



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 24/04/09

Appeal Decision

Site visit made on 24/04/09

gan/by R.M.Poppleton DipTP, DMS, MRTPI, JP

Arolygydd a benodwyd gan y Gweinidog
dros yr Amgylchedd, Gynaliadwyedd a
Thai, un o Weinidogion Cymru

an Inspector appointed by the Minister for
Environment, Sustainability and Housing,
one of the Welsh Ministers

Dyddiad/Date 07/05/09

Appeal Ref: APP/Y6930/A/08/2092727

Site address: Mynydd Gwrhyd, (OS 727 107) north of Pontardawe and east of Cwmgors.

The Minister for Environment, Sustainability and Housing has transferred the authority to decide this appeal to me as the appointed Inspector.

- 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 Awel Aman Tawe against the decision of Neath Port Talbot County Borough Council.
- The application Ref P2007/1413 dated 20 September 2007 was refused by notice dated 17 June 2008.
- The development proposed is (the construction of) a community windfarm consisting of 2 turbines, substation, met. mast and access tracks and additional works including borrow pits.

Decision

1. The appeal is allowed subject to conditions, as set out at the end of this decision.

The Proposal and Location

2. The current proposal follows and is developed from a scheme that originally proposed five turbines (and associated development) at this location but which was amended to relate to four turbines. That proposal was considered at inquiry in August 2006 with the appointed inspector dismissing that appeal in September 2006. The current proposal now relates to two turbines of the same size, namely an overall height of 100 metres (60 metres to rotor hub and 40 metre blades). Each turbine would have a capacity of 2MW and would be capable of producing sufficient electricity equivalent of the needs of 1995 households. The proposal also includes a sub-station and temporary construction compound, two borrow pits and an associated access track leading from the A474.
3. The overall site comprises an area of about 10 hectares located on Mynydd y Gwrhyd to the east of Cwmgors and Gwaun Cae Gurwen, to the south of Tairgwaith and to the west of Rhiwfawr. The site is elevated, isolated upland moor with the Brecon Beacons about 3 km to the north and close to the Pwllfawatin landfill site. Some of the site includes registered Common Land, although all is

Open Access Land¹ which the public can utilise. The site lies adjacent to the 33kv and 11kv electricity distribution networks.

4. The existing closest settlements, other than scattered farmsteads, are Cwmgors and Gwaun Cae Gurwen that lie about 1.8km away from the closest proposed turbine and Tairgwaith which is about 1.3km away and Rhiwfawr some 1.1km away.
5. The application is supported by an Environmental Statement (ES), originally produced in association with the previous schemes, but which has been up-dated to reflect the changed proposal. In addition, the submitted evidence illustrates the likely effects of the proposal. I have noted the concerns that the ES has not been fully amended expressed by some interested parties, but I am satisfied that I have sufficient information to enable the full consideration of the proposal.
6. The Council's reasons for refusal state that the development would dominate the landscape especially from the above-named villages and from the Gwryhyd Mountain. It is suggested that the turbines would have an over-bearing impact upon residents in King Edward and Llwynelyn Roads, Tairgwaith. In addition, it is stated that the proposal would have an unacceptable cumulative impact with that of the East Pit opencast site.

Planning Policy

7. The Development Plan includes the Neath Port Talbot Unitary Development Plan (UDP) adopted in March 2008. Its policies ENV1 *Development in the countryside*; ENV3 *Impacts on the landscape* and IE6 *Renewable Energy* are especially relevant to the current proposal. The latter in particular supports renewable energy projects provided that their impacts are acceptable and where appropriate, they include measures to reinstate the land. The supporting text notes the considerable potential for such projects within the area, but draws attention to possible direct and indirect adverse impacts that should be taken into account. As also noted in paragraph 15.10.5 of the UDP, the Council has produced Interim Planning Guidance entitled *Wind Turbine Development*. (IPG).
8. This IPG document and the UDP policies sit within the National policy framework laid out in *Planning Policy Wales* (PPW) including the *MIPPS 01/2005* and *Technical Advice Note* (TAN) 8. In addition, the Climate Change Act 2008 stresses the importance of tackling climate change and publications such as *'The One Wales Agreement'* and the consultation documents *'Renewable Energy Route Map for Wales 2008'* and The Welsh Assembly's *Climate Change strategy* provide guidance upon the direction of travel and lends further support for suitable projects, including that provided by the community based sector, that would help move towards the targets for renewable energy production and the reduction in carbon emissions. Given the targets now set out for 2020 and beyond, it is clear that there will be an increasing demand for energy from renewable sources and that existing moves in this direction have been slow to materialise.

¹ Access Land – as defined by the Countryside and Rights of Way Act 2000 – The CROW Act

9. TAN 8 provides a National framework within which wind energy developments are considered. Its thrust is to concentrate large scale onshore wind energy developments, defined as projects producing 25MW or more, into identified Strategic Search Areas (SSAs). One such SSA (Pontawdawe SSA[E]) lies about 500 metres to the south of the appeal site, but a note on the map within the TAN states that boundaries may be slightly refined and that there was scope to increase the area to the north-west. Annex D of the TAN provides guidance to local planning authorities on dealing with SSAs, including that minor adjustments could be made to the 'broad brush' boundaries when translating these into the locally generated planning documents such as the UDP or the IPG.
10. In this regard, I note that the IPG provides a refined SSA boundary, although it makes little difference in terms of the application site and the broad area covered. The application site lies beyond the areas identified for large scale developments where the TAN makes clear at paragraph 2.13 that such areas should remain free of large wind energy developments. However, it is clear from paragraph 2.2 of Annex D of the TAN that areas within 5 kilometres of the SSA are recognised as having an association with the identified areas in terms of possible sites. Thus the site can be regarded as being close to the SSA. Nevertheless as made clear in paragraph 2.13, outside the SSA, a balance has to be struck between the desirability of renewable energy and landscape protection, although that balance should not result in a severe restriction on the development of wind power capacity.
11. The proposal however is made as a community based scheme with an output of 4MW. The submitted ES provides adequate evidence that the proposal would fall within this definition. Paragraph 12.8.11 of the MIPPS and paragraph 2.12 of TAN 8 notes that *smaller (generally less than 5MW) domestic or community-based wind turbine developments may be suitable within or without SSAs subject to material planning considerations*. In this regard, I note that the MIPPS does not define 'smaller' in physical terms such as the height/radius of the turbines and blades, although the Inspector considering the proposal for 4 turbines did make comment in this regard.
12. It is clear from the *Renewable Energy Route Map for Wales* consultation document that smaller scale wind energy developments have a role to play in addressing the demand for power and the reduction of carbon, although paragraph 6.2 of the IPG states that the Council is satisfied that their refined search areas should be sufficient to accommodate the indicative targets set out in TAN 8. Furthermore, at paragraph 6.13 of the IPG, the Council states that there will be very limited scope even for small/community wind farms outside the SSAs, because of the impact on communities and landscapes of wind farm developments within the SSAs. However, it goes on to say that where the impact on the landscape would be no more than local, such scheme may be acceptable and at paragraph 6.15 that community projects should provide evidence that it would be owned by a community group. It also states at paragraph 6.16 that (notwithstanding the advice in TAN 8) two 2.5MW turbines would be unlikely to be regarded as acceptable within the context of the significant change to the areas' landscape resulting from developments within the SSAs.

Main issues

13. Having regard to the policy background outlined above and to the representations made and my inspection of the area, I consider that the main issue is the effect of the proposed development upon the landscape character and appearance of the area. I am satisfied that the submitted and amended ES provides adequate information to conclude that all other matters could be satisfactorily addressed through the imposition of conditions to any planning permission granted.

Reasons

14. Having regard to the broad brush definition of the SSAs in TAN 8, the appeal site clearly lies outside, but relatively close to, the Pontardawe SSA(E) and the Council's refined search area shown in the IPG. Therefore, having regard to the National and local policies and guidance, large and medium scale wind turbine schemes which are intended to contribute most significantly to the National targets set out in PPW, TAN 8 and elsewhere, would not normally be considered acceptable in such a location.
15. Outside the SSA, smaller scale schemes could be appropriate. I consider that having regard to paragraph 2.13 of TAN 8 in full, there is a clear inference that whereas wind energy developments larger than 5MW outside the SSA and urban/industrial brownfield sites would probably lead to the refusal of planning permission, smaller schemes should be generally supported. Although still at the consultation stage, I also note the view expressed at paragraph 7.12 of the *Renewable Energy Route Map for Wales* document, that 'single or double large turbines (or clusters of small turbines) can normally be sited sensitively in a way which either enhances the landscape or has minimal impact: hence the lack of prescription in TAN8 for windfarms of up to 5MW capacity'.
16. In this regard, I note that the British Wind Energy Association are concerned that based upon progress to-date in all sectors of the industry, the targets set out in the Climate Change Act 2008 and the *Renewable Energy Route Map for Wales* Wales, which the latter indicates will be revised upwards, are unlikely to be met within the anticipated timeframe. Hence I consider that the need for such energy projects should be afforded significant weight.
17. Even so, any judgement about the acceptability of the current proposal must be influenced by an assessment of its impact upon the landscape character and the area's visual amenity. The visual and landscape assessments, provided in the ES and supplemented by the submitted evidence, rely to a large degree upon the photo-montages that provide a static representation of the turbines in relation to their surroundings. I find no reason to doubt these representations, although I view them with some degree of caution. In particular, being static representations, the movement of the turbine's blades against a skyline may, in reality, attract the eye more than suggested by the montages. Even so, the montages are useful and augment my understanding of the proposal and the appreciation of the landscape from my extensive inspection of the area. From this, I am in no doubt as to the proposed size of the turbines which would be very substantial, tall features.
18. The effect of the proposal upon an observer will tend to be subjective and would be affected by many factors including the distance from which they would be

seen. To some, the man-made turbines would be dramatic and exciting elements in a landscape, to others they would appear as alien features whose appearance would clash with the natural land forms. To some, the turbines would be prominent in the landscape, to others they would dominate that landscape or be overwhelming in scale. The written representations include all such points of view.

19. Such words are open to interpretation, but for the purposes of seeking to be more precise, I consider that the following descriptions are helpful. I regard the word 'prominent' as meaning something that can be seen and identified in the landscape without the need for closer examination. The word 'dominant' may describe the situation where that object draws the observer's eye to the extent that little else is seen, even in an attractive landscape. Finally the word 'overwhelming' might describe a situation where a wind energy development is so close and of such a size as to be likely to make the observer feel uncomfortable and want to move away.
20. As recognised in guidance, wind turbines are large structures that cannot be hidden within a landscape. Although some mitigation may enable ancillary structures and works to be sensitively assimilated into a location, the turbines themselves would have an effect upon the appreciation of any landscape during their limited lifetime of 25 years. The most significant of these would, I consider, be during its operational phase.
21. From Llwynceilyn Road and King Edward Road in Tairgwaith and Gwaun Cae Gurwen the proposed turbines would be seen as large vertical structures within the landscape, largely unobstructed by woodland or other features. From some vantage points, the blades would break the skyline and their movement would also draw attention to the structures. However, being fewer in number and with a narrow spread within a landscape, although the individual proposed turbines would have the same dimensions as previously rejected, I consider that the impact could be materially different. The previous decision relating to four turbines does not therefore automatically lead to a similar decision in respect of the two now being proposed.
22. As to the significance of any impact upon the landscape, its inherent quality and characteristics must be weighed in the balance. The submitted ES and further evidence provides an objective assessment of the area based upon the LANDMAP methodology and data. However, this has been revised, up-dated and adjusted in some areas to take into account conditions as they currently exist, especially with regard to the Bryn Melyn farm opencast site and the East Pit. For the purposes of studying these effects, the ES has concentrated upon an area within 3 kilometres of the site. I note that the visual/sensory components of the 'adjusted' LANDMAP definitions in this area range from high to very low taking into account the yet to be restored areas to the north of the site.
23. In order to study the theoretical visibility (ZTV) of the proposed turbines based upon the area's topography, a zone within 15 kilometres of the site has been investigated. The study suggests that the turbines would have a very limited zone of visual influence, with defined receptors of parts or all of the turbines including residents in parts of Tairgwaith, Gwaun Cae Grwen and other local villages and settlements, walkers, horse riders and motorists along parts of the A474, A4069, A4068, A4067 and from minor roads across Cefn Gwrhyd and Mynydd y Gwair. In

addition, the cumulative effects of the turbines and other features, such as the Ffynnon Oer Wind farm, has been studied but found not to be significant in terms of landscape or visual amenity.

24. The submitted analysis suggests that the effect of reducing the number of turbines to two from the four previously rejected, would reduce the extent of their visibility and the magnitude of the change in the landscape's appreciation. In particular, from Gwaun Cae Gurwen, and the southern flanks of the Brecon Beacons, the more prominent turbines have been removed and the number and array width visible from the settlements would be reduced and less significant. In addition, from parts of Cwmllynfell, Cwmtwrch and Brynaman, no turbines would be visible.
25. Some of these observations are self evident, but are nevertheless material considerations. In terms of the landscape character of the LANDMAP area within which the proposal would be located or the surrounding areas, from my analysis of the submitted evidence together with my own observations over a wide area, I consider that the two turbines would not result in the loss of any of their key features. The turbines would represent an additional element rather than destroy the general pattern of field/land divisions, its archaeology and cultural interest or the nature of the land. Although the existing landscape character is valued, especially by those living in nearby valley settlements, given the proposed scale of the current proposal, I consider that the impact upon part of the area's landscape character would be significant but not unacceptably harmful. Therefore in the light of the policy support for smaller wind energy developments, I consider that this impact should not prevent the proposal from proceeding.
26. In terms of the visual impact on the areas, the submitted study identifies the immediate locality as being high/medium quality and is characterised by its open, simple nature and lack of built developments with panoramic views. Being mostly 'Open Access Land', it is also frequented by those pursuing recreation activities. From some viewpoints there would be significant changes to the views of the area, especially those towards the northern part of Mynydd Uchaf. However, from others, such as from the north east, only the upper parts of the turbines would be visible on the skyline resulting in little change in the views. Likewise, from the north, the open cast workings already dominate the views and the area is regarded as being of low landscape quality. Although the upper parts of the turbines may be seen and may result in some significant changes to the views, I consider that the area's key visual characteristics would not be significantly changed.
27. I have also had regard to the possible cumulative impact of similar developments within and adjoining the Council's area and note in particular those developments within the defined SSA's. However, taking into account the level of exposure of and to those developments as illustrated in the ES and noted during my site inspection, together with the reduced scale of the current proposal, I conclude that the proposal would not result in significant change to the landscape's overall appearance and its appreciation.
28. Therefore the analysis suggests that the most significant effects in terms of the character of the landscape would be around the application site itself and within a radius of 1 kilometre extending to 3 kilometres to the south. From this analysis, it

would appear that the proposal would not have a significant effect upon the special qualities of the Brecon Beacons National Park and the reasons for its designation. Having toured the area and observed the location of the proposed turbines from all directions, I find no reason to disagree.

29. Having walked the upland hillside, I consider that the greatest visual effects would be within close proximity of the turbines. As the area is 'Access Land', this could affect those exercising their right to roam under the CROW Act. I am in no doubt that this would significantly affect the appreciation and enjoyment of this remote area by such observers. The impact of the turbines would become increasingly overwhelming as they were approached.
30. Turning to the effect upon residents in the settlements identified above as the most likely to be affected, having regard to the separation distance and the expansive nature of the landscape, in my assessment, the turbines would not draw the eye to the extent that little else would be seen. Nor would they be so close and be of such a size as to make an observer feel uncomfortable and want to move further away. As a result of the reduction in the number of turbines and their spread over the landscape, I consider that the magnitude of their impact would be reduced and the current proposal would not result in a significant change in the views experienced by the majority of residents. A few residents elsewhere outside the identified villages in farmsteads and individual properties, together with walkers and other users of the uplands and local roads such as Gwrhyd Road would experience different views, but I consider that the changes to the landscape would not be significant. Therefore, I consider that the current proposal is materially different from the previously rejected scheme for four turbines.
31. Accordingly, I consider that although walkers close to the turbines would have a different appreciation, from most vantage points and locations, the turbines would not dominate or overwhelm the landscape. Within the overall scale of the landscape, I consider that the two turbines would represent a small man-made intrusion, whose impact should be balanced with the contribution that they would make to the reducing carbon emissions and increasing renewable energy supply. I consider that contribution to be worthwhile and one that weighs heavily in that balance.
32. There would be an impact on the horizon and skyline, especially from Tairgwaith and Gwaun Cae Gurwen, but in my assessment this effect would not be significant especially in comparison to the skyline of the Brecon Beacons to the north. Similarly from the Gwrhyd mountain the turbines would be seen, but again the skyline of the Beacons is far more impressive and dominating. The movement of the blades would be noticeable, but not sufficiently disturbing to prevent the enjoyment of the wider landscape. Thus I consider that the objectives of policy ENV3 would not be offended. Moreover, being close to the existing electricity grid connections, the proposal would not precipitate a large number of additional man-made structures in the form of pylons spread over a wide area.
33. The Council's second reason for refusal relates to the cumulative impact having regard to the reopening of the East Pit opencast workings and asserts a conflict

with policy IE6². These are extensive workings, whose impact is significant both in terms of landscape character and visual effects. In comparison, I consider that the current proposal would have limited impact. Moreover, I note that the latest permission for these workings extends to 2012 with restoration works continuing afterwards. Thus even if the proposed turbines increased the impacts to any material extent, the possible overlap with the current proposal would be short-lived and less than any 25 year life of the development. I conclude therefore that there is no compelling evidence that the cumulative effects would conflict with policy IE6.

34. Drawing these elements together, it is clear that the proposed turbines would have an effect upon the landscape character and visual appearance of the area. Those impacts would be largely contained by the existing topography within a 10km radius that encloses the appeal site and separates it from the wider landscape. I consider that those effects would also be materially different from those that would have resulted from the rejected scheme for four turbines whose array would have been of greater significance. In contrast, the reduced number would have less impact and be experienced by fewer properties and to a lesser degree. The impact would thus be more local than would have resulted from the previous proposal.
35. Having an output of no more than 4 MW, the proposal would fall within the parameters of small community based schemes set out in TAN 8 of up to 5MW and also within the more restricted maximum set out in the Council's IPG³. Whilst recognising that the height of the turbines and blades would be substantial and that comment in this regard was made by the last inspector, I find insufficient grounds for departing from the policy standpoint that the proposal must now be regarded as being 'small scale'.
36. Therefore the identified adverse effects should be balanced with the benefits arising from the development of a community based energy project of limited yet worth-while output. That would make a contribution to the renewable energy and carbon reduction targets whose importance is clearly very important and is reflected in recent legislation, consultation documents and established guidance. Being of a smaller scale, I conclude that the policy support for the current proposal is also materially different from that against which the proposal for four turbines was considered. I conclude that taking all factors into consideration, those benefits outweigh the effects on the visual appreciation of the landscape and that the anticipated impacts would now be acceptable. Therefore the proposal would not conflict with policies ENV3 or IE6.
37. I have had regard to all other matters raised in the light of the information contained in the ES and the submitted evidence, which is sufficient for me to conclude that no other material considerations represent an impediment to the granting of planning permission subject to the imposition of planning conditions. It should be noted that this decision does not confer any decision(s) that may be required under other legislation.

² Policy IE4 of the deposit draft UDP, now replaced by policy IE6

³ The IPG indicates that 2 x 2.5MW would be unlikely to be acceptable.

Conditions:

38. I have considered those suggested by the Council in the light of Circular 35/95 and find them generally acceptable with minor alterations. In addition, those conditions specifying the detailed requirements of the pollution prevention arrangements have been simplified to enable schemes to be submitted for approval. Furthermore, in the absence of any evidence to suggest that the site is contaminated or potentially so, I see no reason to impose the proposed condition 12 relating to such matters. Similarly condition 14 relating to materials for backfilling would be covered by another condition. As to potential shadow flicker, given the distance from any dwellings, I find no evidence of any need for a condition relating to this matter. I have expanded the conditions relating to noise, so as to provide a clearer reference to the current guidance. I have also added several in order to clarify the nature of the proposal based upon information gleaned from the submitted documentation and in order to minimise some of the local effects.
39. I note that a draft planning obligation under S.106 of the Act principally relating to restoration works, has been submitted following discussions between the appellant and the Council. Whereas this has yet to be completed due to outstanding financial negotiations, I consider that the draft obligation provides a sufficient basis for an associated 'Grampian type' planning condition to be imposed.

Decision:

40. Therefore I allow the appeal, and grant planning permission for the construction of a community windfarm consisting of 2 turbines, substation, met. mast and access tracks and additional works including borrow pits at Mynydd Gwrhyd, (OS 727 107) north of Pontardawe and east of Cwmgors in accordance with the terms of the application, Ref P2007/1413, dated 20 September 2007, and the plans submitted with it, subject to the following conditions:
- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
 - 2) Unless otherwise agreed in writing by the Local Planning Authority, after the expiry of 25 years from the date of the commission of each of the two turbines, or upon the cessation of energy production of a period of 6 months, whichever is the sooner, that turbine shall be removed from the site and the land reinstated in accordance with a scheme to be first submitted to and approved by the Local Planning Authority.
 - 3) This permission relates solely to the erection of two, 3 bladed wind turbines and associated works as described in the application plan and accompanying ES, with a maximum height to the blade tip of 100 metres from the original ground level.
 - 4) No development shall commence until a scheme to ensure the restoration works of the site and areas of land associated with the approved development, including any internal roads and tracks and compound areas, has been submitted to and approved in writing by the local planning authority.
 - 5) No development shall commence until a scheme to ensure the implementation of archaeological work in accordance with a written scheme of investigation has been submitted to and approved in writing by the local planning authority.
 - 6) No development shall commence until all identified archaeological sites within the application site area have been fenced in accordance with details to be submitted and

approved by the local planning authority: throughout the development, no works shall be undertaken within the fenced area without written consent of the local planning authority.

- 7) No development shall commence until a landscaping scheme has been submitted to and approved by the local planning authority: the approved scheme shall be carried out in the first planting season after the completion of the construction works or its bringing into operation, whichever is sooner. Any trees or plants that, within a period of five years of the implementation of the approved scheme, are removed, become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and same species, unless the local planning authority gives written consent to any variation.
- 8) No development shall commence until a detailed construction method statement describing the works to be undertaken and details of any necessary pollution prevention measures during the construction phase, has been submitted to and approved in writing by the local planning authority: the statement must identify as a minimum:
 - (i) details of measures to ensure that there is no polluting discharge from haul roads and disturbed areas
 - (ii) details of the nature, type and quantity of materials to be imported on to the site
 - (iii) details of the excavations for the foundations of the wind turbines
 - (iv) details of all fuels, oils and chemical storage facilities
 - (v) details of the surface water drainage arrangements to be installed to intercept and treat any contaminated surface water run-off
 - (vi) details of wheel washing or alternative wheel cleansing measures
- 9) No development shall commence until a scheme has been submitted to and approved by the local planning authority indicating the location of the borrow pits, their size, the prevailing ground conditions including the level of the water table, the nature of the material to be excavated and the use of the material, the nature and origin of any backfilling material, any pollution control measures necessary to protect controlled waters from suspended solids and the potential impacts on the hydro-geological regime as a result of the excavation and back-filling.
- 10) No development shall commence until an ecological management, mitigation and monitoring plan has been submitted to and approved in writing by the local planning authority: the plan shall be implemented as approved.
- 11) No development shall commence until a traffic management plan has been submitted to and approved in writing by the local planning authority: the plan shall detail routes and transportation details, including the location of advisory signage for construction traffic: the plan shall be implemented as approved. No development shall commence until the developer has notified the local planning authority of the intended date of commencement of construction works.
- 12) No works shall commence until details of the position, enclosure, surfacing and drainage of the construction compound, based upon the submitted Figure 9 at 1:200 dated August 2004, together with details of measures required to restore the land following its removal have been submitted to and approved in writing by the local planning authority: the approved scheme shall be implemented as approved and within 6 months of the first generation of electricity from the last turbine to be constructed, the compound shall be removed and the land restored.
- 13) No works shall commence until details of the exact location of the proposed sub-station as detailed on Figures 10 and 11 at 1:50, 1:100 and 1:200 dated August 2004

have been submitted to and approved in writing by the local planning authority: the sub-station shall be built as approved.

- 14) No construction works shall commence at the site of the turbines, until the highway improvement works as detailed on Figure 14 at 1:500 dated August 2004 have been implemented, unless otherwise agreed in writing by the Local Planning Authority.
- 15) The permanent running widths of the internal access tracks shall be no greater than 5 metres wide (10 metres on bends) unless agreed in writing by the local planning authority. All new tracks shall be surfaced with stone from the approved borrow pit(s) or excavations for the turbine bases, unless otherwise agreed in writing by the local planning authority.
- 16) No trees, other than those within a 200 metre radius of the proposed turbines and those required for the new track and the widening of the existing track, shall be felled within the application area, unless otherwise agreed in writing by the local planning authority.
- 17) No turbines shall be erected/constructed on site, until the colour and finish of the turbines and blades have been agreed in writing by the local planning authority.
- 18) All electricity and control cables between the turbines and the switch room shall be laid underground and alongside tracks which are to be constructed as part of the development, unless otherwise agreed in writing by the local planning authority.
- 19) No part of the development shall display any name, logo, sign or advertisement or means of illumination (save for that required for aviation safety purposes) without the prior written approval of the local planning authority.
- 20) Prior to being discharged into any watercourse or drainage system, all surface water drainage from parking areas and hard-standings shall be passed through trapped gullies, in accordance with a scheme to be submitted and approved in writing by the local planning authority.
- 21) Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls details of which shall be submitted to and approved by the local planning authority before any such liquids are brought on to the site.
- 22) The tonal noise emitted from any of the turbines shall not exceed the levels recommended in guidance in the BERR ETSU-R-97 at any residential property. In particular, the level of noise emissions from the wind farm, measured as described below, at any dwelling lawfully existing at the date of this permission shall not exceed:
 - (i) between 0700 and 2300 hours on any day the greater of 40dB LA90 (10 mins) or 5dB(A) above the Quiet Waking Hours Background Noise Level at that property; or
 - (ii) between 2300 hours on any day and 0700 hours on the following day the greater of 43dB LA90 (10 mins) or 5dB(A) above the Night Hours Background Noise Level at that property.

The following definitions shall apply:

- (i) "ETSU" means "The Assessment and Rating of Noise from Wind Farms" published by the Energy Technology Support Unit for the DTI in 1996.
- (ii) "Background Noise Level" means the derived prevailing background noise as reported in the Environmental Statement 2007 at Table 5.1.
- (iii) "Tonal Noise" has the meaning given on page 95 of ETSU.
- (iv) "Quiet Waking Hours" "Night Hours" have the meaning given on page 95 of ETSU.

- 23) In relation to the properties for which no background noise level measurements have been made, background noise level means the level measured at the property which is (by agreement with the Local Planning Authority) most likely to experience background noise levels similar to those experienced at the property in question.
- 24) The noise emission limits specified in Condition 22 shall be increased for any dwelling occupied by a person having a financial involvement with this development to the greater of 45dB LA90 (10 mins) or 5dB(A) above the background noise level in accordance with the principle set out in ETSU at page 66.
- 25) At the request of the Local Planning Authority following a complaint to it the developer shall measure the level of noise emissions resulting from the operation of the wind farm in accordance with the methods recommended in Section 2.0 of ETSU at pages 102-104. Wind speed shall be measured on the wind farm site and referenced to a height of 10 metres. Where it is necessary to convert between measured wind speeds and the wind speed at 10 metres height this conversion shall be undertaken using a methodology approved by the Local Planning Authority.
- 26) At the request of the Local Planning Authority following a complaint to it, Tonal Noise shall be assessed and rated in accordance with the advice in Sections 2.0 and 2.1 of ETSU at pages 103-109.
- 27) Prior to the commencement of the construction of any turbine, as scheme shall be submitted and approved in writing by the local planning authority to alleviate any interference with electro-magnetic signals: the scheme shall detail any necessary mitigation measures should interference attributable to the development occur: the scheme shall be implemented as approved.
- 28) No construction work shall be undertaken outside the hours of 0730 - 1800 hours on weekdays (Monday – Friday) and 0730 – 1200 hours on Saturdays and at no time on bank holidays and Sundays.

R.M. Poppleton

Inspector