

**MINUTES of the meeting of Planning Committee held at
The Shirehall, St Peter's Square, Hereford on Thursday 12
February 2009 at 10.00 am**

Present: Councillor TW Hunt (Chairman)
Councillor RV Stockton (Vice Chairman)

Councillors: PGH Cutter, H Davies, GFM Dawe, JHR Goodwin,
KS Guthrie, JW Hope MBE, B Hunt, G Lucas, PM Morgan,
JE Pemberton, GA Powell, AP Taylor, DC Taylor, WJ Walling, PJ Watts
and JD Woodward

In attendance: Councillor LO Barnett

81. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors DW Greenow & RI Matthews.

82. NAMED SUBSTITUTES (IF ANY)

Councillor GHR Goodwin was appointed named substitute for Councillor DW Greenow and Councillor G Powell for RI Matthews.

83. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

84. MINUTES

RESOLVED: That the Minutes of the meeting held on 9th January, 2009 be approved as a correct record and signed by the Chairman

85. CHAIRMAN'S ANNOUNCEMENTS

The Assistant Chief Executive Legal & democratic read out the contents of a letter which had been received from the Government Office for the West Midlands. The Secretary of State for Communities and Local Government had directed that the Council should not grant planning permission on the wind turbines application set out in Agenda item No.6 for the meeting, until she had considered whether it should be referred to her for determination. She had said however that the Committee could consider the application and be mindful to refuse it if saw fit, and that the applicants would still have the right to appeal.

The Head of Planning and Transportation outlined the options available to the Committee which were to:-

- (a) be mindful to approve the application as recommended and seek the views of the Secretary of State for Communities and Local Government as to whether it should be referred to her for determination;
- (b) make a decision contrary to the recommendation taking into consideration all the appropriate material planning issues, the Councils policies,

Government policies and the impact of the scheme on the landscape and historic setting or;

- (c) to defer the matter in the light of the further representations made and to seek more information from the applicants about the proposal.

He said that the application was a complex one and that the special meeting had therefore been arranged to consider it, with more time being allocated for public speaking. He asked the committee to focus on the policies contained within the Herefordshire Unitary Development Plan and all the material planning considerations including Planning Policy Statement (PPS) 22, which was a very clear policy introduced by the Government to support schemes which involved sources of renewable energy. These policies and considerations needed to be weighed carefully upon the impact of such a scheme on the historic landscape of the area and the affect that it would have on nearby residents.

The Chairman said that at this juncture he would proceed with the presentation of the application and public speaking. If it was subsequently decided to defer the application and the matter was considered at a future meeting, he would allow public speaking to take place for a second time in view of the considerable public interest about the application.

86. DCNW2008/1289/F - PROPOSED ERECTION AND OPERATION OF 4 WIND TURBINES AND ASSOCIATED ACCESS TRACKS, HARDSTANDING AND SUB STATION BUILDING AT REEVES HILL, REEVES LANE, NEAR KNIGHTON, HEREFORDSHIRE

The Principal Planning Officer presented the report of the Head of Planning and Transportation about a planning application for the provision of four wind turbines and associated works at Reeves Hill in the northwest of the County, on land comprising approximately 3.81 hectares across three separate farm holdings. He explained the process that had been involved in preparing the report and the extensive consultations that had been undertaken with the public, interested parties and groups, statutory undertakers and Powys County Council. He showed slides of the application site and a visual impression of what the turbines might look like when viewed from different locations and distances to indicate what their impact might be on the landscape and historic setting of the area. He drew attention to the following corrections to the report and read out the updates which had been received since it had been printed:-

Corrections to the report

paragraph 1.2 - 'Within 2km of the site are approx. 15 isolated dwellings' should be 'Within 1km of the site';

paragraph 2.1 referred to Planning Policy Guidance 7 should be Planning Policy Statement 7;

paragraph 6.2 - the Energy White Paper dated February 2007 should be February. 2001; and

paragraph 6.86 - Tipton Farm House was 600 metres from the site of the nearest proposed turbine, not 600 metres from the application site.

Shobdon Airport

The Manager of Shobdon Airport had objected to the application on the

grounds that the Airport believed that the proposed development would have a significant impact upon flight safety in the Shobdon/Presteigne area. He had contended that because the site was only 6nm from the air traffic zone of the airfield, in difficult weather conditions a pilot who was diverted to Shobdon Airport would be unable to see the turbines. He was also concerned about the impact of the proposed development on other activities at the airport such as gliding and microlights and the impact on navigational and communication facilities used at the airfield

Officer Comments

The issues raised by the airport manager were not considered to be sufficient material planning grounds for refusal of the application. Other relevant air traffic consultees had raised no material planning objections to the application. The airport operated with a license obtained from the Civil Aviation Authority which had not raised the matter as an issue in their response to the application.

The Georgian Group

Further comment has been received from the Georgian Group that was concerned about the impact of the proposed development on the late-Georgian designed landscape of international significance. It also considered that the impact had been underplayed in the Environmental Statement to an extent that was seriously misleading. They were particularly concerned about the impact on Brampton Bryan Park and Stanage Park.

Officer Comments

The issues raised by the Georgian Group were noted but the application site was not subject to special landscape designation and officers were of the opinion that although there would be some impact on views from both parklands, it would be limited and not significant enough to warrant refusal of the application.

Powys County Council

Access to the site would have to be gained via a route commencing in Powys. A letter has been received from Powys County Council Highways Authority advising that the planning application for the proposed access route, which would run from Ludlow Road, Knighton onto Lanshay Lane, had yet to be determined by the Council and that further information was awaited from the applicants.

Officer Comments

Officers recommended that an appropriate 'Grampian Condition' should be included in any planning permission which was granted. This would necessitate the applicants first obtaining planning permission from Powys County Council for the access, prior to being able to implement the consent from Herefordshire Council. Details about how the access would be controlled were included in the proposed Planning Obligation under Section 106 of the Town and Country Planning Act 1990 and set out in the report.

Stonewall Hill Conservation Group

A letter had been received from Richard Buxton, Solicitor, on behalf of the Stonewall Hill Conservation Group, expressing concerns about (i) an

anemometer needed on site to record wind speed; (ii) concerns about information in respect of noise issues and that advice sought on noise issues had not been made public; and (iii) the mitigation offered by the developers which was not included in the Environmental Statement or available for the public to comment upon.

Officer Comments

The view of the Officers was that (i) it was unlikely that the scheme would be carried out if there was insufficient wind speed data collected for the site. Also it was outlined in the Environmental Statement that the wind speed data collected on site in 1994 for a previous application for turbine development was being used; (ii) there was information from the Council's Consultants on noise issues on the planning file which was available for inspection by members of the public on request; and (iii) in response to the concerns as raised about the proposed mitigation measures not having been originally included in the Environmental Statement, advice from the Council's Legal Department would be obtained .

English Heritage

Further comments had been received from English Heritage who concluded by stating they agreed with the applicant's Environmental Statement that the archaeological impact was primarily upon Offa's Dyke, especially between Hergest Ridge and Llanfair Hill. Its views were as follows:-

- agree that in terms of Offa's Dyke there are identifiable Historic Environment values;
- consider that those values do not apply evenly as measurable receptors across the whole landscape;
- agree that a consideration of setting is appropriate against the tests set out in Conservation Principles and within English Heritage guidance on Wind farms;
- consider that the area which has proved most difficult is the impact upon the section of Offa's Dyke between Llanfair and Panponton Hills. We have carefully assessed this section in the light of information provided and the approach described. It is acknowledged that the turbines will have greatest impact where they are in-line with the direction of the Dyke. We also conclude that limited visibility (because of the undulating nature of the land) and distance are mitigating factors;
- consider that the original report was deficient in some areas and this was picked up by the local authority and others in accordance with our advice that the matter be considered in accordance with established policies;
- note that the supplementary information report of October 2008 did provide improved information, although does also contain minor errors and some judgements with which we differ; and
- our overall conclusion, taking into account concepts of setting to and value of historic assets affected by the proposal, is that the formal consultation responses that we have already forwarded to the local authority remain, namely that the application be determined in the light of existing local and

national policies and guidance.

Officer Comments

Although English Heritage had responded with additional comments in respect of the application, it did not object to the proposed development and its original response stood in that it considered that the application had taken account of English Heritage advice contained in its publication: 'Wind Energy and the Historic Environment'.

Additional Representations

A letter (sent via email to Members of the Planning Committee) had been received from the applicants' agent informing Members of current policy and legislation in respect of the development subject to this application.

Officer Comments

The Officers had no further comment on the response received from the applicants' agent.

Additional Representations

A letter has been received from the applicants confirming that they were prepared to enter into a Deed of Covenant regarding the Community fund, as outlined in the report and their Environmental Statement, in support of the application.

Officer Comments

This was not considered by the Officers to be an issue of material planning consideration in respect of the application.

Stapleton Group Parish Council

The parish council had raised concerns that the temporary wind speed monitoring mast which had been approved under planning application ref: NW08/1598/F had not been installed on site, and that therefore no accurate wind speed data had been collected on site in consideration of any advantages for the scheme in terms of Co2 reduction, outweighing the disadvantages in terms of the damage to the local environment. Herefordshire Council was therefore not in full possession of the facts on to properly consider the application.

Officer Comments

The Officer stated that it was considered reasonable that the development would not be carried out if there was insufficient wind speed data collected for the site. Also as indicated in the Environmental Statement, the applicants were relying on wind speed data already collected on site for a previous application for wind turbines.

The International Council on Monuments and Sites UK

A letter of objection had been received from the International Council on Monuments and Sites UK, (ICOMOS). The objection was based on what it

considered to be the impact of the proposed development on Offa's Dyke and the significant adverse effect the proposed turbines would have on the integrity of this asset before a proper understanding of its full significance has been set out as a basis for sustainable management.

Officer Comments

Officers acknowledged these concerns but were of the view that the letter raised no additional issues of concern in relation to the application.

The Garden History Society

The Garden History Society had objected to the proposed wind farm and concluded by stating:

- we consider that the proposal would have a significantly adverse impact on the Grade II registered landscape at Brampton Bryan, and the Grade I registered landscape at Stanage;
- we consider that the development would have an adverse impact on the setting of Downton Castle (II), Croft Castle (II) Shobdon (II), Eywood (II) and Gatley Park (II) in England; and on the setting of Boultibrooke (II), Broad Heath (II) and Silia (II) in Wales;
- we conclude that the proposed development conflicts with Government planning policy guidance contained in PPG15 (para 2.24), and Planning Policy in Wales (2002), p 75;
- we strongly advise your Authority that the documentation produced in support of this application, including the Supplementary Environmental Report (October 2008), is seriously flawed and deficient in its consideration of the impact of the development on the historic environment, and nationally designed landscapes in particular. We do not consider the documentation to be an appropriate basis on which your Authority should proceed to determine the application.

Officer Comments

The views of the Society were not felt to raise any new issues of concern about the application.

The Council's Environmental Health Manager

The Environmental Health Manager had responded to concerns raised by a member of the public in relationship to noise from the proposed development stating that: *In response to this and the previous objection by the complainant, I feel that the noise limit of 38dB L90 10 minutes requested as condition 13 addresses the issue of enforceability based on ETSU-R-97. A set limit means any future noise measurements recorded can be compared directly to the limit set and not to previously measured data by the applicant.*

Officer Comments

No further comments were raised by the Officers about this issue.

Letters from the public

112 further letters of objection had been received from members of the public. These included the views of The Offa's Dyke Association and the Stonewall Hill Conservation Group.

Three letters had been received from households in response to letters from the Council informing them of the date and time of the Planning Committee and stated that they did not wish to comment on the application.

Two letters had been received requesting withdrawal of their letters of objection to the proposed development.

Officer Comments

Although the letters raised many issues of concern in relation to the application, the Officer was of the view that no new issues of material planning consideration had arisen.

No change to recommendation

The Principal Planning Officer recommended that if the committee was minded to approve the application, delegated authority should be given to the Head of Planning and Transportation to amend conditions 10 – 18 inclusive (noise), to accord with the Council's best practice on the use of planning conditions

The Northern Team Leader said that although planning applications for similar installations had been refused in the past, the introduction of PPS 22 had changed the situation in that such renewable energy schemes should be looked on more favourably. The Officers had carefully considered all the factors involved and the extensive representations received. They felt that although there would be an impact on the landscape setting, this was not considered to be sufficient to warrant refusal and that the careful use of a number of planning conditions could help to minimise the impact of the scheme.

In accordance with the criteria for public speaking, the following spoke in objection to the application:-

1. Dr. S Hugh-Jones - Chairman of Stonewall Hill Conservation Group
2. Mrs S Andreae - Chairman of Offa's Dyke Association
3. Mr. M Berkeley - Composer and broadcaster

The objectors reiterated their objections set out in the report and updates including (i) the lack of proper anemometer wind speed recording on the site; (ii) concerns about information in respect of noise issues and that advice sought on noise issues had not been made public; and (iii) concerns that the mitigation as offered by the developers was not included in the Environmental Statement and made available for the public to comment upon (iv) the impact of the scheme on local residents and local businesses; and (v) the considerable detrimental effect of the turbines on the historic landscape setting and in particular Offa's Dyke and historic buildings parks and gardens. They did not feel that the report properly set out the true impact of the scheme on the locality and that local people were totally opposed to it.

The following spoke in favour of the application in accordance with the criteria for public speaking:-

1. Mr S Goulay (Marches Green Energy)
2. Mr J Maloney (Energy for All)
3. Mr M Corker (Bostone Energy)

The supporters of the scheme drew particular attention to Government policy which promoted the introduction of sources of renewable energy and the need to help to meet government targets to reduce CO2 emissions by 20% in 2020 and 80% in 2050. They pointed out that the planned decommissioning of coal and gas fired power stations needed the extension of such schemes and felt that wind turbines were more acceptable than nuclear fuel which would take longer to become available and leave a legacy of nuclear waste for future generations.

Councillor LO Barnett the Local Ward Member said that the application had caused a considerable amount of interest amongst local people and that opinion was divided about the scheme. She had received a considerable amount of correspondence locally and from residents and Officers in adjoining Powys which bordered the site. She felt that the representations for and against had been set out in a very comprehensive report and commended the work which had been done by the Officers. As had been said, the application had to be judged in relation to existing policies and the need for renewable energy and balanced against the impact on an important historic landscape, local residents and local businesses. She supported the Council's policies but said that it was for the Committee to decide upon the best way forward.

The Chairman said that many more views had been received about the proposals since the report had been produced. The objectors were concerned about a lack of clarity on the wind speeds in the locality and felt that there was a need for further assessment of the likely harm to the prevailing landscape and visual amenity in the wider area from the proposed development. They also wanted further assessment of the likely impact on the historic environment in general, and on Offa's Dyke, Brampton Bryan Park and Stangate Park in particular. Another area of concern to them was the degree of noise generation from the wind turbines and the measures taken to assess it. Further issues they had raised included clarification of procedural matters around the submission, contents and mitigation measures set out in the Environmental Statement and the arrangements for vehicular access to the site. In view of these he proposed that consideration of the application should be deferred. Councillor B Hunt agreed with this view because of the queries that had been raised and the need for them to be further considered before a decision could be made. He was disappointed that the direction from the Government Office for the West Midlands had only been received the day before the meeting. He therefore felt that the Committee needed to know whether the Secretary of State intended to call in the application and what her decision would be, before the Committee could decide upon the next step.

Councillor PGH Cutter was of the view that ample information was available for the Committee to determine the application and that it would be unfair to defer it, given the considerable public interest in the application and the large numbers of public present at the meeting. Councillors ACR Chappell and WJ Walling expressed agreement.

A vote was taken and the motion to defer consideration of the application was lost

At this juncture Committee took a ten-minute recess and then reconvened.

Councillor AP Taylor had shared the concerns about the potential danger of the turbines to low flying aircraft in bad weather. He also wondered just how cost effective the scheme would be, given the amount of money given to such enterprises through Government subsidy which seemed to be disproportionately high in relation to any benefits which would arise if the scheme was to proceed. Councillor GFM Dawe said that he had done his own calculations and had estimated that the carbon footprint of construction had demonstrated a favourable balance for the projected duration of the scheme.

Councillor JD Woodward shared the concerns expressed by the objectors to the scheme about the significant impact it would have on local residents, the tourist industry and an important area of landscape with significant historic buildings and features. She acknowledged that there was a considerable need for renewable energy but did not feel that this was the right location for wind turbines. She felt that as custodians of the natural landscape, the Council had a moral obligation to protect it for future generations. She expressed doubts about the level of energy that could be produced by four turbines compared to the likely level of financial investment that would be made towards the costs of the scheme. Councillor PM Morgan said that she had been on the site inspections and read all the correspondence and reports and had to ask herself how she would feel if there was a similar scheme in her area. She felt that wind turbines were out of keeping with the natural environment but that a crucial stage would soon be reached regarding energy production, with fossil fuel stocks declining, and that it was therefore essential to provide alternative forms of energy generation. On balance she was therefore in favour of the scheme.

Councillor ACR Chappell said that he had also read all the correspondence and information about the application and commended the Officers for writing such a well-balanced and informative report about all the issues involved with the application. He noted the concerns about the impact on local people, tourism and the historic landscape. He compared the site to Clee Hill near Ludlow where some years ago an early warning system had been installed, which was highly visible for considerable distances. He said that at the time there had been great public concern but that over the years the site had become quite a landmark and felt that the same would happen with Reeves Hill if the turbines were installed. He noted the concerns that had been raised but felt that the site was in a fairly remote location and that the scheme was far more acceptable than overhead cables and pylons. He felt that some may view the turbines as elegant and that in view of Government policy regarding the need for renewable energy schemes, and the fact that local homes would be served by the turbines, there were no reasonable planning grounds to merit refusing the application.

Councillor JW Hope felt that the objectors had grossly overstated their cause and that their complaints appeared to be based on supposition and opinion rather than facts based on hard evidence. Councillor JE Pemberton felt that the scheme needed to be considered in relation to the benefits that could be provided for energy production rather than its local impact. She congratulated the Officers for their informative presentation. Councillor G Lucas said that he too had carefully read the report and all the letters of objection and that on balance he was in favour of the scheme. Councillor GHR Goodwin was of the view that the application location was a subjective matter. He suggested that nuclear fusion would be the only realistic solution to the worlds energy needs in the future and that wind turbines were a relatively short-term solution. Councillor PJ Watts was of the view that wind turbines could be advantageous in the right numbers and locations but did not feel that this was the right location. He felt that preservation of the important historic landscape

for future generations far outweighed the relatively limited amount of energy that would be produced by the scheme.

Councillor PGH Cutter was concerned at the environmental issues involved but did not feel that there would be a strong visual impact arising from the scheme and was in favour of it. Councillor H Davies was of the view that the scheme would severely detract from the natural beauty of the landscape and also felt that the visual amenity of local residents would be impaired and tourism adversely affected. Councillor JD Woodward was of the view that the electricity generation figures were likely to be lower than those suggested and doubted whether there would be sufficient benefits to outweigh the adverse effect on neighbouring properties and the historic landscape. Councillor RV Stockton said that there had been a number of views expressed and that it was a matter of judgement about the scheme. Taking into consideration all the issues he was concerned at the adverse impact the turbines would have on the landscape, the visual amenity of the surrounding uplands and the problems caused for those living nearby. The assets of rural Herefordshire needed to be protected. Councillor ACR Chappell said that although the impact on the landscape and local people was a major factor, action was needed to protect the wider environment and alleviate the impact of global warming through accepting renewable energy schemes such as this.

Having carefully considered all the issues and the representations that had been made regarding the application, the Committee decided that it was in favour of it. It was noted that it could not grant permission outright until the Secretary of State had indicated whether she wished to call in the application and determine it herself. It was of the view however that if the Secretary of State did not call the application in, the Head of Planning Services should be authorised to approve it, subject to the conditions he felt to be appropriate arising from the points raised by the Committee and the additional information that had been received.

RESOLVED

That the Committee is mindful to approve the application, provided that the Secretary of State does not call the application in. If the Secretary of State does not call the application in, authority be delegated to the Head of Planning and Transportation to approve the application subject to;

(A) the Legal Practice Manager being authorised to complete a planning obligation under Section 106 of the Town and Country Planning Act 1990 as set out in the draft Heads of Terms attached to the report of the Head of Planning and Transportation; and a Deed of Covenant for the purposes as set out in the Environment Statement with regards to the Community Fund;

(B) the following conditions and any further conditions considered necessary by the Head of Planning and Transportation:

1. The development hereby permitted shall begin not later than three years from the date of the Planning Committee Decision.

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

2. The operational period of the permission shall expire 25 years after the first generation of electricity to the National Grid of which the Local Planning Authority will be informed in writing of the first generation of electricity to the National Grid. All the above ground elements of the development plus 1 metre of the turbine bases below ground level shall

be removed from the site and the land shall be reinstated in accordance with a scheme to be approved in writing by the local planning authority. The scheme for reinstatement shall be submitted for the approval of the local planning authority not later than 24 years from the date of the first generation of electricity to the National Grid.

Reason: In order to protect the amenity of the surrounding area once the site has ceased producing electricity and to comply with policy LA2 of the Herefordshire Unitary Development Plan.

3. Notice of the date of commencement of the development shall be given in writing to the local planning authority before any works commence on the site.

Reason: In order to comply with condition 2 and to comply with Policy LA2 of the Herefordshire Unitary Development Plan.

4. Before the development is commenced a scheme to alleviate incidence of any shadow flicker effect shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of the photocells and any other measure proposed to remove any such effect. The scheme shall be implemented as approved.

Reason: To protect the amenity of the surrounding area and to comply with Policy S11 of the Herefordshire Unitary Development Plan.

5. Before the development is commenced a scheme to secure the investigation and alleviation of any interference to any form of electromagnetic transmission which may be caused by the operation of the wind turbines shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved.

Reason: To protect the amenity of the surrounding area and to comply with Policy S11 of the Herefordshire Unitary Development Plan.

6. The wind turbines shall not be erected until details of the colour and finish of the nacelle, blades and supporting tower have been submitted to and approved in writing by the local planning authority. The colour and finish shall be implemented as approved.

Reason: In order to protect the amenity of the surrounding area and to comply with Policy DR1 of the Herefordshire Unitary Development Plan.

7. All the turbine blades shall rotate in the same direction. They shall be located in the positions shown on the plans submitted for approval unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity of the surrounding area and to comply with Policies DR1 and DR4 of the Herefordshire Unitary Development Plan.

8. If a wind turbine fails to produce electricity for supply to the grid for a continuous period of 12 months all of its above ground elements shall be removed from the site at the request of the local planning authority within a period of six months from the end of the 12-month period. Within the ensuing 12 months the land shall be reinstated in

accordance with a scheme that has been submitted to and approved in writing by the local planning authority. The scheme shall be submitted within two months of a request by the local planning authority under this condition.

Reason: In order to protect the amenity of the surrounding areas and to comply with Policies DR4 and CF4 of the Herefordshire Unitary Development Plan.

9. No part of the development shall be externally lit without the written consent of the local planning authority.

Reason: To protect the amenity of the surrounding area and to comply with Policies DR4 of the Herefordshire Unitary Development Plan.

10. The level of noise emitted by the combined effect of the wind turbines when measured as prescribed in these conditions shall be demonstrated within 21 days at the request of the Local Planning Authority upon receipt of a written complaint of noise disturbance by a local resident.

Reason: To safeguard the amenity of the area in compliance with Policy DR13 of the Herefordshire Unitary Development Plan.

11. The level of noise from the wind turbines (inclusive of background noise) shall be measured at the dwelling of any person lodging a written complaint about noise disturbance, using an LA90 index over a minimum of 20 periods, each of a minimum of 10 minutes duration. These measurements shall be made between wind speeds specified by the Planning Authority and made in consecutive 10minute periods, provided that they fall within the specified wind speed range. Wind speed means speeds measured by the on-site anemometer.

Reason: To safeguard the amenity of the area in compliance with Policy DR13 of the Herefordshire Unitary Development Plan.

12. The measurements undertaken in conditions 10 and 11 shall be undertaken using a sound level meter of at least type 1 quality, incorporating a windshield and in free field conditions. The measurements should be made between 1.2 – 1.5 metres above the ground and at least 10 metres from any wall, hedge or reflective surface, the meter shall be set to a fast weighted response.

Reason: To safeguard the amenity of the area in compliance with Policy DR13 of the Herefordshire Unitary Development Plan.

13. The level of the noise emitted by the combined effect of the wind turbines, when measured in accordance with recommended conditions 10, 11 and 12 shall not at any time exceed 38dB(A) expressed as L90 10 minutes at wind speeds not exceeding 8 metres per second measured at a height of 10 metres above ground level at all houses existing at the time the wind farm was first commissioned.

Reason: To safeguard the amenity of the area in compliance with Policy DR13 of the Herefordshire Unitary Development Plan.

14. Compliance with the limits specified in condition 13 shall be determined by correlating measurements taken with wind speed as measured by the on-site anemometer. The LA90 10-minute noise level from the combined effects of the wind turbines (inclusive of background noise) shall be derived by a best-fit curve.

Reason: To safeguard the amenity of the area in compliance with Policy DR13 of the Herefordshire Unitary Development Plan.

15. At the request of the Local Planning Authority the developer and/ or site operator shall carry out measurements to determine whether the turbines exhibit any tonality. Tonality measurements being taken at the same time as broadband measurements for determining overall noise levels. Such an assessment shall be undertaken in accordance with the DTI report '*The Assessment and rating of Noise from Wind Farms*' (1996).

Reason: To protect the amenity of nearby properties so as to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

16. If the assessment in condition 15 reveals that tonal noise from the combined effect of the wind turbines exceeds the threshold of audibility by more than 6.5 dB, a penalty of 5dB shall be added to the noise level derived in recommended condition 11 and 12 for comparison with the 38dB (A) level specified in recommended condition 13. If the tonal noise exceeds the threshold of audibility by more than 2dB but less than 6.5dB, a penalty of 5/6.5 x audibility shall be added to the noise level.

Reason: To safeguard the amenity of the area in compliance with Policy DR13 of the Herefordshire Unitary Development Plan.

17. No turbines shall be erected on site until details and engineering specifications of the precise make, model and type of turbine have been agreed in writing with the Local Planning Authority.

Reason: In order to protect the amenity of the surrounding area and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

18. A noise management scheme shall be submitted and agreed in writing with the Local Planning Authority prior to commencement of use of the turbines. The monitoring and management of low frequency noise, blade swish, amplitude modulation, mechanical defect noise, tonal noise, infrasound, vibration, day and night-time noise levels should be included in the scheme. The scheme shall be in use for 2 years from the date of agreement. A new scheme should be agreed every two years by the Local Planning Authority, prior to the expiry of the previous scheme.

Reason: To safeguard the amenity of the area in compliance with Policy DR13 of the Herefordshire Unitary Development Plan.

19. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the

capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

20. All foul drainage (from the temporary works construction phase) shall be contained within a sealed and watertight cesspool, fitted with a level warning device to indicate when the tank needs emptying.

Reason: To prevent pollution of the water environment and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

21. A monitoring scheme for all natural water supplies and watercourses within the application site shall be submitted to and approved by the Local Planning Authority. The scheme shall include frequency and location of monitoring and nature of sampling. There after monitoring shall be carried out and reviewed in accordance with the approved scheme. If the monitoring scheme approved shows in the opinion of the Local planning Authority, any adverse risk of deterioration to springs then proposals:

- i. to investigate the cause of deterioration
- ii. to remediate any such risks
- iii. to monitor and amend any failures of the remediation undertaken; shall be submitted to the Local Planning Authority for their approval

Reason: In order to protect natural water supplies and to comply with Policy DR6 of the Herefordshire Unitary Development Plan.

22. Prior to any development on site a detailed plan will be submitted to and approved by the Local Planning Authority of an integrated surface water and ground water management plan. This will include details of associated drainage and sediment control.

Reason: To prevent impact on the groundwater environment and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

23. There shall be no excavations, during the excavation of borrow pits, below the water table and prior to any development on site details will be submitted to the Local Planning Authority and approved in writing of hydrological and hydro geological surveys in relationship to the Borrow Pits.

Reason: To prevent impact on the groundwater environment and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

24. An appropriately qualified and experienced ecological clerk of works will be appointed (or consultant engaged in that capacity) to oversee the ecological monitoring, mitigation and enhancement work.

Reason: To ensure great crested newts and all species of bats are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 within Herefordshire Council's UDP.

To ensure the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981 (and amendments) and policies NC1, NC5, NC6 and NC7 within the UDP.

To conserve and enhance biodiversity and comply with UDP Policies NC1, NC6, NC7, NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

25. Prior to development works, full working method statements and mitigation strategies for protected and/or notable species (including bats, birds and great crested newts) based upon the recommendations in the Environmental Statement (May 2008) and the Supplementary Environmental Report (Oct 08) shall be submitted to the Local Planning Authority for written approval in consultation with Natural England. These shall be implemented as approved.

Reason: To ensure great crested newts and all species of bats are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 within Herefordshire Council's UDP.

To ensure the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981 (and amendments) and policies NC1, NC5, NC6 and NC7 within the UDP.

To conserve and enhance biodiversity and comply with UDP Policies NC1, NC6, NC7, NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

26. Prior to development works, schemes for independent, long-term monitoring of the impact of the wind turbines upon protected and/or notable species (including bats, birds and great crested newts) shall be submitted to the Local Planning Authority for written approval in consultation with Natural England. The monitoring schemes must detail thresholds for injury and mortality and if these thresholds are exceeded and are shown to have a significant effect upon species populations, the wind turbine(s) must be decommissioned immediately until appropriate further mitigation is put into place. The monitoring schemes shall be implemented as approved and the results submitted annually to the local Planning Authority, Natural England and the RSPB.

Reason: To ensure great crested newts and all species of bats are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended)

and policies NC1, NC5, NC6 and NC7 within Herefordshire Council's UDP.

To ensure the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981 (and amendments) and policies NC1, NC5, NC6 and NC7 within the UDP.

To conserve and enhance biodiversity and comply with UDP Policies NC1, NC6, NC7, NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

27. Prior to development works, a full habitat enhancement and management scheme based upon the recommendations in the Environmental Statement (May 2008) and the Supplementary Environmental Report (Oct 08) shall be submitted to the Local Planning Authority for written approval. This shall be implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure great crested newts and all species of bats are protected under the Wildlife and Countryside Act 1981, the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and policies NC1, NC5, NC6 and NC7 within Herefordshire Council's UDP.

To ensure the law is not breached with regard to nesting birds which are protected under the Wildlife and Countryside Act 1981 (and amendments) and policies NC1, NC5, NC6 and NC7 within the UDP.

To conserve and enhance biodiversity and comply with UDP Policies NC1, NC6, NC7, NC8 and NC9 in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006.

28. H03 - Visibility splays

Reason: In the interests of highway safety and to conform to the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

29. H05 - Access gates

Reason: In the interests of highway safety and to conform to the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

30. H06 - Vehicular access construction

Reason: In the interests of highway safety and to conform to the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

31. H13 - Access, turning area and parking

Reason: In the interests of highway safety and to ensure the free flow of traffic using the adjoining highway and to conform to the requirements of Policy T11 of Herefordshire Unitary Development Plan.

32. H21 - Wheel washing

Reason: To ensure that the wheels of vehicles are cleaned before leaving the site in the interests of highway safety and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

33. H27 - Parking for site operatives

Reason: To prevent indiscriminate parking in the interests of highway safety -and to conform to the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

34. H30 - Travel plans

Reason: In order to ensure that the development is carried out in combination with a scheme aimed at promoting the use of a range of sustainable transport initiatives and to conform with the requirements of Policy DR3 of Herefordshire Unitary Development Plan.

35. No development shall commence until a suitable alternative access to Llanshay Lane avoiding the existing junction with the A4113 public highway has been provided in accordance with Powys County Council highway requirements.

Reason: It is considered that the existing junction arrangement is unsuitable for the large vehicles likely to be required to service the site.

Informatives

1. N15 - Reason(s) for the Grant of Planning Permission
2. N19 - Avoidance of doubt - Approved Plans
3. HN01 - Mud on highway
4. HN04 - Private apparatus within highway
5. HN05 - Works within the highway
6. HN07 - Section 278 Agreement
7. HN10 - No drainage to discharge to highway
8. HN24 - Drainage other than via highway system
9. HN25 - Travel plans
10. HN28 - Highways Design Guide and Specification
11. The applicants or successors in title are reminded to advise Defence Estates, DE Operators North, Safeguarding Wind Energy, Kingston Road, Sutton Coldfield, B75 7RL, tel: 0121 311 3714 of the date when construction starts in order for the turbines to be plotted on flying charts.

87. DATES OF FORTHCOMING MEETINGS

13/03/09; 03/04/09; and 15/05/09

The meeting ended at 12.50 pm

CHAIRMAN