The Planning Inspectorate

Appeal Decision

Inquiry held on 21-25 and 28-30 January 2013
Site visit made on 31 January 2013

by D C Pinner BSc (Hons) DipTP MRTPI

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

Decision date: 5 April 2013

Appeal Ref: APP/D2510/A/12/2176754
Land at Carlton Grange, Thacker Bank, Near Louth, LN11 7TX

- 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 Energiekontor UK Ltd against East Lindsey District Council (ELDC).
- The application Ref N/063/01392/11, is dated 20 July 2011.
- The development proposed (agreed revised wording) is the erection of 8 no. wind turbines (maximum tip height of up to 115 metres) and an electricity sub-station, provision of a temporary site compound enclosed by fencing (up to 2.20 metres in height), construction of access roads, hardstanding and parking areas and construction of a new vehicular access.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 8 no. wind turbines (maximum tip height of up to 115 metres) and an electricity sub-station, provision of a temporary site compound enclosed by fencing (up to 2.20 metres in height), construction of access roads, hardstanding and parking areas and construction of a new vehicular access on land at Carlton Grange, Thacker Bank, Near Louth, LN11 7TX in accordance with the terms of the application, Ref N/063/01392/11, dated 20 July, and the plans submitted with it, subject to the conditions set out in Annex A to this decision.

Preliminary matters

2. The focus of the inquiry was on the turbines themselves. The associated temporary and permanent development (sub-station, construction compounds, access tracks, hardstandings etc.) was barely mentioned. I do not consider these aspects of the scheme have any significant bearing on its acceptability or otherwise and I shall therefore concentrate on the turbines themselves.

3. On the day of my site inspections, the weather was clear and sunny, albeit cold and windy, and visibility was excellent for the whole of the day. In terms of visibility at least, I doubt that there could have been a better day for undertaking the site inspections. These took the whole day and covered a very wide area to include views of the site from close by and from a distance and also to include cumulative views with other windfarms, both onshore and offshore. I was accompanied throughout by representatives of the appellant, the Council and NOWAG (NO Windfarm At Gayton), the local group opposing the scheme.

4. The proposed development is EIA development for the purposes of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (The EIA Regulations). The application which led to this appeal was accompanied by an environmental statement (ES) which deals comprehensively with a wide range of matters concerning the potential environmental impact of the proposed development. I am satisfied that the information provided meets the requirements of the EIA Regulations. I also note that it is common ground between the Council and the appellants that the visualisations included in the ES offer a fair and reasonable basis for making judgements as to the potential visual effects of the proposed development and are sufficient in terms of their quality and accuracy for decision-making purposes. Ten additional wireframes were provided by the appellant in response to the Council's concerns that the ES did not cover certain viewpoints that the Council considered to be important.

Main Issues

5. The ES considered a wide range of potential impacts of the scheme, the majority of which are either acceptable or capable of being addressed by conditions. The main issues in this appeal are effectively the matters which are in dispute between the appellant, the Council and NOWAG. These are first, the effect of the scheme on the living conditions of local residents in terms of its visual impact and potential for noise disturbance and second, the effects of the scheme on the character and appearance of the local and wider landscape, including views into and from the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB).

Policy

6. The Development Plan for the area consists of the saved policies of the East Lindsey Local Plan First Alteration (1999) and the East Midlands Regional Plan (2009).

7. Section 109 of the Localism Act provides for the Secretary of State to revoke regional spatial strategies ("RSS"), which would include the East Midlands Regional Plan. At the time of the inquiry, the Secretary of State had not issued any such order in respect of the East Midlands Regional Plan but an Order has subsequently been made and I have had due regard to both the Plan and the Order.

8. In particular, I note that the parties agree that the renewable energy targets contained in the East Midlands Regional Plan were derived from a robust evidence base and this evidence base will continue to be a material consideration to which decision makers must have regard. Also, the Regional Plan is consistent with the National Planning Policy Framework (NPPF) in respect of its general support, both for the deployment of renewable energy and for the protection of the landscape. On that basis, I am of the opinion that the revocation of the Regional Plan would have no significant bearing on the outcome of this appeal.

9. In 2008, the East Midlands Regional Assembly commenced a further Partial Review of the East Midlands Regional Plan. The Government's intention to abolish RSSs meant that the partial review was not carried forward. Work that had been undertaken for the partial review included a study by Faber Maunsell entitled "*Reviewing Renewable Energy Targets for the East Midlands*" (2009).

The appellants and the Council agree that the evidence base and studies which informed the Faber Maunsell Report are relevant to the determination of this appeal; the report is material consideration and is one of the most up-to-date assessments of the renewable energy (RE) resource potential of the East Midlands Region.

10. Of particular note, the report predicted that the East Midlands will not be able to achieve the 15% renewable energy contribution by 2020 (which includes transportation) as required by EU legislation without exceeding the projections in the report or importing renewable energy from outside the region. This makes it vital for the region to strive to achieve and exceed the challenging targets laid out in the report. One of the report's conclusions is that the region should aim to maximise onshore wind where possible as a key contributor to renewable energy in the region.

11. The starting point for planning decisions is the Development Plan. Policies A4, A5 and part A of Policy C11 of the Local Plan and Policies 1, 4, 26, 31 and 40 of the Regional Plan are agreed to be the relevant policies relating to the appeal scheme.

Saved Local Plan policies

12. Saved Local Plan Policy A4 aims to protect the general amenities of people living or working near to proposed development. The policy describes a number of potential impacts of development which the Council will closely examine, including what I would regard as normal development control considerations relating to living conditions. Also included is potential harm to the distinctive character of the area.

13. Saved Policy A5 of the Local Plan is a general policy relating to the quality and design of new development. Development which does not improve the quality of the environment will only be permitted where its design, including matters such as its scale, appearance and choice of materials, does not detract from the distinctive character of the locality. There is also a requirement in the policy for such development to be integrated within an appropriate landscaping scheme – an impossibility for a scheme such as this involving very tall wind turbines.

14. Policy C11 aims to protect the Lincolnshire Wolds Area of Outstanding Natural Beauty. Part A(ii) is relevant in that development that harms the distinctive character of the AONB will not be permitted. That could relate to development that is not within the AONB, but which affects its distinctive character.

Regional Plan policies

15. Policy 1 of the Regional Plan sets out a number of core objectives for the East Midlands region. Included within the list of objectives are the protection and enhancement of the environment, promotion of "green infrastructure" and the reduction of the effects of climate change, including the maximisation of "resource efficiency" and the level of renewable energy generation.

16. Amongst other things, Policy 4 aims to promote sustainable tourism; to protect the landscape and natural beauty of the Wolds and to protect and enhance the natural environment of the coastal margin, including the Saltfleetby-Theddlethorpe Dunes Special Area of Conservation.

17. Policy 26 is aimed at the protection of the Region's natural and cultural heritage and Policy 31 relates to the Region's natural and heritage landscapes, setting out priorities for their management and enhancement.

18. Policy 40 includes a section on onshore wind energy and sets out a range of matters for local planning authorities to consider when establishing criteria for such development. These include landscape and visual impact, informed by Landscape Character Assessments, cumulative impacts, including intervisibility and the contribution made to regional renewables targets and national and international environmental objectives on climate change.

Other policies

19. The NPPF, published in March 2012 is a material consideration of substantial weight and establishes a presumption in favour of sustainable development. Section 10 of the NPPF is concerned with meeting the challenge of climate change, flooding and coastal change, with paragraph 93 reaffirming that planning plays a key rôle in securing radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change and supporting the delivery of low-carbon energy and associated infrastructure. It goes on to say that this is central to the economic, social and environmental dimensions of sustainable development.

20. Paragraph 98 of the NPPF says that applicants for energy development should not be required to demonstrate the need for renewable or low-carbon energy and that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Applications should be approved if the project's impacts are (or can be made) acceptable.

21. There is a wealth of policy and advice on renewable energy set out in various Government and other publications. The European Union Renewable Energy Directive confirms a binding target of 20% of EU energy coming from renewable sources by 2020. The UK is expected to make a 15% contribution towards this. The UK Renewable Energy Strategy (July 2009) confirms that if this is to be achievable, it will require more than 30% of the UK's electricity generation to come from renewable sources (by 2020).

22. The Overarching National Policy Statement for Energy (EN1) and the National Policy Statement for Renewable Energy Infrastructure (EN3) are material considerations. Headlines from EN1 include the need for the UK to diversify and decarbonise electricity generation; the Government's commitment to increasing dramatically the amount of renewable generation capacity and the realisation that in the short to medium term, much of this new capacity is likely to be from onshore and offshore wind. EN1 goes on to say that it is necessary to bring forward new renewable electricity generating projects as soon as possible and that the need for such projects is urgent. This urgent need for new large-scale renewable energy projects is confirmed in the UK Renewable Energy Roadmap Update published as recently as 27 December 2012.

23. The foreword to the UK Renewable Energy Strategy refers to the growth in both onshore and offshore wind capacity and notes that two independent reports found the UK to have the largest potential for wind energy in Europe and one of the greatest natural wave power resources in the world.

24. Wave and tidal power, along with several other infant technologies, may eventually form part of a series of renewable technologies to be deployed in

the overall mix but is not yet at the stage of commercial exploitation of the resource. At the present time, and for some time ahead, it is clear that wind power will remain of great importance in meeting the UK's renewables targets. The Government's commitment to onshore wind as part of a diverse energy mix contributing to our security of supply and carbon reduction targets is set out in the Roadmap Update.

Analysis of policy context for decision making

25. The majority of on-shore windfarms are located in the countryside. Opponents of commercial wind energy development often describe the turbines with words such as "gigantic", "obtrusive", "alien" and "industrial" whereas supporters often describe them using words such as "aerodynamic", "sculptural" or even "beautiful". Opinions clearly differ about the adjectives that would appropriately describe them. Regardless of that, there can be no mistaking what they are and there could surely be no disagreement that they are very tall structures that owe nothing in their design or construction to rural crafts and traditions.

26. The turbines in the appeal scheme are taller to the tip of the blades than any others in the wider locality. Nevertheless, the fixed part of the structure comprising the tower and the turbine nacelle is of broadly similar height to the turbines at the Mablethorpe and Conisholme wind farms. I accept that the taller overall height of the turbines would be likely to make them more frequently visible in the landscape above any intervening buildings and vegetation. I did note however, that under some lighting and weather conditions, the blades of the existing turbines can be difficult to see, whereas the fixed part of the structure is more obvious.

27. The appeal scheme is located within an area of very flat, low lying countryside between the sea and the Lincolnshire Wolds. Long-range views under big skies are a major component of its distinctive character and agricultural uses are predominant in the landscape.

28. Windfarms are becoming increasingly common in rural locations but they are clearly not structures which could properly be described as having an intrinsically rural character and their size makes them impossible to hide or assimilate into their surroundings. In my view, no commercial windfarm could be considered to complement, protect or improve the rural character or appearance of the countryside. Such development is bound to conflict with policies designed to protect or enhance those qualities and so there is no doubt in my mind that the appeal scheme is contrary to Local Plan saved policies A4 and A5 in this regard.

29. However, the Local Plan, which is now of considerable age, contains no saved policies relating to renewable energy. As RE provision is a major element of the drive for sustainable development contained in the National Planning Policy Framework, it follows that the Local Plan is out of date in this respect and provides no present-day context for considering the impact of commercial windfarms on the character and appearance of the countryside. It is therefore inconsistent with the National Planning Policy Framework. The NPPF is a material consideration to which great weight must be attached and is clearly a matter that is capable of indicating that the scheme can be determined otherwise than in accordance with these development plan policies.

30. The Roadmap Update describes the rapid growth in RE provision in the year from July 2011 to June 2012. Over that period, installed onshore wind grew by 24% and there are still many projects in the pipeline. It is perhaps no surprise then, that with such a rapidly increasing presence of onshore wind turbines, there has been something of a backlash which, last year, resulted in various high-profile expressions of alarm at the proliferation of onshore wind turbines.

31. County Councillor Davie submitted correspondence between Lincolnshire County Council (LCC) and the Department of Energy and Climate Change (DECC) which he said demonstrated a shift in Government emphasis in the last third of 2012 and the introduction of a ceiling on the amount of wind energy development that is needed to achieve the Government plans for a central scenario of 13GW of installed onshore wind capacity by 2020. He also introduced LCC's position statement on onshore wind which expresses concern about the proliferation of schemes and sets out a list of criteria which should be met if wind farms are to be acceptable. The local planning authority (ELDC) is also of the view that the Government has introduced a ceiling for onshore wind development. Their planning witness said that they were aware of LCC's position statement, but gave it no weight with regard to the appeal scheme.

32. Considerable time was spent at the inquiry discussing what was the significance of the words "up to" in the DECC responses to LCC (which are in the same terms as other public statements issued by DECC), whether they do establish a ceiling for onshore wind targets and whether the DECC responses are indicative of the Government's current "direction of travel" with regard to onshore wind. In essence, opponents of the scheme say that the 2020 targets for onshore wind deployment are likely to be met and we (as a nation) can afford to be more selective of the schemes which are consented, thereby giving greater importance to the landscape considerations than might otherwise have been the case.

33. The Roadmap Update post-dates the DECC letters. If there is a new "direction of travel" with regard to onshore wind - such that targets are to be regarded as ceilings, for example - that would have been an ideal opportunity for it to be flagged-up in clear language. However, there is no such clear statement in the Roadmap Update. It seems fairly clear to me that the DECC responses are, in effect, a position statement rather than any suggestion that there is a forthcoming change in direction with regard to onshore wind. I am satisfied that that there has been no change in Government policy and that there are no targets or caps for individual renewable technologies such as onshore wind.

34. On my reading of the Roadmap Update, I would say that it reaffirms the importance of onshore wind as part of the UK RE mix. For example, the section on Onshore Wind (p36) includes the sentence "The Government is committed to onshore wind as part of a diverse energy mix contributing to our security of supply and carbon reduction targets." The paragraph on the same page that mentions that the Government is sympathetic to the concerns of communities to development in their areas is prefaced by an intention to bear in mind the results of the DECC Public Attitudes Tracking Survey, which shows that the majority of the public support the growth of onshore wind in the UK.

35. On page 21 of the Roadmap Update, it is noted that in 2011, onshore wind supported more than 8600 jobs and this could rise to 11600 direct and supply chain jobs by 2020.

36. On page 11, paragraph 2.6 explains that the analysis of potential deployment of RE to 2020 was modelled to produce illustrative central ranges for each technology, overlain by industry high and low scenarios. These central ranges do not represent specific targets or the level of ambition. Paragraph 2.10 uses the disputed "up to" words and it seems clear to me that the origin of the expression lies in the illustrative central range for onshore wind, which was not a specific target or the level of ambition. Presumably, the illustrative central range went "up to" 13GW of installed onshore wind capacity and beyond 13GW would be within the industry high scenario. If more than 13GW could be installed by 2020, that would mean that onshore wind had made a higher than expected contribution to the overall RE target. Paragraph 2.10 goes on to say that the current pipeline (for onshore wind) is "likely to have the potential" (which is a far cry from "definitely will") to provide the appropriate level of deployment to fulfil the ambitions outlined in the first UK RE Roadmap. Nevertheless, the paragraph goes on to warn that the Government cannot be certain how much of the capacity in the pipeline projects will go forward as not everything in the pipeline will be consented and not everything consented will be built.

37. Paragraph 2.9 is less optimistic about offshore wind, the potential growth of which is reliant on costs coming down. The target of £100/MWh is described as challenging but achievable and the paragraph goes on to say that there are clearly big challenges to overcome.

38. To conclude on the "up to" point, even if the Secretary of State had not confirmed that there had been no change in Government policy, I think it would be illogical that a Government that is committed to onshore wind, that has identified that the majority of the public support the growth of onshore wind, that believes, but is not certain, that the indicative central range for onshore wind deployment will be achieved and is aware of big challenges facing some other RE technologies, would consider it necessary to cap onshore wind. The 13GW of installed onshore wind mentioned in the Roadmap Update and the earlier DECC responses to LCC is not a target or a cap. It is an expression of what the Government thinks would be a realistic expectation and they are optimistic that the pipeline contains sufficient projects to meet that expectation. If by 2020 the installed onshore wind capacity were to exceed expectations, that would seem to me to be a good thing because it could compensate for any performance below expectations in other technologies.

39. There are other factors at play too. Regional targets are for total renewables deployment over all technologies. The East Midlands Region, and indeed the country as a whole, are currently a long way off meeting the 2020 renewables targets. Some of the older fossil-fuel power stations are to be closed before 2020 so the electricity they generate will have to be produced elsewhere. Despite moves towards more efficient use of electricity, the 2012 Annual Energy Statement notes that demand is predicted to continue rising in the foreseeable future. For example, the continuing move towards electricity use in the transport sector through the electrification of railways and the likely growth in the use of electric cars that need to be recharged overnight are likely to increase greatly the demand for electricity. Along with many of the smaller scale renewable technologies, from site selection to construction, onshore wind energy schemes are relatively quick to deploy. This technology therefore has the potential to enable concerns of a possible future short term under-supply of

electricity to be addressed pending the permitting and construction of new, large scale generation facilities.

40. Security of supply is also a very important concern. Power generation that relies on imported fuel is all very well as long as the fuel is supplied at reasonable cost, there is no shortage of fuel and the foreign suppliers are willing to provide us with what we need. If any of those factors were to change to our disadvantage, there would obviously be negative consequences. It is therefore very much in the national interest for electricity to be generated from home-grown sources. With respect to renewable sources of electricity generation, wind is recognised in Government policy documents such as EN1 to be one with much potential.

41. Another important point that emerged from the inquiry was whether the scheme should be regarded as sustainable development for the purposes of the NPPF. The Council's view was that wind energy electricity generation was inherently sustainable but that the development required to harness it on a commercial scale is not sustainable development because it harms the landscape, contrary to the environmental dimension of sustainable development set out in the third bullet point of paragraph 7 of the NPPF. The appellant's view was that the development is inherently sustainable because it would be illogical for the NPPF to have at its heart the move to a low-carbon economy and the need to mitigate and adapt to climate change if the means by which that might be achieved was to be regarded as unsustainable development.

42. In this respect, I agree with the appellants. The NPPF emphasises the key role planning must take in supporting the delivery of low-carbon energy and associated infrastructure (my emphasis). So, it is not just the low-carbon energy itself but the infrastructure needed to produce and distribute it that is central to the economic, social and environmental dimensions of sustainable development. Faced with challenging RE targets, future reductions in supply from fossil fuel burning power stations, increasing overall demand for electricity and long lead-in times for high-output generation schemes, it seems to me that the current position as far as RE is concerned, is that we need as much as we can get, as soon as we can get it.

43. The NPPF's presumption in favour of sustainable development makes particular sense in this regard. However, that is not to say that anything goes. Schemes which would cause significant and demonstrable harm should not be permitted, but those which can be accepted should be approved as soon as possible, irrespective of whether a particular region or district has "done its bit" in meeting any targets set out in the relevant development plan. That is the approach I shall take in this decision.

Effect on living conditions

Visual impact

44. The appeal site lies within a quite sparsely populated area. There are a number of residential properties within 1km of the site and the ES assesses the impact of the proposal on those properties. NOWAG argues that the assessment should have gone further because the effects of the scheme would be felt by people living beyond the 1km assessment limit. This is not a stance taken by the Council, who are satisfied that the scheme would not have effects

on living conditions of nearby residents sufficient to warrant refusal of planning permission on those grounds.

45. In terms of visual impact, the proposed turbines would be visible over a wide area and some residents would get clear views of the turbines from their homes and gardens. Others might see the upper parts of the turbines above intervening trees and buildings with clearer views when the trees are not in leaf. All of the people who spoke at the inquiry and who would have relatively close range views of the turbine field were opposed to the development.

46. These objectors and the NOWAG representatives spoke with passion about an area which they love for its views, tranquillity and rural character. Many explained how they had been drawn to the area from urban areas because of those qualities. I fully understand why they consider that the proposed wind farm would dominate and ruin the views from and around their homes and I appreciate the sadness and anger that they would feel if that were to happen. Nevertheless, it is a well-established principle that there is no right to a view.

47. The visual impact of the turbines on living conditions is an absolute test rather than a comparative one. It is not enough to show that views of the turbine field would make properties less attractive than they are now – it is necessary to show that they would be made so unattractive that the majority of people would consider those houses would become unsatisfactory places to live.

48. The appellants were able to show by reference to other appeal and called-in application decisions that in England, no property 800m or more from a wind farm scheme had been judged to be potentially affected by the visual presence of turbines to the extent that the living conditions of its residents would be unacceptably harmed. It would seem, therefore, that there would have to be something extraordinary about a particular scheme and its location to warrant a decision that found unacceptable harm to living conditions beyond that distance.

49. In the appeal case, the nearest dwelling is 750 metres from the nearest turbine, but that is the home of the landowner who could be expected to have made his own assessment of the likely visual impact of the development on his living conditions. There is no other dwelling less than 800 metres from the nearest proposed turbine. The turbine field is not elevated compared to the surrounding land and views of the turbines would not occupy an unusually wide field of view from any of the nearest properties. Furthermore, even looking towards the turbines, the separation distance between the turbines would allow extensive views of the countryside beyond the turbine field from many vantage points.

50. Although the proposed turbines are higher to the tip than any others in the locality, they are smaller than some of the others referred to in the English decisions used to establish the 800m distance referred to earlier. Another mitigating factor is that many of the houses have bushes, trees and hedges in their gardens, which no doubt provide some degree of shelter in this open landscape. A tree or bush of domestic scale close to a dwelling would often be capable of completely obscuring a view of even a very large turbine some 800m away. For example, in the front garden of Low Farm, there are some trees which, when in leaf, would at least filter views of turbines and reduce their visual impact accordingly. Other properties also benefit from intervening

trees, bushes and buildings that are capable of obscuring or filtering views of at least some of the proposed turbines.

51. I do not find, therefore, that there are any unusual circumstances surrounding this proposal that would warrant a conclusion that residents' living conditions would be unacceptably harmed by the visual impact of the proposed turbines.

Noise

52. The potential for noise disturbance from the proposed turbines is also a matter of concern for local residents. The Council has considered this issue and concluded that the scheme would not cause unacceptable harm to living conditions in this regard. NOWAG remain concerned and the appellant therefore called their noise expert to answer any questions. Although NOWAG offered no technical evidence to counter the appellant's noise assessment, they said that they found it useful to have the expert there to explain his findings. I also found that to be of assistance. The salient points are that the noise assessment was undertaken in compliance with the established methodology for undertaking such assessments in respect of windfarms (Referred to as ETSU-R-97) and the findings were that no properties should experience unacceptable noise levels. The assessment is carried out as a worst-case scenario that disregards any potential abatement by vegetation, soft ground or intervening structures. Furthermore, a noise condition (in a form that has become almost universal on windfarm approvals) is proposed that establishes a procedure for investigating any noise complaints at the developer's expense and for taking any remedial action that proves to be necessary as a result of the investigation. Such remedial measures would usually involve "turning down" any turbines found to be responsible for a justified noise complaint.

53. I conclude on the first issue that the visual impact of the proposed turbines would not unacceptably harm the living conditions of local residents and that, subject to a condition as described, noise from the windfarm would not cause unacceptable harm to living conditions.

54. Whilst the amenities of people working in the area might be a consideration, I heard no evidence that suggested to me that any adverse impacts in this regard would be of such magnitude or affecting so many people that the scheme should be rejected on that basis. I conclude that the scheme would not conflict with those aspects of saved Local Plan policy A4 relating to the general amenities of people living or working in the area.

Landscape impact

55. Where there is a line of sight, large wind turbines are visible over great distances and are bound to have some impact on the landscape. The extent to which that impact might be considered to be harmful will differ from person to person and will also depend on the observer's exposure to the windfarm. Thus a person in a fixed, nearby position, able to see the turbines at any time would be more sensitive to their presence than a person in a car travelling at speed through the area. Nevertheless, there is an element of subjectivity in any assessment of the landscape impact of a proposed windfarm and there will be a spectrum of opinions ranging from those who find them offensive to those who consider them to be objects of beauty.

56. As I have already noted, the DECC Public Attitudes Tracking Survey demonstrates strong public support for onshore wind farms generally. In the

Statement of Community Involvement regarding the appeal scheme specifically, the appellants record that a consultation postcard was sent out to over 3000 properties within a 5km radius of the proposed windfarm. A large majority did not respond but of 241 responses to the question "Do you support Gayton-le-Marsh Windfarm?" 58.51% were supportive. That was an exercise undertaken in respect of a larger scheme for 14 turbines.

57. I acknowledge that the application for the appeal proposal attracted far more objections than expressions of support. However, the survey results suggest that there is a large majority of people who are at least ambivalent towards the scheme.

58. Landscape practitioners have developed a methodology for assessing the impact of wind farms in order to bring some objectivity into the equation. A landscape assessment considers the character of the receiving landscape, its sensitivity to change and the sensitivity of people observing the turbines according to factors such as their position and proximity to them. The landscape assessments carried out on behalf of the Council and NOWAG led to the conclusions that the scheme would have an unacceptably harmful impact on the landscape whereas the assessment carried out on behalf of the appellant concluded that the impact would be within the bounds of acceptability. The landscape practitioners responsible for the assessments accepted that the contrary conclusions of their counterparts were nevertheless within the range of reasonable professional judgement.

59. The receiving landscape is one of flat, low-lying agricultural land created by the draining of the coastal marshes. To the east, a line of dunes allows few views of the sea and views to the west are eventually curtailed by the higher ground of the Lincolnshire Wolds, which is a designated Area of Outstanding Natural Beauty. There is a locally designated Area of Great Landscape Value about 7km to the north of the site, and there is a Coastal Conservation Area about 4km away. The most prominent wind energy developments in the area are the windfarms at Conisholme and Mablethorpe (Bambers Farm). Conisholme is about 7km NW from the appeal site and Mablethorpe is about 5km SE. There are others, including large offshore arrays much further to the SE, but these two are the closest. The appeal scheme would lie roughly midway between the two and, in some views, all three windfarms would be visible, albeit that at least one of them would always be seen at a considerable distance. Nevertheless, simply because they would be visible does not make the appeal scheme unacceptable. The flat terrain and huge skies has enabled the existing windfarms to be successfully absorbed into the landscape for the most part. I accept that there would be some particular views where the turbines would be more intrusive, such as the view from the coastal dunes at Rimac or the nearby views of the turbines from Two Mile Bank. Nevertheless, despite the height and spread of the turbines, they would be dwarfed by the landscape and in longer range views, they would appear as relatively small components of the overall view. The extent to which the turbines are visible at all also changes according to the weather, to the natural lighting conditions and to the location of any intervening vegetation, buildings or other features that might obscure views of the turbines.

60. I accept that any landscape could eventually become so cluttered with wind turbine developments that its character would have changed from one where wind turbines could be seen within it to one where obvious views of wind

turbines become unavoidable. However, even with the appeal scheme in it, I do not think that the character of this landscape would change to the extent that such a situation would arise.

61. Although the appeal site is not in the AONB, and therefore does not directly affect it, it is visible from various points in the AONB as part of the extensive views looking towards the sea which are available from the Wolds. These extensive views are listed as one of the special characteristics of the AONB. Opponents of the scheme are concerned that such views will be spoiled by the presence of the appeal scheme, both on its own and in conjunction with other wind turbines that are visible from these elevated vantage points.

62. I was taken to several of these vantage points and, because of the excellent conditions, I was able to appreciate these views at probably their most extensive. I could see all of the things that people had spoken about at the inquiry, from ships heading for the Humber to offshore wind farms 30 to 40 km away. Vertical structures, such as the windfarms at Mablethorpe and Conisholme, various church towers and even the tower at Manby were clearly visible in this vast landscape.

63. The views from the Wolds will inevitably have changed a lot over the years. I would think that farming practices involving the combination of fields to make them suitable for modern agricultural machinery would have made a noticeable change, as might changes in the crops grown (e.g. fields of oil seed rape), although it was the wrong time of year for me to see that. Wind farms, caravan parks, industrial buildings and such like will also have left their mark. Nevertheless, the constant factor is that this is a view over a predominantly rural landscape and it would take a huge amount of development to change that. It is the simple availability of these extensive views that is a special characteristic of the AONB. The things within the view do not necessarily spoil the observer's enjoyment of it and at these great viewing distances, structures become absorbed into the backcloth of the rural scene. Vertical structures in particular become landmarks which enable the observer to explore the local context of what they can see. I believe that I would not have enjoyed the view as much if I had not been able to get my bearings by seeing things such as the tower at Manby, which is hardly an architectural gem, or the various wind farms – especially the offshore ones which I am sure would be invisible except on the clearest of days. In short, the main, and most enjoyable characteristic of the views from the AONB is the fact that one can see for miles, and that is what makes them special. The scheme would not change that.

64. The proposed wind turbines are machines which might eventually wear out, become obsolete or uneconomical to maintain and it is therefore appropriate to limit the duration of any planning permission to a 25 year period, after which the wind farm would be decommissioned and the site returned to its former appearance. That being so, there would be no long-term landscape impact anyway. I accept that 25 years is a generation and for many people, that would mean that they would not live to see the turbines removed, especially if further permissions were to be granted after the 25 years had expired. That would be a matter for future generations of decision-makers, but the fact that the wind farm would potentially be removed after 25 years leaving no apparent change to the landscape is an important consideration.

65. To conclude on the issue of landscape impact, I accept that the scheme would have an impact which most people would regard as negative. From nearby

vantage points, such as Two Mile Bank, that would be a pronounced impact. However, the landscape character is one that can absorb some development of this scale. The existing windfarms at Mablethorpe and Conisholme have been successfully absorbed into the landscape and there is capacity for the turbines of the appeal scheme to be absorbed too, despite being taller to the blade tips. The distant views of the scheme from the AONB would not be harmful to the distinctive character of the AONB and the scheme would not conflict with saved Local Plan policy C11 in this respect. Cumulative views of the scheme in conjunction with the existing wind farms at Conisholme and Mablethorpe in particular would not create a wind farm landscape, but would retain the existing character of a landscape with wind farms in it. A conclusion that the landscape impacts of the scheme would not be unacceptable is within the scope of reasonable judgement by a landscape professional. I conclude that significant harm, sufficient to override the presumption in favour of this scheme for sustainable development, has not been demonstrated. This is a material consideration of sufficient weight to indicate that the scheme can be permitted despite its conflict with saved Local Plan policies A4 and A5.

Other matters

Gayton-le-Marsh Grange

66. Gayton-le-Marsh Grange (the Grange) is an unoccupied and derelict house in the same ownership as the site for the proposed windfarm. It is located much closer to the nearest proposed turbine than any other dwelling and, if it were to be occupied, its residents would be likely to experience unacceptable noise levels from the windfarm. The appellants have an option to purchase the Grange and the option is to be exercised in the event that a satisfactory planning permission is granted for the windfarm. Despite the Council's concerns about the use of the word "satisfactory" in this context, I would say that implementation of a planning permission would be an acknowledgement of its acceptability.

67. The parties asked me to consider whether the Grange could be lawfully occupied as a dwelling. In the absence of an application for a Certificate of Lawfulness (LDC) under s192 of the Act, I cannot make a legally binding determination on this matter, but I can give an indication based on the information I have been given and from my inspection of the property.

68. The facts are that the Grange has not been occupied for well over 20 years. There are large deposits of chicken manure stored in very close proximity to the building and access to it is via a rough track. Its former garden is very overgrown with some substantial trees or bushes very close to the building. It is derelict, with no windows or doors. The roof has been replaced at some time in the past with asbestos-cement sheeting. There is a gaping hole in the front elevation and there are no internal floors or staircase. Various outbuildings around it have collapsed and various parts of the building, particularly a chimney stack, are in danger of imminent collapse with the probability that the falling brickwork would cause further extensive damage to the building. The owner has entered into the Option Agreement with the appellants, the outcome of which would make the Grange subject to a condition of approval of the wind farm that would prevent the building from being occupied as a dwelling.

69. In my view, the building meets all the established tests that would indicate that the residential use has been abandoned. The storage of chicken manure

around the building (within what would probably be regarded as its curtilage) demonstrates a use for non-residential purposes. The replacement of the roof with asbestos sheeting is also a clue that it has been used for non-residential purposes. The long period since it was last occupied and the owner's entering into the Option Agreement are persuasive evidence of abandonment of the residential use with no intention ever to occupy the property as a residence. The parlous state of the building and the lack of any of the facilities necessary to enable it to be occupied as a dwelling are also persuasive evidence of abandonment whilst the appalling stench from the piles of chicken manure render the building uninhabitable even by someone camping out in it. In my opinion, this is not a marginal case – the residential use of the building has been clearly abandoned. However, in the absence of an application for a LDC, I cannot make a determination to that effect and a condition preventing its use as a dwelling is therefore necessary. I have amended the suggested condition so that it cannot be taken to imply that the residential use of the Grange would otherwise be lawful and so that it takes effect upon commencement of the development hereby permitted.

70. The proposed wind farm would be visible from very close quarters from Two Mile Bank and at various distances from other footpaths and bridleways including the Silver Lincs Way long-distance walking route. Whether the presence of the turbines would detract from people's enjoyment of using these routes is likely to be dependent on the individual's attitudes to such things. Some people hate them, whereas others find them interesting or even mesmerising and calming. I was presented with no evidence of substance that would indicate that any impact on users of such routes would be so severe that the scheme could not be permitted.

71. I do not know enough about horses to determine the extent to which they might be spooked by the turbines. It seems to me though, that as horses have been trained in the past to work alongside vehicles and machinery, in railway yards, in traffic and even in battlefields, concerns about the spooking of horses may be over-stated and, without good evidence, can be given little weight.

72. There are a number of unlicensed airfields in the area and concerns about the effect of the proposed wind farm were addressed at the application stage by reference to the relevant laws relating to the flying of aircraft. The turbines would become part of the aviation landscape, marked on charts and it would be illegal for anyone to fly within 500 feet in any direction of the turbines. The possibility of light aircraft being affected by turbulence from wind farms is the subject of ongoing studies. To date, despite the proliferation of wind turbines, there have been no recorded incidents or accidents involving wind turbine turbulence.

73. There is no evidence that suggests that the presence of wind turbines has any adverse effects on tourism.

74. I have considered these and all other matters, including the effect of the scheme on the Coastal Grazing Marshes Project which includes land adjoining the appeal site, but none is sufficient to alter my conclusion in this appeal.

Conditions

75. The majority of the conditions which are necessary for the scheme to proceed are agreed between the parties. The decommissioning of the wind farm was

originally intended to be the subject of a S106 Agreement, but this has not materialised. I am satisfied that conditions can be imposed to cover this point, as has been the case for many other wind farm schemes elsewhere in the country.

76. I am satisfied that the agreed conditions are reasonable and necessary to ensure that the proposed development is constructed, operated and subsequently removed in a manner which minimises any disruption during the construction and decommissioning stages and that any damage caused by moving components and materials to the site is rectified; that any potential adverse impacts on ecology and archaeology are properly assessed, managed and mitigated; that arrangements are in place to minimise or eliminate any potential adverse impacts such as television interference or shadow flicker and that appropriate aviation lighting is in place. Detailed conditions relating to noise are needed to protect residential amenity and conditions are needed to give the local planning authority the opportunity to consider matters not fully specified in the scheme that might affect the appearance of the development. A condition is necessary to ensure compliance with the measures indicated in the Flood Risk Assessment submitted as part of the scheme. A condition relating to micrositing would enable any of the turbines to be constructed in a slightly moved position in the event that adverse ground conditions prevent its erection in the precise location approved. I do not consider that the Council's suggested condition regarding the monitoring birds on a developing flight line between the Manby Flashes and the Coast is necessary or reasonably related to the proposed development and I shall not impose it. I agree with NOWAG that the proposed 7am weekday start time for work on site is unduly early and likely to generate activity before that time as workers arrive for work. The 30 minute later start time suggested by NOWAG is a reasonable compromise. I do not consider the proposed 7pm finishing time to be unduly late, even allowing for the activity caused by workers leaving the site immediately afterwards.

Summary and conclusions

77. This scheme for eight large wind turbines was the subject of a very detailed Environmental Appraisal which considered the potential impacts of the scheme on a wide range of interests. Local residents living nearest to the site are understandably concerned about the impact that the wind farm might have on them and their ability to enjoy their homes and gardens, especially with regard to views of the turbines from their homes and to the noise that they might experience. However, by reference to numerous wind farm decisions, the appellants were able to show that it has never been found in England that a turbine, (including some larger than proposed here) 800 metres or more from a residential property would have a visual impact so harmful to living conditions that permission should be refused. This scheme sites no turbine any closer to residential property (with the exception of the landowner's property) than 800 metres. There are no circumstances about this scheme or its relationship to nearby residential properties to suggest that a greater separation distance than anywhere else is necessary.

78. With regard to noise, the scheme was assessed in accordance with ETSU-97-R and found to be compliant. No technical noise evidence was produced to suggest otherwise. The potential adverse effects of the scheme on the living conditions of nearby residents have not been demonstrated to be any greater

than those of other wind farm schemes that have been permitted throughout England, which leads me to the conclusion that, in this regard at least, the scheme is acceptable.

79. It is common ground between the local planning authority and the appellant that, of all the remaining possible impacts of the scheme, only the impact on the landscape is in dispute – everything else is either acceptable or can be made acceptable through conditions.

80. The starting point for decision-making is the Development Plan which comprises the saved policies of the East Lindsey District Local Plan and the East Midlands Regional Plan. The Local Plan is of considerable age and there are no saved policies relating to wind energy development. Any commercial wind farm would fall foul of the saved policies relating to landscape protection and I have found that this scheme would therefore conflict with the relevant saved policies. However, the Local Plan does not provide a realistic context for considering wind farm schemes and is therefore out of date. The Regional Plan contains policies supporting renewable energy schemes whilst also aiming to protect the landscape and is consistent with the NPPF. The Regional Plan's 2020 target for installed renewable capacity over all technologies is currently way off being met and the Faber-Maunsell report and partial review of the Regional Spatial Strategy (RSS) found that the onshore wind element of the regional target had been set too low. Had the RSS been reviewed, onshore wind was expected to provide the majority of the updated capacity.

81. I have found that the scheme represents sustainable development and there is therefore a presumption in favour of granting planning permission in accordance with the National Planning Policy Framework. The very recent UK Energy Roadmap Update illustrates the tough challenges of meeting the 2020 RE targets and reaffirms the Government's support for onshore wind. Furthermore, the 2020 targets do not represent the end of the process and the campaign to tackle dangerous climate change by reducing greenhouse emissions will continue for decades beyond that. Whilst failure to make the 2020 targets would be a major setback, there would be no harm in exceeding the targets if possible – that would be a good thing.

82. The NPPF and the UK RE situation does not suggest that all RE schemes should be permitted regardless of their impact. However, it is clear to me that they should be permitted unless they would cause significant and demonstrable harm. Such an approach would reconcile the Regional Plan's aims to protect the landscape whilst supporting RE schemes. The measure of what might be regarded as significant and demonstrable must have regard to the size of the challenge ahead to ensure that sufficient schemes are permitted. In other words, the bar of acceptability must not be set so high that too few schemes could be permitted, nor so low that the harm caused by, for example the proliferation of onshore wind farms, would be unbearable.

83. The appeal scheme would be inserted into a receiving landscape that already has two commercial scale wind farms in fairly close proximity to the appeal site. The characteristic vast, flat landscape under huge skies has enabled those developments to be absorbed into it without causing undue harm, albeit that they would be regarded by most people to have had a negative or harmful impact on the character and appearance of the area. On its own, there is no reason to suppose that the appeal scheme would not similarly be absorbed into the landscape although it too would have a negative impact. Nevertheless,

each successive scheme would begin to fill the landscape such that its ability to absorb further harmful development would be diminished and the cumulative impact of the scheme is therefore an important consideration. Landscape impact analyses undertaken by professionals in that field show that it is within the bounds of professional judgement to conclude either way – that is that the appeal scheme would have an unacceptable impact or that the landscape has the capacity to absorb it.

84. Because of the urgent need for more installed RE to meet the 2020 targets, the bar of acceptability must be set low enough for sufficient schemes to be permitted. Onshore wind energy schemes in particular utilise a reliable and mature technology, can be deployed economically and use a plentiful resource. Many other possible sources of RE are expensive, at an infant stage of development or cannot be implemented quickly. I doubt that, in the short term at least, alternative technologies for renewable electricity generation will mature to the level that would be necessary to make wind energy unattractive as part of the overall mix. It is therefore my overall conclusion that, under these circumstances, the additional harm to the local landscape which would arise from the appeal scheme would be within the bounds of acceptability, especially bearing in mind that after 25 years, the wind farm would be decommissioned and there would be no lasting landscape impact. I conclude that the scheme is in accordance with the Regional Plan and its conflict with Local Plan policies is outweighed by other considerations. In accordance with the presumption in favour of sustainable development contained in the NPPF, I conclude that planning permission should be granted.

David C Pinner

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Richard Wald	Of Counsel, instructed by Stuart Tym, Principal Solicitor, ELDC
He called	
Phillip Russell-Vick DipLA CMLI	Director of Enplan – landscape, planning and environmental consultants
David Loveday BSc(Hons) MRTPI	Interim Planning Officer, ELDC

FOR THE APPELLANT:

David Hardy	Of Counsel. Partner in Eversheds LLP, Leeds
He called	
Colin Goodrum BSc(Hons) DipLA, CMLI	Senior partner in LDA Design
Andrew Bullmore BSc(Hons) PhD MIOA	Director, Hoare Lea Acoustics
David Bell BSc(Hons) DipUD MRTPI MCIHT	Director of Planning and Development, Jones Lang Lasalle

FOR NOWAG:

Geoffrey Sinclair	Senior Partner, Environmental Information Services
He called	
Thomas Heys	Chairman of NOWAG (and local resident)
Himself	
Hilary Ludlow BSc(Hons) MSc CLA IEEM	Independent Consultant – Landscape and Ecology.

INTERESTED PERSONS:

Cheryl Warwick	Chairman of Saltfleetby Parish Council.
Peter Bowman	Local resident, Saltfleetby
Thomas Heys	Local resident (and Chairman of NOWAG)
Linda Walker	Local resident, Great Carlton, Louth, LN11 8JS
Cllr. Sandra Harrison	ELDC Ward Member.
Paul Robinson	Local resident, Theddlethorpe
Annemarie Gosse	Local resident, Castle Carlton
Elizabeth Burney-Jones	Local resident, Manby
Edward Lingard	Local resident, Theddlethorpe
Michael Hawes	Local resident, Thacker Bank
Jennifer Kidner	Local resident, Thacker Bank
Jean Ostrom	Local resident, Theddlethorpe
Christina Belton	Local resident, Yarburgh
Jill Lingard	Local resident, Grainthorpe
Andy Hawken	Local resident, Theddlethorpe
Biff Vernon	Local resident, North Somercotes
Greg Roberts	Local resident
Andrew Maclaren	Local resident, Yarburgh

Tom Mountain	Local resident, Great Carlton
Cllr. Colin Davie	Lincolnshire County Council

DOCUMENTS SUBMITTED AT THE INQUIRY

1 List of those present at the inquiry
2 Council's letter of notification of the appeal and list of those notified
3 List - Local wind farm situation as of 16 January 2013
4 List - East Midlands Onshore Wind Farm Developments
5 Silver Lincs Way leaflet
6 Planning Inspectorate Good Practice Advice Note 08 – England
7 Judgement [2013] EWHC 3 (Admin)
8 Judgement [2013] EWHCV 11 (Admin)
9 Extract from JPL 1986 pp 276-279
10 Option agreement between appellant and landowner regarding Gayton-le-Marsh Grange
11 Deed of variation to the option agreement
12 Mr Sinclair - Visual Receptor Significance added to table at 4.9.5 of his proof
13 Mr Sinclair – Conventional significance assessment for comparison with page 40 of his proof
14 Bundle of statements read out by third parties who appeared at the inquiry
15 Statement of Cllr. Hugo Marfleet (Had intended to speak but could not attend)
16 Bundle of 12 objection letters handed in at the inquiry
17 Bundle of 6 letters of support handed in at the inquiry

ANNEX A – CONDITIONS OF APPROVAL

Time Limits and Site Restoration

1) The development hereby permitted shall be commenced before the expiration of three years from the date of this permission. Written confirmation of the commencement of development shall be provided to the Local Planning Authority no later than 14 days after the event.

2) This permission shall expire, and 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.

3) Not later than 12 months before the date of expiry of this permission, a decommissioning and site restoration scheme shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for the removal of the wind turbines and associated above ground infrastructure approved under this permission and for the removal of the turbine foundation to a depth of at least 1 metre below the ground. The scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period, location of material laydown areas, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats and details of site restoration measures. The approved scheme shall be fully implemented within 18 months of the expiry of this permission.

4) If any wind turbine generator hereby permitted ceases to export electricity to the grid for a continuous period of 12 months, unless otherwise agreed in writing with the Local Planning Authority, then a scheme shall be submitted to the Local Planning Authority for its written approval within 3 months of the end of that 12 month period for the repair or removal of that turbine. The scheme shall include either a programme of remedial works where repairs to the relevant turbine are required, or a programme for removal of the relevant turbine and associated above ground works approved under this permission and the removal of the turbine foundation to a depth of at least 1 metre below ground and for site restoration measures following the removal of the relevant turbine. The scheme shall thereafter be implemented in accordance with the approved details and timetable.

Construction Transport Management Plan and Construction Method Statement

5) No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Traffic Management Plan shall include proposals for the routing of construction traffic; scheduling and timing of movements; the management of junctions to and crossings of the public highway and other public rights of way; details of escorts for abnormal loads; temporary warning signs; temporary removal and replacement of highway infrastructure/street furniture, reinstatement of any signs, verges or other items displaced by construction traffic; works required to enable large vehicles to manoeuvre around any corner; works required to protect dykes along the route and

banksman/escort details. The approved Construction Traffic Management Plan including any agreed improvements or works to accommodate construction traffic where required along the route, shall be carried out as approved in writing by the Local Planning Authority.

6) No development shall commence on site until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall be adhered to throughout the construction and post-construction restoration period, subject to any variations approved in writing by the Local Planning Authority. The construction method statement shall include:

a) details of the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;

b) details of the proposed storage of materials and disposal of surplus materials;

c) the survey of the public highway before and after construction between the site entrance and the A16, including the B1200 and the C568, in terms of its condition along with details and a timetable for dealing with any repairs that might be necessary as a result of comparing the before survey with the after survey;

d) a scheme for dust management;

e) a Pollution Prevention Plan; to include details of measures to protect the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;

f) details of any temporary site illumination during the construction period including proposed lighting levels together with the specification of any lighting, including methods to prevent light pollution;

g) details of the phasing of construction works;

h) details of surface treatments and the construction of all hard surfaces and tracks;

i) details of emergency procedures and pollution response plans;

j) details of wheel washing facilities, including their location;

k) details of measures for cleaning of site entrances, site tracks and the adjacent public highway and for 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;

l) a site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats;

m) details of areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;

n) details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound; and

o) details of working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities.

Construction Hours

7) Construction work shall only take place between the hours of 0730 – 1900 hours Monday to Friday inclusive and 0800 – 1300 hours on Saturdays with no such work on a Sunday or Public Holiday. Exceptions for work outside these hours may be carried out with the prior written approval of the Local Planning Authority. Wind turbine erection works delayed due to the weather, and

emergency works, may be carried out at any time provided that the operator retrospectively notifies the Local Planning Authority in writing of the emergency and works undertaken within 24 hours;

8) 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 0730 – 1900 on Monday to Friday inclusive, 0800 to 1300 on Saturdays with no such deliveries on a Sunday or Public Holiday.

Highways

9) No development shall commence on site until details of the proposed access from Thacker Bank into the site have been submitted to and approved in writing by the Local Planning Authority. The works to construct the access must be carried out in accordance with the approved details and the access must thereafter be maintained for the lifetime of the wind farm and its decommissioning.

Appearance

10) There shall be three blades on each wind turbine and the turbine blades shall all rotate in the same direction. The overall height of the wind turbines shall not exceed 115m to the tip of the blades, (with each turbine having a hub height of between 60m and 70m) when the turbine has one of its blades in the vertical position, all as measured from natural ground level immediately adjacent to the turbine base. Details of the exact turbine model erected on site must be submitted to the Local Planning Authority no later than 14 days after the erection of the first turbine.

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

12) Prior to commencement of the construction of the electricity substation, details of the design and the external appearance, dimensions and materials for the building (which must be based on the details shown on figure 4.14 Revision 001 and the Flood Risk Assessment produced by JBA Consulting, Final Report v3 dated October 2011) 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;

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

Ecology

14) No development shall commence on site until an Ecological Mitigation Scheme has been submitted for the written approval of the Local Planning

Authority. The scheme shall include a programme for and the provision of 10Ha of uncultivated rotational over-wintered cereal stubble, 0.75Ha of coarse grassland (of minimum 6m width) along the field margins, 1,500m of new, species-rich hedgerow planting, 1.49Ha of marshy grassland, 12 bat boxes and 20 bird boxes (10 single-hole and 10 open-fronted) on the land shown edged blue on Figure 1.2 Revision RH (save for the land edged blue which is marked "Gayton-le-Marsh Grange"). The scheme shall be implemented as approved in writing by the Local Planning Authority

15) There shall be a 50 metre buffer around all ecological features within the site, such as trees, hedges and dykes, into which no part of the turbines hereby approved shall intrude;

16) No development shall commence on site until such time as a pre-construction survey in relation to the presence of water voles has been undertaken. The survey results and a programme of any mitigation measures identified as being required, including a timetable for their implementation, shall be submitted to and approved in writing by the Local Planning Authority prior to any works associated with the development taking place. The same requirement for the commissioning of a survey and the identification and approval of any mitigation measures required as a consequence, together with a programme for their implementation, shall apply prior to any works associated with the decommissioning of the development taking place. In each case, the programme of mitigation measures (if required) shall be implemented as approved.

Shadow Flicker

17) Prior to the construction of the final wind turbine, a written scheme shall be submitted to and approved in writing by the Local Planning Authority setting out a protocol for the assessment of shadow flicker in the event of any complaint to the Local Planning Authority from the owner or occupier of a dwelling (defined for the purposes of this condition as 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 permission. The written scheme shall include remedial measures to alleviate any shadow flicker attributable to the development. Operation of the turbines shall take place in accordance with the approved scheme unless the Local Planning Authority gives its prior written consent to any variations

Television Interference

18) Prior to the first export date, a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to terrestrial television caused by the operation of the wind turbines shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a lawfully occupied dwelling (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. Where impairment is determined by the qualified television engineer to be attributable to the development, mitigation works shall be carried out in accordance with the scheme which has been approved in writing by the Local Planning Authority.

Aviation Safeguarding

19) Prior to the erection of the first wind turbine, a scheme for the installation of Ministry of Defence accredited infra-red lighting to be installed on the turbines (in a location to be approved) shall be submitted to and approved in writing by the Local Planning Authority. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the lifetime of the development.

Archaeology

20) No development shall commence on site until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. This scheme shall include: (i) an assessment of significance and proposed mitigation strategy; (ii) a methodology and timetable of site investigation and recording; (iii) provision for site analysis; (iv) provision for publication and dissemination of analysis and records; (v) provision for archive deposition; and (vi) nomination of a competent person/organisation to undertake the work. The scheme of archaeological investigation shall be undertaken in accordance with the approved details and 14 days notice of the commencement of any of the works detailed in the written scheme of archaeological investigation shall be given to the Local Planning Authority in order to facilitate adequate monitoring arrangements. A report of the archaeologist's findings shall be submitted to the Local Planning Authority in duplicate within three months of the erection of the first turbine.

Micrositing

21) The turbines hereby permitted shall be erected at the following grid co-ordinates:

T1	544313	387500
T2	544681	387481
T3	543887	387349
T4	543484	387051
T5	544100	387080
T6	544818	387050
T7	543669	386783
T8	544409	386775

22) Notwithstanding the terms of condition 21, the wind turbines and associated crane pads, may be micro-sited within 25 metres, (subject to the restriction in condition 15 and in no case shall any turbine be micro-sited any closer to Two Mile Bank) and the access tracks may be micro-sited within 15 metres of the positions shown on Figure 4.5 of Volume 3 of the Environmental Statement, subject to the prior written approval of the Local Planning Authority.

Flood Prevention

23) The development hereby approved shall be carried out in full accordance with the Flood Risk Assessment produced by JBA Consulting, Final Report v3 dated October 2011. In particular, the finished floor levels of the electricity substation shall be set no lower than 2.85m above Ordnance Datum. The completion of the works to construct the electricity substation shall be notified to the Local Planning Authority within 28 days of the event.

Gayton-le-Marsh Grange

24) Without prejudice to any determination as to whether the use of the property known as Gayton-le-Marsh Grange (which is marked and edged blue on Figure 1.2 Revision RH) would be lawful, the property shall not be occupied as a dwelling (defined for the purposes of this condition as a building within Use Class C3 or C4 of the Use Classes Order) from the date of commencement of the development hereby permitted.

Operational Noise

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

(A) Prior to the First Export Date, the wind farm operator shall submit to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.

(B) Within 21 days from receipt of a written request of the Local Planning Authority, following a reasonable complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Local Planning Authority made under this paragraph (B), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the Local Planning Authority in the format set out in Guidance Note 1(e).

(C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Local Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting

from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.

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

(E) Prior to the submission of the independent consultant's assessment of the rating level of noise immissions pursuant to paragraph (F) of this condition, the wind farm operator shall submit to the Local Planning Authority for written approval a proposed assessment protocol setting out the following:

(i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions.

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

The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the local planning authority under paragraph (B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Local Planning Authority.

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

independent consultant's assessment of the rating level of noise immissions.

(G) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (F) above unless the time limit for the submission of the further assessment has been extended in writing by the Local Planning Authority.

(H) The wind farm operator shall continuously log nacelle wind speed, nacelle orientation, power generation and nacelle wind direction for each turbine in accordance with this permission, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the Local Planning Authority on its request within 14 days of receipt in writing of such a request.

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

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

Location (easting, northing grid coordinates)		Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
		1	2	3	4	5	6	7	8	9	10	11	12
		L_{A90} Decibel Levels											
Willow Farm	(543211, 387851)	38.0	38.0	38.0	38.0	38.0	38.0	40.9	44.2	47.4	50.4	53.0	55.1
Carlton Grange	(543957, 388135)	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	47.4	50.4	53.0	55.1
Applebank Cottage	(544036, 388253)	38.0	38.0	38.0	38.0	38.0	38.0	40.9	44.2	47.4	50.4	53.0	55.1
Thacker Bank	(545372, 388090)	35.0	35.0	35.0	35.0	35.0	37.8	41.8	46.4	51.0	55.0	57.9	59.1
Willrow Farm	(545519, 386421)	35.0	35.0	35.0	35.0	35.0	36.9	39.7	42.7	45.7	48.4	49.8	49.8
Slates Farm	(544633, 385928)	38.0	38.0	38.0	38.0	38.0	38.0	38.0	39.0	41.8	44.1	44.9	44.9
Pyewipe Farm	(543873, 384993)	35.0	35.0	35.0	35.0	37.1	40.8	44.1	47.0	49.3	51.5	54.4	55.3
Walk Farm	(542441, 386483)	35.0	35.0	35.0	35.0	35.0	35.4	38.4	41.6	44.6	47.2	49.0	49.7

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

Location (easting, northing grid coordinates)		Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
		1	2	3	4	5	6	7	8	9	10	11	12
		L_{A90} Decibel Levels											
Willow Farm	(543211, 387851)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.4	46.9	48.9	48.9	48.9
Carlton Grange	(543957, 388135)	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	46.9	48.9	48.9	48.9
Applebank Cottage	(544036, 388253)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.4	46.9	48.9	48.9	48.9
Thacker Bank	(545372, 388090)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.3	50.4	54.5	57.1	57.1
Willrow Farm	(545519, 386421)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.5	48.5	49.9	49.9
Slates Farm	(544633, 385928)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Pyewipe Farm	(543873, 384993)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	46.7	49.4	50.9	51.2	51.2
Walk Farm	(542441, 386483)	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	44.9	48.0	48.8	48.8

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

Guidance Notes for Noise Condition

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

Note 1

(a) Values of the $L_{A90,10\text{-minute}}$ noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting IEC 60945:2003 "Electroacoustics – sound calibrators" Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling and be not more than 35 metres from it. Measurements should be made in "free field" conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the 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), arithmetic mean wind direction in degrees from north and rainfall data in each successive 10-minute period by direct measurement at the permanent meteorological mast on the site. The mean wind speed shall be standardised to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with 2(b), such correlation to be undertaken in the manner described in Note 2(c). The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed (duly corrected for the presence of rotating blades), arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated during each successive 10-minute periods for each wind turbine on the site. 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.

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 at the meteorological mast.

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

Note 3

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

(b) For each 10-minute interval for which $L_{A90,10\text{-minute}}$ data have been determined as valid in accordance with Note 2, a tonal assessment

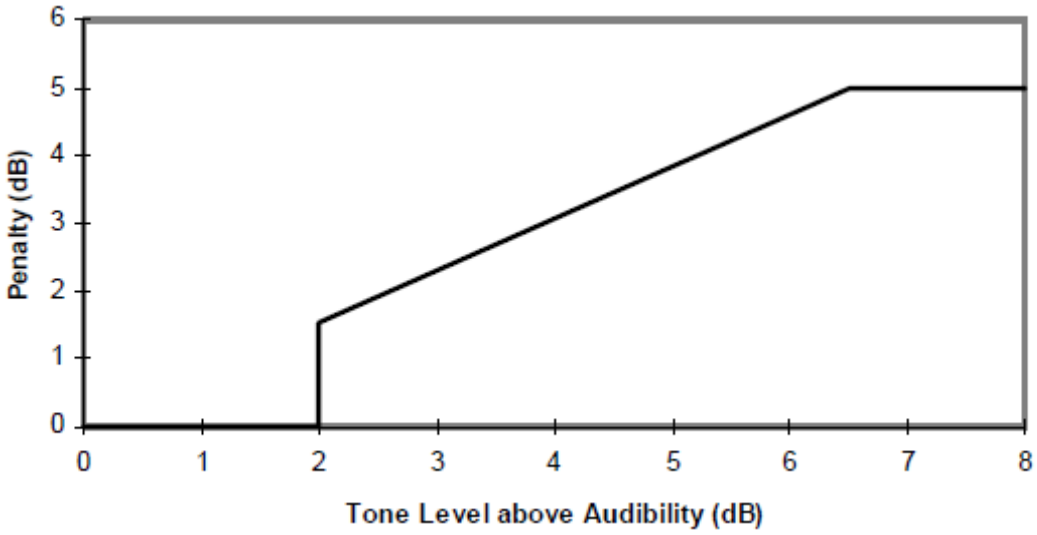
shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

(c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(e) A least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

(a) If a tonal penalty is to be applied in accordance with Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in

accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol under paragraph (E) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Note 2.

(c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (C) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (E) of this condition.

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

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

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

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