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Our Ref: APP/D0515/A/10/2138585

6 July 2011

Dear Ms Holmes,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)  
APPEAL BY ECOGEN LTD  
LAND SOUTH OF BOARDINGHOUSE FARM, KNIGHTS END ROAD, MARCH  
APPLICATION REFS: F/YR09/0562/F**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Jill C Kingaby BSc(Econ) MSc MRTPI, who carried out a site visit on 8 February 2011 and considered your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Fenland District Council to refuse planning permission for the erection of 5 wind turbines with a maximum hub height of 69m and a maximum overall height of 110m to blade tip, together with the associated infrastructure including a control and switchgear building, underground electrical and fibre optic cables, on-site access tracks and crane hard standings and watercourse crossings, in accordance with planning application ref: F/YR09/0562/F, dated 19 August 2009.
2. The appeal was recovered for the Secretary of State's determination on 16 December 2010, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves proposals of major significance for the delivery of the Government's climate change programme and energy policies.

**Inspector's recommendation and summary of the decision**

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be allowed and planning permission granted, subject to conditions. For the reasons given in this letter, the Secretary of State agrees with the Inspector's conclusions and with her recommendation. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

**Procedural matters**

4. In reaching this position the Secretary of State has taken into account the Environmental Statement and Addendum submitted under the Town and

Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, as set out at IR25. The Secretary of State is satisfied that the Environmental Statement and Addendum complies with the above regulations and that sufficient information has been provided for him to assess the environmental impacts of the appeal.

### **Policy Considerations**

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the East of England Plan: the Revision to the Regional Spatial Strategy (May 2008) (RS), saved policies from the Cambridge and Peterborough Structure Plan (October 2003) and saved policies from the Fenland District Wide Local Plan (1993). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out at IR9-10. The emerging Core Strategy is still at a relatively early stage of preparation (IR17), and the Secretary of State has given it limited weight.
6. The Secretary of State has made it clear, following the judgment of the Court on 10 November 2010 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and Winchester City Council* [2010] EWHC 2886 (Admin), that it is the Government's intention to revoke RSs, and the provisions of the Localism Bill which is now before Parliament reflect this intention. This gave rise to a subsequent decision of the Court on 7 February 2011 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government* [2011] EWHC 97 (Admin) which held that the Government's intention to legislate to revoke regional spatial strategies was capable of being a material consideration. However, while the Secretary of State has taken this matter into account in determining this case, he gives it limited weight at this stage of the parliamentary process.
7. Other material considerations which the Secretary of State has taken into account include PPS1: Delivering Sustainable Development, and its Supplement entitled Planning and Climate Change; PPS7: Sustainable Development in Rural Areas; PPS22: Renewable Energy and its Companion Guide; Circular 11/95: *Use of Conditions in Planning Permission*; Circular 05/2005: *Planning Obligations*; and the Community Infrastructure Levy (CIL) Regulations 2010; as well as the Wind Turbine Development Policy Guidance (WTG) adopted by the Council in June 2009 (IR12), and the climate change and renewable energy documents set out at IR17-20.
8. The Secretary of State has also taken account of the Written Ministerial Statement (WMS) of the Rt Hon Greg Clark MP, dated 23 March 2011, which emphasises that the Secretary of State will attach significant weight to the need to secure economic growth and employment.

### **Main Issues**

9. The Secretary of State agrees with the Inspector that the main issues are those set out in IR48.

### Landscape and visual amenity

10. For the reasons given at IR49-59, the Secretary of State agrees with the Inspector that the proposal would not have a harmful visual effect on the living conditions of local residents (IR54), and would not have a materially detrimental effect on the local landscape and visual amenity (IR59). He agrees that there would be no conflict with development plan or emerging development plan policies (IR58).

### Environmental and economic benefits

11. For the reasons given in IR60-61, the Secretary of State agrees with the Inspector's conclusions that the scheme's potential for wider environmental and economic benefits from the development of renewable energy should count in its favour.

### Conditions

12. The Secretary of State has considered the proposed conditions set out in the Schedule to the IR, the Inspector's comments at IR62-67, and the policy tests set out in Circular 11/95. He agrees with the Inspector's assessment, and considers that the conditions are reasonable and necessary and comply with the provisions of Circular 11/95.

### **Overall conclusion**

13. The appeal proposal does not give rise to any conflict with the development plan. The Secretary of State concludes that the scheme offers benefits in terms of the development of renewable energy, and that there are no material considerations which indicate that he should make a decision other than in accordance with the development plan.

### **Formal Decision**

14. Accordingly, for the reasons given above, the Secretary of State hereby allows your client's appeal and grants planning permission for the erection of 5 wind turbines with a maximum hub height of 69m and a maximum overall height of 110m to blade tip, together with the associated infrastructure including a control and switchgear building, underground electrical and fibre optic cables, on-site access tracks and crane hard standings and watercourse crossings, in accordance with planning application ref: F/YR09/0562/F, dated 19 August 2009, subject to the conditions set out in the Annex to this letter.
15. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

16. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
17. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

**Right to challenge the decision**

18. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
19. A copy of this letter has been sent to Fenland District Council and those who appeared at the Inquiry. A notification letter has been sent to other parties who asked to be informed of the decision.

Yours sincerely

**Maria Stasiak**  
Authorised by the Secretary of State  
to sign in that behalf

## **Annex: Schedule of Planning Conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following plans: Figures 4.2, 4.7/1, 4.7/2, 4.9; BDH0606-1/6 (REV1); BDH0609-1, 1/1,1/2, 1/3, 1/4, 1/5 (all Rev1).
- 3) This permission is for a period not exceeding 25 years from the date when electricity generated by the development is first exported to the regional electricity distribution grid. Notification of the date of this first export shall be given to the local planning authority in writing within seven days thereof.
- 4) Unless otherwise agreed in writing by the local planning authority, within 12 months of the cessation of electricity generation at the site (or the expiration of the permission whichever is the sooner), all parts of the development shall be dismantled down to 0.2metres below ground level and shall be removed from the site and the land restored in accordance with a scheme, which shall have the prior written approval of the local planning authority.
- 5) If any wind turbine hereby permitted fails to produce electricity for supply to the grid for a continuous period of 12 months then, unless otherwise agreed in writing by the local planning authority, the wind turbines shall be removed from the site within a period of 3 months from the end of the 12 month period and that part of the site restored in accordance with a scheme which shall have the prior written approval of the local planning authority.
- 6) No development shall take place until details of the foundation construction have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No development or preliminary groundworks shall take place until the Appellant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the Appellant and approved in writing by the local planning authority.
- 8) No development shall take place until a scheme of highway routeing for the delivery of wind turbine components has been submitted to the local planning authority and has been approved in writing. This scheme shall be implemented as approved.
- 9) No development shall take place until a condition survey of the highway along the proposed delivery route for the wind turbines has been submitted to the local planning authority and approved in writing. Any subsequent damage to this highway caused by delivery and construction traffic for this development shall be remedied by the developer at its expense, in accordance with a programme of works agreed in writing by the local planning authority.

- 10) No development shall take place until details of the design and external materials, including colour finishes of the turbines and all other buildings and structures have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, and the colour finishes, shall not be changed without the prior approval in writing of the local planning authority.
- 11) No development shall take place until details of the materials and form of construction of the access tracks have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 12) The temporary construction compounds shall be removed from the site within three months of the commissioning of the final turbine unless otherwise agreed in writing by the local planning authority.
- 13) Blades of all the wind turbines shall rotate in the same direction.
- 14) Details of any turbine lighting shall be submitted to and approved in writing by the local planning authority prior to its installation. Lighting shall be installed and operated in accordance with the approved details.
- 15) No development shall take place until a scheme for the routing of the underground cables has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 16) The wind turbines shall have a hub height not exceeding 69metres and a height to the blade tip not exceeding 110.5metres.
- 17) No development shall take place until a scheme detailing the protocol for the assessment of any complaints of shadow flicker resulting from the development, including remedial measures, has been submitted to the local planning authority and approved in writing. Operation of the turbines shall take place in accordance with the agreed protocol.
- 18) No development shall take place until a Construction Method Statement, including details of site construction, lighting, drainage and restoration/ reinstatement work has been submitted to the local planning authority and approved in writing. Thereafter, construction work shall be carried out in accordance with the approved Method Statement.
- 19) No development shall take place until the local planning authority has approved in writing a radar mitigation scheme ("Radar Mitigation Scheme"), designed to mitigate the impact of the development on the Primary Surveillance Radar at RAF Cottesmore and the air traffic control operations of the Ministry of Defence. The Radar Mitigation Scheme shall be implemented as approved, in accordance with timescales within it, and shall be retained while the Primary Surveillance Radar at RAF Cottesmore remains in operation. No turbines shall become operational unless and until all measures required by the Radar Mitigation Scheme have been implemented. Thereafter, the development shall be operated in accordance with all obligations contained in the Radar Mitigation Scheme.

20) The noise emission (LA90, 10 minutes) from the combined effects of all wind turbines, as measured in free field conditions at any dwelling (in existence at the date of the notice of this decision) shall not exceed:

- A daytime hours limit of 35 dBA L90 10min;
- A night time limit of 38 dBA L90 10min;
- Or 5dBA above the background noise level, as defined in the Environmental Statement for the quiet daytime and nighttime hours respectively, whichever is the greater.

The daytime hours are defined as 0700 hours to 2300 hours and the night time hours as 2300 to 0700 hours.

The noise levels as stated shall apply to noise measurements correlated with wind speeds measured on site up to 10m/s when the speed is measured at hub height and standardised to 10.0m height using a ground roughness factor of 0.05m as described in ETSU-R-97.

The noise emission values for the wind turbines shall include the addition of any tonal penalty as recommended in ETSU-R-97.

## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

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

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

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

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

#### **Challenges under Section 288 of the TCP Act**

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

### **SECTION 2: AWARDS OF COSTS**

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

### **SECTION 3: INSPECTION OF DOCUMENTS**

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



The Planning  
Inspectorate

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# Report to the Secretary of State for Communities and Local Government

by Jill C Kingaby BSc(Econ) MSc MRTPI

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

Date: 26 April 2011

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THE TOWN AND COUNTRY PLANNING ACT 1990

REPORT ON RECOVERED APPEAL

BY

ECOGEN LIMITED

AGAINST THE DECISION OF

FENLAND DISTRICT COUNCIL

Site visit made on 8 February 2011

Land South of Boardinghouse Farm, Knights End Road, March

File Ref(s): APP/D0515/A/10/2138585

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**File Ref: APP/D0515/A/10/2138585**

**Land South of Boardinghouse Farm, Knights End Road, March**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Ecogen Limited against the decision of Fenland District Council.
- The application Ref F/YR09/0562/F, dated 19 8 09, was refused by notice dated 15 4 10.
- The development proposed is the erection of five wind turbines with a maximum hub height of 69m and a maximum overall height of 110m to blade tip, together with the associated infrastructure including a control and switchgear building, underground electrical and fibre optic cables, on-site access tracks and crane hard standings and watercourse crossings.

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

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**Procedural Matters**

1. The proposal was refused by Fenland District Council for a single reason: *"The proposed scheme would have a detrimental impact upon the existing landscape and is therefore contrary to policy E1 of the adopted Local Plan."* The appeal was subsequently recovered for determination by the Secretary of State because it involves proposals of major significance for the delivery of the Government's climate change programme and energy policies.

**The Site and Surroundings**

2. The site occupies some 111 hectares of land about 4kms south-west of the settlement of March. The site is accessed from Knights End Road and lies south of Lodge Farm and Boardinghouse Farm. Ransonmoor wind farm comprising 5 turbines is located immediately south of the appeal site.
3. Beyond Ranson Moor to the south, are the villages of Wimblington, Doddington and Benwick. The land on and around the site is low-lying and very flat; and sub-divided into fields. The settlements to the south and east occupy an arc of slightly higher 'clay islands' which support more built development and trees than the fenland. The site is bounded and intersected by drains forming part of the Fenland Middle Level drainage system. The River Nene (Old Course), navigable and a recreational resource, runs some 2kms to the west and north of the appeal site.
4. Between the River and the above-mentioned villages are a number of dispersed farm houses and other buildings. These include, to the north, bungalows adjacent to Bradney Farm, Boardinghouse Farm and a cottage to the south of it, Botany Bay Farm and properties in the vicinity of the Auction Ground, Knight's End Road. To the west is Staffurth's Bridge with its marina and holiday park. Other properties are at Ransonmoor Grange and Ransonmoor Farm to the east, along Parson's Land Drove to the south-west and to the south in the vicinity of Washbrook and South View Farms. A large agricultural packaging and processing station is sited to the west on Flood's Ferry Road.
5. There are no national or local landscape designations across a defined 30km study area around the appeal site. Conservation Areas and listed buildings are found in some of the settlements in this area notably in Doddington and March. The site is not within any area designated for ecological protection at international, national or local level. The Nene Washes (Special Protection Area,

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Special Area of Conservation and Ramsar Site as well as Site of Special Scientific Interest) would be an estimated 7.68kms from the nearest turbine, and the Ouse Washes (also Special Protection Area, Special Area of Conservation and Ramsar Site and Site of Special Scientific Interest) would be about 10.65kms away.

6. In addition to Ransonmoor wind farm, there are four other groups of turbines within about 9kms. These are Glassmoor to the west, Red Tile (Tick Fen) to the south, Whitemoor to the north/ north-east and Stag's Holt and Coldham to the north-east. Proposed new wind farms also at the appeal stage include Flood's Ferry Farm and Burnthouse Farm to the north-west.

### **Planning Policy**

7. The development plan for the area currently consists of the East of England Plan: the Revision to the Regional Spatial Strategy (May 2008) (RSS), saved policies from the Cambridgeshire and Peterborough Structure Plan (October 2003) and saved policies from the Fenland District Wide Local Plan (1993).
8. The Coalition Government declared its intention to abolish RSS shortly after last year's General Election. Following a successful legal challenge by Cala Homes (South) Ltd, in November 2010 the Secretary of State's revocation decision of July 2010 was quashed and it was confirmed that the RSS continued to form part of the development plan. A second challenge was made by Cala Homes to the Secretary of State's statement and letter to Chief Planning Officers of 10 November 2010, which indicated that the proposed revocation of RSS was material to the determination of planning applications and appeals. This challenge failed so that the proposed abolition of the East of England Plan is a material consideration in this appeal. The weight to be given to it is a matter for the decision-maker.
9. Policy ENG2 of the RSS sets targets for renewable energy capacity. By 2010, 10% of the Region's energy and by 2020, 17% should have come/come from renewable sources, excluding energy from off-shore wind. Policy ENV2 calls on planning authorities to protect and enhance the diversity and local distinctiveness of the countryside character by developing area-wide strategies and landscape character assessments.
10. Neither the Structure Plan nor the Local Plan contain policies which specifically address renewable energy or windfarm development. Saved Policy E1 of the Local Plan, Conservation of the Rural Environment, was cited in the reason for refusal. It states that development likely to detract from the unique, open character of the Fenland landscape will not normally be permitted. New development for which a rural location is essential should be i) sited close to existing buildings or on a site which minimises its visual impact, ii) of a scale and design and use materials that can be assimilated into the rural landscape, and iii) adequately screened and landscaped. Saved Policy E8 requires new development to have regard for the amenities of surrounding properties among other things, and E20 resists any development which would give rise to unacceptable levels of noise, nuisance and other environmental pollution.
11. The emerging Core Strategy within the Local Development Framework (LDF) is still at a relatively early stage of preparation. Emerging Policy N5 supports renewable energy development in principle, providing that specific criteria are met. Emerging Policy N6 permits proposals for wind turbines with ancillary buildings and infrastructure except where defined adverse effects would occur.

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Because its policies could be changed substantially before adoption, the Core Strategy currently carries less weight than the development plan.

12. The Council commissioned the Landscape Partnership to undertake a wind turbine study in November 2007, to provide support for emerging policy in the LDF and to enable Planning Officers to make informed judgments in respect of the suitability of wind farm proposals. Following public consultation, the Wind Turbine Development Policy Guidance (WTG) was adopted and published in June 2009. It is not part of the development plan but represents a significant material consideration in this appeal. Its section 6 identifies a series of landscape and environmental criteria for application in all future wind turbine proposals at Scoping Opinion stage, during Environmental Impact Assessment and for review as part of the decision-making process.
13. The WTG references the established national guidance on Landscape Character Assessment in the Countryside Agency and Scottish National Heritage document "Landscape Character Assessment: Guidance for England and Scotland, 2002". The Topic Papers supporting this guidance draw attention to the importance of the value of the landscape when defining capacity to accommodate wind turbines.
14. The WTG considered the likely impact of turbine developments of varying sizes, categorising a group of 2-5 turbines with a typical height of 100-125m as a small scale group. In combination with the existing turbines at Ranson Moor, the proposal would constitute a small to medium scale group (5-10 turbines). Five Landscape Character Types within the District were identified in the WTG report, and the appeal site would occupy the "Drained Fenland" type. The sensitivity of landscape character types, having regard to scale and sense of enclosure, impact of landform, landcover and landcover change, settlement pattern and density, skyline, landmarks and built development, visibility from outside and connection with adjacent landscapes, remoteness and tranquillity, was assessed. Small to medium scale development in the drained fenland generally scored "low" and occasionally "moderate" in terms of sensitivity (Appendix 6 of the WTG).
15. The WTG went on to evaluate the visual impact of turbine development at different distances, describing the magnitude of impact as usually "dominant" within 400m, "prominent" at 400m-2kms, "conspicuous" from 2kms up to 5kms, and "apparent", "inconspicuous" or "negligible" at successive longer distances. Since Fenland District already contains wind turbine developments which affect the character of its landscapes, an assessment was made of the proportion of character types which were covered by different zones of visual impact. Table 9 of the WTG indicated that 16% of the Drained Fenland could be classified within the "prominent" zone and 57% in the "conspicuous" zone. Thresholds for capacity were then calculated which would allow for the sensitivity of different landscape character types but allow for suitable future turbine development. Thresholds for the Drained Fenland were given as 25% "prominent" and 75% "conspicuous", rising to 100% "apparent".
16. National planning policy relevant to the proposal is principally:
  - Planning Policy Statement 1: Delivering Sustainable Development, and its Supplement entitled Planning and Climate Change;
  - Planning Policy Statement 7: Sustainable Development in Rural Areas
  - Planning Policy Statement 22: Renewable Energy and its Companion Guide

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## Climate Change and Renewable Energy Documents

17. PPS22 advises that the Government's energy policy is set out in the Energy White Paper, 2003. This aims to put the UK on a path to cut its carbon dioxide emissions by some 60% by 2050, with real progress by 2020, and to maintain reliable and credible energy supplies. Government targets to generate 10% of UK electricity from renewable energy sources by 2010 and to double that figure by 2020 and to develop renewable energy further beyond that date are stated. Increased development of renewable energy resources is vital to facilitating the delivery of the Government's commitments on climate change as well as renewable energy.
18. Climate change is widely regarded as the most pressing environmental concern of this century. The Intergovernmental Panel on Climate Change (IPCC) established in 1988 published a fourth Assessment Report, Climate Change 2007: Synthesis Report. This concluded that warming of the climate system is unequivocal and that unmitigated climate change would, in the long term, be likely to exceed the capacity of natural, managed and human systems to adapt. Mitigation efforts and investments over the next two to three decades will have a large impact on reducing the vulnerability to the worst effects of climate change. The Stern Review: The Economics of Climate Change, 2006, also found the scientific evidence that climate change is a serious global threat overwhelming. Stern calculated from economic modelling that the overall costs and risks of climate change would be equivalent to losing at least 5% of global GDP each year now and forever (and they could rise to 20% of GDP or more). In contrast, the cost of action reducing greenhouse gas emissions to avoid the worst impacts of climate change could be limited to around 1% of global GDP each year.
19. International negotiations and agreements to combat climate change and introduce targets to limit greenhouse gas emissions have taken place since the late 1980s. The EU Renewable Energy Directive commits Member States to set national targets for consumption of energy from renewable sources in terms of the proportion of total electricity consumption. The UK's policy on renewables is guided by its commitments to international and European agreements and instruments. The Climate Change Act 2008 set clear and legally binding targets to reduce carbon dioxide emissions. By an Order in May 2009, the UK increased its commitment on carbon reductions from 20% by 2020 to 34% against 1990 levels. When the Coalition Government came to power in May 2010 it gave a commitment to reduce harmful emissions, increase targets for energy from renewable sources and secure energy supplies.
20. The National Renewable Energy Action Plan for the UK was published in July 2010 with a clear emphasis on promoting the development of renewable energy sources alongside nuclear power and the development of carbon capture and storage. This refers to *"the envisaged contribution from renewable electricity (to account for around 30% of total generation by 2020, compared with 6.6% in 2009)....Investment now in a broad range of renewable technologies, but predominantly onshore and offshore wind,.....meeting the 2020 renewable energy target requires a step change in the rate of progress and entails significant delivery risk, which should be addressed as a matter of urgency ... reduce the planning application period for new renewables projects and increase the planning approval rate."*

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## The Proposal

21. The five three-bladed horizontal axis turbines with dimensions as given in the description of development above, would have an installed capacity of 10 megawatts. Figure 2 of the Design and Access Statement shows the proposed layout of turbines, with other development, as follows:
  - Upgrade of existing and construction of additional site tracks and hard-standings;
  - Control and switchgear building;
  - Underground on-site cabling; and
  - Temporary construction compound and storage area.
22. According to the Design and Access Statement, geography and technology dictated the number and size of turbines which are proposed. Efficient generation requires minimum separation distances and turbines of specific size and height. The siting of individual turbines was considered in the context of neighbouring dwellings, the requirements of the Middle Level drainage system and the adjacent Ransonmoor wind farm. During the design stage, the number of turbines was reduced from six to five so as to avoid a harmful relationship to nearby properties, and the height was limited in order to harmonise with the existing Ransonmoor turbines. Fine adjustments to turbine positions were made to reduce the incidence of stacking, whereby turbines are seen behind each other from the key viewpoints.
23. During construction, turbine components, electrical equipment, stone for the site tracks, material for the foundations and construction plant would be transported along the public road network. Traffic would mostly approach the site from the north and the south along the A141 between Huntingdon and March, turning west along Knights End Road at the southern edge of March. The access routes are shown on Figure 3 of the Design and Access Statement. The construction stage is expected to take about 8-10 months during which the temporary compound would be erected on the site.
24. Following construction and commissioning, the wind farm would have an operational life of twenty years or more. The overall project lifespan including construction, commissioning and de-commissioning would be twenty five years. De-commissioning would involve the removal of turbines, transformers and all above ground infrastructure including the control building. Cabling would be removed from below ground as well as concrete foundations to at least 1.5m below ground. On-site tracks would be left if required by the landowner but otherwise removed and all areas reinstated to their original condition. Section 4 of the Environmental Statement provides a detailed description of the project.

## Other Agreed Facts

25. The Appellant undertook an environmental impact assessment in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, as amended in 2008. The subsequent Environmental Statement (ES), July 2009, was referenced in the officer's report to Planning Committee 7 April 2010. An Addendum with minor changes and additions was published in September 2009. The adequacy of the ES was reviewed by the Planning Inspectorate which was satisfied that it met the Regulations.

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## The Case for Fenland District Council

26. The Council's WTG has been prepared in accordance with PPS22 in order to aid the assessment of the landscape and visual effects, including cumulative effects, of wind farms. The WTG advises that, where proposals for new wind turbine development are within 10kms of existing turbine developments, cumulative visual impacts will need to be carefully considered as the combined and cumulative impact could result in conspicuous zones overlapping. The proposed wind farm would be in close proximity to the existing turbine group at Ranson Moor, and within 10kms of single turbines at Longhill Road and Anglian Water, March, as well as a wind farm at Glass Moor to the west. There is already a predominance of wind turbines in the locality and this proposal would exacerbate the position.
27. The fen landscape is quite rare and, with a number of wind farms already in place near to the appeal site, the proposal would be detrimental to it, contributing to wind farms becoming a defining characteristic of the local landscape. This would be contrary to Policy E1 of the Fenland Local Plan.
28. In addition, the proposal would have significant visual impacts on some individual properties within 2kms of the appeal site, notably on Knights End Road in the vicinity of Bradney Farm and on Parsons Land Drove. Longer range views would be experienced by the occupiers of a significant number of dwellings on the western edge of March, and in Wimblington and Doddington.

## The Case for Ecogen Limited

29. As confirmed by the first Cala Homes High Court decision, the East of England Plan is part of the development plan. That is the current situation even though Clause 89 of the Localism and Decentralism Bill provides for the abolition of RSS. Further, the targets specified in that plan remain a necessary milestone on the way to UK compliance with the legally binding obligation to generate 15% of all energy from renewables by 2020 and to de-carbonise electricity generation. Regardless of the status of the RSS, these needs remain.
30. The Council's planning officer recommended approving this scheme, after considering both landscape and residential amenity issues. The officer relied upon supplementary reports by The Landscape Partnership (TLP), which company had produced the Council's own adopted WTG. The planning officer reported that *"in landscape terms the addition of the Boardinghouse Farm turbines would not cause the capacity threshold of the Drained Fenland to be exceeded and would therefore be considered acceptable."* In visual amenity terms, the officer stated *"although a number of dwellings will have a view of the turbines there is no clear precedent for refusing the application on visual amenity grounds at the distances involved."* The committee's finding that the scheme would be contrary to Policy E1 of the Local Plan runs counter to the advice of the officer and the Council's own appointed landscape consultants. It is unsupported by any other evidence.
31. The TLP report concluded that the Boardinghouse wind farm proposal would satisfy all the criteria in the WTG save one. That was the visual impact on some isolated properties within 2kms, although this was not referenced in the Council's reason for refusal. Moreover, the WTG states that non-compliance with an individual criterion should not necessarily preclude turbine development. All environmental factors should be carefully evaluated and then balanced against

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- the requirements to contribute to regional and national targets for renewable energy generation and the benefits of reducing carbon consumption.
32. The Council refused the application on landscape and not on visual amenity grounds. TLP advised the Council in December 2009 that they had not visited the individual residential properties identified as likely to sustain the largest visual impacts. If refusal were to be recommended on visual impact/amenity grounds, TLP would wish to visit the properties in order to assess the full extent of the impact. A further assessment of Visual Effects on Residential Properties in March 2010 was reviewed by the TLP which concluded that *"while there are significant visual impacts arising from the proposal on a limited number of individual properties there is no clear precedent for refusing the application on visual amenity grounds alone at the distances involved."*
  33. The Council referred to the existing turbines at Ransonmoor but failed to acknowledge that the proposal had been designed to appear as an extension to that wind farm. The approach of grouping rather than dispersing turbines is encouraged in the WTG and approved in TLP's assessment of the current proposal (paragraphs 2.10-2.12, Review of Environmental Statement 2009). The Council considers the Glass Moor wind farm to be within the locality of the appeal site although it describes it as being 12kms away, which would put it outside the search zone of 10kms defined in the WTG. The advice to the Planning Committee based on the TLP report was that the cumulative effect of this proposal when considered in conjunction with existing installations would be acceptable. The later statement from the Council that the proposal would "exacerbate the position" was not supported by evidence.
  34. The TLP report on landscape impact considered the potential for cumulative landscape and visual effects arising in connection with applications for new wind farms at Flood's Ferry and Burnt House Farm. If these were permitted, the conclusion of the consultants was that the Boardinghouse proposal would be acceptable in cumulative terms. All the landscape professionals who have considered this proposal have found it to be acceptable on landscape and visual amenity grounds.
  35. Concerning ecology, the scheme was the subject of Appropriate Assessment under the Conservation (Natural Habitats &c) Regulations 1994, now superseded by the Conservation of Habitats and Species Regulations 2010. That concluded that the project would not adversely affect the integrity of any designated European site. Therefore, it should not be necessary or reasonable for conditions to be sought for monitoring bird activity and applying mitigation measures if collisions occur. Bat activity surveys for the EIA led to the conclusion that the scope for collision from the Boardinghouse turbines was minor negative. Thus, harm to bats is not predicted and there is no need for mitigation measures.
  36. According to the most recent East of England Renewable Energy statistics (Dec 2009), the region had achieved only 53% of its target for onshore wind. As there will be a near-doubling of the target for 2020, the significant current shortfall should be of considerable weight in decision-making and allowing this appeal.

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## Written Representations

*The following material points were made at appeal stage:*

37. **Natural England** noted that the Appropriate Assessment had concluded there would be no effect on site integrity for the Nene Washes Special Protection Area if the proposal was considered alone or in combination with other wind farms. However, this was in part based on a suite of mitigation measures being secured to cover the following:
- post-construction monitoring to enable comparisons of bird activity before and after construction and monitoring of collisions across all the wind farm developments identified. Surveys should be undertaken in years 1,2,3,5,10 & 15.
  - an annual review of monitoring results by a group including representatives from the developers, local planning authority, Natural England and the RSPB.
  - appropriate action if unpredicted collision mortalities occur, in accordance with an agreed contingency plan. Contingency measures should include commitment to land management actions and turbine switch-off where appropriate.
38. The above measures are required, it was argued, to give reasonable certainty to the conclusions of the Appropriate Assessment. Commitment to undertake mitigation would be necessary because there are uncertainties over future bird movements which would be affected by land management over the wider farming landscape. In addition, Natural England seeks measures to reduce potential collision risks to raptors, habitat enhancements for hunting raptors and wider farmland bird species. Turbines should be positioned at least 50m from the drains where most bat activity was recorded at the site.
39. The views of Natural England are supported by the **Royal Society for the Protection of Birds (RSPB)**. RSPB draws attention to sections 5.5.2-5.5.6 and 6 of the Appropriate Assessment. These indicated that a planning condition to secure a s106 planning obligation was necessary, bearing in mind the reliance on theoretical modelling and possible changes to bird populations and distributions, to give additional confidence to the conclusion that the integrity of any European site would not be adversely affected.
40. On behalf of the **Secretary of State for Defence**, an objection was made to the planning application based on unacceptable interference with radar operations at RAF Cottesmore. The proposed turbines would be in line of sight and cause unacceptable interference to the Air Traffic Control Primary Surveillance Radar (PSR). With other existing windfarms and those proposed, including at Burnthouse Farm and Floods Ferry Farm, this proposal would have a harmful impact on the Air Traffic Control operation provided by RAF Cottesmore and on radar operations in the wider Peterborough/Cambridgeshire area. It is remarked that, as the number of turbines in the area increases, their effects becoming less manageable by the Ministry of Defence (MoD) and other stakeholders. Any interference with the radar systems would have detrimental consequences for the MoD's general aviation operational capabilities.
41. In response to a technical mitigation proposal from the Appellant, in November 2010 the MoD stated that it remained sceptical as to the likely success of the proposal, but would withdraw its objection if a suitable planning condition could be agreed. A letter of 10 December 2010 confirmed this position. The planning

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condition should address the effect of wind turbines both individually at Boardinghouse Farm and, to the extent applicable, cumulatively. A form of words for a condition was put forward.

42. **Doddington Parish Council** wrote to object strongly to the proposal, referring to a large number of turbines in The Fens already, visible in whichever direction one looks. The performance and contribution to energy generation and power which wind turbines make was questioned. The erection of turbines causes damage to the environment particularly to local rural roads. It is asserted that the Flood Ferry/Knights End Road is already deemed unfit for lorries travelling to the Greenvale potato packing factory and the proposal would add to HGV traffic on it.
43. **Mr Hall** of Wimblington objects to the proposal. He indicates that 17 turbines have been erected in his field of vision in the preceding five years, discounting 12 at Coldham and 12 by the A141 at Tick Fen. Questioning the benefit, except to their owners, he describes them as slowly-turning monstrosities which blot the landscape. Whereas a new housing development is usually accompanied by a good selection of planting, nothing similar has been done to enable the wind turbines to blend with the flat lands of the Fens.

*Representations at application stage received by the Council*

44. March Town Council is opposed to the proposal. The Civil Aviation Authority, NATS/NERL Safeguarding and Defence Estates addressed potential effects on aviation safety and radar. The Environment Agency and Middle Level Commissioners sought measures to prevent the pollution of controlled water and achieve an efficient surface water drainage system. The Wildlife Trust sought ecological mitigation, monitoring and management plans. Cambridgeshire Archaeology requested a planning condition to achieve an archaeological investigation, and the County Highways Department sought a condition to achieve a highway condition survey with necessary remedial work to facilitate site access. Cambridgeshire Constabulary advised that navigation lights should be fitted to each turbine.
45. From other interested parties and local residents, four letters or e-mails of support for the proposal were received and some 28 messages of opposition. Many of the latter reflected a perception that there are already too many turbines in the area, and that they have a detrimental effect on the landscape of The Fens and views over the rural areas. Some referred to possible harm to the enjoyment of their residences, to a loss of property value and potential noise nuisance. The reliability and efficiency of wind turbines as a source of renewable energy was widely questioned, with a number of writers suggesting that only the owners of wind farms would be beneficiaries.

*Planning for Growth*

46. Following a written statement by Mr Greg Clark (Minister of State for Decentralisation), "Planning for Growth", the Council and the Appellant were asked by way of the Inspectorate whether they considered that this affected their case in respect of this appeal. The Council observed that the statement did not specifically mention renewable energy and did not affect its case. The Appellant argued that its proposal would support economic growth and employment in the local area and wide UK interests, and relates to a form of development supported

by up to date Government policy on climate change and the security of energy supplies.

### **Conditions**

47. The Council, and the agent for the MoD, put forward planning conditions for imposition in the event that the proposal might be permitted, and the Appellant commented on them. The schedule of conditions below reflects the suggested conditions and comments, as well as my consideration of them having had regard for Circular 11/95: The Use of Conditions in Planning Permissions.

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## Inspector's Conclusions

48. There are two main considerations in this appeal:

- (i) the effect of the proposal on the local landscape and visual amenity; and
- (ii) Whether any detrimental effects from the proposal would be outweighed by the wider environmental and economic benefits which the scheme for renewable energy would bring.

### ***Landscape and Visual Amenity***

49. On the first consideration, the Landscape Partnership which had produced the WTG for the Council [12-15] undertook a review of the Appellant's Environmental Statement. The review commented that the site is within the drained fenland landscape character type characterised by large scale, flat, open land with rectilinear field patterns, isolated settlement and typically long, straight roads and watercourses. Its openness and scale make it generally suitable for accommodating wind turbines. The proposal for 5 turbines falls within the small turbine category for which there is high capacity, albeit before the cumulative impacts of existing and proposed turbine developments are considered.
50. This Review concluded that the Appellant's Landscape and Visual Impact Assessment reported in the ES was generally sound and in accordance with best practice guidance. It found that the proposed arrangement of turbines would generally respond to the grain of the local landscape. There are a number of existing turbine groups but the proposal would not cause the capacity threshold of the drained fenland to be exceeded. However, the site lies within the 2km 'prominent' zone of the Clay Fen Island landscape character type, and this would reach its capacity if the Boardinghouse proposal were implemented.
51. From my site visits and reading of the evidence, I am satisfied that the capacity of the local landscape to accommodate the proposed wind farm has been thoroughly and objectively considered. Given the acknowledged low value and the low sensitivity of this flat, open and largely agricultural area, the landscape should not be detrimentally affected by this proposal. The site is sufficiently separated from the Clay Fen Island which contains the settlements of March, Wimblington and Doddington, that the proposal would not be harmful to it.
52. The only area of outstanding concern with the proposal which the Review by the Landscape Partnership identified was that there would be significant visual impacts on a few individual properties within 2kms of the proposal [4]. The Appellant's ES included a viewpoint analysis, 18 key viewpoints being selected in consultation with the District Council. Photomontages of these viewpoints are presented in Volume 3 of the ES. More specifically, the ES included an analysis of the likely impact on individual dwellings within 2.0km radius of the proposed turbines. It highlighted dwellings and farmsteads off Knights End Road, dwellings to the east between the proposed Boardinghouse wind farm and Wimblington, dwellings on Hospital Road Doddington and on Parsons Drove to the west of the site. The ES concluded that there would be effects of substantial magnitude and major significance for receptors at a number of these individual dwellings and moderate effects at the others.
53. From my accompanied site visit and other informal visits, I was able to visit most of the identified viewpoints and some individual properties. I see no reason to

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disagree with the conclusions of the ES. However, as the Landscape Partnership's Addendum to the Review of the ES pointed out, a finding of 'significant effect' for EIA purposes may not be sufficient to find a wind farm scheme unacceptable. As the Planning Inspector in the Enifer Downs Farm, Dover appeal [Ref X2220/A/08/2071880] stated "*When turbines are present in such number, size and proximity that they represent an unpleasantly overwhelming and unavoidable presence in the main view from a house or garden, there is every likelihood that the property concerned would come to be regarded as unattractive and thus unsatisfactory (but not necessarily uninhabitable) place in which to live. It is not in the public interest to create such living conditions where they did not exist before.*" In that case, there were individual properties at 360-570m of the proposed turbines and settlements within 600-700m, and the appeal was dismissed.

54. Thus, it is necessary to look again at instances where a 'significant effect' has been identified and consider the more stringent test as to whether 'an unattractive place to live' would result. It seems to me that distance from the proposed turbines is an important factor, although other site-specific factors such as orientation of house and garden or screening, should always be considered. The Addendum to the Review identified properties in four broad locations that would experience the most significant effects but all but one of these would be more than 800m from the nearest turbine. I consider that none of those properties would be overwhelmed or rendered unattractive by this proposal. Lodge Farm would be an estimated 544m away but its occupiers are understood to have an interest in providing a route for cabling for the development. The Council's decision notice did not contend that the proposal would have a harmful visual effect on the living conditions of local residents, and I concur that it would not.
55. Though occupiers of dwellings on the edge of March, Wimblington and Doddington would have views of the proposal, these would be gained at a distance of around or in excess of 2kms. Travellers on the roads linking these settlements would see the turbines at similar distances. Although users of the minor rural roads would pass closer to the proposed Boardinghouse turbines, I attach less weight to their perceptions than I would to occupiers of dwellings because their experiences would be transient. Even if drivers are required to travel at slow speeds on the minor roads, this is commonly because they must pay close attention to the narrow width, changing alignment and surfacing quality of the road. It does not follow that they have longer to study views of the surrounding countryside. In many viewpoints, including those of recreational users on the River Nene and at Staffurth's Bridge, the proposed turbines would appear in a cluster with the existing ones at Ranson Moor which, in my opinion, would lessen their impact.
56. This brings me to the matter of cumulative impact. Fenland District is clearly attractive to wind farm development, and there has been a significant increase in the numbers of turbines in recent years. Cumulative landscape impact is covered in the WTG and that consideration informs its threshold of capacity for each landscape character type. The distinction between combined/simultaneous, successive/repetitive and sequential impacts is described and the current situation regarding overlapping visibility (theoretical) in Fenland is illustrated in Drawing 07044/08B of the WTG. Drawing 07044/09B shows that adding the proposed development would enlarge the visibility of turbines in the Ranson Moor

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locality to the north and east. However, the enlargement would be relatively small and, in my view, not detrimental.

57. Drawing 07044/09B also shows the effect that proposals for turbine development at Burnthouse Farm, Flood's Ferry Farm and Australia Farm would have on theoretical visibility. It is clear that implementation of one or all of these schemes would trigger cumulative impacts of one or more of the three types described above featuring the Boardinghouse site. However, because the proposal would be sited next to existing turbines at Ranson Moor, I consider that its contribution to these cumulative effects would be minor and not harmful [33]. Whilst turbines are located at Glass Moor, Coldham and Red Tile Farm and beyond [26], these are sufficiently separate from Boardinghouse Farm that there would not be harmful cumulative effects.
58. I have had regard for the concern of local people who have witnessed the erection of many turbines across the Fens in recent years and do not wish to see more. However, the flat landscape with its wide panoramas and big skies has the capacity to accommodate this proposal. Individual dwellings and farmsteads are sufficiently distant from the site for there to be no harm to the visual amenity of occupiers. Siting the turbines close to the existing wind farm at Ranson Moor should minimise the impact on the landscape and views. The Local Plan was adopted in 1993 before wind farm development was being planned or undertaken [10]. Even so, I consider that this proposal would not conflict with its saved Policies E1 or E8. Neither would it be contrary to Policy ENV2 of the RSS [9] especially as the proposal has been assessed as satisfactory and in accordance with the WTG by all the professional landscape assessors [30 & 34]. There would be no conflict with emerging policies in the draft Core Strategy [11].
59. Neither the Council's planning officer nor specialist consultants, The Landscape Partnership, raised objections to the proposed wind turbines. This is a material consideration in favour of the scheme. I conclude that the proposal would not have a materially detrimental effect on the local landscape and visual amenity.

### ***Environmental and Economic Benefits***

60. Turning to the second consideration, PPS22 begins by stating that renewable energy developments should be capable of being accommodated throughout England. The wider environmental and economic benefits of all proposals for renewable energy are material considerations which should be given significant weight in decision-making. PPS22 states that RSS should set regional targets for renewable energy capacity for achievement by 2010 and 2020. Targets should be regularly reviewed and revised upwards if they are met subject to the region's capacity and potential.
61. The seriousness of climate change and the urgency of adopting mitigation measures is repeatedly emphasised in international scientific and political pronouncements made over the last decade [17-20, 29]. The harmful economic consequences of doing nothing are spelt out in the Stern Report. Development of renewable energy resources to help mitigate the worst effects of climate change were seen by the previous Government, responsible for PPS22, as an important way forward. The incoming Coalition Government has demonstrated its commitment to promoting renewable energy provision. The evidence is that the East of England is not achieving the targets set for it in Policy ENG2 of the RSS [9]. Even if the RSS is soon to be abolished, the National Renewable Energy

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Action Plan 2010 implies no relaxation in the development of renewable energy. It refers to a necessary step change in the rate of progress to meet national targets for 2020. I conclude that the proposal would have few detrimental effects, but in any event its potential for wider environmental and economic benefits from the development of renewable energy should count in its favour.

### ***Planning Conditions***

62. I have considered all the other potential effects which this proposal might have including those for ecology. The Appropriate Assessment concluded that the proposed wind turbines would not adversely affect the integrity of any European site either alone or working in combination with two other wind farm applications. The assessment was based on a highly precautionary approach and I consider that it would be unnecessary and unreasonable to adopt the mitigation measures suggested by Natural England. Neither do I see evidence of need for conditions seeking non-SPA enhancement for hunting raptors and other farmland bird species, nor for non-SPA bat mitigation measures.
63. Natural England and the RSPB sought a condition requiring the developer to enter into a planning obligation under s106 to secure mitigation measures identified in the Council's report on the Appropriate Assessment [40-41]. The condition would be unnecessary and the approach, in my opinion, would conflict with paragraph 13 of Circular 11/95.
64. I consider, however, that if planning permission were to be granted, a number of conditions would be required [47 and Schedule]. The standard time limit (condition 1) was proposed by the Council and not queried by the Appellant, indicating that it would be achievable and therefore reasonable in this case. Condition 2 clarifies which plans would apply. As the development would have a limited operational life, conditions 3, 4 and 5 would be necessary to protect the appearance of the site and enable its restoration in the longer term. Conditions 6, 12 and 18 would be needed to secure an orderly programme of construction which would not harm the surrounding rural area. Cambridgeshire Archaeology advised that important archaeological remains may survive within the area of the appeal site, and that model condition 55 from Circular 11/95 should be imposed to avoid serious damage or destruction during the construction of this development. Condition 7 would meet this requirement.
65. Conditions 8, 9 and 11 would be needed in the interests of highway safety. Condition 9 has been worded to take account of the fact that the developer should not be expected to remedy existing defects in the road networks, but would take responsibility for any damage caused by the construction traffic. Conditions 10, 13, 14, 15 and 16 would be required to safeguard the appearance of the area. I have changed references to "wind turbine generators" to "wind turbines" for the sake of clarity in 13 and 16. In the interests of air safety, conditions 19 and 14 would be needed. I have added an implementation clause to condition 14 to ensure its effectiveness. In drafting condition 19, I have had regard for paragraphs 38 to 41 of Circular 11/95 and omitted the reference to "consultation with the Ministry of Defence".
66. Conditions 17 and 20 are designed to protect neighbouring residents from unacceptable shadow flicker or noise. Both are matters of concern to local residents. The Environmental Statement reported on noise assessment carried out in accordance with the recommendations of ETSU-R-97, as referenced in

PPS22 [ES Vol 1 section 7]. The assessment took account of the existing turbines at Ransonmoor, and the ES referred to the noise limits in conditions imposed on that wind farm. It concluded that those noise limits would be met at all properties except one if the Boardinghouse scheme was in place. A mitigation strategy was suggested to ensure that typical turbine noise would comply with the noise planning limits for that property. I consider that a noise condition based on such noise limits, along the lines of one put to the Council's Planning Committee in April 2010, would ensure that the living conditions of residents were safeguarded. The Appellant suggested that the ES measurements should provide a baseline for comparison with noise measurements and put forward a refined form of wording to reflect this. The suggested change has been included, to add clarity to the condition.

67. The Council's suggested condition on surface water drainage is not recommended as it would be onerous (the Appellant points out that the site is a field and that water would enter the ground from it). Also, I accept that the Construction Method Statement should include provisions to ensure that controlled waters are not infiltrated with pollutants. The Method Statement should also address the question of appropriate site lighting.

### **Recommendation**

68. I recommend that the appeal be allowed and planning permission be granted subject to the conditions listed below.

*Jill Kingaby*

INSPECTOR

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## Schedule of Planning Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following plans: Figures 4.2, 4.7/1, 4.7/2, 4.9; BDH0606-1/6 (REV1); BDH0609-1, 1/1,1/2, 1/3, 1/4, 1/5 (all Rev1).
- 3) This permission is for a period not exceeding 25 years from the date when electricity generated by the development is first exported to the regional electricity distribution grid. Notification of the date of this first export shall be given to the local planning authority in writing within seven days thereof.
- 4) Unless otherwise agreed in writing by the local planning authority, within 12 months of the cessation of electricity generation at the site (or the expiration of the permission whichever is the sooner), all parts of the development shall be dismantled down to 0.2metres below ground level and shall be removed from the site and the land restored in accordance with a scheme, which shall have the prior written approval of the local planning authority.
- 5) If any wind turbine hereby permitted fails to produce electricity for supply to the grid for a continuous period of 12 months then, unless otherwise agreed in writing by the local planning authority, the wind turbines shall be removed from the site within a period of 3 months from the end of the 12 month period and that part of the site restored in accordance with a scheme which shall have the prior written approval of the local planning authority.
- 6) No development shall take place until details of the foundation construction have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 7) No development or preliminary groundworks shall take place until the Appellant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the Appellant and approved in writing by the local planning authority.
- 8) No development shall take place until a scheme of highway routeing for the delivery of wind turbine components has been submitted to the local planning authority and has been approved in writing. This scheme shall be implemented as approved.
- 9) No development shall take place until a condition survey of the highway along the proposed delivery route for the wind turbines has been submitted to the local planning authority and approved in writing. Any subsequent damage to this highway caused by delivery and construction traffic for this development shall be remedied by the developer at its expense, in accordance with a programme of works agreed in writing by the local planning authority.
- 10) No development shall take place until details of the design and external materials, including colour finishes of the turbines and all other buildings and structures have been submitted to and approved in writing by the local

- planning authority. Development shall be carried out in accordance with the approved details, and the colour finishes, shall not be changed without the prior approval in writing of the local planning authority.
- 11) No development shall take place until details of the materials and form of construction of the access tracks have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 12) The temporary construction compounds shall be removed from the site within three months of the commissioning of the final turbine unless otherwise agreed in writing by the local planning authority.
  - 13) Blades of all the wind turbines shall rotate in the same direction.
  - 14) Details of any turbine lighting shall be submitted to and approved in writing by the local planning authority prior to its installation. Lighting shall be installed and operated in accordance with the approved details.
  - 15) No development shall take place until a scheme for the routing of the underground cables has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
  - 16) The wind turbines shall have a hub height not exceeding 69metres and a height to the blade tip not exceeding 110.5metres.
  - 17) No development shall take place until a scheme detailing the protocol for the assessment of any complaints of shadow flicker resulting from the development, including remedial measures, has been submitted to the local planning authority and approved in writing. Operation of the turbines shall take place in accordance with the agreed protocol.
  - 18) No development shall take place until a Construction Method Statement, including details of site construction, lighting, drainage and restoration/ reinstatement work has been submitted to the local planning authority and approved in writing. Thereafter, construction work shall be carried out in accordance with the approved Method Statement.
  - 19) No development shall take place until the local planning authority has approved in writing a radar mitigation scheme ("Radar Mitigation Scheme"), designed to mitigate the impact of the development on the Primary Surveillance Radar at RAF Cottesmore and the air traffic control operations of the Ministry of Defence. The Radar Mitigation Scheme shall be implemented as approved, in accordance with timescales within it, and shall be retained while the Primary Surveillance Radar at RAF Cottesmore remains in operation. No turbines shall become operational unless and until all measures required by the Radar Mitigation Scheme have been implemented. Thereafter, the development shall be operated in accordance with all obligations contained in the Radar Mitigation Scheme.
  - 20) The noise emission (LA90, 10 minutes) from the combined effects of all wind turbines, as measured in free field conditions at any dwelling (in existence at the date of the notice of this decision) shall not exceed:
    - A daytime hours limit of 35 dBA L90 10min;
    - A night time limit of 38 dBA L90 10min;

- Or 5dBA above the background noise level, as defined in the Environmental Statement for the quiet daytime and nighttime hours respectively, whichever is the greater.

The daytime hours are defined as 0700 hours to 2300 hours and the night time hours as 2300 to 0700 hours.

The noise levels as stated shall apply to noise measurements correlated with wind speeds measured on site up to 10m/s when the speed is measured at hub height and standardised to 10.0m height using a ground roughness factor of 0.05m as described in ETSU-R-97.

The noise emission values for the wind turbines shall include the addition of any tonal penalty as recommended in ETSU-R-97.