

AGENDA

Planning Committee

Date: **Wednesday 14 September 2011**

Time: **10.00 am**

Place: **The Council Chamber, Brockington, 35 Hafod Road,
Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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Agenda for the Meeting of the Planning Committee

Membership

Chairman

Councillor PGH Cutter

Vice-Chairman

Councillor BA Durkin

Councillor PA Andrews

Councillor AN Bridges

Councillor PJ Edwards

Councillor DW Greenow

Councillor KS Guthrie

Councillor J Hardwick

Councillor JW Hope MBE

Councillor RC Hunt

Councillor Brig P Jones CBE

Councillor JG Lester

Councillor MD Lloyd-Hayes

Councillor G Lucas

Councillor RI Matthews

Councillor FM Norman

Councillor GR Swinford

Councillor PJ Watts

Councillor JD Woodward

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

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What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

What do I need to do if I have a prejudicial interest?

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AGENDA

| | | Pages |
|-----------|--|--------------|
| 1. | APOLOGIES FOR ABSENCE To receive apologies for absence. | |
| 2. | NAMED SUBSTITUTES (IF ANY) To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee. | |
| 3. | DECLARATIONS OF INTEREST To receive any declarations of interest by Members in respect of items on the Agenda. | |
| 4. | MINUTES To approve and sign the Minutes of the meeting held on 31 August 2011. | 1 - 20 |
| 5. | CHAIRMAN'S ANNOUNCEMENTS To receive any announcements from the Chairman. | |
| 6. | APPEALS To be noted. | 21 - 24 |
| 7. | DCNW2008/1289/F - REEVES HILL, REEVES LANE, NEAR KNIGHTON, HEREFORDSHIRE Proposed erection and operation of 4 wind turbines and associated access tracks, hardstanding and sub-station building. | 25 - 98 |
| 8. | DATE OF NEXT MEETING Date of next provisional site inspection - 11 October 2011 Date of next meeting - 12 October 2012 | |

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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 31 August 2011 at 10.00 am

Present: Councillor PGH Cutter (Chairman)
Councillor BA Durkin (Vice Chairman)

Councillors: PA Andrews, AM Atkinson, AN Bridges, PJ Edwards, DW Greenow, J Hardwick, JW Hope MBE, RC Hunt, JG Lester, MD Lloyd-Hayes, G Lucas, RI Matthews, FM Norman, GR Swinford, PJ Watts and JD Woodward

In attendance: Councillor CNH Attwood

44. APOLOGIES FOR ABSENCE

Apologies were received from Councillors KS Guthrie, JLV Kenyon and P Jones CBE.

45. NAMED SUBSTITUTES (IF ANY)

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors AM Atkinson and JD Woodward attended the meeting as substitute members for Councillors KS Guthrie and JLV Kenyon.

46. DECLARATIONS OF INTEREST

7. DMS/102921/O - Land to the East of Holywell Gutter Lane, Hampton Bishop, Hereford, HR1 4JN.

Councillor DW Greenow, Personal, The Councillor rents a farm from Bloor Homes.

7. DMS/102921/O - Land to the East of Holywell Gutter Lane, Hampton Bishop, Hereford, HR1 4JN.

Councillor JD Woodward, Personal, The existing rugby club falls within the Councillor's ward.

7. DMS/102921/O - Land to the East of Holywell Gutter Lane, Hampton Bishop, Hereford, HR1 4JN.

Councillor RI Matthews, Personal, The Councillor knows one of the public speakers.

8. DMS/111601/F - Outfall Works Road through Rotherwas to B4399, Hereford.

Councillor DW Greenow, Personal, A member of the Councillors family serves on the Parish Council.

8. DMS/111601/F - Outfall Works Road through Rotherwas to B4399, Hereford.

Councillor MD Lloyd-Hayes, Personal, The Councillor sits on the steering group as a local ward member.

9. DMS/111132/F - Field, The Leys, Lynne Down, Much Marcle, Herefordshire, HR8 2NS.
Councillor AM Atkinson, Personal, Two of the objectors are customers of the Councillor.

9. DMS/111132/F - Field, The Leys, Lynne Down, Much Marcle, Herefordshire, HR8 2NS.
Councillor DW Greenow, Personal, The Councillor knows two of the objectors.

9. DMS/111132/F - Field, The Leys, Lynne Down, Much Marcle, Herefordshire, HR8 2NS.
Councillor J Hardwick, Personal, The Councillor knows two of the objectors.

11. DMS/111414/FH & DMS/111415/L - Edde Cross House, Edde Cross Street, Ross On Wye, Herefordshire, HR9 7BZ.
Councillor PA Andrews, Personal, The applicants are friends of the Councillor.

47. MINUTES

Councillor DW Greenow requested that the minutes be amended in respect of minute number 38 as he had stated that he knew two of the objectors to the application.

RESOLVED: That the Minutes of the meeting held on 10 August 2011 be approved as a correct record and signed by the Chairman subject to the amendment detailed above.

48. CHAIRMAN'S ANNOUNCEMENTS

No announcements were made.

49. APPEALS

The Planning Committee noted the report.

50. DMS/102921/O - LAND TO THE EAST OF HOLYWELL GUTTER LANE, HAMPTON BISHOP, HEREFORD, HR1 4JN

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet. In addition, the case officer recommended a further revision to last two sentences of the first reason for refusal which was changed to read:

It is considered the development will be visually intrusive, will result in the permanent loss of a significant area of orchard which is a Biodiversity Action Plan habitat, and will adversely erode the landscape character of the site and setting of the city. As such the development is contrary to policies S7, LA2, LA3, NC6, H7, and RST 10 of the UDP and advice within PPS7 and PPS9.

In accordance with the criteria for public speaking Mr Townson, representing Hampton Bishop Parish Council, and Mr McLellan and Mr Keme, representing some of the local residents, spoke in objection to the application and Mr Griffiths, the applicant, spoke in support.

Councillor J Hardwick, the local ward member, thanked the case officer for a detailed report and reserved his right to address the committee until after the debate had taken place.

Members opened the debate by thanking the case officer for producing a thorough report. It was also noted that there had been a great deal of useful and detailed additional information circulated to members by all parties involved. It was accepted that the application was finely balanced between the requirements of the Unitary Development Plan policies and the housing needs of the County. The benefits to Hereford Rugby Club were also noted.

Members discussed the concerns of the local residents in respect of flooding at Hampton Bishop. It was noted that a great deal of work had been undertaken to address the flooding issue in the area and that the proposed development would not exacerbate the situation. It was also noted that due to the proposed layout of the site the housing

element of the application would be closer to Tupsley than Hampton Bishop and should therefore not be considered as development in open countryside.

Members also discussed the orchard. It was noted that 60% of the orchard was being retained which was welcomed. Members also noted that UDP policies LA2 and LA3 had been quoted in the officer's recommendation for refusal of the application. Members noted that the orchard was not protected and could be removed at any time by the land owner if he so wished. Members felt that the provision of a section 106 agreement could provide more certainty over the protection of the orchard.

In respect of housing the committee noted that there were over 5000 homeless people within the county and that there was a need for 1884 new homes in Hereford City alone. Members felt that the specification of the homes to sustainable level 4 was welcomed and also noted that there was an acceptable level of affordable homes within the development. Members also noted that the revised scheme included a higher percentage of 2 and 3 bedroom homes with no 3 storey developments.

Some Members felt that the application was a unique opportunity for the people of Hereford and felt that it should be viewed as an enabling development for the benefit of the County. The transferring of the clubs existing site to the Council was also welcomed and was a material planning consideration in the assessment of the development.

Some Members had concerns in respect of the application and noted that although it was positive to see a sports club looking towards the future any decision should be in accordance with planning policy. Members commented further that the substantial loss of landscaping resulted in the application being contrary to UDP policies LA2 and LA3. Some members noted that the existing Hereford Rugby Club site was prone to flooding whilst others, although accepting that point, stated that 4 of the proposed pitches on the new site fell within a flood zone. Finally it was noted that Natural England still objected to the application.

Members discussed the application thoroughly and commented on the applicant's commitment to providing allotments. It was noted that there was currently a waiting list for allotments within Herefordshire so this provision was welcomed. It was also noted that the application would result in an extension to the 30mph restriction along the B4224 which would be extremely beneficial. Members also discussed the representations submitted by Welsh Water and Sport England and it was noted that both were satisfied with the proposed development.

One Member of the Committee felt that the applicant should have incorporated the construction of a proposed relief road or part thereof into the application.

In response to a question regarding the relief road, the Principal Planning Officer advised Members that a safeguarding corridor had been offered by the applicant. He added that it would not have been possible to request that the applicant funded the road as the route had not been agreed and this would significantly affect the viability of the development

In response to a further question regarding sustainable design of the rugby facilities the Principal Planning Officer added that the applicants had indicated that the specification would be to a BREEAM standard of 'very good' and would incorporate ground source heating, rain water harvesting systems and possibly PV solar panels.

In summing up Members noted that the application was solely for outline permission and that all reserved matters except access would come back before the committee at a later date.

Councillor J Hardwick was given the opportunity to close the debate. He made a number of comments, including:

- The application before the committee was for outline planning permission only.
- A number of concerns raised by the local residents had not yet been addressed.
- There was an increase in the possibility of flooding for the local residents.
- The visual impact could not be mitigated.
- The Council's Ecologist had recommended that the application should be refused.
- The proposed floodlighting was a serious concern to local residents and would result in light pollution.
- The proposed agricultural access was in close proximity to the junior pitches and was a safety concern.
- The application should be refused on policy grounds as detailed in the case officer's recommendation.

The Locum Lawyer and the Strategic Delivery Manager had a brief discussion in respect of section 4.8.10.2 of the Council's Constitution regarding the Further Information Report process. They both had some concerns in respect of a decision contrary to the case officer's recommendation but felt that no new information could be presented through a further information report. The Chairman noted that there had been a thorough debate on the application and that if members were minded to approve the application there were a number of outstanding issues for subsequent resolution.

RESOLVED

That officers named in the scheme of delegation be authorised to issue planning permission subject to conditions considered necessary by officers and subject to:

- 1. There being no further representations or consultations raising new material planning considerations by the end of the amended plan consultation period,**
- 2. The resolution of the outstanding objection from Natural England;**
- 3. The resolution of other issues identified in the officer's appraisal, and;**
- 4. The completion of a planning obligation under Section 106 of the Town and Country Planning Act 1990 in accordance with the matters raised in the officer's appraisal and any additional matters considered necessary by officers.**

51. DMS/111601/F - OUTFALL WORKS ROAD THROUGH ROTHERWAS TO B4399, HEREFORD

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking Mr Green, representing Dinedor Parish Council, spoke in objection to the application, and Mr Palmer, the applicant's representative, spoke in support.

The Democratic Services Officer reported the receipt of an email from Councillor Sinclair-Knipe confirming that he was in agreement with the views expressed by Dinedor Parish Council.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor MD Lloyd-Hayes, one of the local ward members, commented on a number of issues, including:

- The application was the first phase of a larger application.
- The comments from the Parish Council needed to be addressed.
- Could risk losing funding by deferring the application.
- Been involved with the steering group as the local ward member for some time.
- The consultation exercise had been extensive including an open day and various presentations.
- The committee should support the application.

The debate was opened with a Member speaking in support of the application. Some concerns were raised in respect of possible crime and antisocial behaviour associated with the underpass and it was agreed that the safety of the public was paramount. Another point that was raised was a possible contribution from the applicant to assist with secure cycle storage at Rotherwas. The final point that was raised was in respect of the removal and possible translocation of the hedgerow.

However another Member expressed concerns in respect of the issues raised by the neighbouring Parish Councils regarding safety concerns at the eastern exit of the proposed route onto the B4399. It was felt that a site visit may benefit members in making a judgement on the highway, pedestrian and cyclist safety issues raised.

In response to the initial points raised by the committee, the Principal Planning Officer advised that the proposals would include cycle parking, benches and public art along the route. He added that translocation of the hedgerow could be considered although the quality of the existing hedge was deemed to be fairly low. In respect of the safety issues, he agreed that the exit point at the eastern end of the route was a concern and that it had been addressed in condition 19 of the recommendation. He added that the exit would not be operational until the safety works were carried out and that a scheme was currently being designed to alleviate the concerns.

A motion for a site inspection was seconded and a vote was taken. The motion was lost and the committee therefore continued to debate the application.

Members continued to speak in support of the application and felt that the proposed route would be an asset to the city. It was noted that any deferral of the application could jeopardise the funding of the route. Members added that the provision of secure cycle routes was paramount to the promotion of a healthy lifestyle for the residents of Hereford as well as suggesting that appropriate signage be used to highlight the public transport links and other nearby cycle routes.

Councillor MD Lloyd-Hayes was given the opportunity to close the debate. She reiterated her opening remarks and made the following additional comments:

- There was one section along the route that was adjacent to a high metal fence. It was noted that the tenant had offered to relocate if finances were available from the project to assist with relocation costs.

RESOLVED

It be recorded that the Environmental Statement and associated documents including the consultation and other responses received on the Environmental Statement and associated documents have been taken into account in making this decision.

That planning permission be granted subject to the following conditions and any further conditions considered necessary by officers:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**
- 4. E01 Site investigation - archaeology**
- 5. G03 Retention of existing trees/hedgerows**
- 6. G04 Protection of trees/hedgerows that are to be retained**
- 7. G09 Details of Boundary treatments**
- 8. G10 Hard and soft landscaping scheme including consideration of translocation of existing hedgerow**
- 9. G11 Landscaping scheme - implementation**
- 10. H27 Parking for site operatives**
- 11. I16 Restriction of hours during construction**
- 12. I20 Scheme of surface water drainage**
- 13. I25 Bunding facilities for oils/fuels/chemicals**
- 14. I33 External lighting**
- 15. I55 Site Waste Management**
- 16. K1 Nature Conservation - access for recording**
- 17. K5 Habitat Enhancement Scheme**
- 18. M08 Flood warning**
- 19. Notwithstanding the approved plans, the last section of the Greenway between Fordshill road and the B4399 hatched green on drawing number shall not be accessible to the public until a scheme of highway, pedestrian and cyclists safety improvement works at the junction of the Greenway and the B4399 has been submitted for the approval in writing to the Local Planning Authority.**

The approved scheme shall be implemented as approved and completed prior to first use of the last section of the Greenway as defined by the green hatching on drawing number.

Details of the means of preventing public access to this section of the Greenway shall be submitted for approval of the local planning authority prior to work commencing on the development and installed as approved prior to first use of the Greenway hereby permitted.

Reason: In the interest of highway, pedestrian and cyclist safety and to comply with policies T6, T7 and T8 of the Herefordshire Unitary Development Plan.

- 20. Prior to the commencement of the development, details of the finish to include the BS paint colour proposed for the bridge shall be submitted for the approval in writing of the Local Planning Authority. The bridge should be finished in accordance with agreed colour and maintained thereafter.**

Reason: To protect the visual amenities of the area and ensure that the development complies with the requirements of policy DR1 of the Herefordshire Unitary Development Plan.

- 21. Prior to the commencement of the development, a construction and environmental management plan to include details of the construction methodologies and timing of works and an environmental risk management strategy shall be submitted for the approval in writing of the Local Planning Authority. The plans should include measures to minimise the extent of dust, noise, vibration, measures to safeguard the biodiversity interests of the site and surroundings and measures to minimise the risk of contamination as set out in the environmental statement.**

The construction shall be carried out in accordance with the approved construction and environmental management plan and the accompanying methodologies and environmental risk management strategy.

Reason: To protect the environment and biodiversity interests of the site, to safeguard the amenity of properties in the locality and to comply with policies DR2, DR4 and NC1 of the Herefordshire Unitary Development Plan.

- 22. Prior to commencement of the development, full details to include scale plans of the proposed site compound to include details of the proposed stock piling of any waste material and the proposed restoration of the compound and haul road areas following completion of the construction works shall be submitted for the approval in writing by the Local Planning Authority.**

The construction compound, waste storage and haul road along with the proposed restoration works shall be carried out in accordance with the approved details.

Reason: To protect the environment and safeguard the amenity of properties in the locality and to comply with policies DR2 & DR4 of the Herefordshire Unitary Development Plan.

- 23. Prior to the commencement of the development full details of design and location of all signage to be installed along the route shall be submitted for the approval in writing by the Local Planning Authority.**

The signage shall be installed in accordance with the agreed details prior to first use of the Greenway hereby permitted.

Reason: In the interest of highway, pedestrian and cyclist safety and to comply with policies T6 T7 & T8 of the Herefordshire Unitary Development Plan.

- 24 M09 Contamination**

25 M10 Unsuspected Contamination

26 Secure covered cycle parking

INFORMATIVES:

1. N15 Reason(s) for the Grant of PP/LBC/CAC

2. N19 Avoidance of doubt - Approved Plans

3. HN02 Public rights of way affected

52. DMS/111132/F - FIELD, THE LEYS, LYNNE DOWN, MUCH MARCLE, HEREFORDSHIRE, HR8 2NS

The Team Leader (South) gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

He also gave further details regarding the outcome of the previous appeal relating to the site. He advised Members that there were 4 key considerations in the Inspectors decision, these related to: sustainability; the impact on the landscape character; the impact on the setting of Gamage Farmhouse; and the impact on biodiversity.

In accordance with the criteria for public speaking Mr Morgan, representing Much Marcle Parish Council, and Mr Roskill, representing some of the local residents, spoke in objection to the application and Mr Baines, the applicant's representative, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor BA Durkin, the local ward member, advised Members that his comments from the last meeting still stood and that he had serious concerns regarding the sustainability and highway safety of the proposed site.

Members opened the debate by speaking in support of the application. It was noted that a site inspection had been undertaken the previous day which had been well attended and was beneficial to members when making a judgement in respect of the site. Concerns were expressed in respect of the proposed new access with members considering the existing access to be acceptable. It was also noted that the metal railings bordering the highway should be retained for highway safety reasons. Members felt that the applicants had acted responsibly throughout the application process and should be commended.

There were further comments in support of the application however there were still concerns in respect of the sustainability of the site. It was noted that the nearest small settlement was Much Marcle, which was located 2.4km away from the site along an unlit road with a sporadic bus service.

Members went on to discuss issues of concern in respect of the application and noted that the proposed hedgerow planting would take a considerable amount of time to reach maturity. It was also noted that the application site was in the setting of a listed building. In reference to the policy issues the Committee were of the opinion that the key policies related to Unitary Development Plan policies S1, S3, S6, DR4, DR6 and H12. The impact on the landscape was also discussed with the general view being that it could not be mitigated through screening.

Members did note that there was still a shortage of traveller sites within the county but felt that the proposed site was not acceptable.

In response to a question regarding maximum caravan sizes, the Team Leader (South) advised Members that under the 1966 Caravan Sites Act a caravan could be a maximum of 60 x 20 feet.

A motion to approve the application in accordance with the case officer's recommendation was lost and the resolution detailed below was agreed.

RESOLVED

THAT the planning permission be refused for the following reasons:

- 1. The provision of a gypsy/traveller site in this rural location would not be sustainable since it is considered to be too remote from local services and amenities available in Much Marcle, Ross-on-Wye and Ledbury. Accessibility to these services is further compromised by the limited bus service available and the lack of safe pedestrian/cycle routes to the nearest identified settlements. Accordingly the proposal is considered to be contrary to Policies S1 and H12 of the Herefordshire Unitary Development Plan.**
- 2 The proposed location of the accommodation and associated residential paraphernalia, by reason of its prominent and elevated position on the site and the loss of hedgerow required to form the new access would not be adequately mitigated by the proposed hedgerow and orchard planting and as such would have a detrimental impact on the intrinsic quality of the landscape contrary to Policy LA2 of the Herefordshire Unitary Development Plan.**
- 3 The proposed development by reason of its scale, appearance and proximity to the nearby listed farmhouse would be detrimental to its rural and predominantly agricultural setting and therefore contrary to Policy HBA4 of the Herefordshire Unitary Development Plan.**

53. DMN/111429/F & DMN/111430/C - HEDGE BANK, OLD CHURCH ROAD, COLWALL, HEREFORDSHIRE, WR13 6EZ

The Senior Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking Mr Ashton, representing Colwall Parish Council, and Mr Pile, a neighbouring resident, spoke in objection to the application and Mrs Bradley, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor CNH Attwood, the local ward member, stated that he was pleased that the application had been brought before the Planning Committee due to the local interest it had generated.

Members discussed the application and noted that the existing bungalow was of little architectural merit. They noted that Colwall benefitted from various types of dwellings and felt that the proposed application was acceptable.

In response to a question, the Senior Planning Officer advised members that the proposed dwelling was 6 metres away from the western boundary and 1.5 metres from

the eastern boundary. He also added that the footprint off the proposed dwelling was similar to the existing one although it was set approximately 4 metres further back on the site.

RESOLVED

With respect to DMN/111429/F that planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**
- 4. I51 Details of slab levels**
- 5. H13 Access, turning area and parking**
- 6. G02 Retention of trees and hedgerows**
- 7. F16 No new windows in specified elevation**
- 8. I16 Restriction of hours during construction**
- 9. H08 Access Closure**
- 10. H27 Parking for site operatives**

INFORMATIVES:

- 1. N15 Reason(s) for the Grant of Planning Permission**
- 2. N14 Party Wall Act 1996**
- 3. HN01 Mud on highway**
- 4. HN05 Works within the highway**
- 5. HN10 No drainage to discharge to highway**
- 6. HN28 Highways Design Guide and Specification**

With respect to DMN/111430/C that Conservation Area Consent for demolition in a Conservation Area be granted subject to the following conditions:

- 1. D01 Time limit for commencement (Listed Building Consent)**
- 2. B01 Development in accordance with the approved plans**
- 3. No demolition on site whatsoever shall take place until a suitable contract has been formally agreed with a developer for the re-development of the site in accordance with a development scheme granted planning permission by the Local Planning Authority. Details of this formal agreement shall first be submitted to and be subject to the approval in writing of the Local Planning Authority prior to any demolition whatsoever.**

Reason: To ensure that a suitable re-development of the site is approved prior to demolition in order to protect the visual amenities and character of the Conservation Area and in accordance with Policy HBA7 of the Herefordshire Unitary Development Plan.

INFORMATIVES:

- 1. N15 Reason(s) for the Grant of Conservation Area Consent**

54. DMS/111414/FH & DMS/111415/L - EDDE CROSS HOUSE, EDDE CROSS STREET, ROSS ON WYE, HEREFORDSHIRE, HR9 7BZ

The Team Leader (South) gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor G Lucas, one of the local ward members, advised the Committee that the application would improve the existing dwelling.

RESOLVED

With respect to DMS/111414/FH that planning permission be granted subject to the following conditions:

- 1. A01 Time limit for commencement (full permission)**

INFORMATIVE:

- 1. N15 Reason(s) for the Grant of PP/LBC/CAC**

With respect to DMS111415/L that listed building consent be granted subject to the following conditions:

- 1. D01 Time limit for commencement**
- 2. B01 Development in accordance with the approved plans**
- 3. D02 Approval of details**
- 4. D04 Details of window sections, eaves, verges and barge boards**

INFORMATIVE:

- 1. N15 Reason(s) for the Grant of PP/LBC/CAC**

55. DATE OF NEXT MEETING

The Planning Committee noted the date of the next meeting.

APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES

The meeting ended at 1.48 pm

CHAIRMAN

PLANNING COMMITTEE

31 August 2011

Schedule of Committee Updates/Additional Representations

Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.

DMS/102921/O- Development of grass and all weather sports pitches, clubhouse, indoor training building, car parking and landscaping supported by enabling residential development of 190 units at Land to the East of, Holywell Gutter Lane, Hampton Bishop, Hereford, HR1 4JN

For: Hereford Rugby Football Club Per Mrs Sally Tagg, Festival House, Jessop Avenue, Cheltenham, Gloucestershire, GL50 3SH

ADDITIONAL REPRESENTATIONS

Further information and proposals have been provided in response to officer queries and further minor changes have been made to the masterplan as follows:

- Any excess water from the sustainable drainage system will be pumped to the local surface water sewer to further mitigate any localised flood risk
- All the housing will be constructed to code level 4 of the Code for Sustainable Homes
- All affordable will be a mixture of shared ownership and social rent
- The applicants have offered to gift their existing site to the Council for a £1
- Additional existing orchard trees are to be retained along there roadside adjacent the lower level pitches
- The service access road has been re-aligned to avoid any impact on one of the existing ponds on site which contains Newts
- A stage 1 road safety audit for the new access has been provided

Should permission be approved, the developers have also confirmed their willingness to address other technical issues covered in the report such as a stronger, more bespoke design code, further amending the balance of the general market housing mix with more two and three bed units and less 4 bed units, review the housing areas on the highest parts of the site, provision of appropriate children's play provision through an off site contribution and other minor revisions to the masterplan.

The developers have also reiterated that this is a unique opportunity as the land is being gifted to the club for a £1 and the club could not afford to acquire land elsewhere in the city

Hampton Bishop Parish Council

Further comments were submitted but due to their late receipt, they could only be briefly summarised in the Committee report. An additional letter has also been received. The principal objections outlined in both letters are as follows:

- The development is on a greenfield site and in a sensitive location on the fringe of the city where new housing is contrary to local and national policy

- There is no planning policy foundation for an enabling development of this nature and to approve it would seriously undermine the credibility of established planning policy
- The sequential assessment of alternative sites is purely subjective but even using the applicants methodology, there are sequentially preferable sites and the availability of the site (a criteria which the applicants attributed significant weight) is only relevant if the development is acceptable in all other respects
- The scale of the development would inflict irreparable damage on the local landscape and its character including views from the Wye Valley Walk contrary to UDP policies LA2 and LA3
- The locality has a long history of flooding and the application contains inadequate measures to deal with groundwater run off on to the road and towards the village. The suitability of the site must also be questioned for this reason.
- The development would generate significant and unacceptable levels of additional traffic which will be prejudicial to the free flow and safety of highway users
- Hampton Bishop is a small rural parish and the development is totally disproportionate to the existing community
- There is no housing need for the development as the Council is meeting its 5 year housing land supply required by PPS3 and even if a need existed, the priority is to develop brownfield land

The Parish Council also identify possible uses for the Section 106 if the development is approved. These are:

- A pumping station within the parish to prevent/alleviate flooding,
- Reduction in speed limits and installation of a speed indicator device
- Creation of a footpath/cycleway between Hampton Bishop and Mordiford

Hereford City Council

Support the application and welcome the new sports facilities

Mordiford and Dormington Group Parish Council

Continued concerns with increased traffic but also see the positive effect the increased school children could have on Mordiford school

Highways

All the issues identified in the stage 1 safety audit including the issues set out below can be addressed at the detailed design stage

- An extension of the speed limit for the extent of the site (subject to a TRO), the lighting of the junction,
- Continued review of further extending this speed limit through to Hampton Bishop
- The lighting of the junction and section of highway back to the city
- Design changes to the junction

In addition, as the TA was based on 250 units and the number of 4 beds has been reduced, the change in mix is acceptable. The alignment of the western proposed footpath/cycleway requires amending to better connect with existing facilities and the network west of the site. Also, if the eastern relief road were constructed, the proposed road layout and pedestrian/cyclist links west of the road corridor would not work.

Principal Sport and Recreation Officer

The area of informal open space introduced into the masterplan is acceptable but an off site contribution of £210,300 (based on current housing mix and includes 15 years maintenance) to improve the play facilities at Corporation Farm is still required.

The draft Playing Pitch Strategy is currently out to consultation. Whilst the emerging data for Hereford could change once local circumstances and conditions are factored in and predicted housing growth is revised, it is likely that the evidence will support a future deficiency in rugby pitch provision. No further comments can be made on the artificial pitch provision as the Council has not yet completed this assessment.

Public Rights of Way Manager

We are glad to see the new footpath/cycle links with Holywell Gutter Lane.

Council Ecologist

Habitats Regulations Assessment (HRA)

The site is 400 metres from the River Wye Special Area of Conservation (SAC). Currently, insufficient information has been supplied to the Council for completion of the Habitat Regulations Screening assessment to conclude that there will be no likely significant effect on the water quality in the river.

Assessment of habitats and species present on the site

Parts of the site with nature conservation value were subject to significant damage in January 2011, resulting in the loss of a bat roost and damage and disturbance to great crested newt terrestrial and aquatic habitats; this is fully acknowledged in the addendum report and revised mitigation strategy. These matters have been raised with the police for them to take further action. I agreed with the ecological consultants that the survey information from 2009 should still be used as the baseline for assessing the nature conservation value of the site. Notwithstanding this, further survey information from spring and summer 2011 could have provided a measure of the scale and impact of the damage. Revised reports have been issued as a result of site visits in February and March 2011 to account for the damage and propose additional mitigation.

PPS9 and Herefordshire Council's Biodiversity SPG states that existing habitats and species should be retained and protected, with compensation only considered as a last resort. Threats to priority habitats and species should not be permitted unless their safeguarding is outweighed by the need for the development. Some habitats and species identified on this site will be negatively affected by these development proposals:

Although the hedgerows within the site are not particularly species-rich, they still provide important wildlife corridors. In particular, the hedgerow to the west of the junior pitches has an associated ditch and should be retained

Some areas of these orchards have been in existence for more than 50 years. The apple trees in the central section to the north of tree group G13 are mature with abundant mistletoe (a Herefordshire Priority Species). Birds and insects were certainly present in this area during my recent site visit and the trees had good lichen colonies; bats were also recorded (61 passes) in these orchards during the bat activity surveys, indicating the presence of insects for them to feed on. These areas of mature orchard can be considered traditional and therefore Herefordshire and UK Biodiversity Action Plan Priority Habitat. Most of this area will be under the proposed car park, indoor training and 1st pitch, and therefore lost as a result of these development proposals. Other areas of mature fruit trees include where the proposed junior pitches have been located.

The woodland belt and orchards are used by foraging bats and there are implications for some species as a result of the floodlighting of the sports pitches. This is not a concern in the winter months when bats are unlikely to be active, but can be an issue during spring and autumn when foraging times are reduced due to cooler weather conditions. Lesser horseshoe bats are particularly light-sensitive; only one pass by this species was recorded during the surveys, but their echolocation calls are highly-directional and therefore often missed. The woodland belt could provide foraging as well as commuting habitat for this species.

I am concerned about the impact of the proposed housing on the mature trees on the western boundary of the site, and in particular the mature oak tree (T2) that lies within the site at the southern end of the existing scrub area. The deadwood provides important habitat for invertebrates as well as birds such as woodpeckers and should be retained.

If European Protected Species are present on a development site and the proposals include loss of habitat or harm to animals, the Local Planning Authority must establish whether the three tests have been met prior to determining this application.

Mitigation measures and habitat enhancement and management proposals

The central woodland belt is to be retained and enhanced as part of these proposals. The construction of a bat house in the woodland is welcomed, although further detail will be required.

Orchard habitat will be retained on the site and it is proposed that this will be managed traditionally and organically. The management plan suggests that there will also be sheep-grazing of the grasslands between the fruit trees. It is not clear whether these management proposals are achievable or if there is a land manager that is willing to take on this management regime. It would certainly be a major undertaking to achieve the biodiversity benefits that are proposed if it is to deliver sufficient compensation for the loss of orchard habitat.

Conclusions:

The Council must complete a screening report for a Habitats Regulations Assessment regarding these development proposals; this cannot be completed in the absence of sufficient information regarding the impact of the development on water quality in the River Wye SAC. Therefore it cannot be concluded that there will be no likely significant effect on the river, and this application should not be approved unless this issue can be resolved.

European protected species - great crested newts and bats - are present on the development site, and have already been harmed by mismanagement of their habitats. The increased human activity on this site is not desirable. In particular, floodlighting of the rugby pitches will affect the northern edge of the woodland belt and could reduce foraging and commuting activity by light-sensitive bat species.

The design of these development proposals will result in the loss of the most valuable areas of orchard on the site; implementation of the proposed master plan will therefore result in loss of Herefordshire and UK Biodiversity Action Plan Habitat and is contrary to UDP Policy NC6. The development proposals include measures for habitat creation, enhancement and management in accordance with PPS9 and UDP Policy NC8 in compensation for habitat losses elsewhere on the site. The enhancement and creation of aquatic and terrestrial habitats for great crested newts is welcomed as is the enhancement of the woodland belt and provision of a bat house. The proposed traditional and organic management of the orchards is also welcomed, but whether this can be delivered is uncertain. It will require a suitable tenant or owner who is fully engaged and compliant with these objectives as well as a long-term commitment to them.

In summary, the development cannot be supported due to the uncertainties regarding the Habitat Regulations Assessment and associated impacts on the River Wye. Also, whilst the ecological compensation is welcomed, it is not considered sufficient to compensate for the overall loss of orchard.

Councils Drainage Engineer

I have no objection to the outline proposals.

Natural England

The requested information concerning the impact of the increased foul drainage discharges through Eign Rd treatment works arising from the development on the water quality within the River Wye has not been provided. As such, Natural England maintain their objection due to inadequate information to assess the likelihood of significant impacts on the River Wye Special Area of Conservation. This information is also required to enable the Council to complete its screening of the development against the Habitat Regulations.

We support the decision to take the 2009 data as the baseline for the delivery of the protected species mitigation and enhancement, despite the damage done in January 2011 and support the combined mitigation strategy for bats and newts which should be secured through an appropriate condition. A construction and environmental management plan should also be required by condition if approved.

We reiterate our concerns regarding the loss of 40% of the orchard which we understand includes pockets of older apple trees which could arguably be classed as traditional and therefore a UK BAP Priority Habitat. The development will result in the loss of these older trees and the improved

management of 26 hectares of retained orchard does not compensate for this. We strongly advise the layout is altered to allow for their retention.

We note that many of the changes to the layout such as the safeguarding the alignment of an eastern bypass have not been made to further minimise the likely impacts as stated in addendum to the landscape and visual assessment. No further clarity has also been provided regarding the regarding and reprofiling of the site. Whilst we do not object on these grounds, the Council should carefully consider the developments compliance with the UDP landscape policies and along with loss of the orchard and particularly the older trees groups.

Representations

A further 23 letters and e-mails of objection have been received in response to the amended plans consultation. The majority of the points are already covered in section 5.7 of the report. Additional points are:

- The housing is now too close to Hampton Park Road
- More pitches adjacent the road could cause increased accidents
- The latest government policy 'The community Orchards Guide' is for orchards to be retained and their growth encouraged
- Additional netting may be required along the roadside
- The road will increase flood risk
- Many of the letters of support are from resides who do no live close to the site and will not be affected by the development
-

One further letter of support has been received. The comments are already covered ins section 5.9 of the report

A petition with 520 signatures has also been received from the rugby club in support of the development

OFFICER COMMENTS

The commitment to construct the housing development to code level 4 and the offer of transferring the clubs existing site to the Council are welcomed and are material planning considerations in the assessment of the development. However, they are not considered sufficient to outweigh the significant visual and landscape harm.

The red line site plan attached to the agenda is the original site area rather than the amended site plan.

CHANGE TO RECOMMENDATION

As Natural England are maintaining their objection, an additional reason for refusal is required as follows

Insufficient information has been provided to demonstrate that the development will not have any significant effects on the River Wye Special Area of Conservation. As such, the development is contrary to policies NC1 of the Herefordshire Unitary Development Plan, advice within PPS 9 and the requirements of the Conservation of Habitats and Species Regulations 2010.

Also the first refusal reason should also make reference to UDP polices S7, NC6 and PPS7 and 9.

DMS/111601/F- Construction of a shared footway/cycleway from Outfall Works Road in Tupsley through Rotherwas Industrial Estate to the B4399 Holme Lacy Road at Sink Green including a new bridge over the River Wye at Outfall Works Road through Rotherwas to B4399, Hereford.

For: Herefordshire Council Per Mr Andrew Palmer, Thorn Business Park 3 Rotherwas Industrial Estate, Hereford, HR2 6JT

ADDITIONAL REPRESENTATIONS

Natural England.

Until further ground surveys have been completed, there remain uncertainties regarding the construction methods and timings of the bridge works and therefore the risks posed to migratory fish. We therefore welcome the Councils suggested planning condition (as detailed below) and a condition requiring a Construction and Environmental Management Plan.

Subject to these conditions, we agree with the Appropriate Assessment conclusion that the development will not adversely affect the integrity of the River Wye Special Area of Conservation. Natural England therefore has no objection to the application.

Council Ecologist

The river bank at the location of the proposed ramp adjacent to Outfall Works Road is heavily engineered with vertical concrete walls to the water's edge. The proposed bridge will span the river and there will be no in-channel works. The methodology and timing of the construction will need to be carefully controlled in order to ensure that there is no impact on the river or its designated features.

There will be some loss of vegetation where the ramp is to be constructed and this will need to be undertaken sensitively and at an appropriate time of year to avoid the bird nesting season or be preceded by checks for nesting birds. A Habitats Regulations Appropriate Assessment concludes that subject to the inclusion of appropriate conditions regarding the construction works, there will be no likely significant effect on the River Wye SAC.

Otters are present along the River Wye and a resting place has been recorded further downstream from the proposed bridge, but will not be affected. I welcome the provision of an artificial otter holt as part of these proposals. The southern bank of the river is pasture; there will be disturbance of this during construction and it will need to be reinstated post-construction with an appropriate seed mix. Sand martins have been recorded nesting in the sand bank on the southern side of the river; an appropriate mitigation strategy with provision of an artificial nesting site has been devised.

There are reptile and bat records across the Estate and the proposed site clearance along the route will need to be undertaken with care. Post construction, there will be habitat enhancement along the route to provide a wildlife corridor and green infrastructure link. The Special Wildlife Site will need to be protected during construction and there are nearby badger setts that will need to be monitored. I am concerned about the loss of tree cover on the railway corridor to the west of Fordshill Road; clearance will need to be strictly controlled and habitat compensation measures imposed to ensure habitat connectivity is maintained.

If the application is approved, I recommend conditions requiring a Construction and Environmental Management Plan, ecological monitoring and habitat enhancement and the additional condition set out in the recommendation below.

Environmental Health Manager

The Phase 1 Environmental risk Assessment has recommended an intrusive investigation is undertaken. A condition is therefore recommended to cover this requirement.

A letter of support has been received from Jesse Norman MP commenting that although it is disappointing that the Welsh Water bridge cannot be used, the Greenway will improve access to Rotherwas Enterprise Zone offering many health, economic and environmental benefits and will be a step towards Hereford becoming the UK's next great cycling city.

OFFICER COMMENTS

The concerns and requirements of both Natural England and the Council's ecologist can be addressed through an appropriate condition as detailed below.

CHANGE TO RECOMMENDATION

Recommend Approval subject to an additional condition as follows:

The proposed piling works associated with the construction of the new bridge supports and associated ramps shall not take place between the months of April and June (inclusive) unless a construction methodology is submitted to and agreed in writing by both the Council in consultation with the Environment Agency and Natural England which demonstrates that the piling works will not have any significant effect on the River Wye Special Area of Conservation and particularly migratory fish. The piling works shall be carried out in accordance with the agreed methodology and timing. Percussive piling is not permitted at any time.

Reason: To safeguard the biodiversity interest of the River Wye Special Area of Conservation in accordance with UDP policy NC1 and the Conservation of Habitats and Species Regulations 2010

:

DMS/111132/F- Change of use of land from agricultural to a one family traveller site including siting of one mobile home, touring caravan, shed and new access at Field, The Leys, Lyne Down, Much Marcle, Herefordshire, HR8 2NS.

For: Mr John Lee, 2 Barnett Close, Ledbury, Herefordshire, HR8 2LT

OFFICER COMMENTS

Since the publication of this updated report, two appeals have been allowed for single pitches at sites in Barnet Lane, Wigmore. The number of pitches required to meet the unmet demand upto 2012 has accordingly reduced to 45.

In response to questions arising at the Committee site visit, the Transportation Manager has advised that the use/alteration of the existing field access in the NE corner of the site would not achieve sufficient visibility since it would require works to hedgerow outside of the applicant's control. There was also a concern about a vehicle towing a caravan into and out of this access at an acute angle and the potential conflict with users of the footpath/bridleway.

Similarly the choice of location for the siting of the caravans has been informed by the refusal of two previous schemes. The first proposal involved locating the caravans towards the southern boundary which was considered to be too visually isolated, whilst the second was too close to the listed building (Gamage Farm) such that it would affect its setting. The revised location has therefore evolved as a compromise that seeks to retain as much of a visual relationship with the farmhouse and buildings as possible whilst respecting the setting of the historic complex of buildings.

NO CHANGE TO RECOMMENDATION

DMN/111429/F - To demolish existing dormer bungalow and replace with highly energy efficient and sustainable 4 bedroom house at Hedgebank, Old Church Road, Colwall, Herefordshire, WR13 6EZ

DMN/111430/C - To demolish existing dormer bungalow and replace with highly energy efficient and sustainable 4 bedroom house at Hedgebank, Old Church Road, Colwall, Herefordshire, WR13 6EZ

For: Mr Bradley per Mr I C Bradley, Hedgebank Old Church Road, Colwall, Herefordshire, WR13 6EZ

ADDITIONAL REPRESENTATIONS

Letter received from "Campaign to Protect Rural England – Herefordshire" who object to the proposed replacement dwelling as it would be out of character with the neighbouring properties and not appropriate to its setting.

OFFICER COMMENTS

The comments are noted but do not alter the recommendation.

NO CHANGE TO RECOMMENDATION

| | |
|-------------------------|---------------------------|
| MEETING: | PLANNING COMMITTEE |
| DATE: | 14 SEPTEMBER 2011 |
| TITLE OF REPORT: | APPEALS |

CLASSIFICATION: Open

Wards Affected

Countywide

Purpose

To note the progress in respect of the following appeals.

Key Decision

This is not a key decision

Recommendation

That the report be noted

APPEALS RECEIVED

Application No. DMS /111153/O

- The appeal was received on 24 August 2011
- 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 brought by Mr And Mrs G Walsh
- The site is located at Garden of Brynhyfryd, Peterstow, Herefordshire, HR9 6JZ
- The development proposed is Outline application for the erection of new dwelling, vehicle turning and manoeuvring space.
- The appeal is to be heard by Written Representations

Case Officer: Mr A Prior on 01432 261932

Application No. DMN/102398/FH

- The appeal was received on 19 August 2011
 - 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 brought by Mr Charles J Pudge
 - The site is located at Hope Cottage, Bishops Frome, Herefordshire, WR6 5BU
- The development proposed is Substantial rebuilding of existing dwelling (with external appearance similar to the original dwelling)
- The appeal is to be heard by Hearing

Case Officer: Mr R Close on 01432 261803

Further information on the subject of this report is available from the relevant case officer

Application No. DMN/110779/F

- The appeal was received on 19 August 2011
- 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 brought by Dr H L Beyer
- The site is located at Cherry Lyn (adj Cartref), Staunton on Wye, Herefordshire, HR4 7LR
- The development proposed is Demolition of existing garage and construction of new dwelling and garaging to serve both properties
- The appeal is to be heard by Written Representations

Case Officer: Mr P Mullineux on 01432 261808

APPEALS DETERMINED

Application No. DMN/110048/F

- The appeal was received on 25 May 2011
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr David Hugman
- The site is located at 347 Winslow Road, Bromyard, Herefordshire, HR7 4TX
- The application was refused on 28 March 2011
- The development proposed was New house adjacent to 347 Winslow Road
- The main issue is the effect of the proposed new house on the character and appearance of the surrounding area

Decision: The application was refused under delegated powers on 28 March 2011
The appeal was dismissed on 18 August 2011

Case Officer: Ms R Jenman on 01432 261961

Application No. DMN/102975/O

- The appeal was received on 9 May 2011
- The appeal was made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission
- The appeal was brought by Mr Roy Jenkins
- The site is located at Land adj to Bliss House, Staunton on Wye, Herefordshire, HR4 7NA
- The application was refused on 14 February 2011
- The development proposed was Site for eleven houses (7 market houses and 4 affordable houses), with associated landscaping and infrastructure
- The main issue is whether the proposal would represent an unacceptable intrusion into the open countryside, having regard to the planning policy framework, the need to maintain a five year supply of housing land and the settlement boundary.

Decision: The application was refused under delegated powers on 14th February 2011
The appeal was dismissed on 23 August 2011

Case Officer: Mr A Banks on 01432 383085

Enforcement Notice EN/2010/001238/ZZ

- The appeal was received on 20 April 2011
- The appeal is made under Section 174 of the Town and Country Planning Act 1990 against the service of an Enforcement Notice
- The appeal is brought by Mr Angus Davison
- The site is located at Hedgehog Cottage, Pixley, Ledbury, Herefordshire, HR8 2QB

Further information on the subject of this report is available from the relevant case officer

- The breach of planning control alleged in this notice is:
Without planning permission, the material change of use of the land from agriculture to a mixed use of agriculture and siting of two mobile homes for residential purposes, and the associated operational development of a hardstanding and drainage facility.
- The requirements of the notice are:
 - i) *Cease occupation of the mobile home sited at the location A and remove the said mobile home from land.*
 - ii) *Remove the mobile home site at the location B from the land.*
 - iii) *Remove the hardstanding materials associated with the said mobile homes from the land.*
 - iv) *Remove the drainage facilities associated with the said mobile homes from the land and re-seed the land with grass seed thereafter.*

The main issue is whether there is a need for the mobile homes to be retained as accommodation for essential workers who have a functional need to live on the Farm.

Decision: The appeal was Dismissed on 24th August 2011

Case Officer: Mr M Tansley on 01432 261815

If members wish to see the full text of decision letters copies can be provided.



| | |
|-------------------------|---|
| MEETING: | PLANNING COMMITTEE |
| DATE: | 14 SEPTEMBER 2011 |
| TITLE OF REPORT: | <p>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.</p> <p>For: Mr Corker per Mr Wilson, Dulas Ltd, Unit 1 Dyfi Eco Park, Machynlleth, Powys, SY208AX.</p> |

Date Received: 19th May 2008

Ward: Mortimer

Grid Ref: 31955, 69049

Expiry Date: 8th September 2008

Local Member: Councillor LO Barnett

1. Introduction

- 1.1 The application, received on 19th May 2008, was reported to Planning Committee on 12 February 2009. The Committee resolved as follows:-

“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 Environmental Statement with regards to the Community Fund**
- B. The following conditions and any further conditions considered necessary by the Head of Planning and Transportation.”**

The report to Committee on 12 February 2009 is attached as Appendix 1. The report does not include the conditions that were then recommended as these have been updated in accordance with the Committee resolution. The Update Report to that meeting is included as Appendix 2.

- 1.2 The resolution was so worded because the Secretary of State, on 11 February 2009, issued an Article 14 Direction, which prevented the Council issuing an approval notice for the development, in order to allow the Secretary of State for Communities and Local Government more time to consider the application.
- 1.3 Subsequently the Secretary of State, on 5 March 2009, withdrew the Article 14 Direction. The letter concluded that intervention in the Council’s decision making process would not be

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

justified, indicating that issues as raised would be more appropriately decided by the Local Planning Authority. Consequently Officers could act on the Committee resolution.

- 1.4 However, in April 2009 further guidance on the assessment of wind farm noise was published by the Institute of Acoustics in Acoustics Bulletin, Volume 34, No 2, March/April 2009. This sought to address issues that had previously been disputed during planning decisions and public inquiries. Officers were of the opinion that this guidance raised concern about the applicants' method of assessing site specific wind shear on previously measured noise data and their method of calculating wind turbine emission levels. In addition, following further advice, it was concluded that clarification was required in relation to the proposed landscape enhancement fund (following concerns raised by Natural England).
- 1.5 Consequently the Council, on 30 November 2009, issued a Notice under the Regulation 19 of the Town and Country Planning (Environmental Impacts etc) Regulations 1999. This required the submission of:-
- additional information in respect of wind shear and other noise data, and;
 - Additional information in respect of the proposed operation of the landscape enhancement fund as offered by the applicants.

A copy of this letter is included in Appendix 3.

- 1.6 As work progressed it was concluded that additional matters required clarification. Consequently a further EIA Regulation 19 Notice was issued on 5 August 2010. This required the submission of:-
- additional information on the visual impact and justification for the approach as taken by the applicants with regard to the use of different radii for different visual receptors, and;
 - information on matters relating to Hydrology/Hydrogeology

A copy of this is included in Appendix 4.

- 1.7 The additional information required by the Regulation 19 Notices was received by 8 October 2010. On 21 October 2010 a public and statutory consultee consultation exercise was commenced.
- 1.8 There are three individual turbine access points to the turbines, two of which will involve land within Powys. Powys County Council have advised these should be the subject of a separate planning application to that Authority. It is understood that a separate planning application for access improvements to the site is registered with Powys County Council.
- 1.9 This report is based on the additional information received as a result of the Regulation 19 Notices and the subsequent responses received. The report also includes updates on planning policy, ecology and clarifies the impact of the proposal on Shobdon Airfield.

2. Site description and proposal.

- 2.1 There has been no significant change in the physical character of the site and the surrounding locality.
- 2.2 Since being last reported the application has changed in the form of the additional information as a result of the Regulation 19 Notices. This is included in the 'Further Supplementary Environmental Information – October 2010' and includes detail on wind shear and other noise data, proposed operation of the landscape enhancement fund, justification for the use of different radii for different visual receptors and hydrology/hydrogeology matters.

3. Policies

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

3.1 Central Government Advice.

Planning Policy Statement 5: Planning for the Historic Environment has replaced Planning Policy Guidance 15: Planning and the historic environment and Planning Policy Guidance 16: Archaeology and Planning.

In July 2011, Parliament approved a set of energy National Planning Statements - National Policy Statements EN-1 Overarching Energy and EN-3 Renewable Energy Infrastructure. These are material considerations.

There is no change to other policy guidance as set out in the previous report with PPS22: Renewable Energy remaining the key national policy in relation to this proposal, as well as Planning Policy Statement 1 and Planning Policy Statement 9 also remaining key core national planning policies.

3.2 Regional Government Advice.

The regional planning policy context (as set out in paragraph 2.2 in Appendix 1) remains. However the Council is required in the making of decisions on planning applications to take into account the intention of the government to abolish regional planning policy. The approach to sustainable development is mirrored in both national policy and the UDP.

3.3 Herefordshire Unitary Development Plan (UDP).

The UDP remains as statutory planning policy, with Policy CF4: Renewable energy being the key policy. However the Secretary of State in extending the lifetime of the Plan, in 2010, concluded that certain policies should not be saved. Consequently in respect of the policy context (as set out in paragraph 2.3 in Appendix 1) Policies DR6: Water Resources and NC5: European and Nationally Protected Species are no longer in existence. The issues to which these policies referred are contained within existing national planning policy.

4. Consultation Summary

Statutory Consultations

The following responses received are in relation to the consultation exercise that was undertaken pursuant to the Regulation 19 Notice.

- 4.1 The Environment Agency, in response to the Regulation 19 information do not raise objection. Their response concludes as follows:-

Overall our position has not changed in that we feel that the impacts upon the groundwater resource as a whole are likely to be minimal given the scale and nature of the proposal, and the mitigation measures proposed by the applicant. However we would also reiterate our view that whilst derogation (of private water supplies) is unlikely we cannot rule out the potential for adverse impacts, hence the need for a condition/agreement to address the monitoring and remediation of such groundwater supplies.

- 4.2 EON Central Networks raise no objections.

- 4.3 Civil Aviation Authority raise no objections and recommend that the views of the licensee of Shobdon Aerodrome are sought and also consultation with the MOD and NATS EN Route Ltd.

- 4.4 National Air Traffic Service (EN Route) raise no objections.

- 4.5 Ministry of Defence (MOD) raise no objections

- 4.6 English Heritage raise no objections.
- 4.7 Natural England agree in principle with the fund management proposal put forward by the applicants subject to agreement with regard to the detail.
- 4.8 Countryside Council for Wales raise no objections and suggest that relevant local community and stakeholder groups are approached on the Welsh side of the border with a view to identifying and assisting in implementing landscape enhancements.
- 4.9 Cadw, (equivalent of English Heritage) make no further comment in relation to the additional information received. Their response concludes that the additional information provided on visual impact would not, from their perspective appear particularly useful in informing decisions on the impact of the development on the historic environment.
- 4.10 Ofcom raise no objections.
- 4.11 The Joint Radio Company Limited raise no objections.
- 4.12 Atkins (Windfarm support), in relation to UHF Radio Scanning Telemetry Communications, raise no objections.
- 4.13 Highways Agency make no further comment in relation to the Regulation 19 request.
- 4.14 Shropshire Council raise no objections.
- 4.15 Powys County Council Environmental Health raises no objection.
- 4.16 Shobdon Airfield (Hereford Gliding Club) object to the proposal stating the wind turbines would present a hazard to gliding.

Internal Council advice.

- 4.17 The Environmental Health Manager raises no objections subject to the attachment of a number of conditions to any approval notice issued. The response indicates that the additional survey work undertaken by the applicants in relation to noise issues, is acceptable and highly likely to be achieved in accordance with the industry's advice as set out in ETSU-R-97: The rating of noise from wind farms and advice as set out in the Acoustics Bulletin, Volume 34, No: 2 March/April 2009. In addition, no objections are raised on hydrology matters.
- 4.18 The Archaeology Manager raises no objection. Comment is made that Planning Policy Guidance 16 has been replaced by Planning Policy Statement 5 since the previous archaeology comments; however these particular changes would not alter the position in terms of previous information given.
- 4.19 The Economic Development Manager raises no objections.
- 4.20 The Landscape Officer in response to the Landscape Enhancement Fund raises no objections, indicating agreement with the guidelines which identify the type of landscape enhancements that would be appropriate, while recommending that specific reference is made to the replacement/new planting with native species.
- 4.21 The Planning Ecologist raises no objection, indicating that information received in relation to existing habitat for Great Crested Newts is acceptable. The proposed development considered to be in accordance with the criteria of PPS9 when enhancement as offered by the applicants is also taken into consideration.

- 4.22 The Conservation Manager in relation to the built environment has responded on the changed policy context stating that wind farms are not specifically mentioned in the text of PPS 5, but, unlike PPG15, it recognises the need to balance negative effects on the heritage with positive effects in the fight against climate change. This is, in effect, what was done in considering this application and the recommendation therefore accords with the thinking in PPS 5.
- 4.23 The Land Drainage Manager raises no objections and concludes that the wind farm developers should undertake mitigation work to ensure that no additional flood risk is posed by the areas of hard standing.

5. Representations

5.1 Stapleton Group Parish Council raise no further comments to those as previously made.

5.2 Border Group Parish Council response can be summarised as follows:

- Landscape Enhancement Fund – An essential input, however sums quoted will prove to be significantly inadequate and consideration needs to be given to supervision of the fund.
- Wind Shear and other noise data – The Council would like reassurance that data is up to date.
- Visual Impact – Information received in relationship to Regulation 19 request is considered to be understated.
- Hydrology and Hydrogeology matters – concerns raised about content of information submitted by the applicants and insufficient contact made by the applicants with local people who live in the vicinity of the application site.
- The response emphasises how it is essential that all registered springs, local water courses and the underlying aquifer be tested before any construction begins.
- Aviation – Warning lights in relation to tall constructions have not been clearly discussed.

5.3 Presteigne and Norton Town Council, (Wales), response can be summarised as follows:

- Further consideration required in relation to hydrology issues.
- In the event of planning being granted it is considered essential that private water supplies should be assessed and tested prior to any works commencing to ensure that a benchmark is available on which to assess any changes.

5.4 Knighton Town Council (Wales) object raising concerns about disruption to many water courses and increased risk of flooding. Also disruption to transportation links.

5.5 Herefordshire Campaign to Protect Rural England mostly make comments in respect of the previous report to Committee. In relation to the additional information comments made can be summarised as follows:

- Landscape Enhancement Fund – Concerns about amount of money proposed as mitigation subject to the proposed enhancement fund stating that this “should not be a material consideration in determining the application”. Comment is made that if the fund does go ahead, the terms of the fund should cover works of repair and re-instatement to historic features in parks affected.

- 5.6 South Shropshire Group of the Campaign to Protect Rural England retain their objection to the proposal, indicating the proposed turbines by reason of their size and siting will have a detrimental visual impact on the landscape. Concerns are also raised about background that will be generated from the site and to give consideration to 'localism'.
- 5.7 The Chairman of Radnorshire Branch of Campaign to Protect Rural Wales has responded raising concerns about the credibility of consultants employed by the applicants, and that wind power is the least efficient and cost effective method of energy production. Concerns are raised about the amount of wind generated on site. The response acknowledges that replacement of coniferous woodland with deciduous woodland, (a suggestion for landscape enhancement), would be welcome, however this hardly compensates in consideration of the impact of the proposed development.
- 5.8 Herefordshire Friends of the Earth Support the application.
- 5.9 Friends of the Earth (national) support the application and consider concerns about the noise issues appear to have been addressed whilst transportation issues also appear to have been addressed.
- 5.10 43 households objected following the Regulation 19 consultation. Of these 14 were received from households within the County of Herefordshire and 29 from households outside of the County. Of the 29 letters received from outside the County of Herefordshire 22 were from dwellings considered to be within close proximity to the application site.

In addition a further 30 letters of objection were received outside the consultation period (up to the time of writing this report). Most of these letters are from addresses outside of the County.

Objections raised can be summarised as follows:

- Concerns about Landscape and visual impact in relation to applicant submission and analysis of impacts on individual receptors.
- Impact on amenity of the surrounding area.
- Proposed landscape enhancement fund is inadequate in relationship to potential harm.
- Noise issues in relationship to nearby dwellings.
- Impacts on water issues.
- Impact of proposal on adjacent public highways, public rights of way and the observatory (Spaceguard Centre).
- Impact on value of surrounding dwellings.
- Concerns about contribution of wind power to the national grid.

- 5.11 A letter of objection, received from Dr Hugh Jones, on behalf of the Stonewall Hill Conservation Group (SHCG) dated 27 January 2011.

Comments on the additional information subject to the Regulation 19 request can be summarised as follows:

Landscape Enhancement Fund

Stonewall Hill Conservation Group considers the proposed landscape management fund not to be sufficient in terms of the 'unmitigated significant impact' of the proposed development on the surrounding countryside and, furthermore, queries whether this fund can be legitimately taken into account in the planning process.

Noise Issues

Concerns are raised about the applicant's method of noise assessment. M.A.S. Environmental submitted a report on noise issues dated 28th January 2011 on behalf of local residents. The report indicates that an alternative methodology to assessing wind shear has been adopted by the applicants and departs from the guidance of ETSU-R-97 and does not provide any benefits

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

to nearby residents and that the effects of wind shear on turbine noise levels is expected to be greater than indicated in the report. Comment is also made that the background noise survey undertaken in 2010 was subject to adverse weather conditions, which impacted on background noise data gathered. Comment is also made that there are a number of dwellings at which predicted turbine noise is considered within too close a margin of the turbine limits and that insufficient data was provided in order to make a full and robust assessment of impact from the proposed wind farm.

Landscape and Visual Assessment

The additional information received in consideration of visual impact and justification for the approach, as taken by the applicants with regard to the use of different radii for different visual receptors, is considered insufficient, and there has been insufficient assessment in relations to individual properties, as well as on the surrounding landscape as a tourist attraction, and its amenity in terms of the landscape for surrounding residents.

Hydrology and Private Water Supplies

Comment is made that insufficient information has been received by the Council on hydrology and private water supplies. The response states that Stonewall Hill Conservation Group trust that there will be arrangements to ensure that the necessary investigations and monitoring take place and accountability in the event of deterioration in quality or flow, and in event of floods occurring, if the proposed development goes ahead.

Ecology in Relationship to Great Crested Newts

Concerns are raised about the information submitted by the applicants on this issue and that this is also an issue in relation to Powys.

Policy Context

The response acknowledges that this was not subject to the Regulation 19 request, however, comment is made about the demise of the 'Regional Spatial Strategy' and the introduction of Planning Policy Statement 5 in March 2010, and that current policy context does not favour the development but raises further doubts.

Shobdon Airfield and Turbine Lighting

The response states that the Group understand that Shobdon Airfield has objected to the additional information received by the Council in respect of the Regulation 19 request. The Group draws attention to the concerns raised by the Airfield and the relationship to the Spaceguard Centre.

5.12 A report was received on 28 January 2011 from 'M.A.S. Environmental', indicating it is on behalf of some residents surrounding the proposed wind farm in consideration of concerns about noise assessment and the applicants method of background noise survey. The issues raised are summarised as follows:

- Applicants method of assessing wind shear departs from the guidance of ETSU-R-97 with no justification for departing from this guidance.
- Concerns about the background noise survey undertaken in 2010 and the needs for a background noise survey in dryer conditions also.
- Applicants predicted turbine noise is considered to be within too close a margin of the turbine limits and therefore this marginality could lead to problems with enforcing any wind farm noise conditions should they be considered necessary .
- Raw meteorological data was not provided by the applicants and this prevents a full and robust assessment of the impact from the proposed wind farm. Insufficient data has been gathered at higher wind speeds. Also concerns about amount of rain fall during noise assessment period and background noise at the dwelling known as Tipton Farmhouse.

- 5.13 There have been 37 letters of support received from the public following the Regulation 19 consultation. Of these 18 letters from dwellings within Herefordshire and 19 letters from dwellings outside of the County of Herefordshire.

Comments made can be summarised as follows:

- The proposal represents a positive step in the right direction in order to achieve renewable energy.
- A community owned turbine is welcome.
- Schemes such as this one are required in order to meet Government targets for renewable energy.
- Landscape impact of turbines is not as destructive as claimed by objectors.
- Offa's Dyke is not a natural feature but a man-made earthwork.
- Pleasing that Herefordshire is giving consideration to a renewable energy scheme.

- 5.14 The full text of these letters can be inspected at Planning Services, Franklin House, 4 Commercial Street, Hereford and prior to the Committee meeting.

6.0 **Officer's Appraisal**

This appraisal is an assessment of the issues arising from the Council's Notices, dated 30 November 2009 and 5 August 2010, requiring the applicants to submit additional information under Regulation 19 of the Town and Country Planning (Environmental Impact Assessment), Regulations 1999.

- 6.1 The additional information required covered the following issues:

- Wind shear and other noise data.
- Landscape Enhancement Fund and its operation.
- Visual Impact and justification for the applicants approach taken with regards to the use of different radii for different visual receptors.
- Hydrology/hydrogeology matters.

- 6.2 As the application was last reported to the Planning Committee (12 February 2009), this appraisal will also comment on any policy implications/changes and will also clarify the situation in respect of the previous response received from the Manager of Shobdon Airfield.

Wind Shear and other noise data.

- 6.3 The previously recommended conditions were reviewed in the light of an Acoustic Bulletin published in March/April 2009. It was concluded that the applicants' method of noise assessment and whether a best practice approach had been taken to assess the potential environmental impacts of the proposed development in relation to noise issues should be re-examined.
- 6.4 The applicants commissioned a new background noise assessment and this included use of wind resource data from the temporary meteorological monitoring mast on site. Data was collected at nine different locations on and around the application site during the period from 26 January – 23 March 2010. This noise data complemented previous background noise data collected on and around the site during the spring season 2007.
- 6.5 The locations selected for the additional background noise data, were in agreement with representatives of both Herefordshire and Powys Council's Environmental Health Teams.
- 6.6 The Supplementary Environmental Report indicates that the analysis of the measured data has been performed in accordance with the industry's ETSU-R-97 recognised guidance on

determining the pre-existing background noise environment of such locations, and was also in accordance with best practice as detailed in the Institute of Acoustics' Bulletin issued in March/April 2009. It supports the conclusions reached as a result of the previous background noise measurements conclusions in the earlier 2008 Environmental Statement that wind farm noise levels on site can meet the ETSU-R-97 noise criteria at all dwellings within the vicinity of the application site.

- 6.7 The Council commissioned SKM Enviros to provide specialist consultancy advice in relation to the additional noise assessment work submitted by the applicants. Their response, in a letter dated 11 October 2010, concludes:-

“Following a review of the amended Hayes McKenzie Report, read in conjunction with the covering letter from Dulas Ltd and the supporting documents, SKM Enviros consider that sufficient evidence has now been submitted. The recommendations given in Section 3.2 of our report have been adequately addressed. SKM Enviros therefore considers the 2010 noise assessment for the proposed scheme, as completed by Hayes McKenzie, meets accepted best practice and provides an appropriate analysis of background noise conditions when wind shear is taken into account. It is considered that the conclusions drawn from the 2010 assessment support the results from the 2008 assessment as submitted as part of the Environmental Statement.”

- 6.8 The Environmental Health Manager raises no objections, indicating that the Council's Regulation 19 request on noise issues is addressed satisfactorily and that the additional information received corresponds with that of the original noise data gathered by the applicants in an acceptable manner and meets the requirements of ETSU-R-97 noise requirements. The response recommends a number of noise related conditions to be attached to any approval notice subsequently issued.

- 6.9 The Environmental Health Manager has also responded to the concerns raised by M.A.S. Environmental, commissioned on behalf of local residents (as referred to in paragraph 5.13 of this report). The response advises that the 2010 noise assessment by the applicants was undertaken to address possible concerns as outlined in the advice stated in the Institute of Acoustics Bulletin vol. 34 No2 March/April 2009, as regards the effect of wind shear. The 2008 assessment was done in accordance with the guidance provided by ETSU-R-97. Both sets of background noise support the conclusion that wind farm noise levels can meet the ETSU-R-97 criteria.

- 6.10 Background noise level surveys were carried out between the 18 and 30 April 2007 and between the 26 January and 23 March 2010 and are comparable. It is unlikely that typical meteorological conditions existed throughout both these periods. ETSU-R-97 advises that a minimum monitoring period of 1 week should be used; however a minimum monitoring period of 2 weeks was agreed for the 2010 survey. The issue of extraneous noise at Tipton Farmhouse and other locations have been adequately addressed in the applicant's baseline noise report.

- 6.11 Amplitude Modulation (AM) is aerodynamic noise which displays a greater degree of fluctuation than usual. This was the subject of research carried out by Salford University, on behalf of Defra, Their report in July 2007, advised that *‘The low incidence of AM and the low numbers of people adversely affected make it difficult to justify further research funding in preference to other widespread noise issues. On the other hand, since AM cannot be fully predicted at present, and its causes are not fully understood we consider that it might be prudent to carry out further research to improve understanding in this area.’* The Environmental Health Manager advises that he is not aware of any further government sponsored research into AM and in the absence of further nationally accepted advice there would appear little merit in the pursuit of this matter.

- 6.12 The issue with regard to the applicants' original method of noise assessment, in relation to background noise data and wind shear created much debate. The publication of the Institute of Acoustics Bulletin, raises questions about the applicants method of wind noise assessment. The applicants agreed to carry out further background noise level surveys and submission of wind data from the temporary meteorological monitoring mast on site. The results of this additional noise survey work, as well as the previous noise survey work, clearly indicate that the applicants noise assessment was undertaken in accordance with, and can meet, the guidance provided by ETSU-R-97, the recognised method for accessing wind farm noise as set out in Paragraph 22 of Planning Policy Statement 22: Renewable Energy and paragraph 44 of its companion guide. Therefore with suitable conditions the proposed development in respect of noise is considered acceptable.
- 6.13 In response to concerns as raised by M.A.S. (as referred to in paragraph 5.12 of this report), the applicants noise experts (Hayes McKenzie) considered the concerns as raised and have responded in a report dated 24 May 2011. They are of the firm view that the properties where noise measurements have taken place have resulted in a suitably representative sample of data, and that subsequent analysis has been appropriately conducted such that robust conclusions can be drawn, both for the assessment of the compliance of the proposed development with ETSU-R-97 and the setting of appropriate and enforceable conditions.
- 6.14 In addition the Council's consultants Enviro SKM assessed the issues as raised by M.A.S. Their advice dated 27 May 2011 concludes that verification of the wind shear methodology remains acceptable and they consider the approach as used by the applicants' noise experts to be in line with recognised best practice methodology and thus the information received fulfils the Council's Regulation 19 request to the applicants in respect of the noise issues.

Landscape Enhancement Fund and its Operation

- 6.15 The applicants in their further Supplementary Environment Information have indicated that the landscape/biodiversity fund (as referred to in the Draft Heads of Terms attached to the Committee Report in Appendix 1) will be available for projects, in an area of 5km radius of the application site
- 6.16 The supplementary information indicates the fund as being available for woodland/tree planting, in order to replace coniferous plantings with deciduous plantings, hedgerow strengthening and for financial help towards general landscape/biodiversity amenity improvements.
- 6.17 The applicants recommend that the fund be the responsibility of an Environmental Fund Administrator with in-put from various stakeholders in order to assist in identifying suitable schemes to benefit.
- 6.18 Natural England in their response to the additional information received have indicated their agreement with the principle of the fund management proposals as put forward by the applicants, and that this fund should be subject to either a Section 106 Agreement or a Unilateral Undertaking. Natural England would be willing to advise with regards to local enhancement needs and opportunities, but would not wish to be involved in the fund's day-to-day management.
- 6.19 The Countryside Council for Wales also responded and advised that relevant local community and stakeholder groups be approached with a view to identifying and assisting with regards to implementation of the fund.
- 6.20 A number of representations received raise concerns about the proposed fund being inadequate to adequately mitigate the 'significant impact' of the proposed development. Officers consider the fund and its proposed operation as suggested by the applicants to be acceptable in principle. The proposal is best operated through a Section 106 Agreement under

the Town and Country Planning Act 1990 in accordance with the detail as set out in the Draft Heads of Terms attached to the report in Appendix 1. The applicants have indicated their willingness to this and an agreement between the applicants and the Council is being prepared

Visual impact and justification for applicants approach taken with regards to the use of different radii for different visual receptors

- 6.21 The additional information on landscape and visual assessment indicates that the purpose of the visual assessment is to identify significant changes in view and that such an assessment does not have to identify every effect, but should show where significant effects are likely to occur. The applicants adopted their approach in recognition that some views, (visual receptors), are more sensitive to change in view than others. A table of various locations accessed which include locations from a landscape, historic, public amenity and residential is attached to their report.
- 6.22 The report further states that the visual assessment in their Environmental Statement was based on the extent of visibility of the proposed development and used a range of tools to accomplish this. The assessment considered for each receptor group the extent of the predicted and actual visibility along with the magnitude of the change in views and whether such changes would be significant.
- 6.23 Tools used to assess the impact were: A zone of theoretical visibility (digital maps to show areas of potential visibility based on landform).
- Viewpoints – Where viewpoints were chosen which were considered representative of the main landscape character areas and visual receptors.
 - Wire frames – Computer generated views of the terrain and proposed development from a specific viewpoint.
 - Photomontages – Computer generated 3D images of a development accurately located and overlaid on to the panoramic photograph of an existing view, in order to illustrate the location and scale of the proposed development.
- 6.24 The applicants further elaborate that Environmental Impact Assessment Regulations are concerned with identifying where significant effects would occur and how or if they can be removed, reduced or mitigated. They conclude stating that the assessment did not indicate that there would be any significant effects beyond the defined radii distances from the site of each study area and, therefore, the study area radii were found to be sufficiently extensive for the assessment of effects to be undertaken.
- 6.25 It is noted that various representations received (including the Stonewall Hill Conservation Group, (SHCG)), raise concerns about the applicants method and additional information received in relation to visual and amenity impact, many indicating that the information is considered insufficient. SHCG also raise concerns about impact on surrounding residential amenity in an addendum to their objections. This issue was considered as part of the previous report to Committee and did not form part of the Regulation 19 request. Officers consider that the issue with regard to residential amenity was sufficiently covered in the previous report to Committee.
- 6.26 Officers are of the opinion that the applicants' justification for their approach taken in relation to the case for different radii for different visual receptors is acceptable because for each visual receptor a particular radius portrays a reasonable reflection of the extent of the impact in relation to the proposed development.
- 6.27 The landscape impact of the turbines is reversible and in landscape terms their impact for a period of 25 years is relatively short term. Conditions can be attached to any approval notice

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issued to ensure that at the end of their operational life, the turbines along with associated equipment will be removed.

Hydrology/Hydrogeology Matters

- 6.28 The Council's Regulation 19 Notice requested additional information on the identification of the hydrological and hydrogeology features present on site, including water features, water catchments, private water supplies and springs, their flow regime and use. Information was also required on potential pollution impacts on ground water supplies and an assessment on water features where great crested newts are present, and if so mitigation measures required.
- 6.29 The Supplementary Environmental Information indicates that a site survey and walk-over took place on the 2 and 3 September 2010 in order to confirm the location of water features and to identify relevant private water supplies in the locality. These were re-confirmed as those in the original Environmental Statement.
- 6.29 The supplementary information identified that the site is underlain by a secondary aquifer, Type A, meaning it supplies water at a local scale, which has been verified by on-site observations. It concludes that the groundwater resource beneath the site has a high importance and provides water to local residents.
- 6.30 The report identifies potential impacts of the construction and operation of the Wind Farm site and its predicted effects as being of a minor significance, and that adequate mitigation can be put in to place in order to ensure that any effects do not become significant.
- 6.31 The applicants also propose that observation boreholes are provided at turbine locations prior to construction in order to confirm whether spring lines are below the foundation bases. In addition mitigation against any negative impacts on local groundwater, such as potential dewatering of groundwater to ensure dry working of foundations, would be included together with the sealing of the dewatered area in order to prevent pollution seepage and the use of water resistant materials for foundation design in order to limit any potential leaking.
- 6.32 The applicants also undertook further investigation in relation to potential impacts from any changes in hydrology on Great Crested Newts and their habitats, which are known to be on site. This work concluded that the original Environmental Statement, along with the additional hydrological information, provided detailed mitigation measures required to minimise any impact on the this species and that the original conclusions on this issue are not changed. The original conclusions in relation to Great Crested Newts included detail on suggested barriers in order to restrict Great Crested Newt access during the construction phase and compensatory habitat in the form of artificial hibernacula. These mitigation and enhancement measures would be subject to conditions requiring working method statements and strategies. It is considered that the proposed built development is very small and mitigation and enhancement measures as put forward by the applicants are considered acceptable.
- 6.33 The Environment Agency (EA) have responded to the Regulation 19 additional information raising no objections. They have commented on issues as follows:

Ground Water Reclassification

- 6.34 Changes in aquifer classification (April 2010) means that the site has been reclassified from a non-aquifer to a secondary (A) aquifer. This is up-dated and clarified within the supplementary information.
- 6.35 In this context the ground water resource potential is recognised in the supplementary information 'as having a high importance' compared to 'low importance' in the original Environmental Statement.

- 6.36 The EA considers that the degree of risk to the wider ground water system remains relatively minor given the scale of the proposed development subject to suitable mitigation measures being put in place.

Private Water Supplies/Receptors

- 6.37 In relation to private water supplies the applicants increased their search area to a radius of 1 km from the proposed site. Eight dwellings, (outside the control of the applicants), have been identified, that have a private water supply, situated within 1 km to the nearest proposed turbine siting. The results of this search to identify private water supplies outside the control of the applicants is considered satisfactory.
- 6.38 The EA consider the mitigation proposals proposed to be acceptable in relation to the scale and nature of the proposed development. They recommend a condition with regard to identification and monitoring of all water features is attached to any approval notice subsequently issued. As an additional safety mechanism they suggest that a Section 106 agreement under the Town and Country Planning Act 1990 could be considered in order to ensure that monitoring and remediation to any water supplies off site is in place, although the response does state that it is the Environment Agency's view that derogation of private water supplies is unlikely given the scale and nature of the proposed development and any adverse impacts is considered 'low risk'. Officers consider that suitably worded conditions with regards to water issues can be attached to any decision notice and that a legal agreement on this issue is not necessary.

Flood Risk/Surface Water

- 6.39 The EA considers the information submitted by the applicants in respect of flood risk/surface water drainage to be acceptable. Following a request from local residents, representatives of the EA and the Case Officer visited the application site and surrounding area in the company of local residents' representatives to inspect areas of concern in relation to surface water drainage and potential flood risk. Whilst it was acknowledged there were areas of concern in relation to local drainage issues, these were considered local management issues, such as unsuitable culverts on individual person's land in order to intercept surrounding surface water. The mitigation as put forward by the applicants and the relatively small land area take for the proposed development is considered acceptable by the EA and in their opinion will not lead to an exacerbation of local flooding issues.
- 6.40 The Environmental Health Manager raises no objections in relation to private water supplies. It is Officer's opinion that a Grampian style condition will address this issue.
- 6.41 The Land Drainage Manager raises no objection to the proposed development and considers the mitigation proposals as put forward by the applicants to be acceptable.
- 6.42 It is noted that the SHCG in their response to the additional information received on Hydrology and Private Water Supplies, request that suitable arrangements be put in place, to ensure that any necessary investigations and monitoring takes place. The monitoring of this issue on the site can be achieved by conditions.
- 6.43 The Planning Ecologist in relation to issues about on site ecology and in particular Great Crested Newts habitat raises no objections considering the information as put forward by the applicants acceptable. Therefore the proposed development in relation to ecological issues is considered to be in accordance with the principles of PPS9, delivering acceptable habitat enhancement and management schemes.
- 6.44 The issues of hydrology/hydrogeology have created debate; however the additional information received concludes that the proposed development with adequate mitigation in place is considered acceptable in relation to private water supplies, land drainage and flooding issues

Planning Policy

- 6.45 Since the application was first presented to Planning Committee there have been no significant changes to relevant planning policies in relation to this proposal.
- 6.46 Nationally it remains a Government objective to provide 15% of all energy consumption from renewable sources by 2020. The National Policy Energy Statements, approved by Parliament in July 2011, do not indicate any significant change in policy to that set out in the previous report.
- 6.47 National planning policy remains broadly as was the case previously, albeit that PPG15 and PPG16 have been replaced by Planning Policy Statement 5: Planning for the Historic Environment. However, this change does not materially affect the advice as set out in the previous report on historic and archaeology issues. This is confirmed by The County Archaeologist and the Conservation Manager.
- 6.48 Regional planning policy advice also remains as previous, mainly in the form of the West Midlands Regional Spatial Strategy. However the Government has announced its intention to abolish regional planning policy and this intention is a material consideration. Whilst the regional spatial strategy is still relevant policy, officers consider its intended abolition will have no material effect in relation to this application. National and local policy remains as when the application was previously considered, and in any case the approach in regional policy is similar to that in national policy (PPS22).
- 6.49 The Herefordshire Unitary Development Plan continues as the local statutory planning policy. The modification to the Plan involving the deletion of Policies DR6 and NC5 would not lead to a different assessment being made of this proposal. Policy CF4 remains the key policy and is unaltered, as also is Policy NC1 in relation to biodiversity issues. The proposed development is considered temporary with any damage to the landscape considered reversible.

Shobdon Aerodrome

- 6.50 Although not forming part of the Regulation 19 request, the applicants have submitted a report to assess the proposed wind farm in respect of concerns raised by the Manager of Shobdon Aerodrome.
- 6.51 The Shobdon Aerodrome Manager's objection to the application was verbally reported to Committee as an up-date on 12 February 2009. The Aerodrome's Manager's objection was in reference to flight safety concerns for the various users of Shobdon airfield.
- 6.52 The proposed Wind Farm is some 11km to the north-west of the airfield and none of the relevant consultees in respect of air traffic, other than Shobdon Aerodrome, raise any objection to the proposed development, as the proposed turbines do not breach any safeguarding distances. The airport obtains its operations licence from the Civil Aviation Authority, who raise no objections to the proposed development.
- 6.53 Herefordshire Gliding Club who are based at the aerodrome also object to the proposed development.
- 6.54 Further consideration to the concerns as raised by the Gliding Club have concluded that there is no hazard to gliding within the area. A glider pilot could fly over or around the proposed Wind Farm if he/she wished under visual flight rules and pilots are trained to maintain safe visual separation.

- 6.55 None of the published procedures in relation to the Shobdon Airfield or any other published resources illustrate any requirement for aircraft using the airfield to fly in close proximity to Reeves Hill. The site is not on a flight path or 'enroute obstacles'.
- 6.56 The proposed development is not considered an obstacle in accordance with the Civil Aviation Publication 168: Licensing of Aerodromes, and Civil Aviation Publication (CAP) 764, version 3, which defines the safety standards required for an aerodrome to obtain or maintain its licence. The proposed turbines have a maximum height of 105 metres and as such do not require Aeronautical lighting, as they are under the maximum height of 150 metres and do not infringe on any physical safeguarding criteria.
- 6.57 The Spaceguard Centre (Observatory), Powys, is situated to the north-west of the site. No objections were raised to the proposal in the event of no necessity for Aeronautical lighting. A previous application for turbine development within the vicinity of the application site was refused planning permission, in part due to sensitive equipment based at the Spaceguard Centre. This equipment is no longer on site, and consequently there is no material consideration on which to refuse the application. Furthermore, the issue with regards to the Spaceguard Centre was considered in the previous report to Committee and did not form part of the Council's Regulation 19 request.
- 6.58 Therefore, in relation to Shobdon Airport and surrounding flight safety, no further issues of concern are considered relevant.

Other issues

- 6.59 The previous resolution of the Committee included a requirement for a Deed of Covenant, for the purposes as set out in the Environmental Statement with regard to the Community Fund, as offered by the applicants. At that time Members were advised that such a Deed was not a material consideration in respect of the application. This remains the case; however the applicants now intend to submit it as a Unilateral Undertaking.
- 6.60 The Section 106 Agreement on highway issues would be broadly in line with the terms as originally agreed.
- 6.61 Letters from two local residents have raised concerns about the impact of the proposed development on health issues. It has already been accepted that the proposed development is compatible with the advice as contained within PPS22 and guidance of ETSU. Also the proposed development is considered acceptable in relation to residential amenity and in relation to individual dwellings surrounding the site. Therefore the issues as raised with regard to health concerns are not considered of such importance that the application should be refused.
- 6.62 With regards to ecology issues, in particular Great Crested Newts and bats which are both European protected species (bats also considered to be low in density and concentration on site), the applicants have submitted a site walkover and update on ecology issues. The conclusions of the site walkover which included a habitat assessment indicate that there have been no material changes in relation to the findings of the previous ecological surveys submitted in support of the application.

7.0 Conclusions

- 7.1 The information received following the Regulation 19 Notices under EIA Regulations 1999 has clarified a number of issues. It is the Regulation 19 requests and other issues as outlined in this report that form the basis for the recommendation. All other issues were considered in the previous report to Committee when the members resolved that they were minded to grant planning permission.

- 7.2 Wind turbine noise is a controversial issue. PPS22 advises that noise should be assessed in accordance with ETSU-R-97 guidance. The additional noise assessment as carried out by the applicants concurs with the previous noise assessment. The detail has been assessed by the Environmental Health Manager and the Council's consultants. It is considered that noise information submitted complies with the relevant guidance.
- 7.3 The applicants have clarified in their additional information with regard to the landscape enhancement fund and its operation. Officers consider the response to be acceptable.
- 7.4 The applicants' report in relation to concerns about their approach with regard to visual impact and the use of different radii for different visual receptors is also considered justified. It illustrates a reasonable reflection of the impact in relation to the proposed development. Impact on residential amenity also raises no further concerns. Any damage in landscape terms in consideration of the structures is considered temporary and reversible.
- 7.5 The response in relation to Hydrology/Hydrogeology matters is also considered acceptable. Suitable mitigation can be achieved by condition. The Environment Agency, the Council's Land Drainage Manager, Planning Ecologist and Environmental Health Manager raise no objections in relation to these matters.
- 7.6 The report clarifies the issue in relation to Shobdon Aerodrome and clearly indicates no flight safety concerns in respect to the different users of the Shobdon Aerodrome
- 7.7 The time lapse since the previous report to Committee is recognised in relation to policy implications. There have been no significant policy changes in national, regional or local planning policy.
- 7.8 Overall there is no overriding reason which would indicate that a different decision should be made to that made on 12 February 2009. Whilst it is acknowledged there will be some landscape and visual impact, the proposed development overall is considered to be in accordance with national and local planning policies and in particular Policy CF4 of the Herefordshire Unitary Development Plan.

RECOMMENDATION

- A) It be recorded that the Environmental Statement, including the additional information received as a result of the Regulation 19 Notices, has been taken into account in making this decision**
- B) Subject to the completion of a Section 106 Agreement in accordance with the Heads of Terms (as attached and dated 29 January 2009, and**
- C) Subject to the applicant supplying a Unilateral Undertaking for the purposes as set out in the Environmental Statement for the creation of a Community Fund, that**
- D) Planning Permission is granted subject to the following conditions:**
- 1. The development shall be carried out strictly in accordance with the particulars of the development, plans, specifications constructed in accordance with the following plans:**
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.
 - 2. The development to which this permission relates shall be begun not later than the expiration of 3 years beginning with the date of this permission.**

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

- 3. The operational period of the turbines hereby permitted shall expire 25 years following the first generation of electricity to the local electricity supply. The Local Planning Authority will be informed by the developer/operator in writing within 28 days of the date of the first generation of electricity to the local electricity supply.**

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

- 4. All the above ground elements of the development and the turbine bases to a depth of 1 metre below ground level shall be removed from the site within 6 months immediately following the expiry of the operational period of the turbines referred to in condition number 3 of these conditions. 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 20 years from the date of the first generation of electricity to the local electricity supply.**

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.

- 5. Notice of the date of commencement of the development shall be given by the developer/operator in writing to the local planning authority before any works commence on the site.**

Reason: In order to comply with condition 3 and to comply with Policy CF4 & DR4 of the Herefordshire Unitary Development Plan.

- 6. 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 by the developer/operator to the local planning authority 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.

- 7. All the turbine blades shall rotate in the same direction.**

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. The turbines shall be located in the positions shown on the approved plans 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.

- 9. 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 and the turbine bases to a depth of 1 metre below ground level shall be removed at the request in writing 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 by the developer/operator to the local planning authority and approved in writing by the local planning authority. The scheme shall be submitted**

within two months of a request in writing 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.

10. There shall be no external lighting of the turbines hereby permitted. Before commencement of the development details of any other floodlighting/external lighting during the construction phase shall be submitted by the developer/operator to the Local Planning Authority for written approval. Development shall be carried out in accordance with the approved details and there shall be no other external illumination of the development.

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

11. 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.

12. All foul drainage shall be contained within a sealed and water tight 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.

13. Development shall not commence until a Private Water Supply Protection Plan has been submitted by the operator to the local planning authority and approved in writing by the local planning authority. The submitted details shall include the following:-
- a. the identification of appropriate water features (including but not limited to springs, boreholes and wells) and location of water features to be monitored including the proposed observation boreholes adjacent to each turbine foundation, that are to be used for the monitoring of water flows and water quality;
 - b. the method and nature of monitoring with subsequent provision of baseline data to adequately characterize the flow regime and quality and quantity of water provided by any private water supply that might be affected by the development;
 - c. the mitigation measures for the protection of such water features;
 - d. the system to ensure that upon notification to the developer of a concern about a possible deterioration in water quality or quantity arising from the development, that immediate provision of alternative suitable and sufficient water supplies takes place (whether on a temporary or permanent basis) in the event of any

interruption or adverse change caused by the development in the quantity or quality of water previously enjoyed;

- e. the arrangements for undertaking sampling, measurement and analysis of private water supplies before, during and following construction, (a period of up to 6 months*) after construction; *Monitoring over a season would be a reasonable period as this would allow seasonal changes to be incorporated into the monitoring. The 'baseline information' (before development) should provide a similar dataset to allow the natural flow characteristics, over a season, to be established (although interpretation is important, for example groundwater levels at the moment are very low so may not be particularly representative of long term flows/levels etc).
- f. the arrangements during and after construction should any water pollution or interruption incident occur, to ameliorate such an impact.

The above measures under the Private Water Supply Protection Plan, as approved, shall thereafter be implemented at the developers/operators own expense at all times whilst the development hereby approved remains operational.

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

- 14. Before development is commenced a detailed plan for a surface water and ground water management plan to include details of associated drainage and sediment control shall be submitted by the developer/operator to the Local Planning Authority and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.

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

- 15. 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 an appropriate level of protection for all species protected under the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and policies NC1, NC6 and NC7 within Herefordshire Unitary Development Plan 2007.

To ensure that nesting birds are not disturbed as they are protected under the Wildlife and Countryside Act 1981 (as amended) and policies NC1, NC6 and NC7 within the Herefordshire Unitary Development Plan 2007.

To conserve and enhance biodiversity and comply with Herefordshire Unitary Development Plan 2007 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.

- 16. Before development is commenced, full working method statements and strategies for protected species (including bats, birds and great crested newts) based upon the recommendations in the Environmental Statement (May 2008) and the Supplementary Environmental Report (October 2008 & October 2010) shall be submitted by the developer/operator to the Local Planning Authority for written approval. These shall be implemented as approved.

Reason: To ensure an appropriate level of protection for all species protected under the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and

Species Regulations 2010 and policies NC1, NC6 and NC7 within Herefordshire Unitary Development Plan 2007.

To ensure that nesting birds are not disturbed as they are protected under the Wildlife and Countryside Act 1981 (as amended) and policies NC1, NC6 and NC7 within the Herefordshire Unitary Development Plan 2007.

To conserve and enhance biodiversity and comply with Herefordshire Unitary Development Plan 2007 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.

- 17. Before development is commenced, schemes for 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 by the developer/operator to the Local Planning Authority for written approval. The monitoring schemes shall be implemented as approved and the results submitted annually to the Local Planning Authority.**

Reason: To ensure an appropriate level of protection for all species protected under the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and policies NC1, NC6 and NC7 within Herefordshire Unitary Development Plan 2007. To conserve and enhance biodiversity and comply with Herefordshire Unitary Development Plan 2007 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.

- 18. Before development is commenced, a full habitat enhancement and management scheme based upon the recommendations in the Environmental Statement (May 2008) and the Supplementary Environmental Reports (October 2008 & October 2010) shall be submitted by the developer/operator to the Local Planning Authority for written approval. This shall be implemented as approved and maintained thereafter.**

Reason: To ensure an appropriate level of protection for all species protected under the Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010 and policies NC1, NC6 and NC7 within Herefordshire Unitary Development Plan 2007.

To ensure that nesting birds are not disturbed as they are protected under the Wildlife and Countryside Act 1981 (as amended) and policies NC1, NC6 and NC7 within the Herefordshire Unitary Development Plan 2007.

To conserve and enhance biodiversity and comply with Herefordshire Unitary Development Plan 2007 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.

- 19. H03 - Visibility splays**

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

- 20. H05 - Access gates**

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

- 21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. Prior to the commencement of site works, full details of the turbines including their make, model, design, colour, finish, hub height, blade measurements and power rating shall be submitted to and approved by the Local Planning Authority.

Reason: In consideration of the amenity of the surrounding area and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

27. Prior to the erection of the wind turbines or installation of the transformer units, any wind turbine generator not of the make, model and characteristics considered in the Noise Assessment Chapter of the Environment Statement for the development must first be agreed with the Local Planning Authority. The following information should be submitted:

- a) An acoustic emissions report for the selected wind turbine generator. The report shall be in accordance with BS En 61400-11, Wind Turbine Generator Systems Part 11: Acoustic noise measurement techniques and shall include the A weighted sound power levels, spectra and tonality at integer wind speeds from 6 to10 m/s.**
- b) A Noise prediction report from a suitably qualified and competent acoustic consultant that demonstrates the sound levels from the wind farm will not exceed those conditions set out in Condition 33 below. This should include measurements or calculations that take into account wind shear. The modes of operations and the type of turbine must be specified.**

Reason: In consideration of the amenity of the surrounding area and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

28. During the construction phase the hours during which working may take place shall be restricted to 08:00 to 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays. There shall be no such working on Sundays, Bank or Public Holidays.

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

29. Before development is commenced, a scheme to avoid the incidence of any shadow flicker at Folly Farm, The Gutters, Tipton Farm and Willey House or any other dwelling considered reasonable by the Local Planning Authority, shall be submitted to and approved by the Local Planning Authority. The scheme shall include details of the sighting of the photocells and measures to control or shut down the turbine. Unless otherwise agreed in writing, if shadow flicker during the operational period is being caused at a dwelling, the turbine shall be shut down and the blades remain stationary until the conditions causing such effects have passed. The above scheme shall be implemented as approved for the duration of the authorised use.

Reason: In the interest of the amenity of nearby properties and to comply with Policy DR4 of the Herefordshire Unitary Development Plan.

30. At the request of the Local Planning Authority, upon receipt of a complaint considered reasonable by the Local Planning Authority relating to noise from the turbines, the operator of the development shall, at its expense, employ an independent consultant approved by the Local Planning Authority to measure and assess the level of noise emissions from the wind turbines. The noise assessment must be undertaken whilst operational conditions are representative of those appertaining to the periods of operation giving rise to noise complaints. The noise assessment shall take place within 60 days of a written request by the Local Planning Authority and shall be undertaken following the procedures described in the Guidance Notes annexed to this decision. Findings shall be reported to the Local Planning Authority within 30 days of the completion of monitoring being undertaken.

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

31. 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 shall take place within 30 days of a written request by the Local Planning Authority and shall be undertaken in accordance with procedures described in the Guidance Notes annexed to this decision.

Reason: In consideration of the amenity of the surrounding environment and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

32. The rating level of noise emissions from the combined effects of the wind turbines when measured and calculated in accordance with the Guidance Notes annexed to this decision shall not exceed the values set out in Tables 1 and 2 below. Where a property is not listed, the rating of noise emissions shall not exceed the lowest value shown for the relevant standardised wind speed.

Reason: In the interest of the amenity of surrounding dwellings and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

**Night Time Rating Values
23:00 – 07:00**

TABLE 1

| | Standardised 10m agl wind speed (m/s) | | | | | | | | |
|-----------------------------|---------------------------------------|----|----|----|------|------|------|------|------|
| | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| Carter's Farm | 38 | 38 | 38 | 38 | 38 | 39.8 | 44.2 | 48.1 | 48.1 |
| Cook's House | 38 | 38 | 38 | 38 | 38 | 39.7 | 43.8 | 43.8 | 43.8 |
| Gutters / Folly Farm | 38 | 38 | 38 | 38 | 38 | 38.6 | 38 | 39.1 | 39.1 |
| Hill House Farm | 38 | 38 | 38 | 38 | 38 | 38.3 | 42.1 | 45.7 | 45.7 |
| Maryvale | 38 | 38 | 38 | 38 | 40.4 | 42.7 | 43.9 | 44.2 | 44.2 |
| The Colony | 38 | 38 | 38 | 38 | 38 | 39.6 | 42.8 | 46 | 46 |
| The Warren | 38 | 38 | 38 | 38 | 39.9 | 42.9 | 45.2 | 46.5 | 46.5 |
| Tipton Farmhouse | 38 | 38 | 38 | 38 | 41.2 | 45.1 | 48.4 | 50.5 | 50.5 |
| Willey House | 38 | 38 | 38 | 38 | 38 | 38.6 | 41 | 42.7 | 42.7 |

**Day Time Rating Values
07:00 – 23:00**

TABLE 2

| | Standardised 10m agl wind speed (m/s) | | | | | | | | |
|-----------------------------|---------------------------------------|------|------|------|------|------|------|------|------|
| | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| Carter's Farm | 35 | 35 | 35 | 37.4 | 41 | 44.2 | 44.2 | 44.2 | 44.2 |
| Cook's House | 35 | 35 | 35 | 36 | 38.7 | 41.7 | 44.4 | 44.4 | 44.4 |
| Gutters / Folly Farm | 35 | 35 | 35 | 36.7 | 39.8 | 42.3 | 42.3 | 42.3 | 42.3 |
| Hill House Farm | 35 | 35 | 35 | 37.3 | 41.6 | 45.1 | 45.1 | 45.1 | 45.1 |
| Maryvale | 35 | 35.3 | 39.4 | 43.2 | 46.1 | 47.6 | 47.6 | 47.6 | 47.6 |
| The Colony | 35 | 35 | 35.7 | 38.5 | 41.1 | 43.3 | 43.3 | 43.3 | 43.3 |
| The Warren | 35 | 35 | 37.5 | 41 | 44.4 | 47.7 | 47.7 | 47.7 | 47.7 |
| Tipton Farmhouse | 35 | 35 | 37.5 | 41.3 | 45.4 | 48.7 | 48.7 | 48.7 | 48.7 |
| Willey House | 35 | 35 | 35 | 37.7 | 41.3 | 44.4 | 44.4 | 44.4 | 44.4 |

33. Upon notification in writing of an established breach of the noise limits as referred to in Condition 32 above, the development operator shall within 30 days submit a scheme for approval to the Local Planning to remedy the breach to prevent future occurrence.

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

34. From the date of commencement of the operation of the wind farm the operator shall continuously log wind speed, wind direction and power generation data for each wind turbine. The data shall be continuously recorded throughout the period of operation of the wind farm and made available to the Local Planning Authority within 30 days of their written request. The wind data shall include the wind speed in metres per second (ms - 1) at 10 metres in height and the wind direction in degrees from north for each ten minute period. Where wind speed is measured at a height other than 10m, the wind speed data shall be converted to 10m height, accounting for wind shear and with the associated methodology for this conversion also provided to the Local Planning Authority. The data shall be retained for a period of not less than 12 months.

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

35. Prior to the commencement of operation of the wind turbines a scheme shall be submitted and approved by the Local Planning Authority for monitoring noise levels at no fewer than 5 selected residential boundary locations during the 6 months following connection to the electricity grid and with the site fully operational. The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels in a representative range of wind speeds and wind directions with all turbines operating. Monitoring sites shall be agreed with the Local Planning Authority and monitoring shall be carried out in accordance with the agreed scheme.

Reason: In the interests of residential amenity and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

36. A revised 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. A scheme shall remain in force for the duration of the authorised use.

Reason: In the interest of the amenity of the surrounding environment and to comply with Policy DR13 of the Herefordshire Unitary Development Plan.

37. Before development is commenced details of a nominated representative for the development to act as a point of contact for Local Authority Officers and local residents in relation to noise and nuisance issues shall have been submitted in writing for approval by the local planning authority. Information shall also be provided detailing the arrangements for notification of any change to the nominated representative. The nominated representative shall have responsibility for dealing with any noise complaints made during the construction, operation and decommissioning of the wind farm and liaison with the Local Planning Authority.

Reason: In consideration of the amenity of the surrounding environment and to comply with Policies DR4 and DR13 of the Herefordshire Unitary Development Plan.

Informatives

1. N15 – Reason(s) for the Grant of Planning Permission

The development.

The application proposes four turbines and associated access tracks, hard standing and sub-station building for a period of 25 years, covering an area of approx. 3.81 hectares on land at Reeves Hill, Reeves Lane, Nr. Knighton, (Known locally as Stonewall Hill).

The application proposes four three bladed turbines with a total tip height of 105 metres and the maximum length of the blades is 40 metres. Each turbine would have a generating capacity of up to 2.3 megawatts. The site would have the potential of generating up to 9.2 megawatts of electricity, which the Environmental Statement indicates would meet the potential energy requirements of approximately 5,144 homes.

Site location.

The site lies on the English/ Welsh border, and is typical of the surrounding area, being semi-improved agricultural land, mainly used for the grazing of livestock or corn growing. The site forms part of a ridge line running north-south and peaks at a height of just over 400 metres, encapsulating elements of two landscape character types, namely 'Enclosed Moors and Commons' and 'Principle Wooded Hills', as referred to in the Council's Landscape Character Assessment, and does not form part of any specific landscape designations. There are approximately 16 dwellings within 1 km of the site.

The nearest landscape designations to the site are the Shropshire Hills Area of Outstanding Natural Beauty, located approximately 3.5 km to the north of the site, and Offa's Dyke National Trail, located approximately 3km to the west of the site. Also slightly further from the site in a westerly direction is another national trail known as Glyndwr's Way. Within 1 km of the application site is a dwelling, Tipton Farm House, which is a grade two Listed Building. There are no other listed buildings within close proximity to the application site.

Environmental Statement.

The application was accompanied by an Environmental Statement as the result of a Scoping Opinion request by the applicants under Environmental Impact Regulations 1999, to which the Scoping Opinion identified the development as EIA development under Schedule 2 - 3i DETR Circular 02/99 - Annex A (15). Further Supplementary Information was submitted in support of the application under Regulation 19 of the Town and Country Planning (Environmental Impacts etc) Regulations 1999 as a result of two separate requests from the Council dated 30th November 2009 and 5th August 2010.

Development Plan Policies.

The relevant development plan is Herefordshire Unitary Development Plan. The key policy is Policy CF4: Renewable Energy. This policy encourages development proposals for renewable energy provided that they do not adversely affect the integrity of sites of international importance for nature conservation and that the objectives of the designation of nationally important sites and areas such as Sites of Special Scientific Interest, National Nature Reserves, Areas of Outstanding Natural Beauty, Scheduled Ancient Monuments or sites of other national archaeological remains will not be compromised and any significant adverse effects on the qualities of the area are clearly outweighed by the environmental social and economic benefits. The Policy also emphasises that outside of nationally designated sites and areas there should be no significant detrimental effect upon the character of the particular landscape and no significant impact upon the amenity of neighbouring residents and that regard will also be given to the wider environmental, social and economic benefits to be gained from the use of renewable energy sources.

Other key Herefordshire Unitary Development Plan Policies are Policy LA2: Landscape areas and areas least resilient to change which indicates that proposals that would adversely affect either the overall character of the landscape and its key features will not be permitted and where appropriate developers will be encouraged to restore degraded or despoiled landscapes to their inherent character. Policy HBA4: Setting of Listed Buildings indicates that development proposals which would adversely affect the setting of a listed building will not be permitted. Policy ARCH3: Scheduled Ancient Monuments indicates that development proposals and works which may adversely affect the integrity, character or setting of Scheduled Ancient Monuments will not be permitted. Policy NC1: Biodiversity and Development indicates that in determining all development proposals, the effects upon biodiversity and features of geological interest will be taken fully into consideration. Policy DR13: Noise, states developments with the potential for generating significant levels of noise or for exposing a noise sensitive use to an existing noise source will be required to include appropriate measures within the proposal to mitigate the noise impact to an acceptable level or otherwise the development will not be permitted. Policy DR2: Land Use and Activity, refers to sustainable forms of travel and protection to amenity of adjoining land and buildings with no prejudice on surrounding areas. Policy DR3: Movement, refers to a safe and acceptable means of public highway access into and out of the site with consideration to surrounding public highways. Policy S1: Sustainable Development: promotes development and land use change which in terms of its level, form and design contributes to the achievement of sustainable development.

The decision to grant planning permission also had regard to the provisions of National Planning Policy and in particular Planning Policy Statement 22: Renewable Energy; which promotes sustainable forms of renewable energy. Also of consideration, (although scheduled to be abolished), was Regional Government Advice in the form of the West Midland Regional Spatial Strategy; this encapsulates both the national and Local Plan policies. In addition, nationally it remains a Government objective to provide 15% of all energy consumption from renewable sources by 2020. The proposal is in accordance with National Policy Energy Statements, approved by Parliament in July 2011.

Landscape consideration.

In reaching the decision, the Council were mindful of the particular circumstances of the case, and in particular the key issues of impact of the proposed turbines on the surrounding visual and historic landscape, including Offa's Dyke and surrounding public rights of way as well as impact on amenity of the surrounding environment, which includes residential amenity and landscape characteristics, most notably the Shropshire Hills Area of Outstanding Natural Beauty. Public Highway access to the site was also given consideration.

Landscape impact was a significant issue as the proposed development is considered to have an impact on the surrounding landscape visually. The Environmental Statement indicates that any landscape impacts will be moderate, depending on the distance from the site and after the application's lifespan of 25 years any detrimental impacts will be reversed. The Council consider the impact is one of a temporary nature (Lifespan of the planning permission). The site itself is within no landscape designations and it is considered that the proposed development will not have any significant detrimental impact on surrounding landscape designations such as the Shropshire Hills Area of Outstanding Natural Beauty due to separation distance. Any impact on Offa's Dyke is considered very localised and there will be no significant detrimental impacts on surrounding historic parks, also in consideration of separation distance, the nearest being Stanage Park and Brampton Bryan Park neither will there be significant impacts on the Glyndwrs Way.

Biodiversity.

Impacts on biodiversity are considered to be of a low impact as the Environmental Statement indicates the application site has little significant natural cover or remaining habitat, the application site being mainly semi-improved grassland or land used for corn production. The

Environment Statement indicates that fauna is diverse but low in number and that the proposed development will result in very little land take and loss of scrub, and therefore little loss in breeding or foraging habitat. Protected species are known to use the site such as Great Crested Newts and Bats. However survey work concluded that there will be very minimal impacts on low numbers of species present and that any impacts can be mitigated with enhancement. A landscape/biodiversity enhancement fund as offered by the applicants will help towards reducing impacts. The Council consider there are not likely to be significant impacts on biodiversity issues, and land take for the proposed development is minimal with very little impact on vegetation, or loss of suitable scrub/tree vegetation. Impacts on protected species and nesting birds are considered very minimal. Any concerns as a result of the proposed development on ecological issues can be mitigated by means of appropriate conditions attached to any decision notice issued, as well as the said biodiversity fund.

Hydrology and Hydrogeology.

The Environmental Statement and additional information received acknowledges that water features on site provide water to livestock on the land as well as to surrounding dwellings to the application site. Whilst the additional information in support of the application reclassified the aquifer classification from a non aquifer to a secondary (A) aquifer, in the context of the ground water resource potential the Supplementary information as having a 'high importance' compared to a previously 'low importance', the degree of risk to the wider ground water system remains relatively minor, given the scale of the proposed development. Within the surrounding area are isolated dwellings that have private water supplies, which are fed from the surrounding land including the application site. Whilst it is acknowledged that any likely impacts on water features is minimal, the mitigation as put forward by the applicants is considered acceptable as no precise impacts on water supplies can be established prior to development on site. However the application indicates micrositing for the proposed turbines and with adequate conditions attached to any decision notice to ensure adequate on site monitoring and mitigation it is considered that water features will be adequately protected as advised by the Environment Agency and the Council's Environmental Health Manager in response to the application.

The Environmental Statement and additional information received indicate there will be little impact on surface water drainage. The Council concur with the findings of the information and consider that any issues of concern can be adequately addressed by means of appropriate conditions to any decision notice issued with regard to surface water drainage and on site pollution such as oil spills etc.

Noise.

The applicants by means of the Environmental Statement and additional information have indicated that the predicted noise from turbines on site will be to an acceptable level and fully complies with the industry's ETSU-R-97 guidance as well as that of advice as contained in an Acoustic Bulletin published in March/April 2009.

In support of the application the applicants as a result of a Regulation 19 request from the Council provided further background noise measurements from nine separate locations neighbouring the proposed wind farm and these locations were approved prior to the background noise testing by Environmental Health Officers of both Herefordshire and Powys County Councils. The conclusion drawn by both Herefordshire and Powys Council Council's, is that the additional noise information meets the criteria of ETSUR-97 and with appropriate conditions attached to any decision notice, noise issues are not considered a reason for refusing the application. In consideration of concerns as raised by the public and in particular the Stonewall Hill Conservation Group, the Council, (Herefordshire), sought the expert advice of noise specialists, (Enviros SKM), who also concluded that the noise data gathered was to an acceptable level, complying with the industry's guidelines and that the application could be supported with appropriate conditions attached to any decision notice in order to protect surrounding residential amenity.

Road and traffic issues.

The application was accompanied by a traffic impact assessment which in particular assessed the relationship to abnormal load vehicles, which will approach the site from a northerly direction travelling along the A49 from the north until the junction of the A4113, from where they will travel in a westerly direction to Knighton, (Powys) and then towards the site (along a proposed new stretch of roadway), onto Llanshay Lane towards the application site.

Highway issues have been subject to negotiation and discussions between the applicants, police and representative of Shropshire, Powys and Herefordshire Councils Transportation teams and all three councils concluded that transportation issues can be addressed in a satisfactory manner subject to a Section 106 agreement under the Town and Country Planning Act 1990, to which all three councils are party too, to which the applicants accept the proposals as put forward.

The last stretch of the access road to the site is along Llanshay Lane which is in the sole control of Powys County Council. The applicants have made a separate application to Powys County Council for Highway improvements in order to enable the development. A letter from Powys County Council confirms that this is an acceptable process and therefore the Section 106 agreement on transportation issues under the Town and Country Planning Act 1990 includes details restricting construction of the turbines on site until a satisfactory means of access to the site has been obtained in the form of a planning approval from Powys County Council.

Shadow Flicker.

The Environmental Statement considered the issue of Shadow Flicker and residential amenity. (Shadow Flicker occurs when the sun passes behind a moving blade and casts a shadow on the window of a neighbouring property). The Environmental Statement indicates that the type of turbine proposed on site will have built in capacity to shut down the relevant turbine when shadow flicker is to occur. The Council have concluded that the justification put forward by the applicants is acceptable and that an appropriate condition attached to any decision notice will give adequate protection in relation to shadow flicker.

Electromagnetic interference.

The Environmental Statement considers electromagnetic interference and in the safeguarding assessment, indicates the applicants are willing to undertake an evaluation of any possible effects to local transmitters and introduce suitable mitigation measures that may be required. The Council consider that a suitable condition attached to any decision notice, addresses this issue satisfactorily.

Icing.

The Environmental Statement indicates that modern wind turbines don't have an issue with regard to icing on turbines, (build up of ice on turbine blades). Turbines are fitted with vibration sensors which identify ice build up in order to close turbine operation and thus avoiding any potential incident in relation to ice thaw. The Council are satisfied with the applicant's consideration to this issue.

Tourism.

Many objections from members of the public were received in relation to impacts of the proposed development on tourism. Tourism is an important factor in relation to the local economy and in particular in relation to farm diversification. The Environmental Statement acknowledges tourism has a part to play in the local economy. There is no substantial

evidence to indicate that wind farms are detrimental to tourism and the Council consider that impacts on tourism are not a basis on which to consider refusal of the application.

Airfield.

The proposed wind farm is some 11km to the north west of Shobdon Airfield. Herefordshire Gliding Club is also based on this airfield. The proposed wind farm is not considered an obstacle to the operation of the airport which receives its license to operate from the Civil Aviation Authority and who along with all the other statutory consultees on flight safety raised no objections to the proposed development. (The manager of Shobdon Airport did object, in consideration of flight safety).

None of the published procedures in relation to the Shobdon Airfield illustrate any requirement for aircraft using the airfield to fly in close proximity to the site for the proposed turbines. The site itself is not on any flight path and furthermore the proposed turbines are under 150 metres high and therefore do not require aeronautical lighting as they do not infringe on any physical safeguarding criteria.

Within close proximity to the site is the Powys Spaceguard Centre (Observatory). No objections have been received from the Spaceguard Centre in relation to the proposal.

Consultation

The Council consulted all the necessary consultees in accordance with EIA regulation requirements and received responses from various consultees to the initial ES as well as the additional information received as a result of the Council's Regulation 19 request.

Natural England initially recommended refusal to the application but later withdrew their objection subject to the completion of a legal agreement under Section 106 of the Town and Country Planning Act for a landscape/biodiversity fund for landscape biodiversity enhancement/mitigation in the surrounding area. The applicants offered this fund and a copy of the Draft Heads of Terms is attached to the report.

English Heritage, The Countryside Council for Wales, EON Central Networks, CAA, NATS, MOD OFCOM, The Joint Radio Company Limited, Atkins Windfarm Support, Highways Agency, Severn Trent Water, West Midlands Regional Assembly, Shropshire Hills Area of Outstanding Natural Beauty, RSPB, all responded raising no objections to the proposed development.

The Environment Agency also raise no objections, subject to appropriate consideration to either conditions and/or a legal agreement being attached to any decision notice issued, The Council concluded in conjunction with its Environmental Health and Land Drainage teams that satisfactory conditions could be attached to any decision notice issued.

Objections received from Statutory consultees included: The National Trust, Cadw, The British Horse Society, Hereford and Worcester Gardens Trust, The Georgian Group, The Garden History Society, The Welsh Historic Gardens Trust, The Ramblers Association, (incl Herefordshire Mortimer Group). Many of these objected to the proposed development in consideration of its impacts on the surrounding landscape in relation to its historic context, visual and amenity issues, rights of way etc. All objections were taken into consideration and the Council concluded that concern raised could be addressed by either mitigation or were considered not to be substantial enough in order to recommend refusal to the application having regard to the relevant policy context on sustainable development and renewable energy and the fact that any perceived damage to the environment could be considered temporary and reversed after the life span of the development (25 years).

Internal council consultees who raised no objections included: The Environmental Health Manager, (subject to appropriate conditions attached to any approval notice). Economic

Development, the Planning Ecologist, (also subject to appropriate conditions attached to any decision notice) The Conservation Manager, (Built Environment), Land Drainage Manager, The Forward Planning Manager, Public Rights of Way Manager, Building Control Manager, The Tourism Manager, Minerals and Waste Manager and Transportation Manager, (subject to satisfactory conditions and legal undertaking attached to any decision notice).

The County Archaeologist recommended refusal to the application in consideration of the negative impact the proposal would have on Offa's Dyke within the vicinity of the application site. The Council concluded that impacts of the proposal on the Dyke were well set out and carefully considered in the Environmental Statement and that any impacts were of a temporary nature and would not have any significant permanent unacceptable impact on the setting of the Dyke given its distance from the site for the turbine development.

Representations.

Representations were also received from surrounding Local Parish Council's both in England and Wales as well as from organisations such as Herefordshire Campaign to Protect Rural England, Herefordshire Wildlife Trust, South Shropshire Campaign for Protection of Rural England, 'Visit Herefordshire', Offa's Dyke Association, The Radnorshire Society, Radnorshire Branch of Campaign to Protect Rural England, West Midlands Friends of the Earth and Herefordshire Friends of the Earth. Also many letters from the public in support to the application as well as objections, which included: The Stonewall Hill Conservation Group, (a local group set up to oppose the proposed development).

Neighbouring Councils

Shropshire County Council raised no objections. Powys County Council responded objecting in consideration of concerns about the detrimental impact on the surrounding landscape from a visual, cultural and historic perspective. Concerns were also raised about lack of information on ecological issues, applicants' noise impact assessment and impacts in relation to hydrological issues. No response was received from Powys County Council with regards to Herefordshire Council's consultation in respect of the additional information received subject to the Regulation 19 request, other than a response from Powys County Council's Environmental Health, raising no objections on noise issues in respect of the Regulation 19 request specifically on noise issues.

All representations were carefully considered (as outlined in both committee reports) and the Council concluded that the proposed was considered acceptable with appropriate conditions attached to any decision notice issued and legal agreement between the applicants and the council when assessed against relevant local, regional and national planning policies in consideration of policy criteria on sustainable renewable energy, impacts on the major issues such as landscape, visual, historic, cultural, ecological, noise, residential amenity and highway issues, and the fact that the proposal is temporary in nature and reversible in relationship to the turbine development after 25 years.

Conclusions

The application raised many issues and divided opinion both from the public and various consultees.

The Council consider the application is in accordance with the principles as set out in PPS 22, as well as development plan policy and in particular Policy CF2 on renewable energy, regional planning policy was also shown consideration.

The Council acknowledge the proposed turbines will have a degree of detrimental impact on the surrounding landscape from both a visual and historic context, the fact is that the application site is not in any landscape designation and impacts on the nearby Area of

Outstanding Natural Beauty and Offa's Dyke were considered minimal and any adverse effects will be temporary and reversible, as the application is for a 25 year duration.

The proposal is for a source of renewable energy in accordance with Government advice on renewable energy and the application is accompanied by an Environmental Statement that sets out the scale and significance of the likely environmental impacts of the proposal if granted planning permission.

Note - The Community fund is a financial contribution offered by the applicants for the benefit of the local community. This is not a material planning consideration in respect of the application. However to ensure that it is delivered as promised, the applicants have agreed to a Unilateral Undertaking to ensure the financial benefits are delivered as set out in the Environmental Statement.

Relevant Policies considered in the Herefordshire Unitary Development Plan 2007:

- Policy S1 Sustainable development
 - Policy S2 Development requirements
 - Policy S7 Natural and historic heritage
 - Policy DR1 Design
 - Policy DR2 Land use and activity
 - Policy DR3 Movement
 - Policy DR4 Environment
 - Policy DR5 Planning obligations
 - Policy DR13 Noise
 - Policy HBA4 Setting of listed buildings
 - Policy LA2 Landscape character and areas least resilient to change
 - Policy LA3 Setting of settlements
 - Policy LA4 Protection of historic parks and gardens
 - Policy NC1 Biodiversity and development
 - Policy NC7 Compensation for loss of biodiversity
 - Policy NC8 Habitat creation, restoration and enhancement
 - Policy NC9 Management of features of the landscape important for fauna and flora
 - Policy ARCH 1 Archaeological assessments and field evaluations
 - Policy ARCH 3 Scheduled ancient monuments
 - Policy CF4 Renewable energy
2. HN01 - Mud on highway
 3. HN04 - Private apparatus within highway
 4. HN05 - Works within the highway

5. **HN07 - Section 278 Agreement**
6. **HN10 - No drainage to discharge to highway**
7. **HN24 - Drainage other than via highway system**
8. **HN25 - Travel plans**
9. **HN28 - Highways Design Guide and Specification**
10. **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.**
11. **The applicants or successors in title are reminded that permission is required from Powys County Council with regards to the shared access from the adjacent public highway to turbine numbers 1 and 2 and the access from the public highway to turbine number 4 as indicated on the 'Proposed red line boundary map.**

GUIDANCE NOTES

The following notes are based on the Supplementary Guidance Notes to the Planning Obligation contained in The Assessment and Rating of Noise from Wind Farms (ETSU-R-97) published by ETSU for the Department of Trade and Industry (DTI), page 99. It has been adapted in the light of experience of actual compliance measurements.

NOTE 1

Values of the LA90, 10-minute noise statistic should be measured at the affected property using a sound level meter of at least IEC 651 Type 1 quality. This should be fitted with a ½" diameter microphone and calibrated in accordance with the procedure specified in BS4142: 1990. The microphone should be mounted on a tripod at 1.2 – 1.5m above ground level, fitted with a two layer windshield or suitable equivalent, and placed in the vicinity of and external to the property. The intention is that as far as possible, the measurements should be made in 'free-field' conditions. To achieve this, the microphone should be placed at least 3.5m away from the building façade or any reflecting surface except the ground.

The LA90, 10-minute measurements should be synchronised with measurements of the 10-minute arithmetic mean average wind speed, power generation and operational data from the turbine control systems of the wind farm.

The wind farm operator shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods from the hub height anemometer located on the site meteorological mast unless otherwise agreed with the Local Planning Authority, to enable compliance with the conditions to be evaluated. The mean wind speed data shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10m height wind speed data which is correlated with the noise measurement in the manner described in Note 2 below.

NOTE 2

The noise measurements should be made over a period of time sufficient to provide not less than 40 valid points. Measurements should also be made over a sufficient period to provide valid data points throughout the range of wind speeds considered by the Local Authority to be critical and during periods/times at which the noise is considered to be a problem by the complainant. Valid data points are those that remain after the following data has been excluded:

- All periods of rainfall
- All periods during which the wind direction is more than 45 degrees from every line from each of the turbines and the measurement position
- All periods during which turbine operation was not normal

A 'best fit' curve should be fitted to the data points. Measurements detailing the complete data set including invalid removed data points shall be retained and submitted to the Local Authority upon request.

NOTE 3

Where, in the opinion of the Local Authority, the noise emitted from the turbines contains a tonal component, the following rating procedure should be used. This is based on the repeated application of a tonal assessment methodology.

For each 10-minute interval for which LA90, 10-minute data has been obtained, a tonal assessment is performed on noise emission during 2 minutes of the 10 minute period. The 2 minute periods should be regularly spaced at 10 minute intervals provided that uninterrupted clean data has been obtained. Where clean data is not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be submitted. Any deviations from the standard procedure shall be reported.

For each of the 2 minute samples, the margin above or below the audibility criterion of the tone level difference, ΔL_{tm} , is calculated by comparison with the criteria given in section 2.1 on page 104 of ETSU-R-97. The margin of audibility is plotted against wind speed for each of the 2 minute samples. For samples where the tones were inaudible or no tone was identified, substitute a value of zero audibility.

A Linear regression shall then be performed to establish the margin above audibility at the assessed wind speed for each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic average will be used.

The tonal penalty is derived from the margin above audibility of the tone according to figure 17 on page 104 of ETSU-R-97.

The rating level at each wind speed is the arithmetic sum of the wind farm noise level, as determined from the best fit curve described in Note 2, and the penalty for tonal noise.

The rating level shall be determined for each wind speed. If the values lie below the maximum values of turbine noise indicated by the table in the conditions, then no further action is necessary.

NOTE 4

If the rating level is above the limit, a correction for the influence of background noise should be made. This may be achieved by repeating the steps in Note 2 with the wind farm switched off and determining the background noise at the assessed wind speed (L_b). The wind farm noise at this speed (L_w) is then calculated as follows where L_a is the measure level with turbines running but without the addition any tonal penalty:

$$L_w = 10 \log (10^{L_a/10} - 10^{L_b/10})$$

The rating level is then recalculated by adding the tonal penalty (if any) to the wind farm noise. If the rating level is below the values indicated in the table in the conditions then no further action is necessary.

If the rating level exceeds any of the turbine noise levels in the table, the development fails to comply with condition 32.

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

For: Mr Corker per Mr Wilson Dulas Ltd Unit 1 Dyfi Eco Park Machynlleth Powys SY20 8AX

Date Received: 19th May 2008
Expiry Date: 8th September 2008

Ward: Mortimer

Grid Ref: 31955, 69049

Local Member: Councillor Mrs L O Barnett

1. Site Description and Proposal

- 1.1 The site for the proposed development is on Reeves Hill (also known locally as part of Stonewall Hill), and covers an area of approximately 3.81 hectares, across three separate farm holdings.
- 1.2 Knighton (Powys) is situated approximately 3km to the north of the site and Norton (Powys) approximately 2km to the west. Within 1km of the site are approx. 15 isolated dwellings mainly to the east and south of the application site. Approximately 1.2km to the north west of the application site is the site of the Knighton Space Observatory. Adjacent to the western side of the application site is the unclassified U91621 public highway, which leads from Llanshay Lane in a northerly-southerly direction towards Stapleton (Presteigne). The application site itself is divided by another unclassified public highway that runs from the adjacent U91621 in an easterly direction towards Lingen.
- 1.3 The land use is typical of the surrounding area, of mainly agricultural improved and semi-improved livestock grazing pasture. There is some arable (corn) production, within the immediate area of the site. However, grazing land is the most dominant farm use.
- 1.4 The site which forms part of a ridge line running north – south, that peaks at a height of just over 400 metres, encapsulating elements of two landscape character types, namely ‘Enclosed Moors and Commons’ and ‘Principal Wooded Hills’ (Herefordshire Supplementary Planning Guidance – Landscape Character Assessment – 2004).
- 1.5 The site does not form part of any local or national landscape designation. The nearest landscape designation to the site is the Shropshire Hills Area of Outstanding National Beauty (AONB), located approximately 3.5km to the north of the site. Offa’s Dyke National trail is located approximately 3km to the west of the application site. Also slightly further from the site in a westerly direction is another national trail known as Glyndwr’s Way. This trail starts/ends in Knighton (approximately 3km to the north of the site).
- 1.6 The application proposes the construction of 4 wind turbines and associated access tracks, hard-standing and sub-station building for a period of approximately 25 years.
- 1.7 In accordance with the Town and Country Planning (EIA) Regulations 1999, the applicant submitted an Environmental Statement (ES), as the result of a requested scoping opinion to

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

Herefordshire Council dated 5th October 2007. This identified the proposed development as an EIA development under Schedule 2-3i DETR Circular 02/99 – Annex A (15).

- 1.8 Each turbine would be three-bladed with a maximum tip height of up to 105 metres. The maximum length of the blades would be 40 metres. The ES indicates that turbines are spaced from one another equal to six times the rotor diameter in the predominant wind direction in order to protect turbines from the localised wake and turbulence effects caused by other wind turbines. Each turbine would have a generating capacity of up to 2.3 megawatts (mw). The site has the potential of generating up to 9.2mw of electricity. This is the equivalent to the energy requirements of approximately 5,144 homes.
- 1.9 The ES accompanying the application indicates the electricity generated will be metered and exported to the local electricity distribution network. This would be the subject of a separate application under Section 37 of the Electricity Act 1989. The ES indicates the power generated would be linked to the national supply via an underground cable near either Greenway Farm (to the west) or Knighton Sub-Station approximately 3km north-west of the application site, also via a new underground line.
- 1.10 Further information in support of the ES (in the form of a Supplementary Environmental Report – October 2008 and Construction Traffic Management Plan – September 2008) has been received. These reports have been produced in response to officer's issues of concern and additional correspondence.

2. Policies

2.1 Central Government Advice

- Planning Policy Statement 1: Delivering Sustainable Development
- Planning Policy Statement: Planning and Climate Change, (supplementary to PPS1).
- Planning Policy Statement 7: Sustainable development in rural areas.
- Planning Policy Guidance 8: Telecommunications.
 - Planning Policy Statement 9: Biodiversity and Geological Conservation
 - Planning Policy Guidance 15: Planning and the historic environment.
 - Planning Policy 16: Archaeology and Planning.
 - Planning Policy Statement 22: Renewable Energy
 - Planning for Renewable Energy: a companion guide to PPS22
 - Planning Policy Guidance 24: Planning and Noise.

2.2 Regional Government Advice

- West Midland Regional Spatial Strategy – Adopted January 2008. (In particular Policy EN1, (iii). (See paragraph 4.1).
- A Sustainable Future for the West Midlands – Regional Sustainable Development Framework
- West Midlands Regional Assembly – Climate Change Action Plan – Draft Consultation July 2007

2.3 Herefordshire Unitary Development Plan – Adopted March 2007.

- Policy S1 Sustainable development
- Policy S2 Development requirements
- Policy S7 Natural and historic heritage
- Policy DR1 Design
- Policy DR2 Land use and activity
- Policy DR3 Movement
- Policy DR4 Environment

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

- Policy DR5 Planning obligations
- Policy DR6 Water resources
- Policy DR13 Noise
- Policy HBA4 Setting of listed buildings
- Policy LA2 Landscape character and areas least resilient to change
- Policy LA3 Setting of settlements
- Policy LA4 Protection of historic parks and gardens
- Policy LA5 Protection of trees, woodlands and hedgerows
- Policy NC1 Biodiversity and development
- Policy NC5 European and nationally protected species
- Policy NC7 Compensation for loss of biodiversity
- Policy NC8 Habitat creation, restoration and enhancement
- Policy NC9 Management of features of the landscape important for fauna & flora
- Policy ARCH 1 Archaeological assessments and field evaluations
- Policy ARCH 3 Scheduled ancient monuments
- Policy CF4 Renewable energy
- Policy M2 Borrow pits

2.4 Herefordshire Supplementary Planning Guidance

- Biodiversity
- Landscape Character Assessment
- Planning Obligations

2.5 Other Relevant Documents

- English Heritage – Wind Energy and the Historic Environment
- Department of Trade and Industry – Wind Energy and Aviation Interests – Interim Guidelines
- Energy White Paper 2007.
- Powys Unitary Development Plan Deposit Draft 2004, (as modified Nov 07 & May 08).
- Radnorshire Local Plan – Adopted 1999.
- Planning Policy Wales – Technical Advice Note 8: Planning for renewable energy.
- Offa's Dyke Conservation Statement

3. **Planning History**

- 3.1 DCNW2008/1598/F - Proposed temporary meteorological monitoring mast at land to the east of Llanshay Lane, Reeves Hill. Approved 27th August 2008.
- 3.2 95/0598/N - Construction of 9 wind turbine generators, associated works, access road and cabling system as part of a larger development consisting of the erection of a 14 turbine. Refused 20th March 1996.
- 3.3 94/0499 – Erection of a 41 metre anemometer mast for twelve months only. Approved 10th October 1994.
- 3.4 94/195 – Construction of a total of 14 turbines on land in Herefordshire and Radnorshire and associated infrastructure. Refused 29th July 1994.
- 3.5 93/216 – Siting of two anemometer masts 40 and 10 metres high for evaluating wind speed for six months only. Approved 8th June 1993.

- 3.6 Also of relevance to this application is a current application registered with Powys County Council, ref: P/2008/1462; Full: Creation of access track to serve during period of construction and should maintenance require delivery of abnormal loads to Reeves Hill Community Wind Scheme on land at Llanshay Farm, Knighton – undetermined at time of writing this report.

4. Consultation Summary

Statutory Consultations

- 4.1 **West Midlands Regional Assembly (WMRA)** has responded to the application stating that the West Midlands Regional Spatial Strategy (WMRSS) has the status of a Development Plan and that this document comprises a material consideration in the determination of this application.

The response concluded by stating “*The application is in general conformity with current and emerging RSS. However, the WMRA are aware of local concerns raised in particular with regard to the impact upon Offa’s Dyke which goes through the region and that the Local Planning Authority are reminded of environmental and other criteria contained within RSS Policy EN1 iii.*”

- 4.2 **Severn Trent Water** raises no objections.
- 4.3 **The Environment Agency** raises no objections subject to the attachment of appropriate conditions with regards to protection of existing natural water supplies and possible water pollution.
- 4.4 **EON Central Networks** raise no objections.
- 4.5 **National Air Traffic Service** raises no objections.
- 4.6 **The Civil Aviation Authority** raise no objections on the understanding that other air traffic consultees also raise no objections i.e. Defence Estates.
- 4.7 **Defence Estates** raise no objections. However, its response requests that in the event of planning permission being granted, it is informed with regards to commencement of development on site, maximum height of construction equipment and the latitude and longitude of every turbine on site.
- 4.8 **Shobdon Airport**. No response received.
- 4.8 **English Heritage** has raised no objections. Its response notes that documentation in support of the application takes account of English Heritage advice contained in its publication: Wind Energy and the Historic Environment.
- 4.9 **Natural England** in their response dated 29th January 2009 have stated :

‘As you are aware, Natural England had objected to this application due to the unmitigated and uncompensated significant impact on the Shropshire Hills Area of Outstanding Natural Beauty, as identified in the Environmental Statement accompanying this application.

The Town and County Planning (Environmental Impact Assessment) Regulations 1999 to which this application is subject requires an Environmental Statement to include “A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment”. It was our considered opinion that this requirement had not been met.

Given the nature of wind turbines, mitigating (preventing and reducing) their impacts on the landscape is clearly not possible. However, taking into account the spatially limited extent of significant impacts upon the AONB it is our opinion that in this particular case, compensation to offset impacts would be appropriate. We therefore suggested in our responses dated 25/07/2008 and 13/11/2008 that the applicant considered ways to compensate for this impact.

We understand from your email correspondence dated 22/01/2009 that the applicant has agreed to pay the sum of £10,000 per annum for ten years and £5000 for a further four years into a landscape enhancement fund. Local groups within the area experiencing the identified significant impact on landscape could apply for grants to carry out landscape enhancement works, thus compensating for the impact.

*We therefore conclude that our reason for objection has been dealt with and we now **withdraw our objection.***

- 4.10 **Shropshire Hills Area of Outstanding Natural Beauty Partnership, (AONB)**, raise no objection. However, its response does state that note is made of the application's viewpoint analysis on Stowe Hill and that a significant adverse impact on this part of the AONB is identified, and trusts that this will be taken fully into account in both determination of the application and any decisions about compensation measures should the development go ahead.
- 4.11 **The Countryside Council for Wales** raise no objections to the proposed development. However, its response acknowledges that there will be a local impact on local national trails such as Offa's Dyke and Glyndwr's Way. The response further states in relationship to Offa's Dyke, "*However, in this case and in the context of the 285km trail in its entirety, it is CCW's view that despite this acknowledged local impact, the scheme is unlikely to constitute a major detrimental impact on Trail users*". The response also advised consultation with CADW.
- 4.12 **CADW (Welsh equivalent of English Heritage)** objects to the proposal. It expresses concerns about the serious harm the proposed development will have on the historic and visual character and value of Stanage Park. Concerns are also raised about the impact the proposed development will have on three scheduled ancient monuments within the vicinity, namely Norton Motte Mound and Bailey Castle and two sections of Offa's Dyke.
- 4.13 **The National Trust** objects to the proposed development because of the harmful effects that there would be on the setting of National Trust property, particularly the hill fort at Croft Ambrey and the setting of the Shropshire Hills AONB, and the precedent that this would establish for further harm.
- 4.14 **The Royal Society for the Protection of Birds** raise no objections subject to no soil stripping or vegetation clearance on site during the core bird breeding season.
- 4.15 **The British Horse Society** raise concerns that should planning permission be granted for the development proposed that consideration is shown to retention of existing bridleways within the vicinity of the application site with no destruction to their existing surfaces created by the developers of the wind farm. Their response also states they are keen to promote tourism; however, their understanding is that horse riders are very reluctant to use bridleways in the vicinity of wind turbines due to safety aspects.
- 4.16 **Hereford and Worcester Gardens Trust** raise concerns about the impact that the proposed development will have on several significant surrounding parks and gardens in north-west Herefordshire and the adjoining part of Powys.
- 4.17 **The Georgian Group** offer support to the Hereford and Worcester Gardens Trust, who object to the proposed development in consideration of the damaging impact the proposal, will have on the surrounding cultural landscape.

- 4.18 **The Garden History Society** object in consideration of the detrimental impact the proposed development will have on the surrounding historic and cultural landscape, and in particular on the visual and setting of Brampton Bryan Park.
- 4.19 **The Welsh Historic Gardens Trust** object to the proposed development in consideration of the detrimental impact the proposal will have on Stanage Park – a Grade One Listed park as well as Offa’s Dyke.
- 4.20 **The Ramblers Association (Herefordshire Area)** object to the proposed development in consideration of the impact the proposal will have on the whole area.
- 4.21 **The Mortimer Group of the Herefordshire Area of the Ramblers Association** object to the proposed development due to the impact the proposal will have visually, and on tourism within the surrounding area.
- 4.22 **The Joint Radio Company Limited** (on behalf of the UK Fuel and Power Industry) raise no objections in consideration of radio systems operated by utility companies.
- 4.23 **CSS Spectrum Management Services Limited** raises no objections in relationship to UHF Radio Scanning Telemetry Communications used in the region.
- 4.24 **CSS Spectrum Management Services Limited** raises no objections on behalf of OFCOM.
- 4.25 **Shropshire County Council** raises no objection in principle to the proposed development. The response states that the Council do not consider the proposal will have any unacceptable level of harm to the aims and purposes of the AONB in Shropshire. However, its response dated 24th July 2008 requested further visual assessment of the impact of the proposal on Stowe Hill and Offa’s Dyke, as well as further consideration to biodiversity, such as on bats and birds. It also raised that further consideration should be given to the nature of traffic generated on the trunk and local road network in Shropshire. They further responded to additional information received in support of the application on 25th November 2008 raising concerns that previous comments with regards to ecology issues still stood and that the additional information with regards to highway issues was considered insufficient in its present form.
- 4.26 **South Shropshire District Council** raise no objections and have also responded to the further information received in support of the application with no objections.
- 4.27 **Powys County Council** – on 22 December 2008 the Powys County Council Planning Committee offered the following response to the consultation by Herefordshire Council. It recommended that the application should be refused for the following reasons:
- The proposed wind farm by virtue of its location and size of machines would have a substantial detrimental impact as it cannot be accommodated without becoming a dominant and disruptive focal point in a traditional landscape which is remarkable for the integrity of its natural landform and undeveloped character.
 - Reeves Hill has the unique quality, highly valued by the public, of being one of the few places on the English/Welsh Border accessible to all and which gives unrestricted views of a landscape untouched by modern buildings and structures and whose visual amenity and enjoyment the development would destroy.
 - The proposal would have a substantial detrimental impact on the coherence, integrity and enjoyment of the unique cultural and historic landscape of the area, in particular by virtue of its affects on the Offa’s Dyke Ancient Monument and Long Distance Footpath and the Stanage Park Grade I Historic Park and Gardens and Grade II* Listed Building.

In addition, if the applicants wish to proceed to determination on the basis of the current Environmental Statement as supplemented, it is recommended that the application also be refused on the grounds that

- Insufficient information has been provided to properly assess the impact on European and other protected species and their habitats.
- The assessment of noise impacts does not fully demonstrate that the increased levels of noise experienced by local residents when the wind farm is operating will be acceptable.
- The hydrological statement does not fully demonstrate that there will not be undesirable impacts on habitats and private water supplies.

4.28 **The Highways Agency** raises no objections.

Internal Council Advice

4.29 **The Forward Planning Manager** raises no objection to the proposed development and indicates that the issue of sustainable energy production is a high priority of the government and has become more so since the UDP was prepared and adopted.

4.30 **The Economic Regeneration Manager** raises no objection.

4.31 **The Building Control Manager** raises no objections. This response is in consideration of concerns raised by a Powys Councillor in consideration of 'Radon Gas'.

4.32 **The Public Rights of Way Manager** raises no objections.

4.33 **The Environmental Health Manager** has raised concerns about some of the data presented. However the response states that the proposed development falls within the criteria set by the ETSU-R-97 and that this is deemed to be the most appropriate assessment for this type of development and therefore raises no objections subject to conditions.

4.34 **The Tourism Manager** raises no objections, stating the application must be decided on its merits. However, concerns are raised in respect of precedent created in respect of future applications for similar development, and whether the proposed development will have a significant input into the power system. The response raises the matter of visual impact.

4.35 **The Council's Minerals and Waste Officer** raises no objections. However, comments are made that in the event of the application being approved the 'Borrow Pit' areas would require their own specific hydrological and hydro-geological surveys prior to any development on site. Also biodiversity enhancement measures should be put in place to encourage wild flora/fauna. The response also suggests a site waste management plan is put in place.

4.36 **The Council's Planning Ecologist** raises no objections subject to conditions with regards to a work method statement for nature conservation, habitat enhancement schemes and independent long-term monitoring of the impacts upon protected species. The response also recommends a planning obligation under Section 106 of The Town and Country Planning Act 1990 in respect of developer contributions for enhancement measures for local biodiversity off-site.

4.37 **The County Archaeologist** recommends refusal to the application in consideration of the negative impact the proposed development will have on the stretch of Offa's Dyke within the vicinity of the application site. The response acknowledges that the comments are made in respect of Offa's Dyke, which is outside of Herefordshire, and that in relationship to the County

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

of Herefordshire, a recommendation for refusal could not be argued on archaeological issues alone.

4.38 **The Transportation Manager** recommends approval to the application subject to conditions and the applicant's agreement to a Section 106 Agreement to ensure a satisfactory highways management plan is in place during construction on site, and a bond is agreed in order to insure against any possible highway damage during equipment transportation to the site.

4.39 **The Conservation Team Manager** (this includes the comments on landscape issues) has responded to the application stating that analysis of the effects of this proposal upon the landscape should be evaluated not just in terms of impact upon individual components but upon their combination, including landscape character encompassing its origins and change over time.

5. Representations

5.1 **Stapleton Parish Council** object to the proposed development stating the natural beauty of the area the application site is located within outweighs the benefits to reduction in CO2 emissions the development will contribute towards.

5.2 **The Border Group of Parish Councils** objects to the application in consideration of their understanding of Policy CF4: Renewable Energy of the Herefordshire Unitary Development Plan.

5.3 **Presteigne Town Council (Powys)** have responded to the application with concerns about the proposed development, in that the size of the proposed turbines will have a significant detrimental impact on the surrounding landscape and biodiversity. Concerns were also raised about lack of clarity on distribution of the community fund as proposed.

5.4 **Knighton Town Council (Powys)** recommend refusal of the application. Its response states it also objects to the proposed access road subject to application P/2008/1462 registered with Powys County Council for planning consideration. However, in the event of the application registered with Herefordshire being approved, they recommend approval of the access route, and that the road should be adopted and used by the public.

5.5 **The Spaceguard Centre (Knighton, Powys)** raise no technical objections to the application on the understanding that no lights are fitted to the proposed turbines.

5.6 **Herefordshire Campaign to Protect Rural England** object to the proposed development on the basis of its adverse impact of the proposed turbines on a wide area of high quality and much loved landscape and the impact on residents, and visitors enjoying the landscape and on the local tourism economy.

5.7 **Herefordshire Wildlife Trust** raise no objections stating that it is impressed with the work that has gone into assessing the ecological value of the development area, and that proposals for mitigation appear suitable.

5.8 **South Shropshire Campaign for Protection of Rural England** objects to the proposed development due to the detrimental impact of the proposed development on the landscape and local community.

5.9 **Visit Herefordshire** raises concerns about the impact of such a development on the local tourism economy.

5.10 **West Midlands Friends of the Earth** states their commitment to the development of renewable energy sources. They also comment that the local community must be informed as to the reality of living close to wind turbines.

- 5.11 **Herefordshire Friends of the Earth** supports the application.
- 5.12 **Offa's Dyke Association** object to the proposed development, considering the proposed development will have an extremely serious detrimental effect on the setting on Offa's Dyke, a Schedule Ancient Monument of international significance and on the Offa's Dyke National Trail. There will also be an impact on Glyndwr's Way, National Trail, and the Mortimers Trail. It also considers that the proposal will impact negatively on other rights of way, Shropshire Hills AONB, Brampton Bryan Park and other local landmarks.
- 5.13 **The Radnorshire Society** request that due consideration be given to any historical and archaeological remains within the vicinity of the application site.
- 5.14 **260 households have responded in support of the application.** These are mainly from residents both in the immediate vicinity and in the wider Marches area. There are also letters of support from addresses in other parts of the United Kingdom.

The key issues raised in support of the application can be summarised as follows:

- Will provide clean sustainable development of low carbon energy.
 - Will assist in reducing carbon emissions and thus contribute to lowering greenhouse gases.
 - Herefordshire Council needs to contribute towards helping reduce carbon emissions.
 - Impact on surrounding landscape is subjective with little impact on biodiversity.
 - The proposed community fund will be an asset to the local Parish Council and stakeholders.
 - Impact on local tourism will be negligible.
 - The proposal will contribute towards the local economy.
- 5.15 **1053 objections** have been received from many households in the immediate locality, the Marches area, as well as others from throughout the UK and abroad. These include an objection from a local action group known as 'Stonewall Hill Conservation Group'.

The key issues of concerns raised can be summarised as follows:

- Impact on the surrounding landscape.
- Impact on Offa's Dyke and Glyndwr's Way.
- Impact on the surrounding historic and cultural heritage.
- Concerns about damage to local wildlife.
- If approved would lead to further applications for additional turbines.
- Queries as to whether wind farms do actually reduce carbon footprint.
- Impact on private water supplies to local dwellings.
- Will create unreasonable noise generating electricity.
- Will have a significant detrimental impact on local tourism.
- Loss of value to surrounding dwellings to the application site.
- Surrounding public highway infrastructure is inadequate to carry the traffic needed in order to construct the proposed development.
- Ice shards deposited on turbines.

6. Officer's Appraisal

6.1 The key issues that are relevant to this application are:-

- Planning policies (as identified in Section 2 of this report)
- Landscape/visual impact
- Archaeology and in particular in relation to Offa's Dyke.

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

- Ecology
- Icing on turbines
- Impact on hydrological features
- Noise
- Impact on surrounding tourism
- Impact on surrounding historic built environment.
- Public highway access and impact on surrounding highway infrastructure
- Planning Contributions.
- Shadow flicker and residential amenity.
- Electromagnetic interference and air safeguarding assessment.

Planning Policy

6.2 Planning Policy Statement 22 (Renewable Energy), published in August 2004 sets out the national position on matters relating to renewable energy proposals. The government's energy policy, including its policy on renewable energy, is set out in the Energy White Paper (Our energy future – creating a low carbon economy – Feb 2001). The development of renewable energy, alongside improvements in energy efficiency and the development of combined heat and power will make a vital contribution to these aims.

The Government has already set a target to generate 10% of UK electricity from renewable energy sources by 2010. The White Paper sets out the Government's aspiration to double that figure to 20% by 2020, and suggests that still more renewable energy will be needed beyond that date. The Kyoto protocol seeks to reduce greenhouse gases to 12.5% below 1990 levels by 2008-12.

6.3 PPS 22 sets out several key principles that local planning authorities should adhere to in their approach to planning for renewable energy. These principles include:

- Renewable energy development should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic and social impacts can be addressed satisfactorily.
- Local planning authorities should set out the criteria that will be applied in assessing applications for renewable energy projects (see Policy CF4 of the UDP).
- The wider environmental and economic benefits of all proposals for renewable energy projects, whatever their scale, are material considerations that should be given significant weight in determining whether proposals should be granted planning permission.
- Development proposals should demonstrate any environmental, economic and social benefits as well as how any environmental and social impacts have been minimised through careful consideration of location, scale, design and other measures.

6.4 A separate Companion Guide exists to PPS 22. It sets out practical advice on the implementation of PPS22. Chapter 8 of this Guide sets out information on wind turbines. It sets out that the principle of harnessing wind energy by wind turbines is well established and that wind turbines make a significant contribution to electricity supply in Europe and the UK.

6.5 The Guide sets out a number of issues specific to developments of this type that need to be considered when determining an application for planning permission. These are:

Noise – the Guide sets out detailed guidance.

Low Frequency Noise (infrasound) – the Guide indicates that there is no evidence that ground transmitted low frequency noise from wind turbines is at a sufficient level to be harmful to human health.

Landscape and Visual Impact – the Guide indicates that modern wind turbines are large structures and will inevitably have an impact on the landscape, and the visual environment.

Listed Buildings and Conservation Areas – the Guide indicates that special care will be needed if proposed sites for wind turbines should happen to be near listed buildings or conservation areas.

Safety – the Guide indicates that experience indicates that properly designed and maintained wind turbines are a safe technology.

Proximity to Roads, Railways and Public Rights of Way and Power Lines – applicants are advised to liaise with statutory agencies on these matters. Detailed guidance is given on technical matters.

Ecology and Ornithology – Detailed guidance is provided. Paragraph 58 indicates that the impact of a wind farm on the local ecology should be minimal. Similarly paragraph 60 highlights that experience indicates that bird species and their habitats are rarely affected by wind turbine developments and the impact of an appropriately designed and located wind farm on the local bird life should, in many cases, be minimal.

Detailed advice is given on the following areas:

Electromagnetic Production and Interference
Emissions from a Wind Turbine
Interference with Electromagnetic Transmissions
Specialist Consultation
Shadow Flicker and Reflected Light
Icing
Archaeology
Construction and Operational Disturbance

Regional Planning Policy

6.6 The West Midlands Regional Spatial Strategy (WMRSS) was adopted in January 2008 and therefore represents the most up to date policy in consideration of this application. It is part of the development plan with the Council's UDP.

6.7 The West Midland Regional Spatial Strategy (Section 2 paragraph 8.49) on Energy Generation states:-

“The region should aim to contribute as far as possible towards the achievement of the national energy target – 10% of electricity produced from renewable energy by 2010, with an aspiration to double renewables share of electricity between 2010 and 2020.”

6.8 Paragraph 8.50 states that in 2000, the region generated less than 0.1% of its consumption from renewable energy. The section on Energy Generation further elaborates stating that energy from wind is likely to become more feasible as technological advances widen potential areas for use.

6.9 The relevant specific policy in the West Midlands Regional Spatial Strategy is Policy EN1: Energy Generation. The policy indicates that local authorities should encourage proposals for the use of renewable energy resources subject to an assessment of the impact on the surrounding environment and access the extent to which such a proposal helps to achieve wider environmental benefits, such as reducing harmful emissions to the atmosphere, and

contributions towards national targets for regenerating electricity from renewable energy sources. The policy further encourages community involvement in such proposals while also showing consideration to other relevant policies in the development plan.

- 6.10 Policy EN1: Energy Generation in the WMRSS, emphasises how local planning authorities should identify the environmental impact of proposals for energy generation on the landscape, visual amenity and areas of ecological or historical importance. The impact on surrounding residents, traffic implications and environmental impact of any additional requirements is also set out.
- 6.11 Paragraph 8.52 recognises that the location of renewable energy facilities is a cross-boundary, sub-regional and regional issue. The location for the development, subject to this application, is on the administrative boundary with Powys, (Wales) and therefore later in this report consideration will be given to Technical Advice Note 8 (TAN8) Planning for Renewable Energy, the national planning guidance for renewable energy in Wales.
- 6.12 Regional guidance on renewable energy is also set out in the West Midlands Regional Assembly Climate Change Action Plan – Draft Consultation Plan 2007. This document carries less planning weight than the West Midlands Regional Spatial Strategy. Nevertheless it reiterates climate policy and concerns as outlined in the West Midlands Regional Spatial Strategy (guidance on sustainable development is provided including the increased use of renewable energy). These comments are also reiterated in ‘A sustainable future for the West Midlands – Regional Sustainable Development Framework Version Two July 2006.’

Herefordshire Unitary Development Plan 2007

- 6.13 The most relevant policy to this application is Policy CF4: Renewable Energy. Paragraph 13.4.14 of the UDP explanatory text to the Plan emphasises that the planning system has a vital role to play in helping to deliver the Government’s targets and goals for renewable energy. The paragraph also states that when considering proposals the wider environment, economic and social benefits of renewable energy projects whatever their scale are material considerations.
- 6.14 Policy CF4 clearly indicates that development proposals for the production of renewable energy will be permitted provided that they do not adversely affect the integrity of sites of international importance for nature conservation and that the objectives of the designation of nationally important sites and other areas of special interest, e.g. AONBs, scheduled ancient monuments and archaeological remains, will not be compromised and that any significant adverse effects on the qualities of the area are clearly outweighed by the environmental social and economic benefits. The Policy further states that outside of nationally designated sites and areas, proposals should not have a significant detrimental effect upon the character of the particular landscape qualities of the location or significant impact upon the amenity of neighbouring residents, through such issues as noise, odour or electro-magnetic interference, and that in assessing proposals for renewable energy regard is given to the wider environmental, social and economic benefits.
- 6.15 Also of particular relevance in relationship to this application are Local Plan policies LA2, LA4, HBA4, NC1, ARCH1 and ARCH3.
- 6.16 Policy LA2: Landscape character and areas least resilient to change; states how proposals that would affect either the overall character of the landscape will not be permitted and that proposals should demonstrate that landscape character has influenced their design, scale, nature and site selection and where appropriate developers will be encouraged to restore degraded landscapes to their inherent character.
- 6.17 Policy LA4: Protection of historic parks and gardens; emphasises how development which would destroy, damage or otherwise adversely affect the historic structure, character,

appearance, features or setting of a registered park or garden, will not be permitted and that development proposals that would affect an historic park or garden should be accompanied by an historic landscape appraisal report.

- 6.18 Policy HBA4: Setting of listed buildings; states that development proposals which would adversely affect the setting of a listed building will not be permitted and that the impact of the proposal will be judged in terms of scale, massing, location, detailed design and the effects of its uses and operations.
- 6.19 Policy NC1: Biodiversity and Development; states that in determining all development proposals, the effects upon biodiversity and features of geological interest will be taken into consideration, and that prior to determination of applications for development such as the proposal subject to this application field evaluations will be required, in order to evaluate impacts of proposals on existing biodiversity on site and to demonstrate that development proposals will have no adverse effects on any adjacent biodiversity, and features of geological interest.
- 6.20 Policy ARCH1: Archaeological assessments and field evaluations. This policy comments on the determination of applications for development on site and where there is reason to believe there are remains of archaeological importance. An archaeological field evaluation may be required in certain circumstances.
- 6.21 Policy ARCH3: Scheduled Ancient Monuments states that development proposals and works which may adversely affect the integrity, character or setting of scheduled ancient monuments will not be permitted.
- Welsh Planning Guidance
- 6.22 The application site adjoins the Welsh boundary. As such consideration needs to be given to Welsh planning guidance in the form of TAN 8 (Planning for Renewable Energy). TAN 8 is the Welsh equivalent of PPS.22 Renewable Energy.
- 6.23 TAN 8 indicates that there are seven Strategic Search Areas (SSAs) in Wales that may be technically, economically and/or environmentally suitable for major wind power proposals (i.e. that produces in excess of 50mw of electricity).
- 6.24 The TAN also explains that large areas of Wales are excluded from consideration for SSAs (such as National Parks and AONBs). However, paragraph 2.12 states that local planning authorities should encourage small community based wind farm schemes (generally less than 5mw) where appropriate outside the SSAs to local circumstances. It indicates that consideration should also be given to the cumulative impact of smaller schemes in areas outside of the SSAs, stating a balance should be struck between the desirability for renewable energy and landscape protection, whilst acknowledging that such a balance should not result in severe restriction on the development of wind power capacity.
- 6.25 TAN 8 is different to PPS22 in that it actively encourages developers in consultation with local planning authorities to engage in pre-application discussions with regard to community involvement and benefits. Such benefits can be justified as mitigation of development impacts, through the planning process. Annex B on Planning Obligations in the TAN refers to community benefits such as highway infrastructure improvements, wildlife habitat management and communication network improvements. Also included are 'volunteer gains' for the local community. It is this latter gain that is not explicitly considered in PPS 22.
- 6.26 Local plan policy of relevance is the Powys Unitary Development Plan Deposit Draft. This is not, fully adopted, and therefore has limited weight. The present adopted local plan is the Radnorshire Local Plan (adopted in 1999).

Landscape/Visual Impact

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

- 6.27 The ES accompanying the application states that a full landscape and visual assessment was commissioned over a 20 km radius taking into consideration landscape character, landscape designations and main visual receptors. This included an assessment of the historic landscape, listed buildings, historic parks and gardens and conservation areas. The ES states that a full cumulative landscape and visual impact assessment is not required under the terms of EIA Regulations as there are no other wind farms within the zone of theoretical visibility and only one proposed wind farm within a 30 km radius of the site. (Pentre Trump wind cluster the site of which is located 16 km to the south west of the application site). Otherwise there are no existing wind farms to which cumulative impact is an issue.
- 6.28 The ES acknowledges that there will be long term but reversible effects on the landscape fabric of the site during its proposed operational life (25 years). These effects have been assessed as moderate to substantial/substantial. (Paragraph 2.6.2 in the ES non-technical survey on the landscape visual assessment).
- 6.29 The applicants acknowledge that there will be some significant effects of the proposed development on exposed high enclosed plateau landscape type (as identified in the landscape character assessment for the area) and some significant views from the southern edge at Stowe. These effects are considered in the ES to be localised and contained within a small area of the southern edge of the plateau.
- 6.30 The ES also states that the development proposal has been situated sensitively in consideration of its relationship to the surrounding landscape character and that there will be no loss of existing characteristic features. The ES acknowledges that there will be substantial and moderate effects from nearby public rights of way of the development as well as from some dwellings and villages in close proximity to the site.
- 6.31 Paragraph 3.1.12.2 of the ES supplementary report indicates that following considerable discussions and research neither the Council's Landscape Officer nor the applicant's landscape specialist found a satisfactory methodology to report the information requested and that there is no clear parameter to the 'border landscape'. The applicant's additional supplementary report concludes that it was agreed that no further reporting on this topic be undertaken. The supplementary report on landscape and visual assessment issues included additional information on the impact of the proposed development on the character and views from the southern edge of the Shropshire Hills AONB on its southern aspect around Stowe, as well as further information about the impact on Offa's Dyke and Glyndwr's Way National Trails and further consideration to an appropriate method for assessing the impact on the cultural heritage.
- 6.32 The ES uses wire frames to analyse effects on visual amenity and concludes by stating that effects would fall to moderate at a distance of about 2.5km from the proposed wind turbines near the site and 4.5km in the Shropshire Hills AONB to the north of the site, therefore significant effects are likely up to approximately 2.5km except from the north where this could extend to 4.5km from the site. At distances from 5km the ES states the levels of effect drop away from slight to negligible (paragraph 4.13.5 of the E.S).
- 6.33 The ES indicates there are parts of three towns within 10km of a wind turbine with potential visibility and that there would only be some effects of a slight to moderate or lower magnitude from Presteigne and Knighton. On this basis it is considered that there are no significant effects on these towns as a result of the proposed development.
- 6.34 The applicants identify eight villages within 5km of the nearest turbine 3 of which will be significantly affected as a result of the proposed development. Most significant is the western side of Norton (Powys). Stowe to the north will also have significant visual impact as a result of the proposed development.

- 6.35 The ES indicates significance of effect on nearby dwellings to the application site has been assessed as being significant at these near distances for those with direct views over the site, or viewed in the context of the near wind turbines, at near distances under 1.5km from north and south facing properties and 2.5km from east and west facing properties. Over 2.5km no significant effect on private dwellings is anticipated.
- 6.36 The ES concludes on visual amenity by stating no significant effect as a result of the proposed development will be attributed to uses of 'A' class roads. On 'B' class roads the threshold of significance would be at about 1.5km to 2km from the proposed wind farm. There will be a series of views from minor roads with the wind turbines set against open sky or as back-drop to woodland. Therefore the magnitude of view from some sections of minor roads, although intermittently in most cases, is assessed as being high.
- 6.37 The proposed development has the potential to be seen over long distances and will have visual impacts upon bridleways/footpaths within the area of the application site, to which the ES indicates impact as being moderate to substantial within 3.5km and substantial under 1.5km. Offa's Dyke long distance footpath is located 3km to the west of the application site. Other notable trails include Glyndwr's Way and the Mortimer Trail.
- 6.38 As previously indicated in this report, national, regional and local planning policy clearly emphasises that proposals of this nature subject must be assessed for their contribution to reduction of greenhouse gases, (CO2 emissions), as well as their impact on the surrounding landscape and in particular if there is a significant impact on designated areas, e.g. National Parks and AONBs.
- 6.39 The development is proposed for 25 years and on proposed decommissioning of the site, the harmful effects (as indicated in paragraph 6.24) will be reversed and there would be no reason why the landscape could not return to its current land use in agriculture. In any event the current land use of mainly agricultural livestock grazing can be maintained during the site's operational life around the proposed wind turbines.
- 6.40 There is no doubt that the proposed development of four wind turbines and its associated infrastructure will have an effect on the landscape character of the area during the site's life span. Therefore this has to be judged against relevant planning policy to consider whether the harmful effects, outweigh planning policy sufficiently to warrant refusal to the application on the issue of landscape impact. This matter is addressed in the conclusions to this report.

Archaeology and Impact on Offa's Dyke

- 6.41 As part of its ES, the applicants employed the services of Clwyd-Powys Archaeological Services, who completed a desk-based study, along with field work of the application area in consideration of archaeological issues. As a result of this study, mitigation measures are considered in order that there are no major or moderate changes to the visible archaeological resources of the area. As part of their supplementary environmental report, the applicants undertook further field evaluation work to establish the presence/absence of archaeological remains on site. The results of this further work reveal no archaeological remains of any significance on site.
- 6.42 The application site is situated within sight of Offa's Dyke, which is located approximately 3km in a westerly direction. Offa's Dyke is a frontier earthwork of the Welsh Marches, dating to the Dark Ages. It is a Scheduled Ancient Monument and is largely retained as a national trail between the English and Welsh border.
- 6.43 The proposed development will infringe on the setting of the Dyke, as well as (to a lesser extent), on other historic national trails within the locality, most notably, Glyndwr's Way and Mortimer's Trail (these latter two are at a greater distance from the application site than Offa's Dyke).

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

- 6.44 The Herefordshire County Archaeologist acknowledges that based on Herefordshire policies alone, the recommendation would not be one of refusal, although concerns would be raised. The County Archaeologist considers that the proposed development fails to comply with Policy CF4; Renewable Energy and ARCH 3: Scheduled Ancient Monuments of the HUDP in that the objectives of the scheduling (of Offa's Dyke) would be compromised by the development as proposed, and the setting of the Dyke would be adversely affected to a significant degree.
- 6.45 Statutory consultees who raise concerns on this issue include CADW. Other consultees objecting due to concerns about the impact of the application on the Dyke include the Welsh Historic Gardens Trust, Offa's Dyke Association, (a registered charity established to protect and preserve the Dyke), who state the Dyke is considered to be of international importance. The Offa's Dyke Association conclude in their response to the application by stating that "*there is a strong case that the proposed development will tangibly, significantly and detrimentally impact visual appreciation of a large, historically important and hitherto unspoilt area of locally distinctive and well preserved Marches rural landscape in East Powys, South Shropshire and north-west Herefordshire*".
- 6.46 The Countryside Council for Wales raise no objection to the proposed development. However it comments that "*there would be a local impact on local national trails including Offa's Dyke and Glyndwr's Way. However, in this case and in the context of the 285 km trail in its entirety, it is CCW's view that despite this acknowledged local impact, the scheme is unlikely to constitute a major detrimental impact on trail users*".
- 6.47 Natural England and Shropshire Hills AONB do not raise any objections in relationship to the Dyke, and neither have English Heritage in their response to the application, who in their response dated 11th November 2008 have stated '*we note that the supplementary application documentation takes account of English Heritage advice contained in it's publication: Wind energy and the historic environment*'.
- 6.48 Many of the letters of objection from members of the public have also raised concerns and objections in consideration of the impact of the proposed development on Offa's Dyke. These include a letter from Michael Jefferson, a Professor of International Business and Sustainability, who considers Offa's Dyke a footpath of significant historic and landscape interest.
- 6.49 The Council's environmental consultants, advise in paragraph 2.5.2 of their report that the additional analysis presented in the applicant's supplementary report on potential effects on Offa's Dyke, is well set out and carefully considered, and that the conclusion of the applicant's report in that the proposed development would have no unacceptable effects on the setting of Offa's Dyke is well justified.

Ecology

- 6.50 The ES indicates that the application site has little significant natural cover or remaining habitat. The site and its surrounding area are mainly in use as semi-improved and improved agricultural land for either livestock grazing or arable corn production.
- 6.51 The ES indicates that land populations on site although diverse are low in numbers, and that the construction of wind turbines will involve very little land-take with very little loss of scrub or tree removal, and therefore little loss of breeding or foraging habitat. The ES states that surveys of wildlife populations on site were undertaken and these include species such as bats and great crested newts, the latter of which had the potential to use the remains of a dry stone wall alongside the western boundary of the application site as a potential route. As a result of further survey work included in the additional Supplementary Environmental Report – October 2008 the proposed access to turbine number three was changed from the western

side to direct access off the unclassified public highway that divides the site leading in the direction from the site towards Willey/Lingen.

- 6.52 The ES indicates the applicant's intentions to enhance habitat through mitigation measure such as fencing off three hectares adjacent to the southern boundary in order to encourage ecological enhancement objectives (such as an increase in plant populations upon the poorer shallower soil patches of this area). Also proposed is hedge planting alongside the field boundary to the south of the access track to turbine number two in order to encourage a diverse range of farmland bird species.

Further hedgerow restoration to the east of the application site is also proposed in order to enhance the value of native hedgerow plantings. The applicants also indicate that field edge habitat creation on the application site will further enhance wildlife corridors. Nonetheless consideration also has to be given in order not to enhance habitats within the vicinity of the turbines for species such as skylark (so as to avoid conflict with operation of the proposed turbines). Existing plantations to the north and east of turbine number two will be managed as small areas of broadleaved copses. The ES also proposes roadside verge management and preservation of the roadside stone wall in its present defunct state.

- 6.53 As part of its ecological assessment, the applicant undertook bat surveys. This included (on the advice of the Council's Planning Ecologist), an Autumn survey proceeding the application's submission to the Council. This survey, along with the early bat survey, has revealed no undue cause for concern.

- 6.54 The Council's Planning Ecologist has not raised any objections to the scheme, and considers that there has been a great deal of survey effort of the habitats and fauna present, and that her initial assessment of the site concurs with the findings of the applicant's ecological consultant. This concludes that the habitats are predominantly species poor, mainly sheep-grazed grasslands with occasional small blocks of plantation woodland.

- 6.55 The Planning Ecologist's response to the additional information submitted by the applicant recommends conditions be attached to any potential approval covering a working method statement for nature conservation issues. This would include a habitat enhancement management scheme and independent long-term monitoring of the impacts upon protected, endangered and Biodiversity Action Plan, (BAP), species with the scope to alter the usage of the turbines if there is found to be a significant seasonal impact.

- 6.56 The Planning Ecologist's response also recommends a Planning Obligation (under Section 106 of the Town and Country Planning Act 1990) for developer contributions for off-site enhancement measures for local biodiversity.

- 6.57 This matter is also a recommendation of Natural England, a statutory consultee to the application.

- 6.58 The applicants (in a letter dated 12th December 2008) agreed in principle to this request and details of the beneficial contributions towards habitat enhancement can be seen in the Draft Heads of Terms annexed to this report.

- 6.59 Members of the public have raised concerns about the impact of the proposal on local biodiversity. However, although substantial amounts of letters of objection were received it is considered no additional issues of significant concern were raised in relationship to biodiversity issues to those as outlined in the preceding paragraphs.

- 6.60 It is considered that no significant issues of concern on biodiversity issues have been raised to warrant a refusal of planning permission. The proposal generally conforms to all planning policies in relationship to biodiversity issues, and the applicant's agreement to off-site enhancement compensation under a Section 106 Agreement is considered acceptable.

Icing on turbines

- 6.61 The ES indicates that the build up of ice on wind turbine blades is no longer a problem with wind farms. Turbines fitted with vibration sensors will identify ice build up and cease operation, thereby avoiding any potential incident of ice throw.
- 6.62 Ice on turbines is an issue that has been raised by a number of objectors to the application. The applicant has indicated that the exact type of turbine to be constructed on site has yet to be decided. However, the ES indicates that modern technology prevents the problem that was an issue with older turbine designs. In the absence of any information to the contrary this is accepted by your officers.

Impact on hydrological features

- 6.63 The ES identified the existing water features within the site boundary, through a desk study and site walkover. The statement indicates that water features within a 500 metre buffer zone around proposed turbine and track locations were identified.
- 6.64 The information gathered as a result of the desk study and site walkover allowed the identification of potential impacts during the construction, operation and decommissioning phases in respect of hydrological conditions. Recommendations for mitigation to negate or minimise these impacts have been provided.
- 6.65 These include responsible chemical and maintenance/re-fuelling during construction, sufficient staff training, provision for run-off diversion into vegetated ditches and either infiltrates and discharges to spillways, located away from watercourses. Also proposed is the use of sulphate resistant concrete where required, in order to eliminate alkaline leaking from the buried turbine bases.
- 6.66 The Supplementary ES (on the identification of private water supplies) concludes that the issues raised can be addressed through appropriate conditions.
- 6.67 Various comments have been received to the effect that the ES appears deficient in that a 500 metre buffer as a hydrological study area around proposed infrastructure is not considered appropriate or adequate. Similarly the baseline survey had not identified private and farm water supplies that may be affected by the development and their mapping and recording of water features and catchments was not sufficiently diligent and that impact assessment was not undertaken on a source – pathway – receptor basis to enable a prediction of effects on the hydrology of the site and private water supplies in particular.
- 6.68 The Environment Agency (a consultee that does not object to the proposed development) was asked to comment further on this matter. Its response (8th December 2008) is as follows:

“We have previously stated that ‘we would normally expect a comprehensive water features survey to include a site walkover and all water features (including the private supplies) to be mapped. This does not appear to have been undertaken and we therefore cannot confirm that the risks to water resources on a local scale are negligible’.

Notwithstanding the above, we previously stated that we agree that any assessment should be proportionate to the potential risks posed. In this instance we do not consider that the wider groundwater resource in this area is of high vulnerability, and due to the relatively small land take from the proposed development, and providing the proposed mitigation measures (as detailed within Section 7.5 of the ES) are implemented, we agree that the impacts on the wider groundwater resource within the area are likely to be minimal.

The Review document also mentions the River Lugg (SSSI) as a potentially sensitive receptor.

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

We would draw your attention to Section 7.3.2 of the ES which confirms that the 'site (only) drains into tributaries of the River Lugg, with the main channel at least 2.5km downstream'; and details some associated relevant impacts in Section 7.4 e.g. surface water run-off, with mitigation measures for potential impacts detailed within Section 7.5.

On the basis of the above, we would re-iterate that, if the LPA are minded to approve the application, we would recommend that a condition be imposed to secure the proposed mitigation measures including that any surface water be directed into swales or similar infiltration method, which will protect the water environment and ensure that 'no measurable or significant adverse effect on the water balance will arise as a result of the proposed development'. Section 2.8.7 of the Review document also confirms that...'potential hydrological impacts arising from wind farm developments can be addressed by way of appropriate water management and planning conditions...'

We would also re-iterate our previous comments with regard to potential impacts from borrow pits including the recommended condition to ensure that "there shall be no excavations, during the excavation of borrow pits, below the water table"; to prevent impact on the groundwater environment. We have previously noted that any proposed excavation of borrow pits will be carried out 'using the mitigation measures outlined within the relevant section of the ES, for example relating to the mitigation of crane pad excavation or similar'.

With regard to measuring impacts upon springs, we would also re-iterate that if you consider it necessary, in consultation with your Environmental Health Officer, we would advise you to consider securing the monitoring of springs (to assess the 'rate of flow' and 'quality') during construction and post-construction to ensure no significant impact is occurring, which may be secured through a suitably worded planning condition. However we would not wish to be involved in matters relating to this condition, it is just an advisory comment, for your consideration. For information such a condition is suggested as follows - "A monitoring scheme for springs shall be submitted to and approved by the LPA. The scheme shall include frequency and location of monitoring and nature of sampling. Thereafter monitoring shall be carried out and reviewed in accordance with the approved scheme. If the monitoring scheme approved shows in the opinion of the LPA, 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 LPA for their approval."*

6.69 The various mitigation measures that follow from this detailed response from the Environment Agency are translated into conditions in the event that Committee is minded to grant planning permission for the proposal.

6.70 In consideration of relevant national and local plan policies and the final comments made by the Environment Agency as outlined above (whose comments are similar to those of the applicant's Hydrology Specialist) and the fact that the Council's Environmental Health Manager in consultation with the Council's Environmental Scientific Officer and Severn Trent Water raise no concern in respect of water issues, it is considered that any remaining issues can be dealt with by condition.

Noise

6.71 Local residents (including the SHCG) have raised concerns and object on grounds of noise implications in respect of the proposed development.

6.72 The ES included an assessment of the potential noise impact based guidance as laid out in ETSU-R-97. The method of noise assessment is in accordance with guidance in PPS22.

- 6.73 The assessment indicates background noise measurements were taken at five locations neighbouring the proposed wind farm, based upon preliminary predictions. Analysis of the measured data was performed in accordance with ETSU-R-97 to determine the pre-existing background noise environment of these locations.
- 6.74 Predictions of wind turbine noise were made based upon a guaranteed sound power level for an Enercon E70 2.3 MW wind turbine. A calculation procedure (which was considered to be worst case predicted levels) and measured background noise levels indicate that for the majority of circumstances the proposed site wind turbine noise will meet the lower amenity hours and night-time noise criteria proposed within ETSU-R-97.
- 6.75 Amongst objections received from members of the public was a response from CGM Consulting on behalf of the occupiers of Tipton Farmhouse (located to the east of the application site). This report raises concerns about the applicant's noise survey. It is considered the Enercon turbine used in the calculation is one of the quietest and it was indicated that a noisier turbine could actually be used.
- 6.76 The Environmental Health Manager acknowledges that criticism has been received in respect of the suggested noise level issues and guidance used. It is accepted that the data provided for the noise study is based on the Enercon E70E4 and this may not be the noisiest turbine on the market. However, he acknowledges the noise survey employed in the ES was conducted using the most appropriate guidance for noise assessment of wind farms.
- 6.77 The noise predictions were based on data for an Enercon E70E4 wind turbine with a generating capacity of 2.3 MW and a hub height of 69 metres. This has a predicted sound power level (SWL) of 104 5dB(A) of a wind speed of 7MS-1 at 10 metres above ground level.
- 6.78 The Environmental Health Manager acknowledges that at some receptors, the turbines may be audible at certain wind speeds and directions and complaints may be likely, particularly during the night time period when background levels are usually lower. The Environmental Health Manager believes that to prevent night time sleep disturbance and prevent nuisance during the daytime, a noise limit of 38dB (A) should be set. This would be in-line with the ETSU-R-97 guidance of 42dB(A), if the amended World Health Organisation Guidelines on Community Noise 1999, figures are taken into consideration. There is also the likelihood of amplitude modulation of aerodynamic noise being caused.
- 6.79 The proposed development falls within the criteria set by the ETSU-R-97 (which is deemed to be the most appropriate document for this type of development) and provides a framework for measurement of wind farm noise, which can be used in conjunction with other noise guidance to ensure protection of the noise environment. The consideration of possible nuisance and any issues of concern in respect of noise levels can be addressed by the attachment of appropriate worded conditions with regards to noise levels and measurements, turbine specifications and a noise management scheme. With such conditions the proposal is considered to comply with National Planning Guidance and Policy DR13: Noise, of the HUDP. These conditions should be sufficient to avoid the worst case scenario mentioned above. The Environmental Health Manager acknowledges that the noise data provided for wind speeds above 8m/s is minimal but believes that conditioning the noise levels to 38dB(A) would provide adequate protection.
- 6.80 The Council's Environmental Consultant's indicate the information submitted as part of the applicants E.I.A. statement is acceptable, and concluded that "*overall the noise impact assessment meets current best practice and provides a thorough and comprehensive assessment of potential effect*".

Impact on surrounding tourism

- 6.81 Tourism is important to the local economy in general and in relation to farm diversification in particular in both England and Wales.
- 6.82 The ES addresses tourism. It is acknowledged that tourism plays an essential part in the local economy. However, the statement indicates that to date there is no evidence to indicate that wind farms are detrimental to tourism. Reference is made to 'The Review of Energy Policy in Wales' by the Welsh Economic Development Committee, (January 2003), which concludes that there is no objective evidence available as to whether wind turbines increase or decrease tourist interest in an area and that there have been several different surveys in other areas which generally report that the majority of people are not influenced one way or another by the presence of wind farms.
- 6.83 The Council's Tourism Manager has responded to the application stating 'whilst advocating a green position for Herefordshire we must be aware of the visual impact of our greatest asset the countryside' and that each application must be decided on its individual merits and questions whether the development is going to have a significant input into the power system and give benefit to the local grid.
- 6.84 It is considered that there is no information of a reliable nature on which to refuse this application in considering its impact on levels of tourism.

Impact on surrounding historic built environment

- 6.85 In response to concerns raised by your officers, (as well as Stonewall Hill Conservation Group's response), the applicants submitted further information in the form of a supplementary environmental report – October 2008. The Council's Area Landscape Officer was particularly concerned in respect of the applicant's original ES about the lack of information in respect of the historic and cultural heritage. However, as earlier referred to, neither the Council's Landscape Officer nor the applicant's landscape specialist found a satisfactory methodology to report information requested and that there is no clear parameter to the term border landscape.
- 6.86 The site for the proposed development is neither located within nor adjacent to any recognised Conservation Area. Two buildings of listed status are within its immediate surrounding area. The first is Tipton Farm House (which is located approx. 600 metres from the site of the nearest proposed turbine, in an easterly direction) and on which it is considered the proposed development will have no significant detrimental impact.
- 6.87 The second lies in excess of 2000 metres, in a north easterly direction, and is the site of the main dwelling house at Stanage Park. The house within this parkland setting is grade II* listed. Given the surrounding land topography and vegetation cover, your officers consider that the impact on the setting of the listed house will be minimal. It is noted that CADW's response to the application raised concerns about the proposed development causing serious harm to the overall historic and visual character and setting of the parkland itself. Nonetheless woodland in the southern part of the park will partly obscure the turbines from parts of the park below the woods as noted in CADW'S response. It is accepted that the grounds form part of the setting of the house, and that the proposed turbines will have some impact on the overall nature and quality of this wider environment. This landscape and visual impact has been assessed earlier in this report.
- 6.88 It is considered that the development is acceptable with no serious overall harm as to the setting of nearby listed buildings and therefore on the subject of historic buildings the application is considered to comply with relevant national and local plan policies on this issue.

Public highway access and impact on surrounding highway infrastructure

- 6.89 The ES gives consideration to access to the site and impact on the surrounding highway infrastructure. It indicates that abnormal load vehicles will approach the site from the north along the A49 travelling west-bound along the A4113.
- 6.90 The proposed development would generate exceptional load movements during the construction phase. The lower sections, blades and turbine components would be transported by articulated low loaders. Access to the site would follow the existing unclassified public highway network to the site. This is subject to an existing application which has been made to Powys County Council.
- 6.91 The development proposed will also generate other vehicle movements such as concrete deliveries and stone from local quarries.
- 6.92 The initial information submitted by the applicants raised concerns by the three relevant separate local planning authorities and as a result of a meeting that took place as well as representation from the Highways Agency and the applicant's agent. Additional information in the form of a Construction Traffic Management Plan was submitted to the Council in September 2008 for further consideration.
- 6.93 This additional information contained detailed information with regards to construction traffic, abnormal loads, traffic impact and management.
- 6.94 It has been concluded that the most suitable approach would be to enter into a legal agreement to secure satisfactory detail with regards possible highway network damage by means of a suitable bond to be in place prior to any works undertaken on site. Details of the proposed Section 106 agreement can be found in the Draft Heads of Terms attached to this report.
- 6.95 This matter is inevitably complicated as there are two separate applications to be determined, and by different authorities. They will also not be determined at the same time. Members will be up-dated on the matter (and any decision made by Powys County Council on the access application) at the meeting.

Planning Contributions/Social Economic Impact

- 6.96 The ES indicates the application as 'The Reeves Hill Community Wind Energy Scheme', which would provide benefits both financially and environmentally.
- 6.97 The ES indicates the scheme will give local contractors opportunities to bid for the civil and electrical works and provision of site services. The developer will register a local community interest in a community trust fund based on the financial output of the scheme. Such a scheme will facilitate the distribution of funds for local initiatives which may be reasonably linked to the tied issues of energy education and energy efficiency for the local parishes. One such issue already mentioned in the ES is a renewable energy educational facility to supplement the current educational function of the nearby Spaceguard Centre.
- 6.98 The ES indicates that in the event that planning approval is forthcoming that a direct community benefits package financed from the project cash flows would be made available and that during the project's working life the local community would benefit from £10,000 per annum for each turbine of over 2 MW capacity. A co-operative organisation 'Energy4all' would also contribute £10,000 annually to a local community and parish trust funds for the project. These contributions to the local community would equal to £1 million over the 25-year life span of the development. The ES indicates that one turbine will be owned by the Co-operative Company Energy4all providing an opportunity for local investment up to a maximum shareholding of £20,000 per individual and will also contribute £10,000 annually to a local community trust.

- 6.99 Community contributions are not a direct material planning issue in accordance with PPS 22: Renewable Energy and Herefordshire Council has no Supplementary Planning Guidance on renewable energy. In this regard Members are advised to give no weight to this proposal in the determination of this application. However, the site for the proposed development is adjacent to the Welsh boundary and therefore some consideration should be given to TAN 8. In Annex B of its Companion Guide (Community benefits arising out of the development of wind farms in Wales) refers to planning obligations for payments outside of highway infrastructure and improvements to wildlife habitat management, creation or mitigation to volunteer 'gains'. These gains can be offered as part of the planning process and the Courts have held that this approach is not in itself unlawful. However, the Annex makes it clear that they must not impact upon the decision-making process itself.
- 6.100 The nearest concentrated settlement to the application site is the village of Norton (approximately 2km to the west of the application site). Slightly further are the large settlements of Presteigne to the south, and Knighton to the north. On the English side of the application site, Lingen is the nearest smaller settlement. The applicants have indicated their agreement to enter into a Deed of Covenant and a Unilateral undertaking with regards to ensuring the community contributions are in place as indicated in the ES.

SHADOW FLICKER AND RESIDENTIAL AMENITY

- 6.101 Shadow flicker happens when the sun passes behind a moving blade and casts a shadow on the window of a neighbouring property. The ES indicates that shadow flicker has been addressed with the new generation of wind turbines.
- 6.102 Five properties were identified in the ES as being within 710 metres of the wind turbines and that could potentially witness shadow flicker effects (turbine diameter of up to 71 metres, 10 x rotor diameter). Test results revealed that of these five properties, there was potential for some shadow flicker at four properties at some point during the year and that these tests were in worst case conditions.
- 6.103 In order to prevent any possible nuisance on this issue a wind farm control system is proposed by the applicant by which a computer model of the Reeves Hill turbine layout, together with details of the nearby properties would be combined with a model of the sun's path over the course of the year, to allow a control system to predict possible shadow flicker and shut the relevant turbine down for the required period of time.
- 6.104 The Council's Environmental Health Officer has considered the nuisance of shadow flicker and considers the applicant's analysis of the issue satisfactory. Your officers consider there are no planning issues of concern in respect of shadow flicker and residential amenity.

ELECTROMAGNETIC INTERFERENCE & AIR SAFEGUARDING ASSESSMENT

- 6.105 Prior to submission the applicants carried out consultation with TV/radio/telephone operators and air traffic bodies. As a result of this exercise the ES indicates no adverse responses were received. The applicant is willing to undertake an evaluation of any possible effects to local transmitters and introduce suitable mitigation measures that may be required.

OTHER ISSUES OF CONCERN AS RAISED BY OBJECTORS TO THE APPLICATION

6.106 Also raised in letters of objection, including the response from SHCG are concerns about whether wind farms do actually reduce the carbon footprint. National and local planning policy both emphasise that small-scale projects can provide a limited but valuable contribution to overall outputs of renewable energy and planning authorities should not therefore reject planning applications simply because the level of output is small.

7. Conclusions

7.1 The application raises many issues, and has divided opinion both from the public and the various consultees. The positioning of wind turbines in the open countryside has predictable and well-documented impacts, many of which have been raised in this report. In determining the application Members will need to balance up several conflicting issues. The balance to be struck between the supportive nature of national, regional and local policies and the impact of the four proposed turbines on the character of the wider countryside and the associated visual impacts represents the biggest issue to address.

7.2 Earlier sections of this report have set out the nature and weight of national planning policy (paragraphs 6.2-6.5), regional planning policy (paragraphs 6.6-6.12) and local/UDP policies (6.13-6.21) and these will not be repeated save to emphasise that PPS22 sets out the key principle that renewable energy development should be capable of being accommodated throughout England in locations where the technology is viable, and environmental, economic and social impacts can be addressed satisfactorily. The supportive approach in national planning policy is appropriately translated into regional and local policies.

7.3 The application has been submitted in accordance with the principles set out in PPS22 and the accompanying ES sets out the impacts on the wider environment and proposes ways by which the impacts of the turbines can be mitigated.

7.4 The key material planning considerations which need to be balanced against this policy context are the impact of the proposed turbines on the surrounding landscape (paragraphs 6.27-6.40), and the particular impact of the proposed turbines on the setting and cultural frontage of Offa's Dyke. These matters have generated much debate and, indeed, differences of opinion amongst consultees.

7.5 The ES acknowledges that the visual impact of turbines on the landscape although the significance of effect has not been weighted either as being positive or negative (paragraph 4.13-6.4). Opinions on wind turbines in the landscape are very subjective, leading to a wide range of views from very negative to very positive.

7.6 Wind turbines, by their very nature, are modern industrial features that are atypical of this lush enclosed plateau landscape type. In particular several bodies, including CADW have detailed concerns about the harm that the proposed development will have on the historic and visual character and value of Stanage Park. This matter should be given detailed weight. The issue of the impact of the proposal on the wider landscape has been made by the vast majority of the objectors.

7.7 In determining the application Members need to assess the significance of these impacts. Whilst these impacts are widely recognised, it is a matter of judgement whether the impacts are of a sufficient nature to justify refusal of the application.

7.8 Your officers have considered these matters in great detail. It is suggested to Members that significant weight is given in your decision to the following factors:

- (a) The application proposes the retention of the turbines for a period of 25 years. Wind turbine development has little permanent impact on the wider landscape. Similarly technological advancements are such that there is every probability that electricity will be generated in many different ways over the time period.
- (b) The application site does not fall within any special landscape designation type. The Shropshire AONB (approximately 3.5km to the north of the site) is the nearest land enjoying such designation.
- (c) The application site does not form part of or adjoin any historic garden or designated historic landscape type.
- (d) There is no overall agreed position on the significance of the impact of the proposed turbines on the wider landscape. English Heritage, the Countryside Council for Wales, the Shropshire Hills AONB Committee, Shropshire Country Council/South Shropshire District Council and Natural England do not raise fundamental objections to the scheme.
- (e) The design and positioning of the turbines has been developed in a way that will mitigate some of the impacts of the proposal.

7.9 On this basis, and whilst recognising the scale and nature of both other consultee objections to the proposal and the weight of local objection, your officers consider that on balance greater weight should be afforded to national, regional and local planning policies in respect of the generation of renewable energy. The four turbines would generate up to 9.2mw of electricity per year. This is equivalent to the energy requirements of approximately 5,100 dwellings. In comparable terms this is around 7% of all dwellings in Herefordshire. To approve the application would accord with the principle in PPS22 that appropriate weight should be given to all proposals, irrespective of their output. In this regard the applicant has proposed to bring forward four large turbines to reflect the expanded increase in power generation brought forward by the use of larger blades.

7.10 Several groups and organisations have also raised the related issue of the impact of the proposal on the setting and the cultural heritage of Offa's Dyke. Clearly Offa's Dyke is an important archaeological and cultural feature and accordingly needs to be fully considered.

7.11 As with the wider issue of the impact of the turbines on the landscape, it is common ground that the proposal would affect the wider setting of Offa's Dyke, which is generally located approximately 3km to the west of the application site. The proposed development will infringe on the setting of the Dyke as well as (albeit to a lesser extent) on other national trails and rights of way within the locality.

7.12 Organisations such as the Offa's Dyke Association consider that the proposed turbines would tangibly, significantly and detrimentally impact on the visual interpretation of a large, historically important and hitherto unspoilt area of locally distinctive and well preserved Marches rural landscape in East Powys, South Shropshire and north-west Herefordshire.

7.13 These comments are acknowledged. Nevertheless the application has not attracted objection on this matter from several of the key consultees. In particular the Countryside Council for Wales indicates that whilst there would be a local impact on national trails, including Offa's Dyke within the context of its full length, the proposed turbines are unlikely to constitute a major detrimental impact on trail users.

7.14 Your officers consider that this point is of significance to the matter. It is our judgement that whilst there will be local impacts on the setting and appreciation of the Dyke, the overall integrity, setting and historic and cultural importance will remain intact. This is particularly important as wind turbines become increasingly accepted features on the wider landscape as compares to the applicant's response to the government's wider agenda to generate ever increasing amounts of electricity from renewable sources.

7.15 The officer appraisal (section 6) has set out detail consideration of the wide range of other material planning considerations that are relevant to the application. In all respects your

officers consider that the various impacts are not sufficient to warrant the refusal of the application and can be satisfactorily mitigated.

- 7.16 Having considered all the factors set out in this report your officers consider that, on balance, the proposal should be approved. The application is well detailed and has addressed satisfactorily the wide range of environmental impacts. The proposal accords with national, regional and local policies and will generate energy from a renewable source in accordance with the wider Government agenda. Whilst there will be particular local impacts in the area of attractive countryside in the Welsh Marches, these impacts are not considered to be so significant as to warrant the refusal of planning permission. Subject to appropriate conditions the impact of the proposal can be mitigated to a satisfactory extent.

Decision:

Notes:

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Background Papers

Internal departmental consultation replies.

DRAFT HEADS OF TERMS
PROPOSED PLANNING OBLIGATION AGREEMENT

Section 106 Town and Country Planning Act 1990

Planning Application – DCNW2008/1289/F

Proposed erection and operation of 4 wind turbines and associated access tracks, hard standing and substation building on land at Reeves Hill, Reeves Lane, Nr. Knighton, Herefordshire.

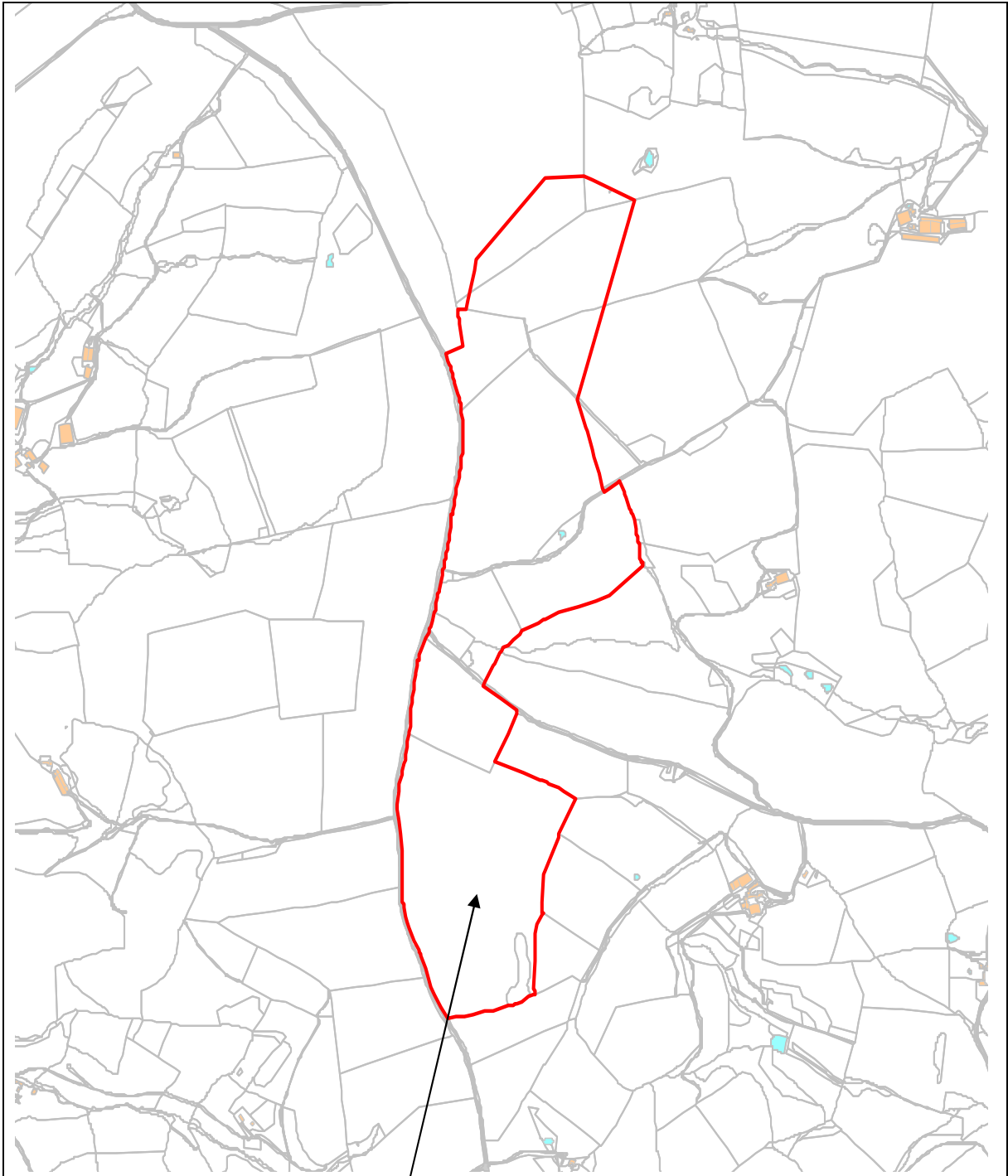
1. The developer covenants with Herefordshire Council to pay to the Council £10,000 per annum index linked for the first 10 years and £5,000 per annum index linked for the following 4 years of the wind farm's operational life, towards landscape/biodiversity enhancement/mitigation, following local consultation. The benefits of such funding will be available across administrative boundaries. The details of the operation and management of this environmental fund will be the subject of detailed discussion as part of the approval/management of this agreement.
2. The developer covenants with Herefordshire Council, in conjunction with The Highways Agency, Shropshire County Council and Powys County Council to obtain a bond of £1M to be in place prior to any development on site, as an indemnity against any resultant damage to the public highway network and separately to indemnify the local highway authorities against any/all third party claims arising from such damage to the public highway network. A further cash deposit of £300,000 index linked shall be made available on completion of the Section 106 agreement for use by the relevant authorities, to fund supervision, monitoring, design and methodology checking, administration, emergency repair works or any other additional works required associated with the proposed development.
3. Prior to any development on site a suitable access road and public highway improvements to the development site, to the satisfaction of Powys County Council's Highways Authority and Herefordshire Council shall be completed. This shall lead from the A4113 public highway on the entrance to Knighton.
4. A method statement for a trial run of the abnormal loads to be provided and agreed in writing by all the interested parties as indicated in Section 3 above prior to development on site. The trial run of the abnormal load vehicles transporting model size parts will be undertaken and a report of the findings submitted to the relevant Authorities as indicated in Section 3 above and the methodology to be agreed in writing with all relevant Highway and Police Authorities.
5. All accommodation works, (such as street furniture removal or reciting, road widening, junction improvements), undertaken at the expense of the developer and a methodology agreed in writing with the relevant Highway and Police Authorities prior to development on site.
6. A traffic management plan shall be submitted and approved in writing by the Highways Authority, Herefordshire Council, Shropshire Council, Powys County Council, West Mercia Police and Dyfed Powys Police prior to any development on site. The traffic management plan shall contain details of a schedule of roads and maps of routes to be used during the transportation phase and the construction phase of the proposed development.
7. A visual and scanner survey of all the highways to be used, either directly or indirectly, as part of this development proposal, (including all agreed formal and informal diversion routes, shall be undertaken at the developers expense, prior to any development following the abnormal load transportation phase and on ultimate completion of the development. The information received will be used to determine any extraordinary maintenance liability on the part the developer for which the £1M bond is to be used.
8. Prior to any development on site all design drawings, details and method statements of all works required to enable the transportation of the Wind Turbine units and their construction, including

Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

road and junction improvements, construction of lay-bys, alterations to street furniture (signs, barriers, lamp columns etc.) completed with liaison with the Public Transport Authorities (Herefordshire, Shropshire & Powys) and Public Transport Operators (bus and train) with respect to providing alternative transport solutions to passengers while maintaining an appropriate level of service, on all routes and to all destinations affected by the development. All additional costs to services will be borne by the developer. Liaison with all Parish Councils and any other recognised groups or individuals affected by the proposals.

9. In the event that the sum of monies as set out in Clause 1 not being administered within 5 years of each respective payment date, the developer shall be entitled to the repayment of any unspent part.
10. The sums referred to in paragraphs 1, and latterly in paragraph 2 above shall be linked to an appropriate index or indices selected by the Council with the intention that such sums will be adjusted according to any percentage increase in prices occurring between the date of the Section 106 Agreement and the date the sums are paid to the Council.
11. The developer covenants with Herefordshire Council to pay a surcharge to cover the costs of administrating and enforcing the Section 106 Agreement. The sum shall be paid on or before the commencement of the development.

Philip Mullineux
29 January 2009



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APPLICATION NO: DCNW2008/1289/F

Grid Ref: 331969, 269158

SITE ADDRESS : Reeves Hill, Reeves Lane, near Knighton, Herefordshire

SCALE : 1 : 12501

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APPENDIX 2.

PLANNING COMMITTEE

12 FEBRUARY 2009

SCHEDULE OF COMMITTEE UPDATES/ADDITIONAL REPRESENTATIONS

Note: The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to 17.00 hours on the day before the Committee meeting where they raise new and relevant material planning considerations.

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

For: Mr Corker per Mr Wilson Dulas Ltd Unit 1 Dyfi Eco Park Machynlleth Powys SY20 8AX

Corrections to report.

Paragraph 1.2 states within 'Within 2km of the site are approx. 15 isolated dwellings'. This should read 'Within 1km of the site'

Paragraph 2.1 refers to Planning Policy Guidance 7. This should read Planning Policy Statement 7.

Paragraph 6.2 indicates the Energy White Paper dated as Feb. 2007. This should read Feb. 2001.

Paragraph 6.86 indicates Tipton Farm House as being approx. 600 metres from the application site. This sentence should read Tipton Farm House is approx. 600 metres from the site of the nearest proposed turbine.

ADDITIONAL REPRESENTATIONS

The Manager of Shobdon Airport has responded to the application objecting to the application, stating that the airport believe the proposed development will have a significant impact upon flight safety in the Shobdon/Presteigne area, stating that the proposed development site is only 6nm from the air traffic zone of the airfield, and that in difficult weather conditions a pilot diverted to Shobdon would be unable to see any obstruction as a result of the proposed development. Concerns are also raised about the impact of the proposed development on other activities at the airport such as gliding and microlights and impact on navigational and communication facilities used at the airfield

OFFICER COMMENTS

The issues as raised by the Airport Manager are not considered sufficient material planning consideration on which basis to recommend refusal to this application. It is noted that other relevant air traffic consultees raise no material planning objections to the application. The airport operates as a result of obtaining a license from the Civil Aviation Authority who have not raised this as an issue in their response to the application.

ADDITIONAL REPRESENTATIONS

Further comment has been received from the Georgian Group who are concerned about the impact of the proposed development on the late-Georgian designed landscape of international significance considering the impact has been underplayed in the Environmental Statement to an extent that is seriously misleading. They state that they are particularly concerned about the impact on Brampton Bryan Park and Stanage Park.

OFFICER COMMENTS

The issues as raised by the Georgian Group are acknowledged, however the application site is not subject to special landscape designation and officers are of the opinion that although there will be some impact on views in the direction of the proposed development site out of both parklands, they are limited to certain sections of both parks and impacts on the parklands as result of the proposed development is not significant enough in order to warrant refusal of the application.

ADDITIONAL REPRESENTATIONS

A letter has been received from Powys County Council Highways Authority informing Officers that the application for the proposed access route from Ludlow Road, Knighton onto Lanshay Lane has yet to be decided by the Council. The letter states that the Council are awaiting further information with regards to the proposed development from the applicants.

OFFICER COMMENTS

It is recommended that an appropriate Grampian condition is attached to any approval notice subsequently issued, and that reference is made to this issue in the proposed Section 106 agreement.

ADDITIONAL REPRESENTATIONS

A letter has been received from Richard Buxton, (Environmental and Public Law lawyers), on behalf of the Stonewall Hill Conservation Group. The letter states concerns about application for an anemometer on site in order to record wind speed on site.

The letter from Richard Buxton also raises concerns about information in respect of noise issues and that advice sought on noise issues has not been made public.

Concerns are also raised by Mr. Buxton about the mitigation as offered by the developers, in that it was not included in the Environmental Statement and available for the public to comment upon.

OFFICER COMMENTS

In response to concerns as raised in the letter from Richard Buxton, it is considered reasonable that the development would not be carried out if there were insufficient wind speed data collected for the site. Also the applicants as outlined in the Environmental Statement, are also relying on wind speed data collected on site in 1994 for a previous application, for turbine development on site, as outlined in Section 2.5.6 of the ES.

In respect of the noise issues as outlined by Richard Buxton in his letter, relevant information from the Council's Consultants on noise issues is on the planning file which is available to members of the public for inspection if requested.

In response to the concerns as raised about the proposed mitigation measures not having been originally included in the Environmental Statement, detailed advice is being sought from the Council's Legal Officers and a update will be provided at the meeting.

ADDITIONAL REPRESENTATIONS

Further comments have been received from English Heritage who conclude by stating they agree with the applicants ES in that the archaeological impact is primarily upon Offa's Dyke especially between Hergest Ridge and Llanfair Hill.

- 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 EH 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.

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 have responded with additional comments in respect of the application, they do not object to the proposed development and their original response stands, in that they

consider the application takes account of English Heritage advice contained in its publication: Wind Energy and the Historic Environment.

ADDITIONAL REPRESENTATIONS

A copy of a letter sent via email to all Councillors of the Planning Committee has been received from the applicants' agent informing members of current policy and legislation in respect of the development subject to this application.

OFFICER COMMENTS

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

ADDITIONAL REPRESENTATIONS

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

OFFICER COMMENTS

Members are reminded that this issue is not of material planning consideration in respect of this application.

ADDITIONAL REPRESENTATIONS

Stapleton Group Parish Council has responded with concerns that the wind speed mast approved subject to application ref: NW08/1598/F for a proposed temporary meteorological monitoring mast has not been implemented on site, and therefore no accurate wind speed data has 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, and therefore the Authority is not in full possession of the facts on which basis to consider the application.

OFFICER COMMENTS

It is considered reasonable that the development would not be carried out if there were insufficient wind speed data collected for the site. Also the applicants as outlined in the Environmental Statement are also relying on wind speed data collected on site in 1994 for a previous application for turbine development on site as outlined in Section 2.5.6 of the ES.

ADDITIONAL REPRESENTATIONS

A letter of objection has been received from the International Council on Monuments and Sites UK, (ICOMOS). The objection is based on what they consider is the impact of the proposed development on Offa's Dyke and what they consider is the significant adverse effects 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 acknowledge the concerns raised. However the response raises no additional issues of concern in relationship to the application.

ADDITIONAL REPRESENTATIONS

The Garden History Society has responded stating that in its role as a statutory consultee, it objects to the proposed wind farm development at Reeves Hill and concludes 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 Boultonbrooke (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 additional information received raises no further issues of concern.

ADDITIONAL REPRESENTATIONS

The Council's Environmental Health Manager has responded to concerns raised by a member of the public in relationship to concerns about noise from the proposed development stating: In response to this and the previous objection by Mrs Davis, 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 comment on this issue.

ADDITIONAL REPRESENTATIONS

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

3 letters have been received from households in response to letters from the Council informing them of the date and time of the Planning Committee stating that they did not comment on the application.

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

OFFICER COMMENTS

The letters raise many issues of concern in relationship to the application. However it is considered that no new material issues of planning consideration have been raised.

NO CHANGE TO RECOMMENDATION

In the event that members are minded to give delegated authority to the Head of Planning and Transportation to approve the application detailed amendments will need to be made to conditions 10 – 18 inclusive (noise), to reflect detailed comments made in recent representations and to accord with our best practice on the use of planning conditions.



Regeneration Directorate
Director: G.J. Hughes

Mr Michael Phillips
Dulas
Unit 1
Dyfi Eco Park
Machynlleth
Powys
SY20 8AX



Your Ref:
Our Ref: DCNW2008/1289/F
DMNW/081479/F
Please ask for: Mr P Mullineux
Telephone: 01432 261808
Fax: 01432 261970
E-mail: pmullineux@herefordshire.gov.uk

30 November 2009

Dear Mr Phillips,

SITE: Reeves Hill, Reeves Lane, Near Knighton, Herefordshire
DESCRIPTION: Proposed erection and operation of 4 Wind Turbines and associated access tracks, hardstanding and sub station building.
APPLICATION NO: DCNW2008/1289/F DMNW/081479/F
APPLICATION TYPE: Planning Permission
Request for further information under the provisions of Regulation 19 of the Town and Country Planning (Environment Impacts etc) Regulations 1999

I refer to your letter of 22nd September, 2009 and to my response of 30th September, 2009. I have now received counsel advice.

Wind Shear and Other Noise Data

The Council now concludes that further information is required on wind shear and noise data on the basis of Regulation 19 of the Town and Country Planning (Environment Impacts etc) Regulations 1999.

The Council requires the following information:

- Measurement data of wind speeds taken at the application site, at three heights, 10metres, H1 and H2, H1 being not less than 60% of the proposed turbine height and H2 being between 40% and 50% of the proposed hub height. This measurement data should be recorded in 10-minute average intervals for a noise monitoring period that is of a sufficient duration to be representative of the range of wind speeds and wind directions experienced at the site, and that this is expected to be of a minimum period of 2 weeks or an alternative length of time agreed with the Planning Authority. Measurements should be taken in accordance with guidance in Acoustics Bulletin, Volume 34, No.2, March/ April 2009.



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- A calculation of the wind shear exponent derived from the mean wind speeds at H1 and H2 using the equation detailed on page 36 of Acoustics Bulletin, Volume 34, No.2, March/ April 2009.
- Calculations of the mean hub height wind speeds corrected to 10metres height using a ground roughness reference of 0.05m and in accordance with the procedure detailed on page 36 of Acoustics Bulletin, Volume 34, No.2, March/ April 2009. This data should be displayed in a way to allow direct comparison between the derived 10m wind speeds and the measured 10m wind speeds. If it is shown the wind speed at H1 is equal or lower then the wind speed at H2, then the derived 10m wind speed data should be calculated as above but using only the H1 data.
- For clarity, and in line with the guidance in Acoustics Bulletin, Volume 34, No.2, March/ April 2009 please provide the raw data, method, model inputs and any assumptions used for calculating the wind turbine emission levels submitted in the Environment Statement. This should be supported with any relevant documentation where necessary. By way of clarity the environment statement states 'noise emitted by the turbines is based upon measured data provided by Enercon from Independent Noise Test Reports, but does not mention a relevant standard or model used.
- The Independent Noise Test Reports provided by Enercon (in line with the guidance in Acoustics Bulletin, Volume 34, No.2, March/ April 2009). By way of clarity these reports are not included in the appendices of the Environmental Statement.

Landscape Enhancement Fund

The Council also requests further information on the proposed operation of the landscape enhancement fund under the provisions Regulation 19.

In particular details are required on the following matters:-

1. The geographic coverage of the proposal fund (set out on a parish basis related to the appropriate County boundaries).
2. The schedule of schemes that would be eligible for funding.
3. The financial controls and monitoring procedures that would be established.

In requesting this information the Council recognises that an Environmental Statement is more than a document supplied by the applicant. It can be refined as a result of representations from third parties. Similarly the need to determine EIA applications on the basis of full information has already been established in the courts.

The receipt of the further information will be the subject of a period of further consultation (as prescribed in Regulation 19(3)).



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Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

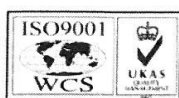
In accordance with Regulation 19(6) the Council requests 40 copies of these elements of further information to notify those persons particular to this case at Regulation 19(4) and to the Secretary of Stage (Regulation 19(5)).

In accordance with the provisions of Regulation 19(7) the Council has now suspended the determination of the application until the further information has been received, and the appropriate consultation has taken place. The additional information, together with any comment received from consultees and third parties, will be reported to the Council's Planning Committee in due course.

Yours sincerely,



ANDREW ASHCROFT
HEAD OF PLANNING AND TRANSPORTATION



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APPENDIX 4



Sustainable Communities Directorate

Director: Geoff Hughes

Mr. M. Phillips
Dulas
Unit 1
Dyfi Eco Park
Machynlleth
Powys
SY20 8AX.

Your Ref:
Our Ref: DMNW/083393/F
Please ask for: Mr P Mullineux
Direct Line / Extension: 01432 261808
Fax: 01432 261970
E-mail: pmullineux@herefordshire.gov.uk

5 August 2010

Dear Mr Phillips,

SITE: Reeves Hill, Reeves Lane, Near Knighton, Herefordshire,
DESCRIPTION: Proposed erection and operation of 4 Wind Turbines and associated access tracks, hardstanding and sub station building.
APPLICATION NO: DCNW2008/1289/F2 & DMNW/083393/F
APPLICATION TYPE: Planning Permission

Request for further information under the provisions of Regulation 19 of the Town and Country Planning (Environmental Impacts etc), Regulations 1999.

The Council has concluded that additional information is required as indicated below on the basis of Regulation 19 of the Town and Country Planning (Environmental Impacts etc) Regulations 1999.

- Visual impact – Please provide a justification for the approach taken with regards to the use of different radii for different visual receptors.
- Hydrology/ Hydrogeology matters -

Further information is required on the identification of the hydrological and hydrogeological features present, including water features, water catchments, private water supplies, springs which rise in the area, their flow regime and their use. An assessment should be undertaken on the impact of the development on these features. This assessment should also consider the impact of the development on water features where great crested newts are present, and should address any mitigation measures that may be required.

Further information is required on the potential pollution impacts on ground water supplies such as in the event of a fuel spill from a heavy goods vehicle on site.

In requesting the information the Council recognises that an Environmental Statement is more than a document supplied by the applicant. It can be refined as a result of representations from third parties. Similarly the need to determine EIA applications on the basis of full information has already been established in the Courts.

The receipt of the further information will be the subject of a period of further consultation (as prescribed in Regulation 19(3), along with the additional noise information recently received.

In accordance with regulation 19(6) the Council requests 40 copies of these elements of further information to notify those persons particular to this case at Regulation 19(4) and to the Secretary of State (Regulation 19(5)).

In accordance with the provisions of Regulation 19(7) the Council has suspended the determination of the application until the further information has been received and the appropriate consultation has taken place. The

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Further information on the subject of this report is available from Mr P Mullineux on 01432 261808

additional information, together with any comments received from consultees and third parties, will be reported to the Council's Planning Committee in due course.

Yours sincerely



MR A ASHCROFT
ASSISTANT DIRECTOR – ENVIRONMENT, PLANNING & WASTE