be so low as to make it unviable. Therefore, it would be wrong to take 15 MW of benefit into the balancing exercise. There are some major problems with the calculations. Whilst these are individually relatively small adjustments, they become significant when considered in aggregate. The issues are as follows:

- The appellant has not measured the wind speed at the hub height of 80m, as was previously recommended in PPS22 Companion Guide. This increases the uncertainty in the forecasts. The poor correlation coefficient to the long term Bedford Met Office data should be noted, leaving considerable uncertainty as to the long-term wind resource.
- The calculation needed to adjust from windspeed at one height to that at another requires calculation of the so-called roughness length. The appellant has used a figure of 0.992. The European Wind Energy Association document clearly indicates that this is an inappropriate figure, as it suggests the site is located in a city not the countryside. The use of that figure inflates the calculated wind speed at hub height to 6.8 m/s. A more appropriate calculated wind speed would be 6.6 m/s. This does not appear on its face to be a significant difference, since output is proportional to the cube of the wind speed, but it represents a loss factor of 0.9143, or an 8.56% reduction in output.
- The adjustment for air density does not appear to take account of relative humidity (humid air is lighter than dry air). Mr Godfrey for the Council calculated a figure of 1.219 kg/m³ versus the appellant's 1.223. This would reduce output by 0.9967.
- No account is taken of blade degradation or icing. A figure of 0.99 is normal for this.

143. The last 3 factors equate to a reduction of $0.9143 \times 0.9967 \times 0.99 = 0.902$. The appellant has over-estimated output by 10% for these factors alone.

144. On this basis, the capacity factors for the MM92 and MM82 turbines drop to 29.8% and 24.9% respectively. This is to be compared to the capacity factor of 26% which Mr Godfrey⁵³ suggested (paragraphs 6.4.5 and Table 6 of his proof) should be taken forward into the planning balance. Accordingly, as Mr Godfrey asserted, whilst the windfarm might be viable, the only conclusion the Inspector and Secretary of State can properly draw is that the energy production from these turbines is likely to be at the lower end of the scale and the weight to be attached to the potential of these turbines to produce electricity must therefore also be at the lower end of the scale. It should also be noted that the overall averages of capacity factors include the full range of turbines, old and new; it is a poor comment on this scheme that such a large modern turbine should only

⁵² see page 40 of Doc RWE 6.41

⁵³ Paragraphs 6.4.5 and Table 6 of Mr Godfrey's proof of evidence

achieve this relatively humble capacity factor. Furthermore, the appellant's view that the rate of saving on CO₂ should be based on an historic figure from years ago rather than latest HM Treasury /DECC advice is bewildering. The government calculations should be followed (see both the introductory paragraphs and/or the Table 1 description that "long run marginal emission factors should be used for measuring small changes in consumption or generation")⁵⁴. In summary therefore, the appellant has overstated the benefits in electricity generation, consequential CO₂ reductions and reductions of other emissions.

Other benefits

145. The scale of other benefits is small; the amount of money generated which would actually remain in the local economy is likely to be limited. Once the scheme is operational it is only likely to generate one or two (literally) permanent jobs. The 2012 DECC document⁵⁵ concerning the wider economic benefits, was solely focused on the benefits of wind energy, and took no account of potential "downsides" such as the loss of jobs in industries associated with fossil fuels and the cost of taxpayer subsidy for renewable energy.
146. There may also be minor benefits to ecology. They are of limited weight.
147. To conclude, the NPPF requires that an application for renewable development should be approved "if its impacts are (or can be made) acceptable". The recent Ministerial Statement made clear that: "Meeting our energy goals should not be used to justify the wrong development in the wrong location", whilst the new NPPG indicates (para 15, first bullet): "the need for renewable ... energy does not automatically override environmental protections". The Inspector is therefore faced with a balancing exercise. It is important to note that the balance of policy and language within the NPPF rather indicates a weakening overall of the support for renewables from the policy provisions of PPS 22. It is to be recalled that PPS 22, key principle (iv) suggested that the benefits of renewables development must always be afforded "significant weight". That phrase is not within the NPPF, despite being used with respect to other aspects of policy (see for example paragraph 144, first bullet on the benefits of minerals extraction). Instead, it is to be noted that the core planning principles simply suggest that there should be encouragement for renewables developments and that specific policy in paragraph 98 simply requires a recognition that renewable schemes provide a "valuable contribution" to cutting greenhouse gas emissions.
148. Despite the benefits which the scheme will bring and the support in government policy for renewable development generally, the cost in environmental terms of the development at this location is simply too high. The harm outweighs the benefit. The proposal is thus contrary to the development plans and is contrary to the policy of the NPPF as a whole.

The Case for SHWFAG

The material points are:

⁵⁴ Appendix 8 to Mr Godfrey's proof of evidence

⁵⁵ Doc RWE 6.17

Landscape and Visual Harm

149. The Action Group shares much in common with the Council both in its approach to analysis and the conclusions which it has formed. Its submissions should be read alongside those of the Council.
150. In terms of landscape character, the landscape in the area comprising the appeal site and its environs is not a large scale landscape. The effects from Hanslope Plateau and from the Ouse Valley Urban Fringe are significant. Within Hanslope Plateau, it is submitted that the subtle complexity of topography and character particularly on the spur which they are located will be dominated by the scale and movement of the turbines. The turbines would be seen on an elevated skyline, out of scale with the landscape and would dominate both visually and in terms of their impact on landscape character.
151. For the Ouse Valley Urban Fringe, the turbines would be seen at distances of up to about 2.5km as being harmfully at odds with the character of the “complex mosaic of small to medium scale mixed land uses” to which the LCA refers. The harmful effects on the Ouse Valley Northern Slopes are acknowledged in the ES for the closest parts to the south of Linford Wood. It is submitted that the effects would extend to include the area to the northeast of the M1 containing Gayhurst Park, as the sensitivity of this landscape is self evidently high and views are available west across the M1 to the appeal site.
152. The Tove Valley Slopes LCA is relatively remote and with a tranquil character, with Castlethorpe and its important castle being the only settlement within the LCA. SHWFAG’s characterisation is that this is of moderate visual sensitivity, with tranquillity very high. As such, a small proportion of the LCA to the south of Castlethorpe would be significantly affected. Whilst in absolute terms the area is not highly tranquil, the tranquillity of Linford Lakes is a significant asset which should not lightly be interfered with as would be the case by reason of the proposed development.
153. As for visual impacts, there would be a number of significant adverse visual effects for a range of receptors in the area arising from the proposed wind farm. The ES acknowledges significant effects on Viewpoints 1, 2, 3, 4, 7 and 10 which extend up to 3.4km and includes the settlements of Haversham, Little Linford, Castlethorpe and Oakridge Park to the edge of Milton Keynes. Further, there would be significant effects on users of public rights of way on 5 national trails and 1 Sustrans route. There would be other significant effects. It is submitted that it is clear that the extent of visual effects would be adverse and detrimentally affect the visual amenity of residents and users of the countryside over an area up to 2.5km and in certain locations up to 3.4km from the appeal site.
154. It may be noted that the NPPG makes specific reference to cumulative impacts in paragraphs 8, 15, 28 and paragraphs 39 to 44. Cumulative impacts arising from the Stokes Height proposal were not pursued by SHWFAG in evidence prior to the advent of the NPPG. However, Mr Charseley dealt with cumulative impact in his proof of evidence at paragraphs 4.32, 4.34 and 4.37 to 4.38. His conclusion was that the level of harm due to the appeal proposals is unacceptable in its own right and that the cumulative effects arising from the Stoke Heights proposals did not materially change that conclusion. However, to apply the terms of NPPG the effects identified arising from the appeal proposals

as well as the other permitted and proposed wind farms would mean that there are also significant adverse impacts (being simultaneous, repetitive and sequential) which would impact upon a wider scale than that simply arising from individual viewpoint locations. All of these impacts weigh heavily against the appeal proposals.

Public Rights of Way

155. The Action Group have sought to provide survey material regarding the extent of use of the PROW network not only surrounding the site but also the long distance routes into which those PROWs connect. In looking at such matters prospectively it is very difficult to demonstrate that there will be an actual deterrent consequence that will flow from the introduction of a wind farm development. However, it is clear that the introduction of a wind farm at this location will not be well received by those who currently use and have resort to the existing footpaths. It is noted that the appellant sought to denigrate the survey on the basis that it was biased. SHWFAG make no apology for its position of opposition to the proposal. However, the questions that were asked of respondents were objective and can hardly be regarded as biased. It is clear that the usage of the footpaths is substantial and upon any basis will give rise to substantial adverse impacts upon sensitive receptors.

Impact on the living conditions of the occupiers of Old Mill View

156. Whilst SHWFAG consider that there will be adverse impacts upon the living conditions of a number of properties in Haversham and in particular the Hill Farm conversion properties, like the Council it considers that one property will be particularly subject to such an adverse impact that it engages and fails the test identified by Inspector Lavender at the Enifer Downs Inquiry. That is reinforced by the decision of Mr Lavender at Carland Cross.
157. The view from the garden of Old Mill View is one which on the basis of either the SHWFAG montages or the RWE montages will be overwhelming and will make this property an unattractive place to live. The thesis developed and advanced by the appellant in questioning witnesses appeared to be that even though the garden area will be subject to the presence of the turbines it will still be a nice house to live in and lots of people would still want to live there irrespective of the turbines. There may be a vast number of homeless people or people in very poor housing who might well jump at the opportunity to live in a habitation such as this, but that is not the point. The issue is whether the visual intrusion is of such magnitude as to render a property an unattractive place in which to live. This is because it is not in the public interest to create such living conditions where they did not exist before. It does not have to render the property uninhabitable; simply it has to be rendered an unattractive place in which to live.
158. In respect of Old Mill View that will be the case and that will not be beneficially altered by the introduction of 6m high planting nor the introduction of groups of trees whether in clusters of threes or fives. The montages make clear the extent of visual intrusion and that that level of intrusion will not be overcome by the planting proposed. Even then the planting proposed will take some years to mature to the level proposed and will simply not address the impact of the windfarm and in particular T5.

159. Nor are the concerns raised by SHWFAG and the Council in respect of Old Mill View some arid or theoretical abstraction. If permitted and constructed, it would come to dominate their garden which is such a crucial element in their use and enjoyment of their property. It is where they enjoy private amenity time and it is where their children play. It is where their patio furniture is located.
160. The suggestion made that the front garden would be less affected and could be used equally is to wholly fail to appreciate how that property is used. That is an area given over to car parking and landscaping comprising specimen trees and shrubs. It functions as the front garden to the property and will inevitably be used on any basis to a significantly lesser degree than would the rear garden. That was how the property was designed to be used. It is simply not acceptable to seek to compel an alternative use of the property due to the consequences of the appeal proposals.
161. The planning system is designed to act in the public interest but that public interest must also include the proper balancing of adverse amenity impacts. The amenity impact on this property, a property unconnected to the appeal proposal, is one that the system should not countenance. If it were to do so it would fundamentally undermine public confidence in a balanced system which is intended to properly reflect the interests of private individuals who will inevitably be significantly affected by development proposals such as these. For those reasons the 'Lavender' public interest test is engaged and satisfied and the appeal proposal should be rejected on the basis that if it were to take place it would render Old Mill View an unattractive place in which to live.

Noise

162. SHWFAG's case does not seek to challenge the government's methodology to noise assessment set out in ETSU-R-97. Instead, it has focused its attention upon what it perceives as deficiencies in the noise survey material which has been submitted to the Inquiry. This is not technical nit-picking. The robust and accurate identification of background noise levels is critical to the remaining processes of calculation. It is acknowledged that SHWFAG does not include expert acousticians, but it has looked carefully at the noise data provided and in particular the approach of the appellant and its advisers in accordance with the most recent IoA guidance⁵⁶.
163. It is contended that the location identified as being the alleged representative proxy location for the Hill Farm conversion development does not represent the worst case and that there are other locations which have the potential to experience a higher noise climate than the location chosen. Consistent with the Institute of Acoustics guidance for a rural area such as this, applying a 35 dB base figure as the appellant's noise consultant accepted, if one were to apply that figure to the Hill Farm location then the proposed wind farm development would not satisfy ETSU-R-97 criteria and the proposal would stand to be refused.
164. There would be no proper basis for applying as a proxy Pineham Farm in context with the Hill Farm conversions, given that they have a different prevailing noise climate by reference to the proposed turbines, the M1 and water courses.

⁵⁶ Doc RWE 8.6

If any other rural location would represent a proxy for any other then it would hardly have been necessary to carry out all but the most limited noise survey work in order to support the appellant's noise analysis exercise. That proposition simply does not bear scrutiny. That is good cause to apply caution to the noise figures and analysis which has been provided on behalf of the appellants.

165. SHWFAG is also concerned as to the potential for OAM to occur and, if the Secretary of State were still minded to grant permission, contrary to these submissions, it would wish to have a suitable precautionary condition imposed to provide for this. Such a condition was imposed in the Den Brook decision and a copy of this was provided during the condition session of the inquiry.

Cultural heritage

166. The appellant accepts that the appeal proposal is contrary to development plan policies HE5, HE6 and CS19. The contention was that there was no balancing component within the Policy. However that balancing component arises from the application of sections 38(6) of the Planning and Compulsory Purchase Act 2004, section 70 of Town and Country Planning Act 1990 and the NPPF. The second bullet point of NPPF paragraph 14 under "decision making" is engaged in that "specific policies in this Framework indicate development should be restricted".

167. The development plan is not absent or silent and the relevant policies are not out of date. In those circumstances permission ought to be refused unless other material considerations indicate otherwise. It is suggested that if one were to pursue the position in respect of paragraph 14, one is directed to the second rather than the first sub-bullet point as "specific policies in the Framework indicated development should be restricted". Considering the three balance positions set out in paragraph 14, 133 and 134 they are materially different. SHWFAG is of the view that there will be substantial harm to heritage assets of the highest significance. If one looks at

- Tyringham Hall and the Church of St. Mary's at Haversham (both Grade I listed); and
- Tyringham's Grade II* registered park and gardens; and
- the collection of assets comprising a variety of Grade I and Grade II* assets,

the potential for substantial impact is clear.

168. At Tyringham Hall, the impact itself becomes manifest particularly looking at the Architech montages appended to Dr Lisboa's evidence which demonstrates the very clear visibility particularly those for viewpoint 2 images 3 and 4 showing the garden terrace looking south west to the Orchard Way wind farm. That is in circumstances where one has views towards Gayhurst Park which has something of a pristine quality, unaffected by modern intrusions such as pylons or telecommunications masts, as the appellant accepted.

169. The effect upon the Church of St Mary's Haversham, also Grade I listed also could not be more profound, from the churchyard.

170. The spire and tower of Hanslope Church was built to be the tallest in Buckinghamshire and currently dominates the landscape.

171. As paragraph 132 of the NPPF makes clear, substantial harm to or loss of a Grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets at the highest significance (of which those set out above would fall) should be “wholly exceptional”. That is an additional test to that set out either within the statutory test or that within paragraph 133. Similarly if the test within paragraph 133 is engaged then the obligation upon the appellant is to demonstrate that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. No evidence of the need for this development to be located in this location has been advanced. In consequence, it is submitted that the proposal falls to be rejected as there has been a failure to demonstrate that the substantial harm or loss is necessary to achieve public benefits that are contended to be substantial and which outweigh the harm or loss which has been identified by SHWFAG.
172. The proposed wind farm will have a substantial effect upon a number of heritage assets and upon the landscape. The analysis of these impacts in policy terms does not indicate that the requisite justification for their siting is made out so as to appropriately meet those policy tests. Nor indeed are the statutory tests in the Planning (Listed Buildings and Conservation Areas) Act 1990 appropriately met.
173. At the heart of the policy based assessment of these proposals is the NPPF. Reference is also made to NPS statements EN-1 and EN-3, but paragraph 97, third bullet point and footnote 17 therein does not have the effect of devolving the consideration of wind energy development proposals simply to the terms of NPS statements. It is submitted that if the Government had decided to delegate the policy to termination in such a way it would have simply directed the decision makers to follow the NPS rather than to follow the NPPF approach.
174. Paragraph 14 of the NPPF provides for the presumption in favour of sustainable development. However, this presumption is not engaged in the circumstances which prevail here. It is agreed that the proposals do not accord with the development plan. The development plan is not absent. That said, the operation of the presumption (if it applied) would mean the granting of planning permission (unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits) when assessed against the policies in the Framework are taken as a whole.
175. However, that presumption is subject to a specific qualification found after the word “or”. Namely, in the circumstances where “specific policies in this Framework indicate development should be restricted”. It is acknowledged by all parties that, by reason of the presence of a number of designated heritage assets (and the acknowledged existence of at least some impact upon at least some of them) then the restrictive policies set out in section 12 of the Framework apply.
176. That is important for a number of reasons. It was contended on behalf of the appellant, that even though the appeal proposals involved designated heritage assets and that the second sub-bullet point of paragraph 14 (and footnote 9) were engaged, that the presumption in favour of sustainable development would still arise, on the appellant’s case, upon the basis that they would have satisfied development test in paragraph 134 of the NPPF. That cannot be correct. Further, in context of a proposal involving another category of footnote 9 policies (namely development in the AONB) the Secretary of State and

his Inspector in the two Tetbury decisions⁵⁷ indicated that although planning permission was granted the presumption in favour of granting planning permission did not apply⁵⁸.

The heritage balancing exercise

177. The balance set out in paragraph 14 of the NPPF is one which is directed in favour of the grant of planning permission. It explicitly provides that planning permission should be granted in the circumstances there identified unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. That is deliberately and unashamedly pro-development as an approach to the balancing exercise.

178. However, when one comes to examine the balancing exercises provided for in section 12 of the NPPF, the balance is expressed differently. In paragraph 133, because of the substantial harm that would arise, the balance in that case would be different: in that case substantial public benefits would need to be demonstrated by a developer to outweigh that harm or loss. That provides a balance which commences from the position of being opposed to development unless the requisite degree of substantial public benefits can be demonstrated. Put crudely, that is a balance which commences as being against development.

179. However, under paragraph 134 (which deals with development that would lead to less than substantial harm to the significance of a designated heritage asset) the balance proceeds from a neutral position where there is simply a weighing of the harm against the public benefits of the proposal. In consequence, three materially different balancing exercises would be involved in applying the NPPF depending upon whether: -

- (1) The presumption in favour of sustainable development is engaged (under paragraph 14) which would proceed from a pro-development position.
- (2) In developments involving substantial harm to designated heritage assets the balance would proceed from an anti-development position, requiring a demonstration of substantial public benefits to outweigh the harm; and
- (3) In respect of developments involving less than substantial harm to designated heritage assets proceeding from a position of neutral or equal balance in weighing harm against public benefits.

180. These are important material differences in the application of the correct policy approach to the consideration of these proposals. It is clear that the appellant and its witnesses have not approached this matter in this way.

181. An alternative contention pursued by the appellant was that even if one considered the proposal in terms of its designated heritage assets, pursuant to

⁵⁷ Docs 12 & 13

⁵⁸ See Highfield Farm decision DL 17 and Inspector's conclusions IR 14.43, 14.45 and 14.46; & Highfield Farm DL 18 and Inspector's conclusions at IR 13.35, 13.36, 13.39 and 13.40. In those circumstances the approach to the application of development policy tests set out in the NPPF are those which were pursued in evidence.

- the restricted policy set out in section 12, in respect of any other aspects of the proposal (including landscape aspects) a decision maker should return to the presumption in favour of sustainable development in paragraph 14 and apply the first sub bullet point of the second bullet point (under decision making) to the consideration of those other factors. Such an approach would be wholly illogical and would provide a near impossible approach to balancing and decision making for any decision maker. It is perhaps worthwhile returning to the consideration of the statutory structure of decision making set out in section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990. For the purposes of this decision the NPPF is clearly a material consideration as are the Secretary of State's policies set out therein.
182. Ultimately, it will be a matter for the Inspector and the Secretary of State to carry out the appropriate planning balance but that balance is set out within section 12 and not within paragraph 14. It is correct to say that the Inspector and Secretary of State have to form an overall balance of the development. However, it is the policy tests that provide structure for how that balancing exercise will occur.
183. The appellant's suggestion opens up an intriguing proposition of balancing only the heritage impacts of the development against any benefits arising from the development. This would leave out of account any other detriments (including for instance harm to the landscape). What appears to be suggested is that having dealt with the heritage aspects one would then go on to carry out a further balance of the landscape harm against the renewable energy benefits (and other benefits claimed for the proposal) but that these would benefit from the presumption in favour of sustainable development.
184. Whilst the NPPF is not as helpful as it might be (in providing an explicit location for the consideration of other harm within the balance) it is submitted that in deciding whether to grant permission for proposals involving designated heritage assets (unlike development in the green belt) that does not undermine the approach to arriving at the balance in the manner identified in these submissions. Indeed, to do otherwise (as suggested by the appellant) would be to make the process of arriving at any planning balance almost impossible to undertake let alone describe and provide adequate reasons therefore.
185. As for the need to demonstrate the exceptional or wholly exceptional circumstances, paragraph 132 of the NPPF places an obligation upon a developer to provide a clear and convincing justification for the development which is proposed. It is acknowledged that in carrying out the balance "great weight" should be given to the asset's conservation. Similarly, the more important the asset the greater the weight should be. It follows that in circumstances involving Grade II* and Grade I listed buildings (as well as Grade II* RPGs) one must be in a position of having to record a level of weight to the conservation of those assets which goes beyond simply "great weight".
186. Policy does not distinguish between harm or loss through alteration or destruction of the heritage asset or destruction within its setting. Further, in approaching the consideration of harm to heritage assets, paragraph 132 identifies that the substantial harm to or loss of (among other things) a Grade II listed building should be "exceptional". The position in respect of heritage assets of the highest significance (so far as is relevant here involving Grade I and Grade

II* listed buildings and RPGs) any decision to cause substantial harm is categorised as being “wholly exceptional”.

187. The only identified features of justification advanced by the appellant are those relating to renewable energy generation and the avoidance of climate change. Neither of those matters are identified as simply overriding the heritage protection policies set out within the NPPF or within either of the two NPSs. There was no identification here as to what “wholly exceptional” would mean, in the event that the Inspector found that substantial harm arose. Nor was there any identification of what the “exceptional” circumstances would be in the event that the Inspector accepted the appellant’s case upon this point. That is important and clearly undermines the policy justification for this proposal.
188. It is submitted that whilst there may be factors of materiality and weight relating to the provision of renewable energy from the appeal site those factors do not, in themselves, evince any exceptional circumstances. Certainly, there is nothing within Government policy or other government pronouncements to indicate that they represent such exceptional circumstances. That is not to suggest that these factors (relating to renewable energy generation) are not material considerations to which weight may be attributed. However, the policy characterisation requiring the demonstration of something which is “wholly exceptional” must be different and is intended to reflect the protection to be accorded to such high order heritage assets.
189. In the event that substantial harm exists the appellant conceded that the onus was on the developer to demonstrate that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm or loss. Neither of the appellant’s witnesses on cultural heritage or planning identified where their evidence addresses this issue and nor is there justification provided as to why the harm to any of the assets identified by SHWFAG is “necessary”. Mr Brown simply took the view that paragraphs 132 and 133 do not apply.

Environmental Impact Assessment

190. As was set out in SHWFAG’s opening submissions it maintains that the appellant’s ES, as supplemented by the SEI and FEI, remain deficient and fail to meet the requirements set out in the Town and Country Planning (Environmental Impact Assessment) Assessment Regulations 2011.
191. The Inspector heard submissions on this on the 23rd July and provided his ruling on the 24th July in response to the Appellant’s request as to whether additional environmental information was required. He identified that on the basis of the information which he had seen and which is recited in his ruling he was “...satisfied that the ES and SEI fulfil the requirements of paragraph 3 of part I of Schedule 4 of The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 in respect of ecology, in that it adequately describes the aspects of the environment likely to be significantly affected by the development”.
192. The Action Group maintains its objection to the information provided and would submit that any decision to grant permission on the basis of the material currently before the Secretary of State would be fundamentally flawed. The reason for that is the same deficiency of information in respect of great crested newts and dormice, which is out of date and does not accord with natural

England's (NE) standing advice for protected species that surveys should not be over 2 – 3 years old for medium to high impact schemes or multi-plot or phased developments.

193. Further, with regard to reptiles, the ES states that the woodland edge and hedgerow habitats of the site could potentially support a small population of common reptiles such as slowworm and that a small number of grass snakes are known to be present in Little Linford Wood and may also use the ponds and connective habitats within the development site. In addition, the ES predicts that the earthworks proposed by reason of the development may lead to disturbance/harm to reptiles.
194. Despite the known presence of reptiles in the local area and the presence of suitable habitat within the site, no reptile survey has been undertaken by the appellant.
195. The draft conditions which have been the subject of consideration at the final session of the Inquiry also make provision for protected species surveys to be carried out prior to the commencement of development. For the reasons arising from the decision in *R. v Cornwall County Council ex parte Hardy* [2001] Env.LR25, matters of significant environmental effect cannot simply be held over to the reserved matter of determination. To do so would mean that permission was granted without taking account of the necessary environmental information. In that case there were protected species comprising bats, surveys for which were not carried out prior to the Council purporting to determine to grant planning permission save by means of satisfaction of a post development condition.
196. As the court found at paragraph 70 "Having decided that those surveys should be carried out, the Planning Committee simply were not in a position to conclude that there were no significant nature conservation issues until they had the results of the surveys. The surveys may have revealed significant adverse effects on the bats or their resting places in which case measures to deal with those effects would have had to be included in the environmental statement. They could not be left to the reserved matters stage when the same requirements for publicity and consultation do not apply. Having decided that the surveys should be carried out, it was, in my view, incumbent on the respondent to await the results of the surveys before deciding whether to grant planning permission so as to ensure that they had the full environmental information before them before deciding whether or not planning permission should be granted..."
197. It is submitted that, in respect of
- (1) Great Crested newts and dormice the surveys are out of date, and
 - (2) For reptiles, the survey evidence is wholly missing.
 - (3) As a result of the above it would no longer be open to the Secretary of State to deal with this matter by means of the imposition of the condition to be satisfied post development.
198. If the Secretary of State were minded to grant permission then, absent any requirement for further survey information (pre-decision) and certainly in respect of reptiles, there would be a deficiency of necessary environmental information

which would not satisfy the regulations and any decision would thereby be flawed.

199. As is otherwise set out in the evidence of SHWFAG it considers that there are a number of other material deficiencies in the ES which adversely affect the qualitative evaluation of the assessment of significant environmental impacts. That was set out in the remaining evidence of Mr Simpson.

Ecology – other concerns

200. There are other concerns in respect of both bats and birds which undermine the robustness of the ES as a basis for decision making. As for bats the appellant's assessment was deficient in that, at variance with the guidelines there is a lack of 'at-height' detection. Further, T1 is proposed to be located less than 200m from woodland which would represent the anticipated location to which the bat populations would have resort. It is noted that whilst there has been agreement with the Council in the supplementary statement of common ground it is still considered that the proposed cut-in speed is too low, especially with respect to Noctule bats, and contrary to current industry thinking⁵⁹. At best, cut-in speed may reduce but will not avoid killing/injury of bats. Further, the proposed timing of curtailment fails to mitigate impacts to Barbastelle bats which are evident in April.
201. As for birds, notwithstanding the appellant's assertion to the contrary it is still maintained that there was insufficient survey effort in respect of both kestrel and sparrowhawk, contrary to SNH guidance. Further, the appellant's approach towards bird surveying was not materially assisted by 2013 data particularly given the low temperatures experienced during April and May, and given that only four hours were applied per vantage point, particularly as the vantage points chosen were different to those utilised in the ES.

Other matters and the planning balance

202. In considering the overall balance, the benefits of renewable power generation are universal, and in general terms they can be accommodated anywhere in the country. This widespread applicability must be considered in light of the Ministerial Statement of 6th June 2013, which seeks to give greater weight to the protection of local interests. There is little question that the provision of additional renewable energy capacity is a public benefit to which significant weight may be accorded but despite the considerable emphasis on renewable energy and the generally permissive approach that ought to be taken towards providing for such schemes, Government policy is clearly not that this should be delivered at any cost. The Ministerial Statement underlines this, instructing decision-makers to place greater weight on locally-arising concerns than has hitherto been the case.
203. In respect of the amenity of users of the rights of way, it is acknowledged that this is a subjective matter which may vary depending on the response of an individual to passing in proximity to wind turbines. Various evidence was advanced upon this point including Mr Croucher's reflections upon visiting the nearby Burton Wold windfarm. He found that walking in close proximity to

⁵⁹ As espoused by the Institute of Ecology and Environmental Management

operational wind turbines was unpleasant, to the extent that if it were possible to avoid this, he would do so. In addition, there are numerous letters of objection from the local community who commonly express significant concerns at the harm to leisure amenity which they consider the appeal scheme would cause. There is a weight of community concern and evidence before this inquiry which demonstrates that the siting of turbines so close to currently popular rights of way and rural leisure routes would be to the significant detriment of the users of those routes. There would also be a detrimental impact on local businesses that rely on the PROW network.

204. The harmful effect on living conditions also weighs against the scheme. The Secretary of State's clear position is that this is a factor which must be given greater weight than has been the case in the past, and weight should be attributed to the identified harm on this basis.
205. The matters identified by Mr Pryor, which may not individually be sufficiently harmful to outweigh the benefits derived from additional renewable energy provision, do (when considered cumulatively) add further weight against the scheme.

Planning balance and conclusions

206. It is contended by SHWFAG that there is conflict with policy CS14. Whilst the appellant sought to strain away from accepting conflict of the proposals with this policy given its terms there is no reason why it should not properly be applied to this scheme which is acknowledged by the appellant to be a large-scale renewable energy scheme. Whilst the policy is phrased in positive terms it is accepted by the appellant that it cannot demonstrate that there will not be any negative social, economic, or environmental results from the scheme. In those circumstances there must be conflict with a policy which is directly concerned with the form of development in question.
207. The scheme is not one that is appropriate to its location. It does not deliver a satisfactory relationship with existing land uses, land users, or to the historic environment. As such its size and scale will have a demonstrably unacceptable impact on the surrounding area such that its visual impact will adversely affect local character and specifically have an unacceptable impact on a number of very high quality heritage assets. Further, the proposal would result in an adverse change to local landscape character. The evidence submitted in respect of ecology, living conditions and other matters, which must also form part of the balance made in determining the appeal, similarly points to unacceptable harm.
208. The substantial harm to heritage assets of the highest importance is not outweighed by the wider public benefit of increasing renewable energy generation. This in itself points to the refusal of planning permission. The demonstrable adverse impact on landscape character and ecology adds to that harm, as does the harm to living conditions and the other matters properly raised as material considerations by SHWFAG and by local residents.
209. SHWFAG submit that the appeal proposals are not consistent with the NPPF as the harm identified as flowing from this development is not outweighed by the level of public benefit likely to arise.

Interested Parties

Many of the points made by interested parties are also made by SHWFAG 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:

The main points made are as follows:

210. **Mark Handford** lives in Olney near the wind farm at Petsoe End and says the dire predictions of the opponents have failed to materialise. He draws attention to the insatiable demand for more energy globally and the forthcoming reduction in dependence on coal generated power. He says that the effect on the skyline is the biggest concern but that this is outweighed by the need for a renewable energy source close to where it would be consumed.
211. **Traviss Locke** also lives in Olney and says that having visited some beautiful places surrounded by wind farms, he feels they retain their attractiveness. He often walks with the sole purpose of finding the best view of the Petsoe End wind farm, the 7 turbines there giving him hope of a future of abundant locally produced energy. The damage that some feel would be done to the landscape pales in comparison to that caused by the production and distribution of fossil fuels. The real benefits of this scheme will be realised by the youth of today who are not well represented at the Inquiry.
212. The coordinator of Milton Keynes Friends of the Earth is **Brittany Wilkerson** who believes that CO₂ emissions are the most urgent environmental threat. Local renewable energy developments have not been progressing at the rate they should be, despite the countless benefits of wind. Milton Keynes is far from an area of distinct natural beauty. Haversham has been intensively farmed, the biodiversity is low and the flora around the river is mainly nettles and grass. This is not the unspoilt England of 40 years ago. Wind farms represent peacefulness, serenity and harmony with nature, are clean, safe and cost-effective and we need more of them in Britain.
213. **Phil Houghton** is a mechanical engineer and a resident of Milton Keynes. The UK is lagging behind EU member states in progress towards the 2020 target. There is a mixed message from Government where members of the coalition are openly hostile towards renewable. DECC reported that UK CO₂ emissions increased by 4.5% in 2012 which shows that the UK is not working hard enough to reduce emissions. The UN World Meteorological Organisation reported that the period from 2001 to 2010 was the hottest decade on record since measurements were first taken in 1850. The turbines are visually attractive and impressive and represent change for the better.
214. Luton and Bedfordshire Green Party was represented by **Simon Hall** who knows the area around Haversham well. He points out that wind turbine noise would be lost amongst the background noise in most places and that in the quietest rural areas, a turbine located a mile away would not be heard. Our countryside is largely man-made by farming. It was once covered by thousands of windmills for milling grain which are now considered picturesque. The countryside will change beyond recognition if temperatures increase by 4 degrees by 2060-70 as predicted. The decisions we make today are our legacy to future

generations. Do we leave them with a clean abundant source of renewable power from wind turbines, or huge quantities of highly toxic radioactive waste that we are still not able to safely store?

215. **George Paton** represents the owners of the traditional family mixed Hill Farm which is their home as well as their business and office location. We have seen a great deal of change since my father and grandfather came down with their Ayrshire cows and other farm animals on a special commissioned train from Ayr to Wolverton Railway station in September 1955 to start farming at Hill Farm. At the time this area was a rural area in North Buckinghamshire between the railway town of Wolverton and the market town of Newport Pagnell. The area has seen:

- the building of the M1 in the 1950s and the construction of Newport Pagnell service area in the Parish of Haversham.
- the widening of the Haversham Road past the farm from a single track to two lanes to allow the M1 construction traffic access.
- the digging out of gravel along the River Ouse to form the Linford Lakes in 1970s, now the Hanson Centre.
- the removal of the 50 metre tall radio masts on our farmland that were part of Foreign and Commonwealth Office's Hanslope Park listening station in the 1970s.
- the devastation to 73 of the farm's elm trees from Dutch Elm disease in the 1970s.
- the removal of the London Brick brickworks chimneys to the south of Milton Keynes which could be seen from miles around in 1980s.
- the construction of Milton Keynes on farmland where we knew many of the farming families who were compulsory purchased. I am the same age as Milton Keynes and can remember the farm fields that were there before it was built.
- Now Milton Keynes has a population of in excess of 248,800 people.
- the changing of the landscape with the building of Milton Keynes Snow Dome which is visible all around the local rural area in the 2000s.
- Little Linford Wood itself would have been clear felled in 1980s if it were not for my late father applying successfully for a High Court Injunction to stop the felling of this oak wood and the injection of capital by John Paul Getty to buy this wood.

216. We are a traditional family farm. We are one of the few dairy farms left in Buckinghamshire, subject to the agricultural pressures of living near to a large town and low milk prices. As of yet we have not diversified out of agriculture. We feel that constructing a wind farm at Hill farm will allow us to continue to run a dairy farm as well as diversifying out of agriculture which is encouraged by DEFRA and the latest planning policies.

217. The mixed farming scene you see is shaped by our farming methods, many of the surrounding farm's are now arable units. As farmers we are very aware of

how much climate change is affecting how we farm. In both 2007 and last year we had rainfall which we have not seen over living memory. Very snowy winters are now a thing of the past. Droughts are now coming at odd times of the year such as the Winter / Spring of 2012. We feel we need to do our part to offset climate change. It is all too easy to turn on a plug and switch on the television we need to change and use what nature has given us. The farm is exceptionally windy. We are convinced we are doing the right thing for the environment. This renewable source will allow us to still farm our dairy cows and grow both grass and arable crops, and keep the farm viable.

218. The Paton Family has always done as much as we can for the village and will always do so whatever the outcome of this Public Inquiry. We now know that people are either very pro supporters of wind turbines or very anti. As we love our farm and environment we feel we are doing the right thing. We would not be doing this if we believed this would be detrimental to the village or the well-being of those who live in the neighbourhood. We understand there will be economic benefits to the locality, through the community fund and through contracting work during construction, restoration and maintenance. All recent national surveys carried out show between 60% to 69% of the population are pro wind turbines.

219. Milton Keynes is the UK's youngest and vibrant town. Yet its contribution to renewable energy production is one of the worst in the Country with just 7 large wind turbines, no biodigesters, no solar farms, no waste to energy plants and no large biomass energy built to date. Milton Keynes should be leading the way forward with renewable energy as a 21st Century town. Very few windows from any of the houses in Haversham or Little Linford look towards the wind turbine locations. We as a family are committed to looking at producing as much of our power in the future from renewable resources and doing the right thing for our land.

220. **Ivan Delgado** points out that less than half the people entitled to vote in the Parish Council poll actually voted against the scheme. In the bigger national picture, polls show there is a clear majority in favour.

Objecting to the proposal:

221. **Mark Lancaster MP** has received a large number of worried representations against the proposal and very few in favour. The Parish poll showed a large majority against amongst those who voted. It is the intention of Government that local people should have more say over development in their area. Whilst there is a case for renewable energy it has to be in the right place and this development would be too close to homes.

222. A resident of Oakridge Park, Milton Keynes, **Mrs Yvonne Mukherjee** was in favour of wind turbines until, after staying in a hotel in the US about 2 miles away from a wind farm, she experienced a detrimental impact on her health for around 6 months. She strongly believed this was sparked by the wind farm. Oakridge Park has the benefit of wide views across the Great Ouse valley towards Hill Farm and many residents there moved there for the sake of the rural surroundings. There will also be a serious effect on wildlife in the valley and on

the land itself due to the many tons of concrete. Whilst concerned about the future of our energy supplies, this site is so wrong.

223. **Harvey Gilbert** lives in Haversham. The appellants have created a mindset which distances itself from the realities on the ground and the feelings of individuals in our community who will be impacted if this proposal came to realisation. I have been walking these paths and bridleways for over 30 years and it is a beautiful and tranquil area and it gives me feelings of well being to be there. This scheme would be plainly out of scale and style with the gently rolling and wooded countryside. More than three quarters of the local community who voted were against this development.
224. Aviation issues are always ignored, according to helicopter pilot **Derek Beevor**, and eventually there will be an accident. Local aviation interests at Cranfield Aerodrome were not consulted by the developer. The CAA may not raise an objection, but when the weather is bad pilots may need to divert from their route or fly at low level in order to maintain visual flight conditions. Wind farms create hazards for low flying aircraft. Proper consultation would ensure that airfields are not surrounded or that safe low level corridors are designed to ensure approach routes.
225. **Mark Redley** has been living in Haversham for 35 years. A lot of changes have occurred in the village over the years including the closure of 2 shops, a huge increase in traffic and various building developments. These changes inevitably follow the growth of Milton Keynes and the prosperity of the area but one constant remains the surrounding rural landscape and the diverse wildlife. The myriad public paths, tracks and bridleways provide residents and many visitors immeasurable pleasure and a peaceful respite from the rigours of modern life. The development would be on the margins of field and woodland where bird and bat presence is at its most rich and diverse and would have a harmful effect beyond aesthetics. Birds and geese overfly the area and use the fields and margins to feed and would be particularly vulnerable to rotating turbine blades. Ground based wildlife will be obliterated.
226. The Government's Localism Bill is a policy to provide local residents with more self determination over their local environment. If this allowed to ahead, what value democracy? Democracy collapses under the drive for a profit for a few, based on a technology over which there are many questions and which without subsidy would arguably would not be viable.
227. The chair of Haversham cum Little Linford Parish Council is **Ian Burgess** who said the wind farm had the potential to divide the community. The poll of July 2011 was deliberately conducted in an even handed way but resulted in an overwhelming majority against.
228. **Andrew Geary** is the Leader of Milton Keynes Council and ward councillor for Hanslope Park. The public is opposed to the development. The omission of heritage from the Council's reasons for refusal was a mistake. The turnout for the parish poll was greater than that for a general election. The Hanslope Park ward is the most scenic in Milton Keynes.
229. **Howard Elliot** is the Project Gardener at Tyringham Hall. During Mr Bilton's ownership the Grade I house the Grade I garden pavilions and the Grade II* garden have all been carefully restored. For the last seven years I have

reconstructed the gardens to reflect their historic importance, their place in the landscape and the surrounding importance of the historic buildings. My recent Masters in Garden History allowed me to do my dissertation on the Edwardian era developments within the garden but I am familiar with the whole history of the house and particularly the grounds. I am currently collaborating with the owner on a forthcoming book on the estate. Looking from the steps on the north-west elevation all five turbines will be visible if permitted. Ironically, if they are permitted it will be the first modern blot on a landscape that to date has avoided sight from the house of any electricity pylons. The view towards Gayhurst, carefully protected in all the recent developments during the restorations, is the direction the turbines will be visible in.

230. The early estate protected itself and its views by planting shelterbelts of trees, especially relevant here are the trees across the river along the Stoke Goldington road. These belts are still particularly valuable as shelter but will not prevent the view on the hill top of the proposed turbines. The estate also planted trees on specially created islands in the river as well as in the parkland in front of the house in order to present an idealised landscape suitable for a country estate residence. Importantly gaps were left to afford views of neighbouring Gayhurst but none of this will prevent the views of the turbines proposed on the Haversham hill. The parkland trees which appear to offer some visual protection are deciduous and so the cover will be severely depleted in the Winter months from November to May. Also it should be noted the parkland trees are now old and those by the river subject to flooding which adds unpredictability to their foundations and therefore their lifespan. We have seen several lost in storms and floods in recent years with the remainder at the end of their expected lifespan in these wet surroundings.
231. The remaining treescape is mature and at full height now and the recent new plantings will be 60-70 years maturing before they offer comparable cover. The shelter belts along the roadside are too low a level to interrupt the views of the turbines on the hill. The parkland is currently not in the ownership of the Hall and for a period of 40 years up until 2001 when the Hall was a Naturopathic Clinic and the parkland was in their ownership, saw a zero level of replacement trees planted and little management of the treescape. If the turbines are to be visible now the tree line will not be capable of hiding them.
232. The estate is just over 200 years old and was constructed for the original owner by the architect Sir John Soane. Soane was the architect to the Bank of England at the time and one of the foremost architects of his day. It was a complete estate with new house and staff accommodation set above the river along with stable block walled gardens and workshops as well as a new bridge and gatehouse for the approach over the river. It is considered Soane's most complete work and due to the alterations of many of his urban buildings one of the most intact estates.
233. 120 years later a subsequent owner asked another leading architect of his day Sir Edwin Lutyens to design two garden pavilions and a swimming pool on the north-west elevation. These are recently restored, as was the house, to their full glory and are both Grade II listed. Lutyens was designing the Viceroys palace in New Delhi for the British Government at the time and these two pavilions are smaller models of Lutyens work in India. The surrounding gardens have been fully restored in recent times by the current owner. Permitting the turbines

would diminish the views and the value of the listings on these buildings and the estate parkland and gardens which have been so adequately protected to date.

234. **Peter Geary** is ward councillor for Olney which includes Petsoe. The montages for the Petsoe wind farm were successful in certain cases but in others were nowhere near representative. The turbines are much more intrusive than suggested. As regards noise, ETSU is not as robust as developers would suggest. There would be cumulative impact due to the proposals at Nun Wood and Styke Goldington- whichever way you look, you can't get away from them. Milton Keynes has done a lot for renewable energy, solar farms are quicker to erect and less visible. **Kate Redley** points out that the embodied energy involved in manufacturing a wind turbine is very substantial and includes rare materials such as neodymium which has to be mined creating vast lakes of pollution. **Mike Reed** lives in Haversham and says that too many wind turbines will not be something of beauty; each one will require 50 cubic metres of concrete which involves carbon emissions. **Patrick Upton** has lived in Little Linford for 19 years and points out that each turbine will be two and a half times the height of Nelson's Column and 62 feet higher than St Paul's Cathedral. They will not just dominate the landscape; they will be totally unsympathetic and will destroy it. Parts of the English countryside are truly unique in their character and elegant charm; we need renewable energy and we need wind farms but not at the expense of destroying the beauty and heritage of North Buckinghamshire. The need for renewable energy should not ride roughshod over the democratically expressed wishes of the residents. **Richard Pryor**⁶⁰ raises several issues including the impact of noise at the Hill Farm conversions; accuracy of the grid references used for locating the turbines; the adequacy of the alternative permissive route being put forward; the economic disbenefits to local businesses including Tyringham Hall if wedding functions become fewer; the loss of property values; the risk of flooding due to additional hardstandings; the poor level of consultation; and the majority of public opinion against the scheme. **Glynn Horwood** lives at Little Linford and is concerned about shadow flicker.
235. **Emma Lennon**⁶¹ has analysed a number of aspects of the scheme including safety, the likely level of energy output and CO₂ savings, unscientific alterations to the raw wind speed data and the proposed routes for construction traffic⁶²; the actual level of local employment likely; and points out concerns. There would be safety risks; the CO₂ savings may not materialise and a high level of vehicular traffic would pass through sensitive areas. **Jeanette Green** is a member of Haversham cum Little Linford Parish Council and refers to the other sources of renewable energy which would have a less adverse effect in areas such as this which contain heritage sites, bridleways, footpaths and ancient woodland and which not lead to such a damaging cumulative impact. **Julie Al-Najar** says that the turbines would be too close to houses and families that live close to the very edge of the site, some as little as 450m away. Milton Keynes has tried to impose a minimum distance in policy and this was thrown out on a technicality- not because the guidance was wrong. Her family tried to build a new home in Haversham to replace large derelict chicken sheds but were told this was an area of natural beauty and that nothing could be built which stood out when looking

⁶⁰ Witness for SHWFAG

⁶¹ Witness for SHWFAG

⁶² Doc 52

from Linford Lakes up the hill. She watches geese and swans fly over the site on a regular basis. The family support renewable energy having installed solar panels and an underground heat source but this is the wrong site for a wind farm. **Dana Green** is the BHS Bridleways Officer. The Society's main concerns are access and safety. Many PROWs are disconnected from each other because the roads that should connect them are unsafe because of the speed and volume of motorised traffic. It is increasingly important to protect off road routes. There is a number of riding establishments in the Haversham area which use the network of bridleways on the site. None of the turbines meet the criteria in the BHS guidance and T1, T2 and T4 are all less than the minimum 200m from bridleways recommended in the former PPS22 Companion Guide. Milton Keynes is the only city in the world with extensive access for horsemen and women-one can ride around the entire city without once encountering a single road crossing. Added to the rich heritage of historical routes in the surrounding villages large numbers of riders are attracted to the area with the assurance of safe passage. This needs to be protected. **Helen Coetzee** lives in Mill Road. Her main concerns revolve around the visibility of Petsoe End where the sun glints off the revolving blades, the way in which the turbines will loom over the neighbouring barns⁶³ and the way in which they will dominate life generally, being visible on entering and leaving the property as well as from the garden and from a study cum TV room. She also has concerns relating to the noise monitoring equipment location and the noise produced by the nearby Haversham Weir which could have raised background levels but which is not always audible. **John Clifford** lives at Hill Farm House and points out that the proximity of the turbines to 4-5 upstairs rooms would be overbearing. The view through a barn on the opposite side of the road shown in the visualisations is misleading⁶⁴. **Leonard Lean** is vice chairman of the local resident's association and amongst other things, expressed concerns on the impact of the scheme on hydrology.

Written Representations

236. I have taken account of the many written representations at application and appeal stage. The points made generally fall in line with those made by SHWFAG and others at the Inquiry. The following are of particular interest:
237. The owner of Old Mill View **Ian Poulter** draws attention to the negative impact the proposal would have on his property.
238. **Anton Bilton** is the owner of Tyringham Hall and has spent 4 years and many millions of pounds restoring the Grade I listed property which was designed by Sir John Soane and Sir Edwin Lutyens. The Haversham wind farm would permanently blight the beauty of its heritage setting and its associated views. If the visual impact is as we suspect, then it will appear as a travesty to all who visit the church, the hall, and Gayhurst that the notion of possible heritage protection exists in the first place. The photo-montages are misleading. There will be an impact on business uses and employment such as film locations. The potential for heavy goods traffic is also of great concern.

⁶³ FEI Fig 2.8c

⁶⁴ FEI Fig 2.5c

239. **Emily Chua** lives at Stoke Goldington less than 2km from the development and supports the proposal. She says there are others in Haversham in support. Only 74 of the 250 households in the parish voted against. **Warmingtons Chartered Valuation Surveyors** are concerned at the way that the Petsoe End wind farm was allowed by Milton Keynes Council and the detrimental effect it has had on the market value/saleability of Lodge Farm including a 'pulsating' noise and light flickering.
240. **Barry Clayton** is an architect living at Tyringham Hall who has been a resident at Tyringham for over 40 years but is also an architect having considerable experience of the repair and conservation of historic buildings. As the owner of Grade I listed Tyringham Gateway he has a longstanding interest in the architectural and historic significance of all buildings in the vicinity of Gayhurst and Tyringham. It is quite extraordinary that an area which justifiably boasts such a plethora of outstanding heritage assets could be under threat by the erection of a number of giant wind turbines. Given the extent of statutory protection which is already in place in relation to Gayhurst and Tyringham country estates, such visually intrusive wind farms cannot be contemplated. The stretch of the River Great Ouse which flows between these two parks is designated by Buckinghamshire County Council as an AAL. Gayhurst Park was laid out in c1790 by one of England's pre-eminent landscape gardeners: Humphrey Repton. Tyringham Park and Gardens also include work by Repton and John Haverfield, in addition to the magnificent Grade II* listed Edwardian formal garden with two classical temples and water garden laid out by Sir Edwin Lutyens in 1926-28.
241. Their group value as well as their individual architectural and historical significance to the nation cannot be over-stressed. With the sole exception of the magnificent group of historic buildings and landscape gardens at Stowe near Buckingham it is hard to think of any more important or sensitive heritage assets in North Bucks. Massive wind turbines have no place in such an environment. Grade I listed Gayhurst House (begun 1597) is widely regarded to be the most important Jacobean country house in Buckinghamshire. Gayhurst Church (c.1728) is, together with Willen Church, one of the Georgian classical style treasures of the county.
242. All four of Sir John Soane's buildings at Tyringham (1793–80) are Grade I listed. As a group they form one of the architect's most important works. The entrance gateway and bridge have been described as "the most perfect small buildings in England", "masterpieces of refined simplicity" and "a monument of European importance". If the Secretary of State were to grant consent for the proposed Orchard Way Wind Farm he will bear a heavy responsibility for the resulting environmental vandalism.
243. In most countries in the western world, areas with the amount of architectural and historical heritage as Gayhurst and Tyringham would be cherished, and any threat of wind farms would be dismissed out-of-hand. Whilst the most immediate environmental impact of the proposed Orchard Way wind farm would be felt by residents of Haversham and Little Linford villages, the close proximity of the site location to Gayhurst and Tyringham must not be ignored for the reasons outlined above.

244. **Andrew Lockley** supports the proposal and points out that Milton Keynes needs to do much more to produce renewable energy and it is unreasonable to use energy whilst expecting other people to bear the long term costs of its production. All the local objectors use electricity and its production will always disadvantage someone. Unlike fossil energy, very few people suffer for wind, which is currently the UK's most economically viable large scale renewable energy resource. **Dr Judy Meade** is concerned about the impact on archaeological assets because of the known importance of the Haversham area for late Iron Age and Romano-British activity. This extends into the area where the turbines would be located and where has been little professional archaeological investigation. **Lee Bannister** lives at the former Hatton Court Hotel which will directly face all 5 turbines at a distance of about 1.5km. The property was not occupied until recently and is not included in RWE Npower's evaluation. It is composed of 4 individual properties all of which will be adversely affected.
245. **Mr & Mrs G Smith** live at Field House Farm about 1100m from T4 and 1200m from T2. They draw attention to the effect on the view from the property which includes a spherical glazed shelter in the front grassed area considerably closer to the turbines. Mr & Mrs Smith operate a helicopter from the property and point out that the approach into the prevailing wind would become more problematic due to the height and spread of the turbines.
246. Those who have written expressing an opinion also mention a large number of other concerns generally reflected in the responses of statutory consultees, including the effect of the new access tracks and foundations on drainage and the water table; the potential for effects on particular wildlife species and the likelihood of an incident of blade throw or fire; the impact of the large amount of construction traffic necessary on the network of country lanes and living conditions.

Conditions and Obligations

Conditions

247. I have considered the suggested conditions in the light of Circular 11/95. The wording has been adapted where necessary to ensure conditions are precise, necessary and relevant. The guidance notes on noise form part of the conditions.
248. I report only on conditions that attracted controversy and drew comments at the Inquiry, or because they require explanation or important rewording. All other conditions are necessary and should be imposed for the reasons stated.
249. Condition 3 **Decommissioning** allows 12 months to remove the turbines after the 25 year period. This seems a reasonable minimum period for the 5 turbines involved. In the event that the Council delay in granting approval to the decommissioning scheme, the implementation clause allows 12 months from the date of approval, if later.
250. Condition 4 **Non-productive decommissioning** allows only 3 months of non-production, rather than 9, before a scheme must be submitted for its repair or removal. That is a reasonable period, given the life of the development of 25 years, for the operator to want to do something about non-production.

251. Condition 5 **Construction Method Statement** includes a requirement to provide a helpline for members of the public to contact the developer in the event of a query about any of the operations that are controlled. This could avoid unnecessary calls to the Council. This condition includes the requirement for a Construction Ecological Management Plan to manage the impact of construction activities on wildlife and habitats.
252. Condition 11 **Turbine Grid co-ordinates** has been reworded following the conditions discussion at the Inquiry. There are no known geological reasons for micro-siting but archaeological matters could lead to re-positioning.
253. Condition 12 **Details of turbines, anemometer mast & transformer units** was the subject of discussion on the aesthetic merits of different turbine towers and nacelles. No specific restrictions are necessary on the developer because turbine design is constantly improving and there is no reasonable cause to believe that the appearance of the structures is likely to be unattractive as pieces of engineering.
254. Condition 16 **Illumination and Aviation lighting** includes the need to approve details of the movement sensor lighting for the electricity sub station, to avoid this contributing to light pollution in a relatively dark area.
255. Condition 19 **Habitat Management Plan** includes the requirement for a planted screen to mitigate the visual impact on Old Mill View. The maintenance and retention of this screen is the subject of a S106 obligation.
256. Condition 20 **Bats** adopts the 5.5 m/s cut-in speed to reduce the risk of mortality to Noctule bats for 3 months of the year. Post construction surveys are required to enable assessment of the actual impact on bats and identify any mitigation necessary.
257. Condition 21 **Shadow flicker** does not include alleviation of problems that could result from blade glinting, which is reported by local residents as a problem emanating from Petsoe End. There is no recognised protocol for measuring blade glint and the finishes applied to blades should minimise the likelihood of it occurring.
258. Condition 23 **Archaeology** has been amended to make it more precise so that the developer knows what is required.
259. SHWFAG has put forward a suggested condition requiring the investigation and amelioration of OAM. It is difficult to establish where the line lies between conventional amplitude modulation (the normal swish of the blades) and what might be 'other' or unacceptably unpleasant, causing 'thumping' noises. Further research is being undertaken on this subject and there is little doubt that it is a real phenomenon, though rare. Evidence at the Inquiry did not reveal any significant factors at this site that are known could lead to OAM. A further difficulty arises in attempting to ensure that it is dealt with by condition, as there is no established procedure for measuring it and no means of knowing at what level it may be harmful; such a condition could be accused of failing the test of precision. There is no certainty that it would protect residents and yet it could unreasonably restrict the wind farm operator. Notwithstanding that such a condition has been applied on two occasions in the past, it is difficult to see

sufficient justification for doing so here. The suggested condition does not satisfy the test of necessity, even on a precautionary basis.

Obligations

260. The signed and dated S106 unilateral undertakings ensure 1) the provision of a permissive bridleway together with signage and maintenance and management for the life of the development in accordance with a plan⁶⁵ and 2) the provision of maintenance and management of a planting mitigation scheme (required by planning condition) for Old Mill View for a period of 25 years from the first export date. The planting scheme itself is subject to Council approval insofar as its extent and planting species are concerned and this important in order to avoid unnecessary planting for screening purposes that could interfere with highway safety on the nearby bends in the Haversham- Little Linford Road. The provisions of the undertakings are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make the development acceptable. They meet the tests set out in Paragraph 204 of the NPPF and Regulation 122 of the Community Infrastructure Levy Regulations (2010).

Inspector's Conclusions

Main Issues

261. Following from the reasons for refusal, the main issues that will be of interest to the Secretary of State are:

- *The effect of the proposed development on the landscape character and visual amenity of the surrounding area;*
- *The effect on the living conditions of nearby occupiers by reason of visual dominance;*
- *The effect on biodiversity and wildlife; and*
- *Whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that might be caused.*

262. The Rule 6 party and others raised concerns relating to the impact on the setting of listed buildings, in particular Tyringham Hall and Gayhurst. This matter is of sufficient concern to be a main issue in addition.

Planning policy

263. SHWFAG maintain that policy CS14 applies and that a conflict arises with this policy given its title 'Community Energy Networks and Large Scale Renewable Energy Schemes' and objective of promoting renewable energy schemes where it can be demonstrated that there will be not be any negative social, economic or environmental results. The policy is not referred to in the putative reasons for refusal. The Council acknowledge that the CS does not contain a policy

⁶⁵ Doc 57

- specifically directed at wind farms. The explanatory text clarifies that the future Plan:MK will outline criteria for controlling the impacts of large scale standalone renewable energy projects such as the appeal proposal. As such I give the aims of policy CS14 little weight in the context of this appeal. [28, 206]
264. The 'protect and enhance' requirement of policy CS19 in respect of heritage assets, green infrastructure and the condition and strength of the Borough's landscapes is not consistent with the balancing aims of the NPPF in respect of renewable energy development, which says at paragraph 97 that policies should maximise renewable energy generation while ensuring that adverse impacts are addressed satisfactorily. Paragraph 98 indicates that renewable energy development should be approved if its impacts are (or can be made) acceptable.
265. In respect of heritage matters, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 sets out the statutory duty for decision makers which is that in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The NPPF has as a core planning principle the conservation of heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations. However it is not the case that any harm would be unacceptable; the public benefits of a proposal have to be weighed in a proper assessment of the balance, a principle continued by Government in the very recent NPPG. Only limited weight can be given to any breach of recently adopted policy CS19 where renewable energy is concerned. [80, 166]
266. Similarly, policies HE1, HE5 and HE6 of the LP referred to by SHWFAG resist any adverse impact on heritage assets, and are now almost 8 years old. They have to be read in the context of a great deal of new guidance since that time including specific advice from English Heritage on renewable energy shortly before the LP was adopted and the definition of setting in *The Setting of Heritage Assets* in 2011⁶⁶. Paragraph 14 of the NPPF says that where the development plan is absent or silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies indicate development should be restricted, such as those relating to designated heritage assets. There are significant and important heritage assets present in this case, particularly Gayhurst Park, Tyringham Hall and Haversham Church. Having regard to all the above, I give the LP heritage policies only very limited weight. [32, 80, 166-176]
267. In the terms of paragraph 215 of the NPPF, full weight attaches to the saved policies of the LP which are consistent with the NPPF. Those mentioned in the putative reasons for refusal are D1, D5, NE1, NE2 and NE4. D5 is specific to renewable energy.

⁶⁶ See Docs 10.1-10.6

Landscape impact

268. There is no putative reason for refusal relating specifically to the effects on the landscape as a resource, only relating to visual impact. The SHWFAG maintain an unacceptable effect would occur on the character of the Hanslope Plateau LCA and the Ouse Valley Urban Fringe LCA, with a lesser harmful effect on the Ouse Valley Northern Slopes LCA including Gayhurst Park and part of the more remote Tove Valley Slopes LCA. The LCAs merge to varying degrees. The landscape in the area has to be regarded as a whole; the LCA descriptions provide helpful analytical tools.
269. The Milton Keynes LCA *Yardley Ridge* runs along the northern boundary of the Borough. The turbines would all be situated on the edge of the Hanslope Plateau sub area. Whilst T5, furthest to the south east, is shown on some plans to be within the adjacent *Ouse Valley Northern Slopes*, the lines delineating different LCAs are not defined on the ground and in this case the notional boundary between the LCAs passes vaguely along the side of a gentle slope at around 1 in 50. It would however be on noticeably lower land about 10m lower than T3, the turbine in the next highest location. I regard it as being just off the edge of the plateau. Despite this, the group would be clearly situated and understood to be on a neck of higher land extending to the south west between the Tathall brook and the Ouse valley. As such the group as a whole would appear contained, controlled and rational, utilising favourable conditions for energy generation.
270. The land use here consists of simple large arable fields, clipped hedges, areas of pasture and isolated mixed woodlands. It is very similar in character to large areas of undulating agricultural land in other parts of Northamptonshire and Bedfordshire. The MKDLCA assesses the Hanslope plateau as of moderate quality. It does not include an evaluation of the sensitivity (or the nature of the receptor, in this issue meaning the constituent elements of the landscape) of the landscape specific to turbine development. That they would be tall structures with significant effects at a radius of up to around 3 km is not disputed. There would be lesser effects seen from further away because they would appear smaller and would be on the skyline.
271. National policy in EN-3⁶⁷ recognises that there will always be significant landscape (and visual) effects for a number of kilometres around a site. The large arable fields (some very large) on and around the site suggest that it is capable of accepting a degree of change. From many viewpoints, the fields are of sufficient scale to accept turbines of the height proposed without them appearing unacceptably out of proportion⁶⁸. Even in views that include a more intense pattern of fields, hedges and woodland, usually in small valleys and around settlements such as Haversham, the larger extensive fields on higher ground provide the context for the modest turbine group⁶⁹. From the Ouse Valley Urban Fringe LCA where lakes and a more intimate landscape scale predominates, the turbines would frequently be wholly or partially hidden by trees but when seen would be on raised farmland in a distinctly more open landscape⁷⁰.

⁶⁷ Doc 6.10

⁶⁸ See ES viewpoint 2, K Charsley viewpoint KC1, SHWFAG viewpoints 1A & 5

⁶⁹ ES viewpoints 1 and 3, SHWFAG viewpoints 2A & 3A

⁷⁰ ES viewpoint 1 and K Charsley viewpoint KC6

272. With regard to the *Ouse Valley Northern & Southern Slopes* LCAs, the MKDLCA identifies key characteristics including amongst other things panoramic views over a meandering valley and a general absence of visual detractors and limited impact from built urban development. The valley has a picturesque quality despite areas of industrial activity and mineral extraction in the past. However its qualities are appreciated in the main from within the valley, where views of turbines would be limited, or from the sides. Looking in to the LCA from the northern slopes, the turbines would be behind the viewer. The site is plainly visible from much of the northern edge of the built up area of Milton Keynes including the Grand Union Canal on the opposite side of the Great Ouse Valley. From these southern slopes, the turbines would occupy only a small proportion of the panorama.⁷¹ [42, 43, 103-106]
273. This LCA includes the historic RPGs and heritage assets at Gayhurst and Tyringham, but these are in a dip on the other side of the M1 beyond Linford Wood, Hoo Wood and a pronounced loop in the Great Ouse. Whilst the tips of blades and hubs would be visible from parts of the RPGs over trees, there would be only a slight impact on landscape character.⁷²
274. The AAL includes the Linear Park along the Ouse which is in a mix of public and private ownership. The public does not currently enjoy unrestricted access. As set out in LP policy S12, the vision is to establish a recreational resource readily accessible from the nearby urban area including a variety of formal and informal recreation opportunities. Equestrian centres, a golf course and boating activities are supported. Considerable change to the Linear Park is envisaged. The development of a wind farm visible from parts of the Linear Park would not prejudice these policy objectives. The glimpses of turbines that would be visible from the valley between trees on higher ground would only have a minor impact on the intimate character of the riverine parts of the Ouse Valley Urban Fringe LCA. From the surrounding slopes and new housing on the fringe of Milton Keynes, the turbines would be conspicuous from the southern open grassy areas and the canal but would be seen with much other open farmland and would not dominate. [44, 45, 46, 113-115, 150]
275. The Tove Valley Slopes LCA lies to the west of the appeal site and enjoys a relatively quiet and tranquil quality according to the MKDLCA, though the main west coast railway line from London to Birmingham is a prominent detractor in this respect. At its nearest, the LCA is about 1.5 km from the boundary of the appeal site and around 2 km from the nearest turbine. The group of turbines would be prominent seen over a slight rise in the ground seen from its southern area south of the village of Castlethorpe.⁷³ However the rest of the LCA predominantly slopes to the west towards the Tove river and has a wide westerly aspect unaffected by any turbines. [44-47, 99-119, 150-154]
276. Cumulative landscape impact is a particular concern that the NPPG addresses at paragraph 39. The Milton Keynes wind farm at Petsoe End is operational but is around 10 km away. The M1 wind farm has been consented 8.6 km to the north. These are or would be visible from parts of the site but construction of the appeal development would not lead to an impression of a 'wind farm landscape' seen

⁷¹ ES viewpoint 7 and SHWFAG viewpoint 4A

⁷² ES viewpoint 5

⁷³ ES viewpoint 4

from any of the settlements or any viewpoints. Because of the distances involved and the particular topography of the area, the appeal proposal would not lead to wind turbines becoming a significant or defining feature of the area. I have taken account of the cumulative impact of the Stoke Heights proposal⁷⁴ at Salcey Green which would be in a direct line with Orchard Way in one view. That scheme is in the planning stage and there is no assurance that it will be consented. I conclude that the cumulative effect on the landscape would not be unacceptable and would not conflict with LP policy D5 (iii) in this respect. [46, 47, 52, 79, 119, 153-154, 234]

277. The turbines would unquestionably dominate the immediate vicinity but at the same time the unencumbered wider landscape across all the relevant LCAs would be visible including gently undulating farmland, wooded skylines and the mainly tree covered urban area of Milton Keynes. The development would redefine only a small proportion of the elements that contribute to landscape character overall. I consider the magnitude of impact of the turbines on landscape character would be moderate. There would be no conflict with the landscape protection aims of LP policies D5 and NE4, read together.

Visual impact

278. Visual receptors include residents, people working and recreational users such as walkers and horse riders. The concentration of public rights of way across the appeal site and its elevated location near to an urban area make it more sensitive to development than some other areas might be. A sense of isolation adds to the value placed on the area by local people. This is noticeable at the furthest point away from nearby houses and farms, around the ruined Wood Farm and Linford Wood. [48-52, 120, 155]

279. Having said that, the proximity of the conurbation of Milton Keynes is obvious despite its tree cover, various masts and commercial buildings lining the horizon to the south. The built up edge of dense new housing development at Oakridge Park is prominent on the top of the southern slopes of the Ouse valley. Though this is intended to be mitigated with new planting, very little has yet been implemented. The M1 and west coast railway are not visible but are present in the form of background noise to varying degrees, depending on the wind direction. The tower at the Hanslope Park HMGCC complex becomes more prominent on reaching the highest point of the site at the covered reservoir. From these factors I conclude that whilst understandably greatly valued by residents the area is not particularly isolated or remote. That does not diminish its local value as a recreational resource and as a contrast with and retreat from urban life [221-235].

280. Residential views from nearby homes and settlements would include turbines in parts of Haversham, Hanslope, Castlethorpe and Oakridge Park and individual dwellings, detached or in groups, almost all of which were visited at the site visit. Seen from Stoke Goldington and Filgrave, the turbines would be further away on the horizon behind Linford Wood but would still form a conspicuous visual point of focus. However, in most cases, the turbines would occupy only a small part of

⁷⁴ See SHWFAG viewpoint 4C

the overall views available to the receptors. Those closer to the site, such as the occupiers of The Old Dairy in Haversham, would notice blades, tips and towers over and through boundary vegetation from the living room, dining area and bedrooms at a distance of about 1.2 km, but this would not be close enough to have more than a moderate visual impact. No other residential occupiers in Haversham would be seriously affected.

281. The most serious visual implications would be at Hill Farm itself but this property would be financially involved in the scheme, and this is a material consideration. Even here, the visual effects would only be noticed at the rear. The Hill Farm conversions lie immediately to the south of the appeal site. Here, at **Old Mill View**, at least 3 of the turbines would be immediately visible on higher ground over the roof of the house on entering the gate and T5 would be a prominent feature seen from the rear garden to the north⁷⁵. There would be a 'stacking' effect with T1 and T3. However the turbines would only be visible very obliquely from inside any of the rooms and there would be other extensive views available to the occupants from the garden to the east and south. Moreover, the appellant proposes mitigation in the form of planting along the boundary of the farm, the specification, arrangement and maintenance of which can be the subject of a condition and is the subject of a section 106 undertaking. In my view, this is likely to significantly reduce the visual impact, the more so over the years as trees grow. The arrangement of plants, their species and maturity on planting (extra heavy standards are proposed by the appellant) could be arranged to be sympathetic to the local landscape which locally includes other shelter belts and isolated woodland; and would be subject to approval by the Council. The planting plan would need to avoid visibility problems on the curved section of the Haversham-Little Linford road but that would not compromise its screening effect. On balance, the visual impact would be moderate/substantial. [121-125, 156-161, 237]

282. At other houses within the Hill Farm Conversions, the visual impact would be less. Turbines would unquestionably be visible to the occupiers to varying degrees from the approach or from gardens and yards at a minimum distance of about 690m to T5, but the visual impact from inside dwellings would be limited due to factors including an oblique angle of view, the size of windows or the orientation of windows in a direction away from the turbines. Residential occupiers at these properties would experience a moderate adverse change due to visual impact.

283. At **Field House Farm**, the view from a glazed 'globe' garden structure would be changed because of T4 and T2 at 1100m and 1200m (measured from the house) but the overall pleasant aspect of the immediate garden surroundings and rolling arable countryside beyond would still be appreciated. At **Pineham Farm**, the orientation of the house and intervening industrial buildings would significantly reduce the visual impact despite being only 750 m from T4. At **New Buildings**, turbines would be a feature looking through windows on the east elevation at about 1021m to T2, but the view would be modified to some extent by planting on the boundary and there would be extensive views in other directions, particularly towards the large field and pond that complement the house. At the former Hatton Court Hotel (now **Hanslope Lodge**) the occupiers

⁷⁵ Doc 9

of the main building would notice all 5 turbines from the rear elevation at a distance of less than 1.5 km. This property was not included in the site visit, the ES assessment or the RVAS as it was previously unoccupied and my assessment is based on unaccompanied visits to the area and the accompanied visit to New Buildings. The turbines would certainly represent a noticeable change in outlook, with a moderate/substantial visual impact. The effect on **Bullington End Farm** would be similar. [245]

284. A number of other individual properties would find their view altered to one of 'countryside including wind turbines' but due to distance and/or orientation, there would be no case where a main view from a habitable room would be unacceptably dominated by a turbine or group of turbines. I conclude that residential occupiers at these other properties would experience a slight/moderate adverse change in their visual amenity.
285. Recreational users passing through the area or using the local footpath network for dog walking would find their experience changed but it is not clear that all would find the introduction of turbines into their rural experience unpleasant. The development would occupy only a small part of the overall experience of those on a longer walk on the Swan's Way, Three Shires Way, the Midshires Way or the Ouse Valley Walk. The 20 mile Hanslope Circular Ride⁷⁶ would be more noticeably affected because it would pass the development site twice at close quarters. The central feature of the Ride of the spire of Hanslope Church would be largely supplanted by the taller turbines on the southerly sections. Open to walkers, cyclists and horse riders, the Ride is a locally popular waymarked route promoted by the Council. The experience of the countryside would be significantly changed for users of this route at the beginning and end near Hill Farm. However, it cannot be assumed that all users would be discouraged. Oral evidence indicates that some would be put off using it by the proximity and number of turbines, but others would not and the existence, purpose and operation of turbines would be a destination of interest. In any event, the local footpath network offers a great variety of choice⁷⁷. However the proximity of a large number of potential users from nearby Milton Keynes who are likely to want to recreate in open countryside is a significant factor. EN-1 says that public rights of way are an important recreational facility and that adverse effects should be mitigated, but it would be difficult to hide structures of the size proposed. The visual impact would be substantial and the turbines would diminish enjoyment of parts of the Hanslope Circular Ride for some. [48-51, 120, 153, 155]
286. As for horse riders, many commercial wind farms are in areas where horse riding takes place and there is no reliable evidence to suggest that they are actually unsafe for horses or riders. Any ride may involve hazards which a rider needs to anticipate, assess and adapt to. The latest British Horse Society (BHS) guidance and the Scottish equivalent⁷⁸ suggest a separation distance of 3 or 4 times height as a target. The BHS suggests a minimum of 200m. These distances are not a statutory requirement. The turbines would be the following distances from the nearest bridleway: T1-130m, T2-150m, T3-220m, T4-180m, T5-210m. I give weight to a S106 undertaking that would provide a new and

⁷⁶ See M Bolger appendix 5 for Circular Ride Guide

⁷⁷ ES Fig 4.5

⁷⁸ CD 6.38 & 6.39

attractive permissive route which would significantly increase the distance to T1 and T2. I do not regard the remaining 180m distance between T4 and the nearest bridleway to be particularly significant; the shortest distance occurs at a pinch point with a long period of familiarisation beforehand in either direction.

287. Milton Keynes has extensive access for horsemen and women. It is possible to ride around the entire city without once encountering a single road crossing⁷⁹. This suggests that the local environment for horse riders is unusually clement, with many opportunities for equestrian recreation. Moreover, the appellant is offering horse familiarisation courses to allow local riders to be accompanied by horses used to wind turbines (a wind buddy). This would be helpful to local riders and stables operating trekking, and can be assured by means of a condition which has been imposed in similar cases. I give this some weight. The potential impact on horses and riders would be suitably mitigated by these means. [53-54, 235]

288. There would be a moderate degree of harm to visual amenity which would conflict with the relevant aims of CS policy CS19 and LP policies D1 and D5.

Living conditions

289. 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. All parties accept that in renewable energy cases, 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 may 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.⁸⁰

290. Eight properties are specifically referred to in the putative reasons for refusal (in bold). The following reasoning follows on from the comments made above in respect of visual amenity.

291. With regard to **Hill Farm**⁸¹, T5 would be about 433m away from the rear patio and the whole array would be visible from habitable rooms at the rear. The existence of other windows facing south in the opposite direction without any views of turbines limits the harmful impact on living conditions. The financial involvement of the owners is another consideration. At **Pineham Farm**, the orientation of the dwelling coupled with large industrial buildings would significantly limit any impact on living conditions. The turbines would be visible from the house and garden at **New Buildings**⁸², but as already intimated above,

⁷⁹ Evidence of Dana Green

⁸⁰ See Enifer Downs, CD 5.15

⁸¹ FEI Fig 2.1 etc

⁸² FEI Fig 2.11c

the house benefits from main views south and west across the property. The nearest turbine would be just over 1 km away and this together with a degree of screening would limit any harm. Views of turbines from **Field House Farm**⁸³ would be obliquely to the north east beyond vegetation on the boundary. They would only be readily perceived from the surrounding gardens and would not be so close or prominent as to unacceptably impinge on the day to day life of the occupiers. **Amen Cottage** and Walnut Cottage lie in Little Linford Lane and face south west. There would be an oblique view of turbines to the north-west but no direct views from habitable rooms. Whilst the occupiers would be aware of turbines on entering and leaving these dwellings and would see them from the front gardens⁸⁴ they would retain an open view across fields directly in front of the properties and would not be significantly affected. [58-65, 245]

292. The group of dwellings around the **Hill Farm conversions**, namely **Hillside**, Old Mill View, Hartwell Barn, Wicken Barn, Hill Farm House, Cosgrove Barn and **The Gate House**, would be between 670 and 739m away from the nearest turbine T5. The turbines would be most visible on first entering **Old Mill View** and using the rear garden. There would be no overt or direct views of turbines from any of the habitable rooms. The front garden and drive is essentially formal and decorative and would not be likely to be used for recreational purposes. In the rear garden, the turbines, particularly T5, would dominate views up the slope to the north. The proposed mitigation planting would relieve this to a degree⁸⁵. The garden has other open aspects to the east and reasonably far reaching views to the south but around the main external sitting area, revolving blades at least would be a constant distraction for a proportion of those present. No-one would be unaware of the presence of turbines. However the garden is unlikely to be used every day all year round and the turbines would occupy only part of the overall view available, over trees, a wall and the proposed screening planting. Whilst the impact on people using the garden would be adverse, it would not cross the threshold of making the property as a whole an unpleasant place to live. The Petsoe End wind farm is a point of interest from the garden but is too far away for there to be any significant cumulative impact. [58-65, 121-125, 156, 157-161, 237]
293. **Hillside** would have a wide array of turbines visible from habitable rooms in the front elevation across the road looking up towards Hill Farm, but would have unobstructed views to the west and south. The occupiers would find this a significant adverse change but the property would not become an unattractive or unacceptable place to live.
294. From the interiors of other dwellings in the group, views of turbines from the interior rooms would be mainly oblique and occasional and would not seriously impact on the occupiers. Hill Farm House would have more unobstructed views from upper floor rooms looking north but these are only a small proportion of the number of windows in the dwelling which otherwise enjoy pleasant views to the south, east and west.
295. I do not doubt the overall visual impact of the turbines which would be prominent on approaching and leaving this group of properties as well as being a

⁸³ FEI Fig 2.10d

⁸⁴ FEI Fig 2.9c

⁸⁵ See additional visualisations at Doc 9

somewhat oppressive constant presence, if not always actually seen. Blades would also appear above the ridges of roofs and in some external recreation areas, particularly at Wicken Barn⁸⁶, they would bring about a more significant adverse change. In all cases, however, the turbines would be seen in one direction. There would be uninterrupted sky to the north, south and east. There are no grounds to conclude that the adverse impact, though substantial, would make any of these dwellings unacceptable places to live. [121-125, 157-161]

296. I conclude on this issue that the impact on living conditions would be adverse but would not be unacceptable and would not conflict with the amenity protection aims of LP policy D1. It is a core planning principle of the NPPF to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The occupiers of the properties considered here would certainly notice a change to their living environment but would all retain a good standard of amenity.

Cultural heritage

Tyringham Hall and gardens

297. Tyringham Hall comprises an exceptional restored late 18th century house originally by John Soane with early 20th century gardens by Lutyens which incorporate other very important buildings. Land to the south west rises towards the M1, Gayhurst Park and Linford Wood. Beyond the Great Ouse river, mature trees predominate in views in this direction and the turbines would lie just over 3 km away from the house on the other side of Linford Wood. Some blades and hubs would be visible from windows facing in that direction and from the northern and western parts of the grounds. Due to the increased height of the viewer above ground level, their visibility would be greater from 1st and 2nd storey rooms with south west facing windows including the master bedroom and the 'black' bedroom. Because of leaf fall, they would be more prominent in winter.

298. The setting of the Hall includes the formal Lutyens gardens which extend mainly to the north west and includes a long swimming pool, the Bathing Pavilion and the Music Pavilion set symmetrically on either side, both listed at Grade II*. Substantial areas of surrounding parkland were laid out by Humphrey Repton at the same time as he was making alterations to the park at Gayhurst Court. The view to the south west towards the turbines includes all this land.

299. The main elements of the setting that contribute to the significance of Tyringham Hall in heritage terms are the main approach past the Grade I listed lodges and over the Grade I listed Soane designed bridge towards the main south east front; the vista from the house to the north west across the swimming pool past the two pavilions including a long distant view over open countryside; and the immediate formal garden surroundings including a separate Grade II listed classical loggia, sunken garden and pool; and parapet walls and gravel paths on the south west side. The turbines would not be visible in any 'designed' vista except from within the loggia looking north west across the sunken water feature; and on exiting the Music Pavilion. No turbines would be seen on the

⁸⁶ FEI Fig 2.4c

- main approach or in the most important north west vista. They would not be at all prominent on approaching the main front of the house.
300. The turbines would be a distracting and conspicuous feature on the horizon seen from the loggia, the Music Pavilion and other general garden areas and would appear anachronistic on the periphery of what is a remarkably well preserved and maintained historical setting with a great deal of interest. There would be a degree of harm, but this would be less than substantial. Moreover, traffic on the M1 is also partly visible. Large vehicles are visible from time to time. This aspect of the setting is for all intents and purposes irreversible. I conclude that the turbines would add to an existing element of discordant modern development to the south west. The additional harm caused needs to be added in to the balance. [86, 90, 168, 229-233, 238, 240-243]
301. At the Grade II* listed late 16th/early 17th century Gayhurst Court, the park was laid out by Lancelot Brown in the early 18th century, further work being undertaken by Repton later. St Peter's Church adjacent to the house is listed at Grade I and forms part of a group of other listed assets including the Mews and features in the grounds. Turbines would be nearer than at Tyringham at around 2km but would be harder to see due the position of the house and surrounding trees. The upper parts of turbines would be visible from the main drive in the same view as the church and the house and would be a distinctive and disturbing element, the effect being more significant in winter. T5 in particular would be visible from a vantage point on a footpath in the grounds to the north east, but this would not seriously impact on the way the asset as a whole is experienced. The house itself is converted into flats and is now accompanied by contemporary housing development. The M1 is only about 700m away and although hard to see, its noise and presence is a dominant feature. I conclude that there would be a degree of harm to the heritage significance of Gayhurst Court and Park, but that this would be less than substantial. [85, 90]
302. The turbines would be visible topping high ground at a distance of about 1.5km seen from the north side of St Mary's Church, Haversham, listed at Grade I. At this point there is a bench placed to provide a pleasant view of countryside including the appeal site⁸⁷. There would no visibility of turbines from the approach to the church or from the entrance. The area around the bench is used primarily as a graveyard and a variety of buildings are visible grouped around the church including the former school, a public house and dwellings. Whilst the affection with which this view is held by some local people is understood, the character of the countryside is unremarkable, consisting of grazing land and arable fields with a road and electricity supply cables in the foreground. The alteration in the view on the horizon does not impact on appreciation of the heritage significance of the church to any more than a minor degree. [87, 90, 169]
303. With regard to the Church of St James the Great at Hanslope, listed at Grade I, this has a 19th century spire almost 57m high which is a local landmark. It defines the location of Hanslope and lies at the centre of the Hanslope Conservation Area. It appears remarkably isolated in the landscape, the only competing feature being the communications tower at the Hanslope Park HMGCC

⁸⁷ ES viewpoint 3 & SHWFAG viewpoint 2

- complex. The character and appearance of the conservation area would be unaffected by the turbines but coincident views of the church and buildings in the conservation area from the Hanslope-Castlethorpe road would include turbines⁸⁸. The turbines would be just under 3km from the viewer and would particularly compete with the church in views from and across the playing fields. Its architectural dominance and historic significance at the centre of the settlement would be diminished and the setting of the conservation area would be detrimentally affected in this view.
304. In other views, notably from roads and public rights of way south and west of the appeal site, the significance of the Hanslope spire would also be compromised because it would be seen with the turbines in the near foreground or to the side. The HMGCC mast is significantly lower and although it also appears in coincidental views it does not compete with the church. I conclude on this point that there would be a moderate degree of harm to the setting of Hanslope Church which would lessen its architectural and historic interest. [89, 90, 170]
305. The Grade II* listed Church of St Leonard and St Andrew at Little Linford would be only about 1.1km from the nearest turbine. The main features of its setting that contribute to its significance are the functional relationship with the former Linford Hall (the 19th century gate piers and gates of which remain) and the Grade II listed Hall Farmhouse; the mature trees and green spaces in Little Linford; and the surrounding agricultural land use. The turbines would be hard to see from any of these assets, though turbine blades may just be visible from parts of the surrounding open land. Appreciation of the attributes of setting that contribute to significance would be only slightly affected. [90]
306. I have had regard to all the other listed buildings and heritage assets mentioned in the representations but having visited all of these, the impact of the turbines on their settings would be slight or non-existent. In almost all cases the turbines would be in a much wider modern agricultural landscape as a backdrop, with little influence on the ability to appreciate the asset concerned.
307. The NPPF advises that where specific policies indicate development should be restricted, such as those relating to designated heritage assets, then the presumption in favour of development does not apply. The relevant heritage policies are set out in section 12, which says at paragraph 132 that great weight should be given to an asset's conservation; the more important the asset, the greater the weight should be. It goes on to say that heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Although it is possible that development within the setting of an asset could cause the loss of its significance, the scale and prominence of the turbines in this case would fall well short of that threshold. There would be harm to significance because of a degree of harm to setting, but in no case would there be substantial harm. Moreover, any planning permission would be for a limited period of 25 years. Recognising that that is a long time, the development would have to be removed after that period. [78-83, 171-189]
308. In these circumstances, paragraph 134 advises that the harm should be weighed against the public benefit of the proposal. The effect on heritage interests did not form one of the putative reasons for refusal. English Heritage

⁸⁸ Nearest ES viewpoint 12

considers any harm would be less than substantial. I conclude that it has not been shown that the harmful impact of the proposed wind farm would be substantial or that the ability to appreciate these important assets would be significantly harmed, but the harm that would be caused needs to be put into the planning balance.

Noise

309. There is no putative reason for refusal on noise matters. The concerns of SHWFAG are in relation to the impact on the Hill Farm Conversions, specifically the location of the noise monitoring equipment (NME) at the Hill Farm Conversions and the potential for Other Amplitude Modulation (OAM), sometimes referred to as Excess Amplitude Modulation, that is, unpredictable noise from blades over and above the normal blade 'swish' which is allowed for in ETSU. The particular concern relative to the latter is the likelihood that T1, T3 and T5 would interact with each other in a stacked relationship in a northerly breeze, thus possibly causing OAM at the Hill Farm Conversions.
310. The location of the NME in the garden of The Gate House was selected in consultation with the Council to provide background noise data that would be acoustically representative of the location. The noise data was filtered to exclude rain, birdsong in the mornings and other periods of noise considered unrepresentative, including directional filtering of M1 traffic noise where that may have resulted in higher derived background noise levels than would otherwise be expected when the property in question is downwind of the wind farm.⁸⁹ The data recorded at The Gate House excluded periods of north to east winds for this reason (the M1 is about 1.75km to the north east). The excluded data is shown on the chart for this property⁹⁰ together with the background noise level 'best-fit' curve. I therefore give little weight to the assertion that traffic noise is noisier in the winter when the survey was undertaken; moreover, the lack of leaves on the trees and in gardens at this time of year tends to suggest that the background noise survey would not have over-estimated background noise in a way favourable to the appellant's case. I also give little weight to the assertion that the nearby Haversham Weir could have unreasonably swayed the noise measurements; the weir was fairly full at various times that I visited it and could not be easily heard in the vicinity of The Gate House. I do not doubt that wind and rainwater may combine from time to time to increase noise levels but it is not unreasonable for the noise measurement survey to include it as a contributor. I note that the weir would be most frequently heard in a southerly wind when any noise from the wind farm would be subdued. To conclude on this point, the predicted calculated cumulative noise immissions from the appeal development in conjunction with existing and permitted wind farms and the proposed Stoke Heights Wind farm would be below the 'best-fit' background curve and well below appropriate ETSU limits at the Hill Farm Conversions. [235]
311. A 35 dB(A) lower limit applied to Hill Farm as SHWFAG suggest would fall well below the 'best fit' background noise curve and would unnecessarily restrict generating capacity, even if this property was not financially involved.

⁸⁹ ES Appendix C to Appendix 10A and corrections Doc 8 (requested by Inspector)

⁹⁰ ES Appendix 10A p75 and correction Doc 8

Transposing The Gate House data to the Hill Farm conversions⁹¹ a similar situation pertains; only 4 of the retained day time spot measurements fall below the suggested 35 dB(A) level and only a small proportion of those at night. In the worst instance, the calculated cumulative noise level would only exceed 35 dB(A) by about 3dB and the background noise curve by about 1dB, differences that would be hard to distinguish; and would always be more than 5dB below the derived limits. In these circumstances, the ETSU recommended limits of 40dB or background + 5dB LA90 (daytime) and 43dB or background + 5dB LA90 (night) will offer a reasonable degree of protection. [91-94, 162-164]

312. The area in general is not particularly quiet or tranquil, being between the west coast main line and the M1⁹². Occasional jet aircraft can be heard and the density of local traffic reflects its proximity to the northern edge of Milton Keynes and Newport Pagnell. Nevertheless the appeal site is relatively peaceful and Linford Wood retains a sense of isolation; and these attributes are greatly valued by local residents. The appeal development would undoubtedly add to the existing noise environment and diminish these qualities for walkers and riders, but there would remain many similar areas nearby that those seeking peace and quiet could explore. The change would not constitute a strong reason to refuse the scheme. [152]
313. Turning to the potential for OAM, the prevailing wind across the site is away from the Hill Farm Conversions. The likelihood of a northerly wind leading to T1, T3 and T5 causing OAM perceivable at Old Mill View due to 'stacking' has not been demonstrated by any credible means. The occurrences of OAM are infrequent and the causes are not fully understood. This matter does not weigh against granting permission. [94, 95, 165]

Ecology and ornithology

314. The supplementary Statement of Common Ground on matters of Ecology and Ornithology⁹³ was initiated following the submission of proofs of evidence. It sets out in detail the agreement between the appellant and the Council that the 3 tests of the European Protected Species (EPS) license⁹⁴ have been sufficiently met and that the proposed development would be likely to be licensed as derogation from an offence of the prohibitions in the Habitats Directive. Other previous points of contention are also resolved: the survey effort in respect of birds is agreed to be appropriate and is in compliance with NE's Technical Information Note (TIN) 069⁹⁵; and there is agreement that a cut-in wind speed of 5.5 metres/second is a reasonable basis on which to develop a bat mitigation strategy that would protect noctule bats and could be secured by condition. [69-73, 200]
315. Natural England is the Government's advisor on the natural environment and has withdrawn its objection, advising that whilst there would be effects on protected species, adequate mitigation is identified, specifically enhancements to

⁹¹ Doc 8 p116(E)

⁹² See Doc 8 p123(E)

⁹³ Doc 5

⁹⁴ Set out in the Ruling in Annex 1 and the supplementary SOCG

⁹⁵ Referred to as TIN051 in paragraph 4.3, subsequently confirmed as erroneous

the Construction Environmental Management Plan (CEMP) which can be ensured by means of planning conditions⁹⁶. Moreover it advises that the consultant ecologist will do further evaluations of the site at the time of construction to consider whether a EPS license is required. The CEMP offers no legal protection. Where the risk of harming or disturbing great crested newts and dormice cannot be reduced to a level deemed acceptable based on the professional judgement of an ecologist, a licence will be necessary. That decision will be informed by further survey and confirmation of the planned construction of the access track.

316. SHWFAG maintain their objection that the EIA is inadequate, but there has been no change in the circumstances pertaining at the appeal site in terms of land use or management, nor any reason put forward to believe that is the case. There is no reason to believe that the habitats are materially different to those reported in the EIA and the SEI or that the surveys in 2008 and 2009 for dormice and great crested newt are not fit for the purpose of establishing a baseline against which to assess the likely effects. NE is content with the environmental information and the mitigation proposals. Any licence application would be supported by up to date survey information at the time of application and the lack of an up to date survey does not prevent an assessment of the likelihood of a license being granted. There is no standing advice from NE on when a survey may be considered out of date⁹⁷ for the purposes of decision making. The SEI was sufficient to reassure NE that the 3 tests for mitigation licence would be met. [66-68, 190-201]
317. As a consequence of this, having regard to the requirements of the Habitats Directive, I conclude that there is a possibility that harm could occur to protected species, dormice and great crested newts, but that the 3 tests set out in Regulation 53 of the Habitats Regulations have been met and there is a reasonable prospect a EPS license will be granted. That is my recommendation to the Secretary of State on this point.
318. With regard to reptiles, no survey was undertaken as part of the EIA, but the appeal site is agricultural land and is unlikely to support reptiles in any significant numbers. There are more likely to be reptiles in and around Linford Wood, the ponds therein and under hedges. A suggested condition (17) requires surveys of protected species and appropriate mitigation and this would be sufficient to protect any reptiles that may be affected. [77, 193, 194]
319. As for the other ecological matters that remain of concern to SHWFAG, these are not raised by NE. No persuasive evidence was submitted to suggest that SHWFAG's view on any of them should prevail over that of NE. In summary, the turbines would all be more than 100m from hedgerows and 150m from Little Linford Wood where bats are known to roost, much more than the 50m requested by NE, and commensurate with EUROBATS guidance⁹⁸. A protected species survey including a mitigation strategy and monitoring should ensure that there would be no significant harm to bat populations. The evidence for a higher cut-in speed than 5.5 m/s to benefit noctule bats⁹⁹ is limited and it is hard to appreciate why raising it to 6.5 m/s would have a noticeable effect, whereas

⁹⁶ See letter of 25 June 2012 in Questionnaire folder and SEI section 5.2

⁹⁷ See Doc 11 letter of 23 July 2013 from Atmos Consulting, not contested by SHWFAG

⁹⁸ Doc 9.9

⁹⁹ IEEM study Doc 9.10

there would be an effect on energy generation. 5.5 m/s is the cut-in speed at which mortality can be significantly reduced¹⁰⁰. This again could be monitored by the bat mitigation strategy which is the subject of a suggested condition. In all these matters, it is not a matter of avoiding all harm. NE recognises that sustainable energy development should proceed in a manner that balances the long term benefits with any short term impacts, where this approach does not conflict with statutory protection¹⁰¹. [74-76, 190-201]

320. Whilst there is still uncertainty as to the effects of wind turbines on bat populations¹⁰² it is clear that most bat activity in the UK is concentrated around habitat features such as woodlands, water features and hedgerows. Barbastelle bats are rare in the UK and the evidence to suggest that their local population would be significantly affected by the turbines is speculative.
321. The inadequacies alleged in the bird survey work in relation to kestrel and sparrowhawk were not borne out in the oral evidence of SHWFAG's ecology witness and there is little other evidence to suggest that these species would suffer unduly because of the appeal scheme. [74-75, 201]
322. All the other representations in respect of the potential effects on wildlife have been taken into account. The nearby (1.5-2km) Hanson Environmental Study Centre (HESC) reserve and the Linford Gravel Pits Biological Notification Site (BNS) is possibly the most important bird refuge on the Ouse from source to below St Neots. The BNS is well known for its wildfowl. As a consequence it is not surprising that the appeal site is used by several species for overflying and feeding, but the collision risk assessment does not identify any significant effects on local populations. The concerns of the RSPB and NE have been addressed. The scheme also includes a habitat enhancement plan, which would improve the environment for wildlife and would be ensured by condition. This is a factor in favour. I conclude on this issue that the effect on biodiversity and wildlife of the proposed wind farm would accord with the aims of policy NE1(iii) and NE2 of the Milton Keynes Local Plan. [225]

Other matters

323. Milton Keynes Highways does not object to the proposal. Representations from interested parties on the capacity of the highway network to accommodate the substantial additional heavy traffic associated with construction of the development and delivery of the turbines are understood, but a suggested condition (the Construction Traffic Management Plan) would enable the Council to control the adverse impacts. This matter does not weigh heavily against the proposal. [235]
324. Aviation concerns were raised at the Inquiry in relation to aircraft operating out of Cranfield and a helicopter from Field House Farm. The centre of the wind farm would be approximately 12.2km to the west of Cranfield Airport and the operator is concerned that the turbines will be direct line of sight to the proposed radar antenna and would be visible on the screens of a planned primary radar

¹⁰⁰ Doc 9.10 p13 var.

¹⁰¹ TIN051 Doc 9.6 at p6 and Doc 6.7 'NE Climate Change Policy'

¹⁰² TIN051 Doc 9.6 refers to ongoing research at p1

- system as “twinkling” targets. However there is as yet no radar installed. Derek Beevor is concerned about the encirclement of Cranfield by wind farms and has submitted a plan showing this, but it has not been explained how or to what extent Orchard Way specifically will impede aircraft operating out of Cranfield. Aviation interests were consulted as part of the ES¹⁰³. [224, 235, 245]
325. I have no doubt that a helicopter pilot operating from Field House Farm would find the turbines to be a potential hazard to the north east of the property. However helicopters do not need a long approach and the turbines would be clearly visible. It has not been explained how they would prevent safe operation of a helicopter from the property. [235, 245]
326. Shadowing is raised by a number of local occupiers. The likelihood of shadowing, shadow flicker and TV interference is assessed in the ES and can be addressed by suitable planning conditions which would mitigate the impact. This matter does not weigh against the scheme. [234]
327. A large number of other benefits or concerns are aired by supporters and objectors and whilst those are recognised, it has not been shown that any are of sufficient weight, either separately or cumulatively with other harm identified, to weigh heavily for or against the proposal.

Overall balance

328. 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. The appeal proposal forms part of the pipeline of onshore wind projects anticipated in the Roadmap update. Whilst the current pipeline has the potential to fulfil the Government’s ambition for onshore wind outlined in 2011, 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 ambition¹⁰⁴. Moreover, paragraph 1.3 of the 2011 Roadmap¹⁰⁵ looks beyond 2020 and cites advice from the Committee for Climate Change that there is scope for the penetration of renewable energy to reach 30-45% of all energy consumed in the UK by 2030. [97, 98, 126-144]
329. I have considered the Council’s idea that there may be a raising of the threshold of acceptability that developments need to cross as targets are approached. There is now no regional target for renewable energy, but the DUKES Report¹⁰⁶ shows that there are areas of the country where wind farms are relatively uncommon despite there being large populations, including the central and southern parts of England. The Orchard Way wind farm would be close to a major centre of population. The Report further states that according to the latest European statistics (for 2011) the UK has the second largest challenge (after

¹⁰³ Responses in SEI appendix K

¹⁰⁴ Para 2.6 of the 2012 Roadmap Doc 6.21

¹⁰⁵ Doc 6.12

¹⁰⁶ Doc 16 p161

France) to meet its 2020 15 per cent renewable energy target, needing a further 11.2 percentage points¹⁰⁷. [97, 98, 126-144]

330. 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 onshore wind projects in order to reach the level necessary for energy security and renewable energy goals.
331. The very recent NPPG says that there are no hard and fast rules about how suitable areas for renewable energy should be identified, but the expectation should always be that an application should only be approved if the impact is (or can be made) acceptable. There is no suggestion in policy that the weight given to any harm increases if a target is being approached and nothing that Mr Godfrey said on behalf of the Council weighs seriously against the ongoing national need to bring forward more onshore wind developments as part of the energy mix. The doubts expressed about the actual level of energy production do not seriously weaken the argument in favour of onshore wind in principle. Accordingly the benefits of the proposal in terms of an increase in the supply of renewable energy and a reduction in CO₂ emissions, assisting in mitigating climate change, are very important factors in favour, coupled with some benefits to the local economy in terms of employment and a degree of improvement to wildlife habitat. [97, 98, 126-128, 140-144]
332. Against this, there would be significant change to the character of the landscape within 2-3 km of the site, lessening with distance, but the overall character of the landscape would not be fundamentally changed. There would be no significant cumulative effects including constructed and permitted wind farms. The turbines would not be so overbearing or prominent as to have an unacceptable visual amenity impact for local occupiers or other receptors. With additional screening planting, the effect on the living conditions of local occupiers would be acceptable. There would be a degree of harm to the settings of heritage assets at Tyringham Hall and Hanslope Church but there would no instance of substantial harm; and any permission would be temporary and thus the impact of the development time-limited. It has not been shown that the effects on biodiversity and wildlife would be unacceptable or cannot be adequately mitigated.
333. The development would comply with LP policies D1(iii), D5(iii), NE1(iii), NE2 & NE4. Only limited weight attaches to the conflict with CS policy CS19.

¹⁰⁷ Doc 16 paragraph 6.38

Recommendation

334. The environmental and economic benefits of the scheme would significantly outweigh the adverse impacts. Subject to the Secretary of State agreeing with my findings concerning the Environmental Statement and being satisfied that it meets the requirements of the Regulations, my recommendation is that the appeal be allowed and planning permission granted subject to the conditions in Annex 2.

Paul Jackson

INSPECTOR

Annex 1

Preamble to ruling

Concerning the specific areas of concern referred to on 23 July 2013, which were Great Crested Newts, Dormice and Reptiles.

Great Crested Newts

There is a reasonable prospect that a population of GCNs exists on the site and that it would be affected by the development. I have taken account of the intention of the appellant to carry out a further survey in the breeding season prior to construction and the position of Natural England, which is that a risk assessment should be undertaken to establish whether a licence is required under Regulation 53 of the Habitats Regulations. Importantly, where a licence is required, a planning permission cannot be implemented until the licence is granted.

The licensing authority may only grant a licence if they are satisfied that the purpose of the proposed development accords with one of the purposes set out in Regulation 53(2). The most relevant of these to planning is 53(2)(e) which refers to imperative reasons of overriding public interest. The licensing authority must then satisfy itself that the two further tests set out in Regulation 53(9)(a) and (b) are met. These are that:

- (a) there is no satisfactory alternative; and
- (b) the action authorised by the licence will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.

It is not for the Secretary of State (SoS) to consider the likelihood of the authority granting a licence. However, Regulation 9(5) places a statutory duty on the SoS, as the competent authority, to have regard to the requirements of the Habitats Directive in the exercise of his function.

If having heard the evidence and the proposed mitigation strategy which could include planning conditions and/or an undertaking, I consider harm to the protected species is likely, I shall advise him to apply those same 3 tests, having regard to any consultation comments made by NE, and set out his conclusions on those tests in the decision. This discharges the statutory duty under the Habitats Regulations.

Dormice

In respect of dormice, the evidence being presented suggests that there is an expanding population but it is of uncertain size and range because of a lack of recent survey work. The evidence suggests that there is a reasonable prospect that access tracks will cross hedgerows where dormice may be present. As for GCNs, the appellant proposes a pre-construction survey. The position remains the same, that is, that a planning permission cannot be implemented until a license is granted. The SoS duty can be discharged by applying the 3 tests.

Reptiles

Protected under the Wildlife and Countryside Act and are priority species under the Natural Environment and Rural Communities Act 2006. No survey work has been carried out. However, this matter is commonly the subject of a condition, the wording of which is as follows:

'No development, works or site preparation shall take place until a scheme has been agreed with the local planning authority to ascertain the presence of protected reptiles and a programme agreed in writing with the local planning authority for the rescue and relocation of any reptiles present. The agreed scheme shall be implemented in accordance with the agreed programme.'

I therefore expect to receive representations on that matter.

Ruling

I have given careful consideration to the appellant's request for a ruling on whether additional environmental information is required. The Inspectorate reviewed the Environmental Statement (ES) and Supplementary Environmental Information (SEI) in the first instance and found it adequate. I have further reviewed it as a whole, including the specific sections concerning great crested newts, dormice and reptiles, together with the proofs of evidence and the further submissions made on 23 and 24 July; the prospects of mitigation and the prospects of license(s) being granted, before reaching my conclusion.

On the basis of all this information I am satisfied that that the ES and SEI fulfil the requirements of paragraph 3 of Part I of Schedule 4 to The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 in relation to ecology, in that it adequately describes the aspects of the environment likely to be significantly affected by the development.

I therefore decline to make such a request for additional information or adjourn the Inquiry.

Paul Jackson
24 July 2013

Annex 2

List of conditions

1	Time Limit	<p>The development hereby permitted shall commence 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.</p> <p><i>Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004</i></p>
2	Removal of development	<p>The development hereby permitted shall be removed in accordance with condition 3 below after a period of 25 years from the date when electricity is first exported from any of the wind turbines to the electricity grid ("First Export Date"). Written notification of the First Export Date shall be given to the Local Planning Authority no later than 14 days after the event.</p> <p><i>Reason: In recognition of the expected lifespan of the wind farm and in the interests of safety and amenity once the plant is redundant</i></p>
3	Decommissioning	<p>Not later than 12 months before the expiry of the 25 year period, a decommissioning and site restoration scheme shall be submitted for approval in writing by the Local Planning Authority. The scheme shall make provision for the removal of the wind turbines, the turbine foundations to a depth of at least 1 metre below the ground, the substation and meteorological mast, compound areas, buildings and hardstandings and shall also provide for the removal of access tracks as required. The scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period, identification of access routes, location of material laydown areas, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats and details of site restoration measures. The approved scheme shall be fully implemented within 12 months of the expiry of the 25 year period or the date of the Local Planning Authority's approval, whichever is the later.</p> <p><i>Reason: To ensure the development is decommissioned and the site restored at the expiry of the permission</i></p>
4	Non productive decommissioning	<p>If any wind turbine generator hereby permitted ceases to export electricity to the grid for a continuous period of 3 months, then a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months after the end of that 3 month period for the repair or removal of that turbine. The scheme shall include either a programme of remedial works where repairs to the relevant turbine are required, or a programme for removal of the relevant turbine and associated above ground works approved under this permission and the</p>

		<p>removal of the turbine foundation to a depth of at least 1 metre below ground and for site restoration measures following the removal of the relevant turbine. The scheme shall thereafter be implemented in accordance with the approved details and timetable.</p> <p><i>Reason: To ensure appropriate provision is made for turbine or turbines requiring repair or for turbine or turbines which require decommissioning</i></p>
5	Construction Method Statement	<p>No development shall take place until a construction method statement has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved statement, subject to any variations approved in writing by the Local Planning Authority. The construction method statement shall include:</p> <ul style="list-style-type: none"> a) Details of the phasing of construction works; b) 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; c) Details of foundation design; d) Dust management; e) Pollution control: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage; f) Temporary site illumination during the construction period; g) Details of the proposed storage of materials and soils and disposal of surplus materials; h) Details of timing of works; i) Details of surface treatments and the construction of all hard surfaces and tracks, including routing of onsite cabling; j) Details of emergency procedures and pollution response plans; k) Siting and details of wheel washing facilities l) 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; m) A site Construction Ecological Management Plan to include details of measures to be taken during the construction period to protect wildlife and habitats; n) Details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound; o) Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities which shall be adopted as set out in British Standard 5228 Part 1: 2009; p) Details of safety arrangements for crossing public rights of way and bridleways during construction q) Areas on site designated for the storage, loading, off-

		<p>loading, parking and manoeuvring of heavy duty plant, equipment and vehicles</p> <p>r) The provision of a UK based helpline telephone number.</p> <p><i>Reason: To ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process</i></p>
6	Hours of Construction	<p>Construction work shall only take place between the hours of 0700 – 1900 hours Monday to Friday inclusive and 0700 – 1300 hours on Saturdays with no such work on a Sunday or Public Holiday. Works outside these hours shall only be carried out (a) with the prior written approval of the Local Planning Authority or (b) in the case of an emergency, provided that the Local Planning Authority is notified by telephone and writing as soon as reasonably practicable (and in any event within 48 hours) following the emergency first being identified, such notification to include both details of the emergency and any works carried out and/or proposed to be carried out, or (c) dust suppression.</p> <p><i>Reason: In the interests of amenity to restrict noise impact and the protection of the local environment</i></p>
7	Delivery materials	<p>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 0700 – 1900 on Monday to Friday inclusive, 0700 to 1300 on Saturdays with no such deliveries on a Sunday or Public Holiday unless (a) previously approved in writing by the Local Planning Authority or (b) the delivery is necessary in the event of an emergency on the site. The delivery of turbines, nacelles and/or crane components may take place outside these hours, subject to not less than 48 hours prior notice of such traffic movements being given to the Local Planning Authority in writing.</p> <p><i>Reason: In the interests of minimising disturbance to local residents during the construction process</i></p>
8	Construction Traffic Management Plan	<p>No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall include</p> <ol style="list-style-type: none"> 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, Any identified works to accommodate abnormal loads along the delivery route including any temporary warning signs, temporary removal and replacement of highway infrastructure/street furniture, reinstatement of any signs, verges or other items displaced by construction traffic, banksman/escort details, and A timetable for implementation of the measures detailed in the Construction Traffic Management Plan. <p>No vehicles transporting abnormal loads shall access the site</p>

		<p>until any identified works to accommodate abnormal loads along the delivery route have been carried out and measures put in place to maintain any such works for the period abnormal loads are scheduled to be delivered to the site. The approved Construction Traffic Management Plan shall be carried out as approved in writing by the Local Planning Authority in accordance with the approved timetable.</p> <p><i>Reason: In the interests of highway safety</i></p>																		
9	Site access and timetabling	<p>No development shall take place until the details of the site access and the timetabling of the work for the site access have been submitted to and approved in writing by the Local Planning Authority. The site access shall be laid out in accordance with the approved details and timetable before any development takes place.</p> <p><i>Reason: To ensure a satisfactory means of access is provided and maintained in the interests of highway safety</i></p>																		
10	Rotation of blades and height of turbines	<p>The blades of all wind turbines shall rotate in the same direction. The overall height of the wind turbines shall not exceed 127m to the tip of the blades when the turbine is in the vertical position as measured from natural ground conditions immediately adjacent to the turbine base.</p> <p><i>Reason: In the interests of the character and appearance of the area</i></p>																		
11	Turbine grid co-ordinates	<p>The turbines and meteorological mast hereby permitted shall be erected at the following grid co-ordinates:</p> <table border="1"> <thead> <tr> <th>Turbine</th> <th>Easting</th> <th>Northing</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>482888</td> <td>245136</td> </tr> <tr> <td>2</td> <td>482658</td> <td>244693</td> </tr> <tr> <td>3</td> <td>483121</td> <td>244671</td> </tr> <tr> <td>4</td> <td>482885</td> <td>244223</td> </tr> <tr> <td>5</td> <td>483347</td> <td>244294</td> </tr> </tbody> </table> <p>Meteorological Mast – E 482515 N244430</p> <p>Notwithstanding the terms of this condition the turbines and other infrastructure hereby permitted may be micro-sited within 20 metres but no closer to vegetation features, public rights of way or dwelling houses. 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.</p> <p><i>Reason: To enable necessary minor adjustments to the position of the turbines and access tracks to allow for site-specific conditions</i></p>	Turbine	Easting	Northing	1	482888	245136	2	482658	244693	3	483121	244671	4	482885	244223	5	483347	244294
Turbine	Easting	Northing																		
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2	482658	244693																		
3	483121	244671																		
4	482885	244223																		
5	483347	244294																		
12	Details of turbines, anemometer mast &	<p>Prior to the erection of any wind turbine, details of the colour and finish of the towers, nacelles and blades, anemometry mast and any external transformer units shall be submitted to and approved in writing by the Local Planning Authority. No name,</p>																		

	transformer units	<p>sign, or logo shall be displayed on any external surfaces of the turbines, anemometry mast or any external transformer units other than those required to meet health and safety requirements. The development shall be carried out in accordance with the approved details and retained as such.</p> <p><i>Reason: In the interests of the character and appearance of the area</i></p>
13	Details of substation & construction compound & drainage of the site	<p>Prior to commencement of the 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 and retained as such.</p> <p><i>Reason: In the interests of the character and appearance of the area</i></p>
14	Surface water drainage for the site	<p>Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.</p> <p>The scheme shall be based upon the principles contained within the Hydrologic and Hydrogeologic Study (Chapter 6) of the agreed Environmental Statement (dated September 2011; reference L28722rr036i1 revision 2; compiled by AMEC), and shall also include:</p> <ul style="list-style-type: none"> • Full details of the proposed surface water drainage system; • Calculations demonstrating the expected post-development runoff for storm events up to and including the 1% AEP (100-year return period) plus climate change event; • Calculations demonstrating the likely attenuation required; • Details of the performance of the system, based on the system not exceeding the discharge rates given within Table 6.6 of the Environmental Statement; • Details of any overland flood flow routes in the event of system exceedance or failure; • Full details of the maintenance proposed for the drainage system. <p><i>Reason: To prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the system.</i></p>
15	Cabling	All electrical cabling between the individual turbines and

		<p>between the turbines and the electricity substation on the site shall be installed underground. No cabling shall be laid except alongside the approved access tracks unless in accordance with a scheme submitted to and approved in writing by the Local Planning Authority. Any such works are to be carried out in accordance with the approved scheme.</p> <p><i>Reason: In order to ensure a satisfactory appearance in the landscape and to ensure ecological impacts are acceptable</i></p>
16	Illumination & Aviation lighting	<p>There shall be no permanent illumination on the site other than infra-red aviation related lighting on the turbines, lighting required during the construction period (as approved through the Construction Method Statement), lighting required during planned or unplanned maintenance or emergency lighting and a movement sensor-operated external door light for the electricity substation building door to allow safe access. No development shall take place until schemes for movement sensor operated lighting of the sub station and aviation obstruction lighting has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved schemes.</p> <p><i>Reason: In order to prevent unnecessary light pollution and in the interest of aviation safeguarding</i></p>
17	Protected species survey	<p>No development shall take place until a specification for protected species surveys including reptiles has been 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 in accordance with the timetable under the supervision of a qualified ecologist.</p> <p><i>Reason: In the interests of nature conservation and to safeguard protected species for the lifetime of the development</i></p>
18	Breeding Birds	<p>No development shall take place until a specification for checking surveys for nests of breeding birds on the development site has been carried out by a qualified ecologist and has been submitted to and approved in writing by the Local Planning Authority. The specification shall include the methodology for the surveys and include checks for species listed under Schedule 1 of the Wildlife and Countryside Act that may be nesting in areas adjacent to the development site. The specification shall include a timetable for the checking surveys and submission of a report detailing the results of the survey. A report detailing the survey results and identifying any mitigation measures required as a result of the survey for any construction works or clearance of vegetation between 1 March</p>

		<p>and 31 August shall also be submitted to and approved by the Local Planning Authority prior to any site preparation and construction work commencing. The specification and mitigation measures shall be implemented as approved under the supervision of a qualified ecologist.</p> <p><i>Reason: In the interests of nature conservation and to safeguard protected species</i></p>
19	Habitat Management Plan	<p>No development shall commence until a Habitat Management Plan (HMP), including a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The HMP shall be consistent with habitat management and enhancement measures contained in the Environmental Statement and SEI (Appendices A and G) and include a scheme to improve hedgerows to encourage movement of species, new hedgerow planting including screening planting to protect Old Mill View in general accordance with Fig 3.6a on Amec drawing No. 33395_Lee51.dwg parkJ, enhancement of existing ponds and the creation of one new wildlife pond, and the creation of an uncultivated wildlife corridor. The plan shall be implemented in accordance with the approved details and timetable.</p> <p><i>Reason: In the interests of visual amenity, nature conservation and enhancement for the lifetime of the development</i></p>
20	Bats	<p>No development shall take place until a mitigation scheme for bats has been submitted to the local planning authority and approved in writing. The scheme shall provide for the curtailment of operation of each wind turbine in August, September and October from sunset to sunrise when the 10 minute mean wind speed does not exceed 5.5 m/s measured at hub height at the site meteorological mast. The mitigation scheme shall include details of post construction mortality surveys for bats including methodologies and timings under the supervision of a qualified ecologist. The surveys shall be carried out in accordance with the approved details. The results of the surveys together with proposed mitigation if required shall be submitted to and approved in writing by the local planning authority in accordance with timings to be detailed in the approved survey details. The approved mitigation scheme shall be implemented in accordance with the approved details.</p> <p><i>Reason: In the interests of nature conservation and to safeguard protected species</i></p>
21	Shadow Flicker	<p>Prior to the construction of the first turbine, a scheme shall be submitted to and approved in writing by the Local Planning Authority setting out a protocol for the assessment of shadow flicker in the event of any complaint to the Local Planning Authority from the owner or occupier of any building which lawfully exists or had planning permission at the date of this permission. The scheme shall include remedial measures to alleviate any shadow flicker attributable to the development. Operation of the turbines shall not take place otherwise than in accordance with the approved scheme.</p>

		<i>Reason: In the interests of amenity for nearby residents</i>	
22	TV interference	<p>Prior to the erection of any turbine a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to energy and water service industry radio links and television broadcasts 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 and mitigation by a qualified independent television engineer of any complaint of interference with television reception at a lawfully occupied dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission, where such complaint is notified to the developer by the Local Planning Authority within 12 months of the First Export Date. The approved mitigation measures shall be carried out in accordance with the scheme and a timescale approved by the local planning authority.</p> <p><i>Reason: In the interests of amenity for nearby residents</i></p>	
23	Archaeology	<p>No development shall take place on site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. The approved scheme of investigation shall be implemented as approved. The scheme shall include:</p> <ol style="list-style-type: none"> 1. A programme and methodology for site investigation and recording; 2. A programme for post investigation assessment; 3. Provision for analysis of the site investigation and recording; 4. Provision for publication and dissemination of the analysis and records of the site investigation; and 5. Provision for archive deposition of the artefacts and records of site investigation. <p><i>Reason: To protect and/or record features of archaeological importance</i></p>	
24	Additional details of development	<p>No development shall take place until the Local Planning Authority has been provided with the following information:</p> <ol style="list-style-type: none"> a) the dates of commencement and anticipated completion of the construction; b) the height above ground level of the tallest permanent structure; c) the maximum extension height of any construction equipment; and d) latitude and longitude of every turbine. <p><i>Reason: In the interests of aviation safeguarding</i></p>	
25	Horse turbine familiarisation	<p>No development shall take place on site until a scheme for horse wind turbine familiarisation days to be undertaken within a period of 12 months from the date of first export has been</p>	

		<p>submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full thereafter.</p> <p><i>Reason: In the interests of equestrian users</i></p>	
<p>26</p>	<p>Rating Level of Noise and mitigation</p>	<p>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:</p> <p>(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.</p> <p>(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, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component. 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).</p> <p>(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</p>	

		<p>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.</p> <p>(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.</p> <p>(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:</p> <ul style="list-style-type: none"> (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. <p>The proposed range of conditions shall be those which prevailed during times when the</p>
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		<p>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.</p> <p>(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.</p> <p>(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.</p> <p>(H) The wind farm operator shall continuously log wind speed, 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</p>
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		<p>attached Guidance Notes to the Local Planning Authority on its request within 14 days of receipt in writing of such a request.</p> <p>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.</p>	
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Table 1: Between 07:00 and 23:00 hours (Noise Level in dB L_{A90}, 10-min)

Location (easting, northing grid coordinates)		Wind Speed at Ten Metres Height, m/s, within the site averaged over 10-minute periods									
		3	4	5	6	7	8	9	10	11	12
		L _{A90} Decibel Levels									
Hill Farm (243887)	(483492,	45.1	45.1	45.1	45.1	45.2	45.5	46.1	46.9	47.8	48.9
Pineham Farm (244161)	(482125,	39.5	40.4	41.4	42.4	43.4	44.5	45.6	46.7	47.9	49.1
New Buildings (244901)	(481665,	41.6	42.2	42.8	43.4	44.0	44.9	45.9	47.2	48.8	50.7
Cross Roads (243075)	(482305,	39.5	40.4	41.4	42.4	43.4	44.5	45.6	46.7	47.9	49.1
Field House (243749)	(481862,	39.5	40.4	41.4	42.4	43.4	44.5	45.6	46.7	47.9	49.1
Broadacre (243391)	(483309,	45.1	45.1	45.1	45.1	45.2	45.5	46.1	46.9	47.8	48.9
Hall Farm (244373)	(484273,	45.1	45.1	45.1	45.1	45.2	45.5	46.1	46.9	47.8	48.9
Hanslope Park (245720)	(481832,	48.7	48.7	48.7	49.1	49.9	51.1	52.6	54.2	55.9	57.6
Park Farm (246338)	(482303,	48.7	48.7	48.7	49.1	49.9	51.1	52.6	54.2	55.9	57.6
Dairy Farm (245726)	(483726,	54.9	54.9	54.9	54.9	54.9	54.9	55.1	55.4	55.8	56.4
Hanslope Lodge (244994)	(481054,	41.6	42.2	42.8	43.4	44.0	44.9	45.9	47.2	48.8	50.7
Hill Farm Conversions (243690)	(483651,	45.1	45.1	45.1	45.1	45.2	45.5	46.1	46.9	47.8	48.9
Haversham North (243280)	(483096,	45.1	45.1	45.1	45.1	45.2	45.5	46.1	46.9	47.8	48.9
Leamington Farm (244420)	(481222,	39.5	40.4	41.4	42.4	43.4	44.5	45.6	46.7	47.9	49.1
The Gate House (243690)	(483743,	45.1	45.1	45.1	45.1	45.2	45.5	46.1	46.9	47.8	48.9

Table 2: Between 23:00 and 07:00 hours (Noise Level in dB L_{A90, 10-min})

Location (easting, northing grid coordinates)	Wind Speed at Ten Metres Height, m/s, within the site averaged over 10-minute periods									
	3	4	5	6	7	8	9	10	11	12
	L _{A90} Decibel Levels									
Hill Farm (483492, 243887)	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.2	46.9
Pineham Farm (482125, 244161)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.5	47.2
New Buildings (481665, 244901)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.4	45.2	49.3
Cross Roads (482305, 243075)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.5	47.2
Field House (481862, 243749)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.5	47.2
Broadacre (483309, 243391)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.7	46.9
Hall Farm (484273, 244373)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.7	46.9
Hanslope Park (481832, 245720)	45.3	45.3	45.5	46.4	47.8	49.5	51.5	53.6	55.6	57.6
Park Farm (482303, 246338)	45.3	45.3	45.5	46.4	47.8	49.5	51.5	53.6	55.6	57.6
Dairy Farm (483726, 245726)	48.6	48.6	48.6	48.6	48.6	48.6	48.8	49.4	50.3	51.6
Hanslope Lodge (481054, 244994)	43.0	43.0	43.0	43.0	43.0	43.0	43.4	45.2	47.2	49.3
Hill Farm Conversions (483651, 243690)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.7	45.2	46.9
Haversham North (483096, 243280)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.7	45.2	46.9
Leamington Farm (481222, 244420)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.5	45.2	47.2
The Gate House (483743, 243690)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.7	45.2	46.9

Note to Tables 1 & 2: The geographical coordinate references set out in these tables are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies. The wind speed at 10 metres height within the site refers to wind speed measured directly at 10 metres height.

Guidance Notes for Noise Condition

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty

applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

- (a) Values of the $L_{A90,10\text{-minute}}$ noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting 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-minutes period at the permanent meteorological mast erected in accordance with the planning permission on the site. Unless an alternative procedure is previously agreed in writing with the Planning Authority, wind speed data measured directly at a height of 10 metres by the meteorological mast shall be used as the basis for the analysis. It is this 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 also continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated during each successive 10-minutes period for each wind turbine on the 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.

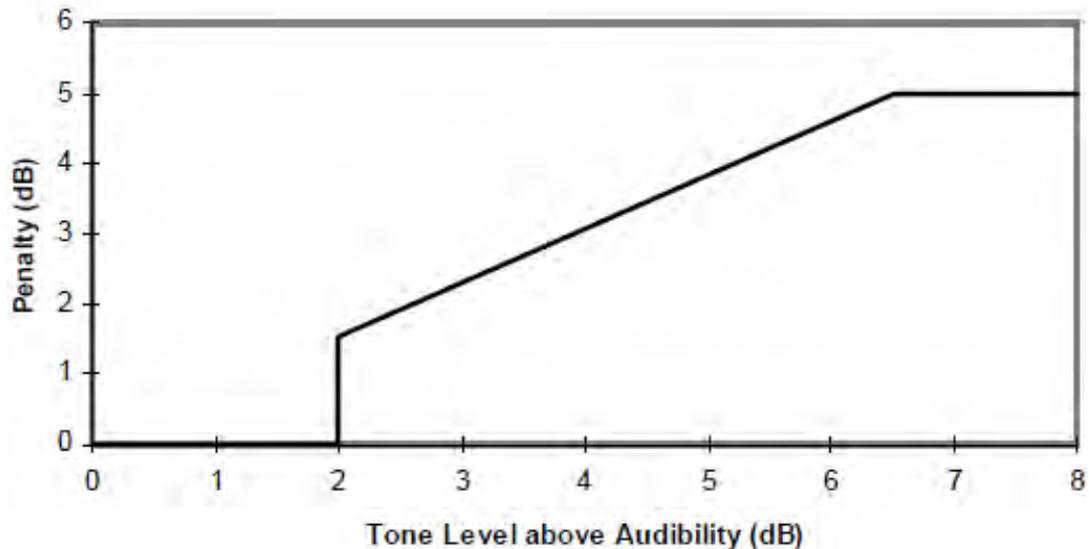
- (e) Data provided to the Local Planning Authority in accordance with paragraphs (E) (F) (G) and (H) of the noise condition shall be provided in comma separated values in electronic format.
- (f) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an 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 average tone level above audibility shall be calculated for each integer wind speed bin. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- (e) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

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

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

- iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then the development fails to comply with the conditions.

Annex 3

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Andrew Fraser-Urquhart	Of Counsel
He called	
Michelle Bolger CMLI Dip LA BA PGCE BA	Gillespies
Colin Godfrey BSc (Hons) C Eng MEI	CLG Energy Consultants
Andrew Horner BA (Hons) PG Dip MRTPI	Milton Keynes Council

FOR THE APPELLANT:

David Hardy	Barrister and Solicitor
He called	
Rebecca Rylott MLI BA (Hons) Landscape Architecture Urban Design Dip	Amec Environment & Infrastructure UK Ltd
Jon Huckle MCIEEM CEnv MSc BSc	Atmos Consulting
Dr Andrew Bullmore BSc (Hons) PhD MIOA	Hoare Lea Acoustics
Andrew Brown BA BArch MSc MRTPI RIBA IHBC	Woodhall Planning and Conservation
David Bell BSc (Hons) Dip UD MRTPI MIHT	Jones Lang LaSalle

FOR SHWFAG:

Peter Goatley	Of Counsel
He called	
Kevin Charsley BA (Hons) Dip LA CMLI	Aspect Landscape Design
Dr Isabel Lisboa BA (Hons) PhD (Cantab)	Archaeologica Ltd
Dr Dan Simpson BSc (Hons) PhD (BRis) MCIEEM	Aspect Ecology
James Croucher MTP MRTPI	DLP Planning
Justin Hoskins	Local resident
Pamela Williams	Local resident
Richard Pryor	Local resident
Emma Lennon	Local resident
Harvey Gilbert	Local resident

INTERESTED PERSONS:

Mark Handford	Resident of Olney
John Clifford	Resident of Haversham
Harvey Gilbert	Resident of Haversham
Glynn Horwood	Resident of Little Linford

Mark Lancaster TD MP

Traviss Locke

Ian Burgess

Mark Redley

Brittany Wilkerson

Dana Green

Howard Elliot

Councillor Peter Geary

Phil Houghton

Kate Redley

Mike Reed

Patrick Upton

Ivan Delgado

Derek Beevor

Jeanette Green

Julie Al-Najar

Helen Coetzee

Simon Hall

Councillor Andrew Geary

George Paton

Leonard Lean

Yvonne Mukherjee

Resident of Milton Keynes

Chair of Haversham cum Little Linford Parish Council

Resident of Haversham

Co-ordinator, Milton Keynes Friends of the Earth
Bridleways Officer, North Bucks British Horse Society

Project Gardener, Tyringham Hall
Olney Ward

Resident of Milton Keynes

Resident of Hanslope

Resident of Haversham

Resident of Little Linford

Resident of Milton Keynes

Resident of Stoke Goldington

Member of Hanslope Parish Council

Resident of Haversham

Resident of Haversham

Luton and Bedfordshire Green Party

Leader, Milton Keynes Council

Hill Farm

Vice Chairman, Residents Association

Resident of Oakridge Park

INQUIRY DOCUMENTS

- 1 Milton Keynes Core Strategy adopted in July 2013
- 2 Draft Wind Turbines Supplementary Planning Document and Emerging Policy 2013
- 3 Draft Wind Turbines Supplementary Planning Document and Emerging Policy 2013 Supporting Documents Paper
- 4 Milton Keynes Local Plan 2005
- 5 Supplementary Statement of Common Ground on Ecology and Ornithology
- 6 Planning practice guidance for renewable and low carbon energy (July 2013) (NPPG)
- 7 Press release for NPPG from DCLG
- 8 Correction to Figures in Appendix C of the proof of evidence of Andrew Bullmore
- 9 Additional information on landscape and visual evidence provided by the appellant, requested by Inspector
- 10 Table 3.1 of proof of evidence of Rebecca Rylott (p26) with missing shading
- 11 Clarification of adequacy of Environmental Information in the ES and SEI, provided by Jon Huckle
- 12 Secretary of State Decision ref APP/F1610/A/12/2173305, provided by SHWFAG
- 13 Secretary of State Decision ref APP/F1610/A/11/2165778, provided by SHWFAG
- 14 Inspector's Report to Milton Keynes Council on the examination into the Core Strategy (May 2013)
- 15 Milton Keynes' Response to Inspector's Questions on the Core Strategy
- 16 Digest of United Kingdom Energy Statistics 2013 Chapter 6, supplied by the

- appellant (DUKES Report)
- 17 Milton Keynes Development Management Consultation response from the Senior Landscape Architect, dated 30 September 2011, supplied by SHWFAG
- 18 Appeal decisions APP/X1118/A/11/2162070 & 12/2171005 at Batsworthy Cross, submitted by the Council
- 19 Aylesbury Vale District Wind Turbine Development Landscape Capacity report of October 2012, submitted by the Council
- 20 Confirmation that Doc 19 was not commissioned by the Council but by the applicants for a development at Dorcas lane
- 21 Information supporting energy estimates in the ES for Orchard Way, submitted by the appellant
- 22 Confirmation of no objection from the Joint Radio Company, dated 31 May 2013, supplied by the appellant
- 23 Vestas information on wind turbine classes and suitability for different conditions, supplied by the Council
- 24 MKC invitation to tender for wind turbines planning policy, dated 24 July 2013, supplied by the appellant
- 25 'Wind Energy – The Facts, Part 1, Technology' supplied by the Council
- 26 MKC suggested ecology conditions
- 27 Representation from Anton Bilton
- 28 Representation from Mark Handford
- 29 Representation from Yvonne Mukherjee
- 30 Representation from Ian Poulter
- 31 Representation from Dr Judy Meade
- 32 Representation from Barry Clayton
- 33 Representation from Traviss Locke
- 34 Representation from Harvey Gilbert
- 35 Representation from Derek Beevor
- 36 Representation from Mark Redley
- 37 Representation from Jeanette Green
- 38 Representation from Brittany Wilkerson
- 39 Representation from Dana Green
- 40 Representation from Howard Elliot
- 41 Representation from Phil Houghton
- 42 Representation from Patrick Upton
- 43 Representation from Julie Al-Najar
- 44 Representation from Helen Coetzee
- 45 Representation from Simon Hall
- 46 Representation from George Paton
- 47 Representation from Andrew Lockley
- 48 Representation from Emily Chua
- 49 Representation from Warmingtons Chartered Surveyors
- 50 Note by Matthew Dodds on proposed ecological conditions, provided by the Council
- 51 Suggested condition relating to greater than expected amplitude modulation, suggested by SHWFAG
- 52 Note from Emma Lennon on implications for transport
- 53 2005 responses to SNH guidelines 'Visual Analysis of Windfarms: Good Practice Guidance' provided by SHWFAG
- 54 Approval of Reserved Matters Granted ref 11/02756/REM relating to soft landscaping and other matters at Stantonbury Park, submitted by SHWFAG
- 55 Analysis of SHWFAG images suggesting over exaggeration of scale, provided

- by the appellant
- 56 SNH 'Visual representation of wind farms: Consultation and overview May 2013, supplied by the appellant
- 57 S106 Unilateral Undertaking relating to provision of a new permissive route for horse riders
- 58 S106 Unilateral Undertaking relating to the retention and maintenance of mitigation planting for Old Mill View
- 59 Extract from Daily Telegraph, Tuesday 30 July, supplied by the appellant
- 60 Representation from Leonard Lean
- 61 Representations from Lee Bannister and Stacey Purdy
- 62 Representation from Mr G & Mrs M Lindley

Annex 4

CORE DOCUMENTS

		Document
1 Adopted Development Plan Documents		
Requested by		
SHWFAG/MKC/RWE	1.1	Saved Policies of the Milton Keynes Local Plan (adopted 2005) and Saving Direction of the Secretary of State
2 National Guidance		
MKC/SHWFA G/RWE	2.1	DCLG: National Planning Policy Framework (March 2012)
RWE	2.2	Companion Guide to the Former PPS 22: Renewable Energy (2004)
RWE	2.3	Government Response to the Communities and Local Government Select Committee Report: NPPF
RWE/MKC	2.4	Written Statement to Parliament, Local Planning and Onshore Wind, The Rt Hon Eric Pickles MP, DCLG, 6 June 2013
RWE/MKC	2.5	Written Statement to Parliament, The Rt Hon Edward Davey MP, DECC, 6 June 2013 & DECC Press Release of same date
RWE	2.6	Written Statement to the Institute of Acoustics, The Rt Hon Edward Davey MP, DECC, 20 May 2013
MKC	2.7	Ministerial Statement on June 2013 of 4 June on UK Negotiating Position on the EU2030 Climate and Energy Framework
3 Other Local Planning Authority Documents, Regional Renewable Energy Documents and Documents regarding Regional Spatial Strategies		
RWE	3.1	Letter dated 6 July 2010 from the Secretary of State for Communities and Local Government to all Chief Planning Officers
SHWFAG	3.2	Milton Keynes Council: Wind Turbines Supplementary Planning Document and Emerging Policy (July 2012)
MKC/SHWFA G/RWE	3.3	Core Strategy (Revised Proposed Submission Version) October 2010
MKC	3.4	Renewable and Low-carbon Energy Capacity Methodology - Methodology for

		Document
		the English Regions, SQW energy, January 2010 (extracts)
4 High Court Decisions		
RWE	4.1	Derbyshire Dales District Council v Secretary of State for Communities and Local Government [2009] EWHC 1729
RWE	4.2	R (Hulme) v Secretary of State for Communities and Local Government [2010] EWHC 2386 (Admin)
RWE	4.3	R (Lee) v Secretary of State for Communities and Local Government, Maldon District Council, Npower Renewables [2011] EWHC 807 (Admin)
RWE	4.4	Michael William Hulme v Secretary of State for Communities and Local Government and RES Developments Limited [2011] EWCA Civ 638
RWE	4.5	South Northamptonshire Council (1) Deidre Veronica Ward (2) v Secretary Of State For Communities And Local Government (1) Broadview Energy Developments Limited (2) [2013] EWHC 11 (Admin)
RWE	4.6	Tesco Stores Ltd v Dundee City Council [2012] 2 P&CR 9 162
RWE	4.7	Sea & Land Power & Energy Ltd v Secretary of State for Communities and Local Government, Great Yarmouth Borough Council [2012] EWHC 1419 (Admin)
RWE	4.8	R (on the application of RWE Npower Renewables) v Milton Keynes Council [2013] EWHC 751 (Admin)
RWE	4.9	(1) East Northamptonshire District Council (2) English Heritage (3) National Trust v (1) Secretary of State for Communities and Local Government (2) Barnwell Manor Wind Energy Limited [2013] EWHC 473 (Admin)
RWE	4.10	City of Edinburgh Council v Secretary of State for Scotland [1997] 1 W.L.R. 1447
SHWFAG	4.11	R (on the application of Simon Woolley) v Cheshire East Borough Council [2009]
5 Various Wind Farm Appeal and Application Decisions		
RWE	5.1	Chiplow (APP/V2635/A/11/2154590) and Jack's Lane (APP/V2635/A/11/2158966)
RWE	5.2	Woolley Hill (APP/H0520/A/11/2158702)
RWE	5.3	Burnt House Farm (Decision Letter and Inspector's Report conclusions) (APP/D0515/A/10/2123739 and APP/D0515/A/10/2131194)
RWE	5.4	Cleek Hall (APP/N2739/A/12/2172629)
RWE	5.5	Carland Cross (APP/D0840/A/09/2103026)
RWE	5.6	Gayton le Marsh (APP/D2510/A/12/2176754)
RWE	5.7	Winwick (APP/Y2810/A/11/2156527)
RWE	5.8	Swinford (Inspector's Report and Decision Letter) (APP/F2415/A/09/2096369/NWF)
RWE	5.9	Wadlow (Inspector's Report and Decision Letter) (APP/W0530/A/07/2059471)

		Document
RWE	5.10	Biggleswade (APP/P0240/A/11/2150950)
RWE	5.11	Low Spinney (APP/F2415/A/09/2109745)
RWE	5.12	Please refer to CD5.10 (repeat)
RWE	5.13	Middlemoor (Inspector's Report and Decision Letter) (ELEC/2005/2004 – GDBC/001/00245C) (s36 consent)
RWE	5.14	Carsington Pastures (APP/P1045/A/07/2054080)
RWE	5.15	Enifer Downs (APP/X2220/A/08/2071880)
RWE	5.16	East Youlstone (APP/W1145/A/12/2167981)
RWE	5.17	Coronation Power (Inspector's Report and Decision Letter) (APP/P4225/A/08/2065277)
RWE	5.18	Chelveston (APP/K0235/a/11/2160077) and (APP/G2815/A/11/2160078)
RWE	5.19	Spaldington Airfield and Spaldington Common (APP/E2001/A/10/2137617 and APP/E2001/A/10/2139965)
RWE	5.20	Airfield Farm, Podington (2012) (APP/K0235/A/09/2108506)
RWE	5.21	Armistead Wind Farm (APP/M0933/A/08/2090274)
RWE	5.22	Kelmarsh (APP/Y2810/A/11/2154375)
RWE	5.23	Sober Hill (Recovered Appeal) (Inspector's Report and Decision Letter) (APP/E2001/A/09/2101421)
RWE	5.24	Watford Lodge (APP/Y2810/A/11/2153242)
MKC	5.25	Land at Lower Farm, Bearstone, Market Drayton, Shropshire, TF9 4HH (APP/L3245/A/08/2088742)
MKC	5.26	Land at New House Farm, Brineton, Shifnal, South Staffordshire TF11 8NF (APP/C3430/A/11/2162189)
MKC	5.27	Land west of Bicton Industrial Estate, Kimbolton, Cambridgeshire (APP/H0520/A/11/2146394)
MKC	5.28	Land at Little Linton Farm, south of Cambridge Road, Linton, Cambridgeshire (Appeal A: APP/W0530/A/09/2108277)
MKC	5.29	Land East of Semere Green Road (forming part of Upper Vaunces Farm) (APP/L2630/A/10/2143349)
MKC	5.30	Ellands Farm, Barnwell Road, Hemington, Northamptonshire PE8 5QJ (APP/G2815/A/06/2019989)
SHWFAG	5.31	Land around Busseys Loke, Hempnall, Norwich, Norfolk (APP/L2630/A/08/2084443)
SHWFAG	5.32	Willow Bank Farm, Fritwell Road, Fewcott, Oxfordshire (APP/C3105/A/09/2116152)
6 Planning, Renewable Energy and Climate Change Documents		
MKC/SHWFA G	6.1	Intentionally Left Blank
MKC/SHWFA G	6.2	DTI Energy White Paper "Meeting the Energy Challenge" (2007) (Extracts)

		Document
SHWFAG/RWE	6.3	DECC: The UK Renewable Energy Strategy (2009)
RWE	6.4	DECC: The UK Low Carbon Transition Plan, (LCTP) White Paper in (July 2009) (Executive Summary)
MKC	6.5	The Coalition Government: "Our Programme for Government" (2010)
MKC	6.6	DECC: Annual Energy Statement, July 2010
RWE	6.7	Natural England "Climate Change Policy", 2008
RWE	6.8	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
MKC/SHWFA G/RWE	6.9	DECC: Overarching National Policy Statement for Energy EN-1 (July 2011)
MKC/SHWFA G/RWE	6.10	DECC: National Policy Statement for Renewable Energy Infrastructure EN-3 (July 2011)
RWE	6.11	Committee on Climate Change: Renewable Energy Review (May 2011)
MKC/SHWFA G	6.12	DECC: UK Renewable Energy Roadmap (July 2011)
RWE	6.13	DECC: White Paper - Planning our Electric Future - a White Paper for Secure, Affordable and Low Carbon Electricity (July 2011) (Extracts)
RWE	6.14	DECC, Annual Energy Statement (29 November 2012)
RWE	6.15	DECC, Electricity Market Reform: Policy Overview (November 2012)
RWE	6.16	Please refer to CD6.13 (repeat)
RWE	6.17	DECC, "Onshore Wind, Direct and Wider Economic Impacts" (May 2012)
RWE	6.18	DECC, Special Feature – "Renewable Energy in 2011" (June 2012)
RWE	6.19	DECC, Special Feature, "Sub-national renewable electricity, renewable electricity in Scotland, Wales, Northern Ireland and the regions of England in 2011" (September 2012)
RWE	6.20	DECC, "Onshore Wind Call for Evidence: Government Response to Part A (Community Engagement and benefits) and Part B (Costs), June 2013
RWE	6.21	DECC: UK Renewable Energy Roadmap Update 2012 and Annex A and Annex B (December 2012)
RWE	6.22	DECC, Energy Trends, March 2013
RWE	6.23	Annual Energy Statement - Oral Statement by Edward Davey (29 November 2012)
RWE	6.24	DECC: Press Notice 'Government Agreement on Energy Policy sends clear, durable signal to investors' (November 2012)
RWE	6.25	Committee on Climate Change, 'Next Steps on Electricity Market Reform – securing the benefits of low carbon investment' May 2013

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RWE	6.26	Natural England, 'Making Space for renewable Energy' 2010
RWE	6.27	Natural England, "Sustainable Energy Policy", 2008
RWE	6.28	Natural England, "Position on Wind Energy", March 2009
RWE	6.29	Natural England "Climate Change Policy", 2008
MKC	6.30	The Climate Change Act 2008
MKC	6.31	Sustainable Development Commission Report on Wind Power in the UK (2005)
SHWFAG	6.32	Localism Act 2011
SHWFAG	6.33	Please refer to CD6.31 (repeat)
SHWFAG	6.34	Intentionally Left Blank
SHWFAG	6.35	Ramblers Association Renewable Energy Policy 2007
SHWFAG	6.36	Intentionally Left Blank
RWE	6.37	The Economic Impacts of Wind Farms on Scottish Tourism, A report for the Scottish Government – March 2008
RWE/SHWFA G	6.38	Advice on Wind Turbines, British Horse Society 2013/1
RWE	6.39	Scottish Wind Farm Advice Note, British Horse Society
RWE	6.40	Proof of Evidence of Richard Sakyi for the proposed Nun Wood Wind Farm, Milton Keynes Council (2013)
RWE	6.41	ETSU/AEA Technology and Terence O'Rourke 'Development of a Renewable Energy Assessment and Targets for the South East' (2001)
RWE	6.42	LUC and TV Energy, 'Review of Renewable and Decentralised Energy Potential in South East England' (June 2010)
RWE	6.43	Draft Wind Turbines Supplementary Planning Document and Emerging Policy 2013 and resolution to consult
MKC	6.44	Statistical Release – 2012 UK Greenhouse Gas Emissions, Provisional Figure, DECC, 28 March 2013 (extract)
MKC	6.45	First Progress Report on the Promotion and Use of Energy from Renewable Sources for the United Kingdom, Dec 2011 (extracts)
MKC	6.46	Government response to the consultation on proposals for the levels of banded support under the Renewables Obligation for the period 2013-17 and the Renewable Obligation Order 2012, DECC, July 2012 (extracts)
MKC	6.47	Government Response to the Fourth Annual Progress Report of the Committee on Climate Change: Meeting the Carbon Budgets – 2012 Progress Report to Parliament, Oct 2012 (extracts)
MKC	6.48	Energy Trends, DECC, June 2013 (extracts)
MKC	6.49	Feed in Tariff June 2013 Update, Ofgem
MKC	6.50	Intentionally Left Blank
SHWFAG	6.51	Onshore Wind Energy Planning Conditions Guidance Note, Renewables Advisory Board and BERR (2007)
SHWFAG	6.52	1993 Institute of Environmental Assessment (IEA) publication Guidance notes No. 1: Guidelines for the Environmental Assessment of Road Traffic

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SHWFAG	6.53	BWEA study conducted by A D Clarke of the Techno Policy Group, Open University, Walton Hall, Milton Keynes in 1984
7 Landscape and Visual (including public perception) Documents		
RWE	7.1	The Landscape Institute, Institute of Environmental Management and Assessment, 2002, "Guidelines for Landscape and Visual Impact Assessment", 2nd Edition (2002)
RWE	7.2	The Landscape Institute, Institute of Environmental Management and Assessment, 2002, "Guidelines for Landscape and Visual Impact Assessment", 3rd Edition (2013)
RWE	7.3	Scottish Natural Heritage "Guidelines on the Environmental Impacts of Windfarms and Small Scale Hydro Electric Schemes" (2001)
RWE	7.4	Scottish Natural Heritage "Siting and Design Windfarms in the Landscape, Version 1" (December 2009)
RWE	7.5	The Countryside Agency "Landscape Character Assessment: Guidance for England and Scotland" (2002)
RWE	7.6	Countryside Agency and Scottish Natural Heritage, "Landscape Character Assessment Series: Topic Paper 6 – Techniques and Criteria for Judging Capacity and Sensitivity" (2003)
RWE	7.7	Scottish Natural Heritage and The Countryside Agency Landscape Character Assessment Series "Topic Paper 9: Climate change and natural forces – the consequences for landscape character" (2003)
RWE	7.8	Landscape Institute "Landscape Architecture and the Challenge of Climate Change" (October 2008)
RWE/SHWFA G	7.9	Visual Assessment of Wind Farms: Best Practice (produced by Scottish Natural Heritage by the University of Newcastle) 2002
RWE	7.10	Scottish Natural Heritage, "Visual Representation of Wind Farms – Good Practice Guidance" (2006).
RWE/SHWFA G	7.11	Landscape Institute "Photography and Photomontage in Landscape and Visual Impact Assessment, Advice Note 01-11 (2011).
RWE/SHWFA G	7.12	Highlands Council "Visualisation Standards for Wind Energy Developments" (May 2013)
RWE	7.13	Scottish Natural Heritage, "Guidance Assessing the Cumulative Impact of Onshore Wind Energy Developments" Version 3 (March 2012)
RWE	7.14	The Landscape Partnership, "Local Landscape Designations Study for Milton Keynes Council" (October 2006)
RWE	7.15	The Landscape Partnership, "Milton Keynes Landscape Character Assessment Draft Report" (March 2007)
RWE	7.16	Countryside Agency, "Countryside Character Volume 7: South East & London" Bedfordshire and Cambridgeshire Claylands, Character Area 88, (1999) (Extracts)
RWE	7.17	NCA 88: Bedfordshire and Cambridgeshire Claylands Key Facts and Data,

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		Natural England
RWE	7.18	Land Use Consultants "Bedford Borough Landscape Character Assessment, Final Report" (2007) (Extracts)
RWE	7.19	White Consultants "Rugby Borough Landscape Capacity Study For Wind Energy Developments" (2011)
RWE	7.20	Ove Arup "Placing Renewables in the East of England" (2008)
RWE	7.21	Ordnance Survey, "Landranger 152: Northampton & Milton Keynes, Buckingham and Daventry" 1:50,000 scale map
RWE	7.22	Natural England: All Landscapes Matter (2010)
RWE	7.23	Stantonbury Park Environmental Statement Non-Technical Summary dated September 2005 (planning application by Genesis Holdings Limited)
RWE	7.24	Aylesbury Vale District Wind Turbine Development Landscape Capacity Report prepared by Stephenson Halliday dated June 2012 (Extract)
MKC	7.25	Landscape Character Area 9 – Ouse Valley
SHWFAG	7.26	Visualisation Standards for Wind Energy Developments (2010) - The Highland Council
SHWFAG	7.27	The Effect of focal Length on Perception of Scale and Depth in Landscape Photographs. Implications for Visualisation Standards for Wind Energy Developments. (2012) University of Stirling, Institute of Biological and Environmental Science. Dr Peter Hunter and Duncan Livingstone
SHWFAG	7.28	Scottish Natural Heritage – Visual Representation of wind farms – Consultation Draft (May 2013)
8 Noise		
RWE	8.1	ETSU-R-97: The Assessment and Rating of Noise from Wind Turbines (September 1996)
RWE	8.2	"Prediction and assessment of wind turbine noise – agreement about relevant factors for noise assessment from wind energy projects", D Bowdler, AJ Bullmore, RA Davis, MD Hayes, M Jiggins, G Leventhall, AR McKenzie, Institute of Acoustics, Acoustics Bulletin, Vol 34, No 2 March/April 2009
RWE	8.3	IEC (BS EN) 61400-11 "Wind turbine generator systems – Part 11: Acoustic noise measurement techniques"
RWE	8.4	Noise Policy Statement for England, DEFRA (March 2010)
RWE	8.5	ISO 9613-2 "Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculations"
RWE	8.6	The Institute of Acoustics "A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise" (May 2013)
RWE	8.7	Regulation 22 request by Milton Keynes Council Development Management (15 March 2012)
RWE	8.8	Hoare Lea Acoustics' response to Regulation 22 request (25 April 2012)

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9 Ecology		
RWE	9.1	Institute of Ecology and Environmental Management (2006) Guidelines for Ecological Impact Assessment.
RWE	9.2	Joint Nature Conservation Committee (2010). Handbook for Phase 1 Habitat Survey. A Technique for Environmental Audit.
RWE	9.3	Scottish Natural Heritage (2010) Survey Methods For Use In Assessing The Impacts Of Onshore Windfarms On Bird Communities. SNH Guidance (update of 2005 publication).
RWE	9.4	Bat Conservation Trust (2007) Bat Surveys: Good Practice Guidelines.
RWE	9.5	Bat Conservation Trust (2012) Bat Surveys: Good Practice Guidelines 2 nd Edition.
RWE	9.6	Natural England Technical Information Note TIN051: Bats and Onshore Wind Turbines – Interim Guidance, 2 nd Edition (29 February 2012)
RWE	9.7	Oldham, R.S., Keeble, J., Swan, M.J.S. & Jeffcote, M. (2000). Evaluating the Suitability of Habitat for the Great Crested Newt. Herpetological Journal 10: 143-155.
RWE	9.8	Foster, J. (2001). Great Crested Newt Mitigation Guidelines. English Nature, Peterborough.
RWE	9.9	Rodrigues, L., L. Bach, M.-J. Dubourg-Savage, J. Goodwin & C. Harbusch (2008): Guidelines for consideration of bats in wind farm projects. EUROBATS Publication Series No. 3 (English version). UNEP/EUROBATS Secretariat, Bonn, Germany, 51 pp.
RWE	9.10	Burrows, L. (2013) Noctule Bats and Wind Turbines. In Practice: Bulletin of the Institute of Ecology and environmental Management. Issue 79, March 2013: 11-15. (ISSN 1754-4882)
RWE/MKC	9.11	Jones, G., Cooper-Bohannon, R., Barlow, K. & Parsons, K. (2009) Determining the potential ecological impact of wind turbines on bat populations in Britain. Phase 1 Final Report. University of Bristol/Bat Conservation Trust. http://www.bats.org.uk/data/files/determining_the_impact_of_wind_turbines_on_british_bats_final_report_29.5.09_website.pdf
RWE	9.12	Arnett, E. B., M. Schirmacher, M. M. P. Huso, and J. P. Hayes. 2009. Effectiveness of changing wind turbine cut-in speed to reduce bat fatalities at wind facilities. An annual report submitted to the Bats and Wind Energy Cooperative. Bat Conservation International. Austin, Texas, USA. http://www.batsandwind.org/pdf/Curtailment_2008_Final_Report.pdf
RWE	9.13	Natural England Technical Information Note TIN069: Assessing the effects of onshore wind farms on birds. 1 st Edition, January 2010.
RWE	9.14	Chanin and Woods 2003. Surveying dormice using nest tubes: results and experiences from the South West Dormouse Project. English Nature Research Report No 524. Peterborough: English Nature.
RWE	9.15	Bat Conservation Trust (2011). Bat Surveys: Good Practice Guidelines 2 nd

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		Edition (Surveying for onshore wind farms – Consultation draft). BCT, London. http://www.bats.org.uk/data/files/Surveying_for_onshore_wind_farms_BCT_Bat_Surveys_Good_Practice_Guidelines_2nd_Ed.pdf
SHWFAG	9.16	The Conservation of Habitats and Species Regulations 2010
SHWFAG	9.17	ODPM Circular 06/2005 'Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System'
SHWFAG	9.18	Bright, J.A., R.H.W. Langston, and S. Anthony (2009). Mapped and written guidance in relation to birds and onshore wind energy development in England. RSPB Research Report No. 35. RSPB, Sandy, pp.4-7
SHWFAG	9.19	English Nature, 'The dormouse conservation handbook', 2nd Edition, Jan 2006
SHWFAG	9.20	Baerwald, E.F., Edworthy, J., Holder, M. and Barclay, R.M.R (2009). A large-scale mitigation experiment to reduce bat fatalities at wind energy facilities. Journal of Wildlife Management, 73: 1077-1081
SHWFAG	9.21	Hötker, H., Thomsen, K.-M. and Jeromin, H. (2006) Impacts on biodiversity of exploitation of renewable energy sources: the example of birds and bats- facts, gaps in knowledge, demands for further research, and ornithological guidelines for the development of renewable energy exploitation. Michael-Otto-Institut im NABU, Bergenhusen
SHWFAG	9.22	Stewart, G. B., Pullin, C. F. and Coles, C. F. (2007) Poor evidence base for assessment of windfarm impacts on birds. Environmental Conservation 34: 1-11
10 Cultural Heritage		
RWE	10.1	English Heritage: The Setting of Heritage Assets (October 2011)
RWE	10.2	English Heritage: Wind Energy and the Historic Environment (October 2005)
RWE	10.3	English Heritage: Climate Change and the Historic Environment (January 2008)
RWE/SHWFAG	10.4	English Heritage: Conservation Principles, Policies and Guidance (April 2008)
RWE	10.5	PPS5: Planning for the Historic Environment Practice Guide (March 2010)
SHWFAG	10.6	English Heritage: Seeing the History in the View (May 2011)
SHWFAG	10.7	Meade J 2008 The Middle And Upper Ouse Valley in The Late Iron Age And Romano-British Periods. (School of Archaeology and Ancient History University of Leicester. Now published as BAR British Series No 512) (Extracts)
SHWFAG	10.8	Mudd, A. 2006 The Roman site at Hill Farm, Haversham: excavations and watching brief 2002-2004. Records of Bucks 46: 1-18. (Extract)
SHWFAG	10.9	Michael Reed, The Buckinghamshire Landscape (published by Hodder and Stoughton) (Extract)
SHWFAG	10.10	Repton H 1795 Sketches And Hints On Landscape Gardening (Extracts)
11 Planning Application and Appeal Documents		
RWE	11.1	Planning Application and Supporting Documents (provided in the Appeal

		Document
		Bundle)
RWE	11.2	Environmental Statement (September 2011) (provided in the Appeal Bundle)
RWE	11.3	Supplementary Environmental Information (May 2012) (provided in the Appeal Bundle)
RWE	11.4	Planning Statement Addendum – National Planning Policy Framework (May 2012) (provided in the Appeal Bundle)
MKC	11.5	Officer Report to the Milton Keynes Council Development Control Committee (22 January 2013)
MKC	11.6	Minutes of the Milton Keynes Council Development Control Committee (22 January 2013)
RWE	11.7	Statement of Common Ground between the Appellant and Milton Keynes Council (July 2013)
RWE	11.8	Statement of Case of Milton Keynes Council
RWE	11.9	Statement of Case of the Appellant
RWE	11.10	Statement of Case of Stop Haversham Wind Farm Action Group
RWE	11.11	Further Environmental Information (June 2013) (supplied separately)



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.