



Appeal Decision

Inquiry held on 8-18 December 2009
Site visits made on 10 and 17
December 2009

by **Robin Brooks BA (Hons) MRTPI**

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

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Decision date:
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Appeal Ref: APP/J1915/A/09/2104406

Land to the east of Walkern Road and north of High Elms Lane, Benington, Hertfordshire (GR Easting 529526; Northing 221603)

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by RH Bott and Son against the decision of East Hertfordshire District Council.
- The application Ref 3/08/0889/FP, dated 14 May 2008, was refused by notice dated 14 January 2009.
- The development proposed is erection of 3 wind turbines of up to 119 m in height, a permanent meteorological mast, substation, access tracks and ancillary infrastructure.

DECISION

1. I dismiss the appeal.

PROCEDURAL MATTERS

2. The Inquiry sat on six days between 8 and 18 December 2009. I carried out accompanied visits to the site, surrounding area and nearby properties on 17 December. I also made extensive unaccompanied visits in the surrounding area on the same day, and on Thursday 10 December, including to the various viewpoints referred to and illustrated at the Inquiry.
3. The application was accompanied by an Environmental Statement (ES)¹ prepared under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. Further environmental information was submitted in evidence to the Inquiry. The standing of the ES as a whole has not been challenged and I have taken it into account in determining the appeal, together with responses from consultees and views expressed by others.

LOCAL POLICY CONTEXT AND MAIN ISSUES

4. The Development Plan comprises the East of England Plan, the Revision to the Regional Spatial Strategy for the East of England (May 2008) (RSS); and the East Hertfordshire Local Plan Second Review (April 2007) (LP).
5. Policy SS1 of the RSS seeks to bring about sustainable development by, inter alia, helping to meet obligations on carbon emissions. Policy ENG2 states that

¹ CD/RB3

development of new facilities for renewable power generation should be supported, with the aim of 10% of the Region's energy needs being met from such sources by 2010 and 17% by 2020, excluding the contribution from offshore wind. These targets are stated to equate respectively to at least 820 MW and 1,620 MW of installed capacity². Policy ENV2 advises protection and enhancement of the diversity and local distinctiveness of the Region's various countryside character areas; and ENV6 is couched in similar terms of protection and enhancement for the historic environment, including listed buildings.

6. LP Policy SD3 supports, in principle, development of facilities for harnessing sources of renewable energy. Particular emphasis is placed on generation from biomass and solar power; wind power schemes are stated to have significant potential but to be capable of creating problems of visual intrusion and loss of amenity such that they will need to be carefully sited and employ reasonable mitigation measures (the Policy is more narrative than a set of criteria so far as wind energy is concerned). Policy GBC1 echoes national advice in Planning Policy Guidance Note (PPG) 2, Green Belts, on the particularly stringent control over development necessary in the Green Belt; inappropriate development is proscribed in the absence of very special circumstances. The appeal proposal does not fall into any of the categories of development listed in the Policy as not inappropriate; and engineering operations are stated to be inappropriate unless they maintain the openness of the Green Belt and do not conflict with its purposes.
7. LP Policies GBC2 and GBC3 relate to the Rural Area Beyond the Green Belt, as defined in the Proposals Map. Inappropriate development is not to be permitted there and permission will only be given for certain defined categories of development, none of which include renewable energy schemes. Policy GBC14 states that Landscape Character Assessments will be used to assess development proposals; such proposals should strengthen local landscape character and conserve or enhance key characteristics and distinctive features. Policy BH6 permits new development in or adjacent to conservation areas subject to a number of criteria intended to safeguard the character and appearance of such areas, including that important views within, into or out of a conservation area or its setting are respected. Policy BH12 permits proposals affecting the setting of listed buildings provided that that setting is preserved or enhanced. Policy BH16 proscribes development proposals that would significantly harm the special historic character, appearance or setting of historic parks and gardens.
8. Policy ENV24 covers noise generating development, which is to be designed and operated so as to minimise nuisance³. Among matters to be considered are proximity of noise sensitive development, the time and nature of the noise and the nature of the surrounding area.
9. Bearing in mind the aims of the above policies, I consider that there are six main issues in the appeal. Five of these [(i)-(iv) and (vi)] are as I set out at

² Policy ENG1 is couched in more general terms on renewable energy and adds nothing substantive to ENG2 so far as this appeal is concerned. The respective targets including offshore wind are 1,192 and 4,250 MW respectively.

³ Noise is not a matter referred to in the decision notice, or on which the Council presented evidence, but this policy is relevant to the case of the Stop Benington Wind Farm Action Group.

the opening of the Inquiry; and the additional one [(v)] is in response to evidence at the Inquiry and what I saw on my visits. They are:

- (i) whether the proposal would be inappropriate development in the Green Belt and, if so whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development;
- (ii) the effects of the proposal upon the character and appearance of the surrounding landscape;
- (iii) the effects of the proposal upon the living conditions of local residents, particularly in terms of visual impact, noise and shadow flicker;
- (iv) the effects of the proposal upon enjoyment of the countryside by members of the public, including those using local rights of way;
- (v) the effects of the proposal upon historic assets, notably conservation areas and listed buildings; and
- (vi) the contribution that the proposal would make to achieving regional and national targets for renewable energy generation, bearing in mind extant and emerging national planning policy; and the extent to which any such contribution should be weighed against any adverse impacts in terms of the other issues.

REASONS

First Issue: Development within the Green Belt

10. The boundary of the Metropolitan Green Belt runs along High Elms Lane from near its junction with Walkern Road and then continues along Cotton Lane, a track that strikes off northwards from the highway. In doing so it runs through the appeal site, including proposed turbines Nos. 2 and 3 to the west within the Green Belt and excluding No. 1 to the east. The former are about 150-200 m within the boundary and the latter is a similar distance outside it.
11. It is common ground between the Council and the Appellant that construction of the two turbines in the Green Belt would be an engineering operation in terms of guidance in PPG2 and LP Policy GBC1. The approach in para. 3.12 of the PPG therefore applies, namely that such operations are inappropriate development in the Green Belt unless they maintain openness and do not conflict with the purposes of including land in the designation.
12. The Stop Benington Wind Farm Action Group (the Action Group) argued that turbines are buildings, a term which as a matter of planning law includes structures and erections; and that while engineering operations are involved in their construction, those operations cease on completion of the structure. If the proposed development was construed as construction of new buildings then it would come within the purview of para. 3.4 of PPG2 that defines categories of building that are not inappropriate in Green Belt terms. The only such category which might be relevant here is "essential facilities for...uses of land which preserve the openness of the Green Belt and which do not conflict with the purposes of including land in it". Thus, whichever route is taken,

engineering operations or buildings, the destination is the same, namely the test of whether or not openness is maintained and there is conflict with Green Belt purposes. So far as this proposal is concerned, it was generally agreed that the only relevant such purpose is that of assisting in safeguarding the countryside from encroachment.

13. The Appellant advanced what are essentially two alternative lines of approach to this test. The first, which is the preferred approach, is that because the proposal is visually permeable it maintains the openness of the Green Belt and is therefore not inappropriate development. As it maintains openness it cannot realistically be seen as encroaching on the countryside and it is therefore unnecessary to consider further the question of whether it conflicts with Green Belt purposes. The second approach, which was commended to me should I reject the first, is to undertake the balancing process set out in para. 3.1 of PPG2, weighing harm by reason of inappropriateness, and any other harm, against other considerations to determine whether very special circumstances to justify the development exist. In that balance I was asked to accept the argument that both openness and encroachment were matters of fact and degree and that in this case the effects of the proposal were modest in both respects. It was further suggested that what para. 3.11 of PPG2 says about mineral working in the Green Belt applies equally to wind energy schemes namely that the resource (wind) can only be harnessed where found; that the development is a temporary one and that subject to high environmental standards it need not be inappropriate development. I accept the parallel but note that the PPG2 advice goes no further than to say that mineral extraction **need** not be inappropriate (my emphasis). This essentially confirms that each case has to be assessed on its own merits and indicates no tempering of firm Green Belt control.
14. It seems to me that two turbines, up to 119 m high and with blades some 41 m long, would inevitably significantly reduce the openness of the Green Belt by reason not only of their sheer height and the span of their blades but also because of the diameter of their towers; although they are arguably slim structures in relation to their height, a structure that is 4.3 m in diameter at ground level cannot be regarded as insubstantial in any real sense. Whilst it would certainly still be possible to see the surrounding landscape between the turbines, they would together form a substantial visual "stop" in views from the immediate surrounding area such that any reasonable observer would feel that the present open character of the landscape had been substantially reduced. This effect would be exacerbated by the tendency of the rotating blades to draw and hold the eye.
15. In support of the argument that there would be no significant loss of openness, the Appellant quoted the view expressed by the Inspector who recommended approval of the Scout Moor Wind Farm, in the Boroughs of Rossendale and Rochdale, a recommendation that was accepted by the Government in 2005. He considered that that proposal could be considered not inappropriate development in the Green Belt "to the extent that the landscape will retain a sense of openness permeating through the slim widely spaced turbines..."⁴. However, this short reference does not in my view carry the weight that has been placed upon it. Each case must be assessed on its merits (as the

⁴ CD/RB51/2, Conclusions, para. 261

Appellant accepts) and I have no detailed evidence on which to judge whether and to what extent that proposal might be comparable with this one. However, they are clearly in places of very different character and it would appear that, though there are many more turbines at Scout Moor, they are smaller, or at least lower in overall height, than those proposed at Benington.

16. Also, and importantly, three other Inspectors dealing with more recent proposals for wind turbines in the Green Belt have explicitly disagreed with the approach taken at Scout Moor, or have considered it inadequate as an analysis of Green Belt issues, and have concluded that the proposals before them would be inappropriate development. And in one of these cases, dealing with a number of wind energy schemes in the Boroughs of Rochdale, Calderdale and Rossendale (referred to in general as Crook Hill), the Secretary of State has very recently agreed with the Inspector's conclusions that those proposals within the Green Belt would not maintain openness, would conflict with the purposes of including land in the Green Belt, and would be inappropriate development⁵. Again, I accept that all proposals must be considered on their individual merits; and also that in the Cliffs Farm case the Inspector considered that the loss of openness was very modest in scale, and the areas of land to be built upon were small in size and within a large interrupted expanse of open land, and he went on to allow the appeal. However, the important point in all these cases is that the essential starting point in the Green Belt analysis was that the proposals were inappropriate development. I consider that to be the position here, and that the Scout Moor decision does not in itself lend substantive support to the Appellant's preferred line of reasoning.
17. Nor do I give weight to the argument that effects on openness of proposals on the edge of the Green Belt, as Benington is, should be judged differently from those of schemes embedded well within that designation. The Appellant's reasoning here is that in practical terms openness is a visual concept to be considered in the context of a particular view; that at Benington the effect on openness would only be relevant to views into the Green Belt at close range; and that in views from within the Green Belt the turbines would be seen in the context of the countryside beyond that designation. However neither national nor local Green Belt policy distinguishes between loss of openness per se (which the Appellant describes as "theoretical") and loss of openness as a visual concept. Nor, and perhaps more importantly, does it say, explicitly or implicitly that assessment of such loss depends in any way upon precisely where in the Green Belt the proposal is. It seems to me that such an argument runs directly counter to the importance of maintaining firm boundaries to the Green Belt, and consistent development control within it.
18. Importantly also in this case, because of the size and prominence of the turbines, the precise choice of viewpoints from which they would be seen, and thus their impact on openness judged, is largely academic. Thus from the west loss of openness would be clearly apparent in the context of extensive areas of Green Belt in the foreground; and from the east it would be evident against the Green Belt background. Also, to the extent that the turbine outside the

⁵ CD/RB51/3 and 4; and CD/RB51/j. The decision on the Crook Hill case is dated 12 October 2009. The other two cases referred to are at Cliffs Farm, Mawdesley, Ormskirk (19 September 2008) and Aston Grange Farm, Aston, Runcorn (5 November 2008).

Green Belt would be seen as part of a group together with those within that designation, the loss of openness close to the boundary would arguably be exacerbated. Impact on openness will vary according to the nature of the proposal and the character of the surrounding Green Belt. Here I consider that that such impact would be substantial because of the scale and grouping of the turbines and the complexity of the surrounding topography. This would appear to differentiate it from the Cliffs Farm case where the Inspector considered the loss of openness modest, "within the context of a large uninterrupted expanse of open land".

19. The Appellant also pointed to statements in Planning Policy Statement (PPS) 22, Renewable Energy, and the Supplement to PPS1 on Planning and Climate Change respectively, that renewable energy should be capable of being accommodated throughout England where environmental, economic and social impacts can be addressed satisfactorily; and that local approaches to protecting landscape should be consistent with PPS22, and not preclude supply of any type of renewable energy except in the most exceptional circumstances. I do not detect in either of these statements any tempering of the strict control applicable in Green Belts. What PPS22 says cannot reasonably be interpreted as overriding Green Belt policy, and indeed such policy appears to me to be one of the very environmental impacts referred to, and that need to be addressed. Indeed, para. 13 of the same Statement re-states that policy on development in the Green Belt is to be found in PPG2 and explicitly says that elements of many renewable energy schemes, when located in the Green Belt, will comprise inappropriate development which may impact on openness. Nor can the Green Belt be regarded as a local approach to protecting landscape, in the words of the Climate Change Supplement. PPG2 makes its status and importance abundantly clear, carries forward a long-standing tenet of planning policy and is itself some 15 years old; and its advice has not been amended in the light of the more recent policy statements referred to.
20. For essentially the same reasons it is not to my mind significant that para. 13 of PPS22 does not refer to encroachment into the countryside. PPG2 makes the situation clear and the fact that PPS22 is silent on the matter does not imply that the Government somehow takes the view that renewable energy development would not, as matter of principle, be such encroachment. I share the view of my colleague who determined the Aston Grange Farm appeal, namely that encroachment can be construed more widely than simply extension of a town or urban area into the countryside. It seems to me that it can cover situations where development would take place where previously there was none, as the ES itself states would be the case here⁶. There is in my mind no doubt that the turbines would represent significant encroachment of development into the countryside. I conclude on the first main issue that the construction of two of the three turbines would, in terms of national policy in PPG2 and LP Policy GBC1, be inappropriate development in the Green Belt and would conflict with one of the purposes of including land in that designation.
21. To paraphrase (slightly) paras. 3.1 and 3.2 of PPG2, inappropriate development is by definition harmful to the Green Belt; it is for the appellant to show why permission should be granted; inappropriate development should not be approved, except in very special circumstances; and such

⁶ Volume 2, para. 9.241 (CD/RB3)

circumstances will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. I return to this balancing process (which the Appellant accepted would be appropriate were I to find the proposal to be inappropriate development) at the end of this letter, after considering both further possible sources of harm and the other considerations advanced by the Appellant.

Second Issue: Effects on the character and appearance of the landscape

22. So far as that part of the site outside the Green Belt is concerned, the Council's second reason for refusal alleges prejudice to the policies that apply in the Rural Area Beyond the Green Belt. There is a significant overlap between these Policies, GBC2 and GBC3, and Policy GBC1 in terms of use of the word "inappropriate" and of the categories of development deemed not inappropriate. However, the Local Plan states that development control beyond the Green Belt should not be stricter than that within the Green Belt. Also, although the Council suggested that it was necessary beyond the Green Belt to demonstrate very special circumstances to justify approval, this would be tantamount to elevating the policy regime there to the same status as the Green Belt, which it clearly cannot be.
23. Whilst the supporting text to GBC3 indicates that one of its purposes is to reflect the emphasis that the Structure Plan places on conserving the County's critical capital and other environmental assets, my reading of it is that it is just as concerned, if not more so, with restricting development in general, and housing in particular, to main settlements. Although renewable energy schemes are not included in the categories of development deemed not inappropriate, it is hard to see what harm is alleged in terms of GBC2 and GBC3, other than a conflict with the strict wording of policy. Also, although adoption of the Local Plan postdates publication of PPS22, these Policies are arguably in conflict with advice in the latter that the approach to renewable energy should be promotional and encouraging rather than restrictive. There would also appear to be an internal conflict with LP Policy SD3 which supports exploitation of renewable energy, including wind power, in principle and without reference to specific areas where it is not to be permitted. At the Inquiry the Council's planning witness accepted that the principal concern under the second reason for refusal was adverse visual impact and I consider that this can be adequately considered against the background of LP Policy GBC14, and in terms of this issue. Policies GBC2 and GBC3 in themselves add nothing of substance to the debate and I see no need to consider them further.
24. To establish a landscape character baseline for analysis of the effects of the appeal proposal all three main parties at the Inquiry used the Landscape Character Assessment Supplementary Planning Document (SPD)⁷, adopted by the Council in September 2007 to supplement LP Policy GBC14. Although this document is cited in the reasons for refusal, I agree with the Appellant's planning witness that the appeal proposal cannot reasonably be said to "be contrary" to what is essentially an analysis without overt planning policy content. However, as an analysis it is thorough and detailed and its standing has not been challenged. Importantly, it provides a local context as against the essentially sub-regional Countryside Character Initiative published by the

⁷ CD/RB45

Countryside Agency⁸ which assesses large National Character Areas within which the sensitivity of the landscape (and hence its capacity to accommodate wind turbines) varies significantly.

25. There is a good deal of further common ground between the Appellant and the Council on the methodology for assessing visual impacts and effects on landscape character, and on the overall significance of the latter, though there are inevitably significant differences in terms of more detailed analysis and assessment of such impacts and effects. Broadly speaking it is agreed that the approach taken in the ES is appropriate; that the selected viewpoints, and the visualisations based upon them, are representative of visual impact; that the Landscape Character Areas (LCA) in the SPD provide a suitable baseline for assessing effects on landscape character; and that changes in landscape character would be significant up to about 5 kms from the site. From all of the evidence, and from what I saw on my visits, I see no reason to disagree with this assessment. Also, although the Action Group (and to a lesser extent the Council also) criticized the ES for not making judgements on whether impacts would be adverse or beneficial, the Appellant's landscape witness fairly advocated a precautionary approach, assuming that all impacts would be adverse. The question then to address is whether such impacts would be unacceptable, a question that was fully explored at the Inquiry.
26. Detailed reference has been made to two reports that provide some locational guidance on siting of wind energy schemes, based in part on landscape and visual analysis, namely the Hertfordshire Renewable Energy Study of July 2005, commissioned by the County Council and others (the Entec report)⁹; and Placing Renewables in the East of England, published for the Regional Assembly in February 2008 (the Arup report)¹⁰ and intended to inform review of the RSS. Although the former report states that East Hertfordshire is a district that has the greatest potential for wind energy development in the County, the appeal site lies outwith the area of the County deemed potentially attractive for such schemes. The latter report identifies the South Suffolk and North Essex Claylands National Character Area, within which the appeal site lies, as having capacity to accommodate medium scale wind energy developments of between 4 and 12 turbines. However, it assesses East Hertfordshire as having only limited unconstrained land compared with other districts in the Region; and makes clear that the report is not to be used as a basis for assessing individual proposals. Nor is the appeal site within the area identified in the report where wind energy development might be particularly encouraged. Bearing all this in mind, as well as the essentially strategic nature of both documents (and the broad brush nature of the National Character Areas, already referred to), I do not believe that they give any particularly helpful locational guidance in this case.
27. I have used the photographs, photomontages, wireframes and maps of Zone of Theoretical Visibility (ZTV) as field guides and have calibrated the appearance of the turbines, as shown in the various visualisations, and their given dimensions, against actual features in the landscape. I was also assisted in judging the overall height of the proposed turbines by the blimp flown from the

⁸ CD/RB44

⁹ CD/RB14

¹⁰ CD/RB19

site by the Action Group though the position from which it was flown, and winds on the day, meant that it could not be a reliable indicator of their exact proposed siting. I have also borne in mind the limitations of all the graphic portrayals, including those of the Action Group that show only the heights of blimps; here I found the overlays provided at the Inquiry relating to Ms Bolger's photographs helpful in presenting a more rounded and realistic picture.

28. In addition to considering effects on landscape character, I include under this issue analysis of visual impact as it would be experienced by local residents and people moving through the landscape on foot, by road or rail or riding or cycling. There is thus inevitably some overlap with the fourth main issue which deals with the effects that the proposal would have on enjoyment of the countryside. However, so far as local residents are concerned, I deal separately under the third issue with visual impact in terms of a direct effect on living conditions. That essentially concerns those living closest to the site and who would have a direct and continuing view of the proposed turbines whereas the visual impacts assessed here are generally more distant or less direct.
29. The ES concludes that there would be significant effects on the character of four LCAs that lie wholly or partly within a 5 km radius of the appeal site, namely Aston Estate Farmland (38), Middle Beane Valley (39), Bramfield-Datchworth Sloping Farmland (40) and Benington-Sacombe Ridge (71)¹¹. There would also be significant effects upon the closest parts of three further such areas, Woodhall Park and Watton at Stone Slopes (70), High Cross Plateau (73) and Ardeley and Cottered Settled Plateau (140). There would be no significant effects on twelve LCAs that generally, though not exclusively, lie towards the edge of the 5 km radius or beyond it. This assessment is agreed in the Statement of Common Ground (SCG) and from all I have seen and heard I see no reason to dispute it. I have therefore concentrated upon the seven LCAs that would be most directly affected.
30. Topographically, and broadly speaking, the proposed turbines would be on, or close to, a ridge of high ground, characterised in landscape terms as the Benington-Sacombe Ridge, which falls towards the south west and north east to the broad, shallow Beane and Munden valleys; and which is incised, albeit to no great depth, by valleys to tributary streams on both sides. There was considerable discussion at the Inquiry on the overall scale and character of the landscape, the Appellant describing it as generally large to medium scale (albeit with pockets of smaller scale) and relatively simple in character; and the Action Group regarding it as small scale, complex and detailed. I assess the individual LCAs in more detail below but overall I agree with the Action Group's landscape witness that the number of LCAs within a 5 km radius is evidence of a complex and fairly diverse landscape rather than one that is simple and homogenous. The elevation of the site, and the pattern of ridges and valleys, would also mean that the turbines would be clearly seen above the horizon from a good many viewpoints in the surrounding area, even at some distance away.

¹¹ Numbers are those used in the Landscape Character Assessment (CD/RB45).

Benington-Sacombe Ridge (LCA 71)

31. Two of the turbines would be within this LCA (albeit one would be only just within) and the third would be 100 m or so outside it; however, their height would be such that where visible within the LCA all three would be seen to a greater or lesser extent.
32. The Landscape Character Assessment describes the area as one of ancient countryside with small woods, winding green lanes and numerous stream valleys, and as a narrow, gently undulating settled plateau. Fields are described as large and unhedged; and there are extensive views within the LCA and outwards though it remains largely unseen from outside. Under strength of character the landscape is described as contained, coherent and unusual¹².
33. I agree with the Appellant's landscape witness that local screening by hedges and trees would mean that views of the turbines from within the LCA would be more variable than the ZTV maps suggest. From in and around Benington and Burn Green, and along the road that links the two villages and continues towards Whempstead, their visual impact would often be moderated by trees in the foreground or middle distance (*AG 4, 41-44*)¹³ and by the fact that they would often appear as a fairly tight group of structures in a broad view across the landscape. The degree of enclosure varies quite appreciably across the LCA, with small fields around Benington and Hebing End and larger, more open fields elsewhere, including around the appeal site. Where the turbines would be directly seen in the context of these larger fields they would appear as part of a fairly large scale, relatively simple and exposed landscape so that although they would have a significant impact upon landscape character it would not necessarily be unacceptably harmful. Some observers might well consider that they would relate well functionally and aesthetically to a quite windswept landscape (*AG 1, 2, B, C*).
34. However, where the turbines would be seen on an elevated skyline as they would along Town Lane, Benington and the road from the village to Aston, or where there would be no intervening screening, as from the rights of way around Gregory's Farm, they would in my opinion dominate both visually and in terms of their impact on landscape character (*ES 1; AG 39, 40, D; AG/MB 1, 2, 12*). Certain of these viewpoints are on the edge of, or just outside, LCA 71 with landscape of a somewhat different character in the foreground, so that perception of the turbines would be conditioned in part by the more open nature of that foreground and by a feeling that they might be somewhat "beyond" the woodland and skyline in the middle distance. However, wherever they would be seen clearly from within or immediately around the LCA, at distances up to about 1.5-2 kms, they would be harmfully at odds with the character of the pastoral landscape and the uncluttered skyline. Also, although the field pattern around the appeal site has been quite significantly altered in recent times by extensive arable cultivation, and associated removal of hedges,

¹² In terms of sense of enclosure, visual unity and distinctiveness/rarity respectively. The main classifications under each heading are: exposed, open, partial or contained; incoherent, coherent or unified; and frequent, unusual, rare or unique.

¹³ *ES* denotes viewpoints in the Environmental Statement and associated wireframes and photo montages; *APP* those in the Appellant's evidence; *AG* those submitted by the Action Group and *AG/MB* those in the evidence of their landscape witness, Ms Bolger.

it still retains something of a settled, timeless quality that would be disrupted by the scale and motion of the turbines. They would also be dominant vertical features in a landscape which currently has no tall man-made structures in it, and none readily visible from it apart from the spire of Datchworth Church seen across the Beane Valley to the south west.

35. There was a good deal of discussion at the Inquiry about whether this and other LCAs had qualities of tranquillity, with reference to the tranquillity map of Hertfordshire published by the Campaign to Protect Rural England (CPRE). This shows the area immediately around the appeal site to be about mid way between the "most tranquil" and "least tranquil" assessments. There are certainly more tranquil places in the County including, as the Appellant pointed out, within the area identified in the Entec report as having the greatest potential for wind farm development. Also, Hertfordshire is well down the CPRE's national list of local authority areas ranked according to tranquillity; and in and around the Beane Valley background noise of road and air traffic can be heard, and planes seen en route to Luton Airport. However, tranquillity is in large measure a relative concept and in this and most other LCA's it is remarkable how well screened the large town of Stevenage is by landform and trees although it is only some 3 kms to the west. Together with the sharply defined boundary to the town, and absence of any significant urban fringe, this gives the rural area a seemingly remote and restful quality that belies its real proximity to an extensive urban area. In my view this is a valuable local characteristic that would be harmed by the scale, intrusion and motion of the turbines, a consideration that adds further to objections to them on visual and landscape character grounds.

Middle Beane Valley (LCA 39)

36. This LCA covers the eastern slope of the valley below the appeal site, together with the valley as a whole towards the north, broadly bounded by the edge of Stevenage to the west and Benington village to the east. It is described in the Assessment as a simple unified landscape of open farmland, with medium to large fields and grouped woodlands, and expansive views. The close presence of Stevenage is well concealed and "the overwhelming impressions here are of remoteness, tranquillity and continuity, a sense that nothing much has changed over the centuries". Strength of character is open, coherent and unusual.
37. Although that description may somewhat overrate the absence of change, there is no doubt that the valley as a whole is tranquil and sparsely developed by local standards. Views of the turbines from the valley floor would be limited by landform and vegetation, especially along Walkern Road below the site, and from the northern reaches of the LCA they would be seen as a relatively limited feature in an expansive landscape (*ES 7; AG 30*). However, in important views from the west side of the valley, around Aston, their height and the elevated nature of their site would make them visually dominant and strikingly out of scale with even the larger fields in the foreground and middle distance (*ES 2; AG 31-34; AG/MB 3-5*). Although I conclude below that the proposal would not unacceptably harm the character and appearance of the Aston Conservation Area, there is no doubt that the turbines would be visually intrusive seen from around the village. Furthermore, the harm to landscape character would be exacerbated by their extension of development into an area of sparsely

developed landscape which has particular importance because of its proximity to, and contrast with, an extensive urban area.

Aston Estate Farmland (LCA 38)

38. As its name indicates, the character of this LCA is greatly influenced by that of two former estates, one of which is Frogmore, referred to further below. It is described as "seemingly remote and ancient, despite proximity to Stevenage"; having extensive views; and being medium to large scale. Under strength of character, like that of LCA 39, above, it is described as open, coherent and unusual.
39. I agree with the ES assessment, that at distances down to 0.6 km in parts, the turbines would be visible in whole or in part from the entire LCA (albeit that it is one of the smallest such areas identified). This would certainly be the case from the ridge that runs through the area, traversed by public rights of way and a minor road, and from Frogmore Hill, north west of the eponymous park, though hedges and trees would screen views from a good deal of the latter road. At distances of 1-1.5 kms and seen from a lower elevation, they would be visually dominant on the open skyline (*AG 18, 34-37; AG/MB 6-10*). Although I conclude below that they would not unacceptably harm the settings of listed buildings along Frogmore Hill¹⁴, they would severely conflict with the pattern of fields, woods and hedgerow trees west of the River Beane. Again, they would introduce prominent and motive development into what is presently a peaceful area of open countryside, remote in character if not in distance from Stevenage and the activity along the A602 and railway to the south west.

Bramfield-Datchworth Sloping Farmland (LCA 40)

40. This LCA, broadly south west of the A602 and Watton at Stone, is probably the most open and expansive landscape locally, described in the Landscape Character Assessment as large scale arable farmland, lacking variety, with extensive views, and somewhat monotonous though quite tranquil. Strength of character is described as open, unified and unusual.
41. Views from lower ground within the LCA would often be screened or tempered by vegetation. Seen from the high ground within the LCA the turbines would be prominent on the skyline, though at a distance of around 3 kms, and seen across large fields in the foreground and middle distance, their impact would be limited (*ES 4; AG 26-29*). Arguably, they would appear in keeping with the essentially open and exposed foreground landscape though their vertical forms would be somewhat at odds with the present lack of vertical elements, referred to in the Landscape Character Assessment as a feature of this area. Also, the proximity of Stevenage is evident in this LCA, with views over the town to the north west, so that there is less of a perception of isolated or pristine countryside. Also, as a good deal of the area is fairly thinly populated, and has relatively few rights of way, there would be relatively few sensitive receptors of any adverse visual or landscape character impacts.

¹⁴ Though they would that of Frogmore Hall.

Woodhall Park and Watton at Stone Slopes (LCA 70)

42. This LCA essentially divides into two, Woodhall Park to the south and an area of wooded farmland to the north, on the eastern flank of the Beane Valley. Strength of character overall is assessed as open, unified and rare/unique though it seems likely that the last named relates principally to Woodhall Park. The Landscape Character Assessment focuses largely on that Park where I consider that the proposed turbines would have no significant adverse visual or character impacts largely because they would be screened from most viewpoints by vegetation close at hand and in the intervening landscape. Although there would be clear views in places from the A602 (*AG 12-17*), road users are generally ranked as of only moderate sensitivity and on this particular road there is no strong sense of connection with a wider landscape. Thus, although there would be a strong visual impact, there would in my opinion be no significant harm to landscape character.
43. The farmland area is characterised in the Assessment as an upland arable landscape more enclosed by woodland than the open area to the north, medium scale, contained, visually unified and tranquil. In places views of the turbines would be obscured by the woodland referred to, and also by roadside trees and hedges. However, where they could be seen, for example from Whempstead Road off the A602, they would be intrusive on the skyline in a pleasant, largely enclosed agricultural landscape, and their scale and movement would be at odds with its peaceful and largely undeveloped character.
44. Watton at Stone is excluded from the LCAs. The village lies on the floor of the Beane Valley, and is largely enclosed by trees on its east side, with a good deal of planting within the settlement itself. This suggests that there would be only limited views of the turbines but where they were seen their height would be striking, and further emphasised by their elevation above the valley (*ES 3; AG 19-25; AG/MB 11*). However, in the context of the built up area in the foreground I believe their impact would not be unduly dominant or incongruous. Also, as there is only a limited visual link between the village and the surrounding countryside, there would not be an unacceptable impact on landscape character.

High Cross Plateau (LCA 73)

45. The Assessment describes the LCA as undulating arable upland with some woodlands and extensive views. Scale is generally medium to large and the area is described as tranquil. Under strength of character it is assessed as open, coherent and unusual.
46. The further reaches of the LCA would be little affected by the proposed turbines, which would in many cases be screened by local vegetation and their influence would be further moderated by distance. However, around Haultwick and Dane End (*ES 5, AG 6-10*) they would be prominent above a wooded skyline and, although they would only occupy relatively small portions of broad views, their height and motion would harm the character of the generally undeveloped and pastoral landscape.

Ardeley and Cottered Settled Plateau (LCA140)

47. This LCA is described as a settled plateau landscape with a relatively complete pattern of small to medium scale fields with hedged boundaries and hedgerow trees; minimal visual impact from development; and "a quiet and remote feel with a strong sense of historic continuity" (AG 11). Strength of character is assessed as partial (enclosure), coherent and unusual.
48. The visual and character impact of the turbines would decrease quite sharply with increasing distance but I agree with the ES assessment that, though screened in part by trees from some viewpoints, the turbines would be prominent within a distance of 2-3 kms and would bring a significant change in landscape character. Given the settled pattern of that landscape, and its historical resonances, I believe that that change would be harmful, both visually and in character impact.
49. To sum up under this main issue, by reason of their height, movement and distinctive appearance the proposed turbines would have significant adverse visual effects and impacts on landscape character in four of the five principal LCAs within a radius of about 3 kms (Nos. 38, 39, 70 and 71) and lesser but still harmful effects, principally to the north east, on a further two areas (73 and 140) up to about 5 kms away. The harm would be caused principally by the sheer scale of the turbines relative to landscape features and by their introduction of intrusive man made features and movement to areas which are currently relatively thinly developed and peaceful in character.
50. Whether landscape is of a scale appropriate to such turbines, and the degree to which it is tranquil, are matters that can be debated at length, as they were at the Inquiry, and to a large extent both are relative rather than absolute issues. It seems to me that, although in some respects the landscape around Benington is large scale, at least in terms of field size, overall it is quite complex and varied in character; and it is noteworthy that the Landscape Character Assessment describes all the relevant LCAs as either "coherent" or "unified" in terms of visual unity. It does not to my mind readily fit the description of a "large scale simple landform and landcover" deemed by the ARUP report as one of the characteristics of areas considered most suitable for wind farms.
51. I am also struck by the frequency with which the words "tranquil" and "tranquillity" are used in the Landscape Character Assessment, a judgement with which, on the basis of my site visits, I would generally concur. For with the exception of intrusion of the road traffic and air activity common throughout the home counties, the area around Benington, at least off major roads, appears to me to be strikingly quiet and relatively undeveloped, bearing in mind the proximity of Stevenage and Hertford.
52. As the Appellant's landscape witness said, it would be impossible to site a wind farm of any size almost anywhere in the UK without significant effects on landscape character; and in national terms the landscape around Benington may be deemed as a less complex one that is not subject to any special designation. However, taken as a whole it is not to my mind of such scale and simplicity as to lend itself to the sort of large scale development that wind turbines would represent. And despite its lack of formal protection it is

undoubtedly attractive, settled and relatively undeveloped and secluded, qualities that weigh significantly in favour of its conservation.

53. The visual and landscape character harm I have identified would not be by any means universal within the 5 km radius, being often countered or moderated by screening by local landform, trees, hedges and buildings. However, overall I consider that where evident the visual impact and effects on landscape character identified above would be such that the proposal would be contrary to the aims of RSS Policy ENV2 and LP Policy GBC14.

Third Issue: Effects on living conditions

54. As the SCG confirms, the Council did not seek to resist the proposal on the grounds of effects upon living conditions of local residents, whether in terms of visual impact, noise or shadow flicker. The Action Group objected under all of those headings.

Visual impact

55. It is a well held planning principle that there is no "right to a view" such that an attractive or cherished outlook from a private property can be protected from development that would adversely affect it. The fact that the proposed wind turbines would be seen from a number of dwellings in the surrounding area, and in some cases would be prominent and would significantly change views of the countryside, is not determinative in itself.
56. However, the public interest may legitimately come into play where a proposal would have such a severe adverse impact on the outlook from a property, in terms of being intrusive, overbearing or oppressive, that it would make it a significantly less attractive place to live, as perceived by a reasonable observer without strong views for or against the type of development in question, and for future as well as current occupiers. In such a situation protecting the amenities of a dwelling may be a legitimate and material planning consideration, though also one to be weighed against other such considerations, a point to which I return later.
57. The Appellant's landscape witness surveyed dwellings at 13 locations within a 1 km radius of the proposed turbines and very fairly deemed all as being subject to significant changes in at least one view though in none of these cases did she consider that the effects would be unacceptably dominating. The Action Group's case was that there would be such an effect at one property, Gregory's Farm. On the basis of my site visits I concur that whilst there would be dramatic changes in at least some views from most of the properties surveyed, all but Gregory's Farm would be far enough away, or screened by intervening landform or vegetation, so that the visual impact of the turbines would not be overbearing.
58. Gregory's Farmhouse would be about 750 m from the nearest turbine¹⁵, at roughly the same level as the group; and windows in the north west elevation to bedrooms and a sitting room, as well as a conservatory, would face towards

¹⁵ In my estimation, to the Farmhouse. The Appellant's and Action Group's estimates are 738 m and 713 m respectively. The differences may be due to measurement to different parts of the property and are of no great consequence.

the turbines across a shallow valley (*APP 6G¹⁶; AG 3; and AG/MB 12*). There would be mitigating factors such as some partial screening at close range by hedges and walls; the fact that the turbines would occupy only part of expansive views (albeit a significant part); and the fact that the house has outward views from another principal elevation, to the south east, that would not be affected. On the other hand, the fact that the owners run an equestrian business around the house means that the turbines would be seen from more widely than solely from the house itself, and over prolonged periods of time. Given the proximity and scale of the turbines I consider that they would appear dominant and overbearing in the outlook from Gregory's Farm and would make it a significantly less attractive place to live.

Noise

59. The noise assessment in the ES predicts that turbine noise at three locations, Elmdale, Gregory's Farm and White Hall Farm, chosen to be representative of the general distribution of dwellings locally, would be within ETSU-R-97¹⁷ limits, namely 5dB above background noise, or 43 dB at night and 35-40 dB during the day, whichever is the greater, all $L_{A90, 10 \text{ mins}}$. Minimum margins varied from 3dB within the limit, for day time noise at Gregory's Farm and noise at all times at White Hall Farm, to 9 dB within for day time noise at Elmdale.
60. The Action Group's acoustics witness clearly had misgivings about ETSU. However, both PPS22 and its Companion Guide clearly advise that this methodology should be used to assess and rate noise from wind energy development. ETSU has been criticized, particularly in terms of its approach to wind shear and aerodynamic modulation, and views have been expressed that it is overdue for review (a view with which the Inspector at the Den Brook Inquiry sympathised¹⁸). However, although the Government are on record as having an open mind on the matter¹⁹, no such review has yet taken place and the advice to use the methodology still stands. It is also important to appreciate the underlying rationale, which is not to guarantee that turbine noise will be inaudible at nearby dwellings and that no-one will ever be disturbed by it. Rather ETSU seeks to give "...a reasonable degree of protection to wind farm neighbours without placing unreasonable restrictions on wind farm development..."²⁰. The aim is to achieve a balance, not absolute protection. Provided that the limitations of ETSU are acknowledged (as they were by the Appellant's acoustics witness), and that it is not applied in a rigid or doctrinaire manner, but in way that reflects current best practice, it should still be a valid approach.
61. The Action Group criticized the approach to measurement of background noise in a number of detailed respects, principally appropriateness of measurement locations; measurement of wind speeds; minimum noise levels; effects of windshields during background noise measurements; and use of average L_{A90} . I deal with these criticisms in turn.

¹⁶ In Ms Hawkins' evidence, RB/KFH/4.

¹⁷ The Assessment and Rating of Noise from Wind Farms; Energy Technology Support Unit (ETSU) for the DTI, September 1996; CD/RB17

¹⁸ A/06/2017162 in APP5

¹⁹ Letter from Lord Hunt dated 1 October 2009 in Mr Hayes' rebuttal evidence, Appendix 1.

²⁰ Companion Guide to PPS22; para. 44 of the Technical Annex: Wind

62. The Appellants evidently used their best endeavours to gain access to Gregory's Farm to measure background noise levels there, and the alternative location, at roughly the same altitude and distance from the appeal site, appears to me to be a reasonable proxy. The Action Group did not present any cogent evidence to suggest that the noise climate there would have been markedly different from that at the Farm; the location chosen is sheltered but at sufficient distance from the wood to the south east to ensure that wind noise from there would not unduly influence measurements. At Elmdale there appears to be little significant difference in acoustic terms between the position chosen for baseline noise measurement and the property's main amenity area. Traffic flows on High Elms Lane are very light and unlikely to have affected the assessment to any real extent.
63. The Appellant's acoustics consultant accepted that failure of the background noise assessment to record wind speeds over the full range of 0-12 m/s did not comply with ETSU guidance. However, it was accepted for the Action Group that the sound power level of the turbine model proposed would not rise further beyond wind speeds of 8-9 m/s, the level at which rated power is reached. Given that background noise levels would be likely to increase with higher wind speeds; and that even if they did not, turbine noise levels are forecast to be well within ETSU limits at wind speeds of 8-9 m/s, any deficiencies in data are of no great consequence.
64. In similar vein, I do not give weight to the argument that background noise measurements at wind speeds of over 6 m/s might be exaggerated by electronic "self noise" from the measuring equipment. Because the speeds most relevant to noise assessment at turbine height, approaching rated power speeds, translate into much lower speeds close to ground level where measurements are made, any such effects would be inconsequential.
65. The Action Group's acoustic witness also made a detailed critique of the use of $L_{A90, 10 \text{ mins}}$ as an average measure likely to overestimate actual background noise levels, together with a number of detailed points on data plots and noise emissions from turbines operating at low wind speeds. However, the fact remains that ETSU advice is to use $L_{A90, 10 \text{ mins}}$ and whilst the other points made are theoretically correct, they appear to me to go beyond what is reasonably necessary to obtain an adequate picture of background noise. In my view none of the Action Group's criticisms seriously call into question the robustness of the ES assessment of background noise; and if there were any imperfections they were not of such magnitude as to significantly affect the results, or the conclusions drawn from those results.
66. Wind shear is the effect whereby turbines significantly higher than the 10 m reference height for wind speed measurements may generate more noise than predicted due to the increased wind speed at increased height, particularly under stable atmospheric conditions. It was common ground at the Inquiry that the scale of turbines had increased significantly since publication of the ETSU methodology, which in consequence might under-estimate the likelihood of wind shear and correspondingly turbine sound levels. However, the assessment of wind shear made in the ES was not convincingly challenged. Also, although it was suggested that properties in Walkern Road might suffer the effects of wind shear, and that the phenomenon could particularly arise in

- summer, no substantive evidence was advanced that the local topography or micro climate were such as to make serious wind shear a real possibility.
67. The Action Group also suggested that more allowance should be made for uncertainty in measurement of the turbine sound power levels than the 1dB penalty the Appellants had added. As there was only a margin of some 3dB between turbine noise and ETSU limits at some measurement locations, underestimating the sound power could result in those limits being breached. As with consideration of "self noise" (above), I believe this is a situation where over-concentration on details, albeit that those details may be correct in themselves, can divert attention from the overall picture; and from the objective of producing an assessment that is demonstrably adequate for its purpose, rather than one that is mathematically elegant. In my view the fact that the ES approach makes the very pessimistic assumptions on sound propagation that ground will be hard, and all properties downwind, provides a robust noise prediction, albeit that the precise uncertainty factor applied to turbine sound power might be less than the Action Group wished.
68. The Appellant's acoustics witness accepted that Amplitude Modulation (AM) was a tangible problem and one that had attracted growing attention with the increase in size of turbines since publication of the ETSU methodology; and that he could not categorically say that modulation greater than the 3 dB(A) peak/trough difference noted in the ETSU report would not occur. However, whilst the Action Group suggested that it might occur at Benington, it produced no real evidence that there was real possibility that it would. Their witness' experience of it was empirical rather than analytical; and there was nothing tangible to suggest that Benington exhibited any of the features that might predispose it to AM such as particular likelihood of stable atmospheric conditions or high wind shear; or turbines being sited unusually close together or in line. Nor are there any obvious parallels with the Den Brook case²¹ to justify a condition to address greater than anticipated AM, were the development otherwise acceptable. Also, whilst understandably differing interpretations were placed on the Salford report²², it threw no real light on the likelihood of the phenomenon in this case. Nor did the previously unpublished Hayes Mackenzie report of 2006 to the then DTI²³. On the (limited) available evidence I do not believe that AM would pose an unacceptable risk at Benington or that any particular acoustic penalties would be necessary to guard against it. Nor is there any substantive evidence that, given the very low internal background noise levels in rural areas, there would be a real risk of sleep disturbance.
69. The fact that the Council, after consideration by their environmental health officers, have not objected to the appeal proposal on noise grounds gives added weight to my conclusion that there would be no unacceptable additional noise or disturbance to local residents. If the proposal was otherwise acceptable any residual concerns could be addressed by conditions specifying maximum noise levels at the nearest properties together with procedures for investigating complaints.

²¹ Doc APP5

²² Research into Aerodynamic Modulation of Wind Turbine Noise; University of Salford, July 2007. Appendix 6 to Mr Hayes' evidence.

²³ Docs AG6 and 7

*Shadow flicker*²⁴

70. Shadow flicker, the effect of the sun shining behind rotating turbine blades and creating an intermittent shadow, only occurs inside buildings where there is a narrow window opening and, broadly speaking, where certain meteorological, seasonal and geographical conditions prevail. It also only occurs within a distance equivalent to ten rotor diameters of a turbine, in this case 820 m. On the basis of an assessment of properties within this distance the ES predicts that only Gregory's Farm might be affected for a maximum of 36 days in a year, in Spring and Autumn, for up to around half an hour each day. The very modest (and worst case) incidence predicted does not suggest a potential problem of any severity and, in any case, shadow flicker is capable of being mitigated by fairly simple operational measures, which could be covered by a suggested condition.
71. I conclude on the third issue that neighbouring residents would not suffer unacceptable disturbance from noise or shadow flicker; there would therefore be no conflict with LP Policy ENV24. Living conditions at one dwelling would be severely harmed by the visual impact of the turbines. In terms of what LP Policy SD3 says, this would be a problem of visual intrusion and loss of amenity²⁵.

Fourth Issue: Effects on enjoyment of the countryside

72. The Council's stance on this issue is somewhat equivocal. Their committee report contends that the visual effects of the proposed turbines on recreational users of the countryside would be unacceptable, a contention repeated at the Inquiry, but it was not advanced as a reason for refusal. Neither was it supported by any substantive evidence.
73. The ES states that there would be significant visual effects on users of bridleways and byways that run within about 0.6 km of the site, and on those using the local section of the Hertfordshire Chain Walk that at its nearest point passes about 200 m from the turbines²⁶. The SCG says that there would be significant effects upon users of rights of way "local to the wind turbines", without defining what "local" means. The Appellant's landscape witness considers that such effects could occur up to around 5 kms away, in elevated locations with open and sustained views, for users of the Chain Walk, and up to around 4 kms for those on other rights of way. She singles out for mention paths on the west side of the Beane Valley, in addition to those on and around the appeal site.
74. Where rights of way pass closest to the turbines, at distances between about 85 m and 200 m, the effects upon those using the paths would inevitably be one of overwhelming scale but this does not in itself amount to unequivocal and unacceptable harm to enjoyment of the countryside. Much depends upon the observer's attitude to wind turbines and renewable energy development in general, and upon the extent to which the turbines would be seen in the overall

²⁴ I deal separately below with the matter of shadow throw affecting the equestrian enterprise at Gregory's Farm.

²⁵ I set out the conclusion thus because Policy SD3 does not include clear criteria against which proposals can be judged.

²⁶ The Appellant's landscape witness reassessed the sensitivity of users of regional long distance routes and local rights of way, stated in the ES as high/medium and medium respectively, as high and high/medium. However, this does not affect the assessment of significance of effects.

walk, cycle or horse ride. Some people would no doubt consider the turbines alien and intrusive in the countryside such that their enjoyment of the routes and of the surrounding countryside would be markedly reduced. However, others might admire their design or welcome them as representing efforts to address climate change. And some would probably be essentially neutral towards them or simply curious. Also, for those undertaking a walk or ride of any distance the turbines would probably only impinge upon them for a relatively short part of their journey, being otherwise screened by trees, hedges, woods, and landform or out of the observer's field of view.

75. There is a fairly close network of paths around Benington and they are evidently well used; and the concept of the Chain Walk, as a linked series of circular walks, will clearly encourage such use. Thus, potentially a large number of people would see the turbines, with corresponding potential for a significant overall impact. They would certainly be clearly seen as large and prominent features on high ground, from footpaths on equally high ground on the west side of the Beane Valley, from around Aston End southwards to Frogmore Hill. They would also be very visible, and at short range, from paths that climb the east side of the valley from north and south towards High Elms Lane; and they would be omnipresent along much of the Chain Walk circuit to the south west and south east of Gregory's Farm. In all of these views, and largely regardless of the opinions of individual observers, they would detract from the sense of a still largely undeveloped countryside, close to substantial settlements. This blurring of the present sharp transition from town to country would be particularly marked for those walking away from Stevenage around Aston End and Aston and, to a lesser extent, for those walking north from Watton at Stone.
76. The turbines would also be seen from rights of way to the east, around Benington, Hebing End and Whempstead and, although such views would be more tempered by local landform and vegetation, there would still be a sense of intrusive development. Here, as from all viewpoints that intrusion would be exacerbated by the motion of the turbine blades. Recreational users of local minor roads would experience similar effects, particularly on High Elms Lane though those on Walkern Road would be largely screened by the valley sides and roadside vegetation. Also, although the ES suggests that there would be significant changes to views from sections of the A602, and from the railway between Watton at Stone and Stevenage, those changes would not in my opinion be unacceptably harmful, taken in the overall context of journeys along those routes; they would be essentially limited incidents en route rather than defining features.
77. On a related issue, the Action Group also suggested that the appeal proposal would adversely affect local tourism and, by extension, the local economy. However, their evidence was essentially confined to assertion as to the impact on a bed and breakfast business in Whempstead Road, Benington. From what I saw on my visit I consider that the limited views of the turbines from that property would be unlikely to seriously deter visitors, and there was nothing of substance to suggest that tourists might be similarly discouraged from visiting the wider area. Neither in my experience has it been shown nationally that wind farms have adverse effects on tourism that are serious or determinative in themselves. Research suggests that any such effects are generally not

proven and at worst are likely to be marginal; they might on balance even be positive in some instances.

78. I conclude on the fourth main issue that the proposal would harm the experience of the countryside enjoyed by at least some users of nearby rights of way. This is not to go so far as to say that there would be such a marked impact that the area would become a noticeably less attractive place to recreate or that use of local rights of way would be reduced. It is a matter to be weighed in the planning balance and I return to this in the final issue. There is no compelling evidence that the proposal would have any significant adverse effects on the contribution made by tourism and recreation to the local economy.

Fifth Issue: Effects on historic assets

79. The Council do not challenge the proposal in terms of this issue; their committee report records their conservation officer as having no objections and advising that there would be no significant effects upon conservation areas or unacceptable harm to the setting of any listed buildings. Nor are there any objections from English Heritage on the grounds of effects on the setting of any scheduled ancient monument, highly graded listed building or designed landscape. Their advice is that although the turbines might be seen in views to or from such designations, they would be sufficiently distant or screened that their presence would seem incidental, though a small number of Grade II listed buildings would be affected more directly.
80. The ES concludes that the proposal would not harm the character or appearance of the nine conservation areas within 5 kms or the settings of the vast majority of the 311 listed buildings within that same radius; and would not have significant visual effects on either ancient monuments or the registered historic parks and gardens at Benington Lordship and Woodhall Park. Significant effects are identified on the settings of three listed buildings, Gregory's Farmhouse south east of the appeal site; the Wagon and Horses public house at Watton at Stone; and the gates to Frogmore Farm on Frogmore Hill.
81. The Action Group object on the grounds of adverse impact on Aston Conservation Area; the above three listed buildings plus seven others (Frogmore Hall, Frogmore Farmhouse, Frogmore Cottages, Waterbridge, Benington Lordship, Benington Park and Haultwick Hall); Benington Lordship registered historic park and gardens; and the locally important historic parks and gardens of Frogmore Park and Benington Park. From all the evidence I see no reason to suppose that there would be any significant adverse impacts on any historic assets beyond those referred to by the Action Group; distance from the appeal site or screening by trees or landform would greatly limit views of the turbines such that they would not noticeably impinge on either other conservation areas or listed buildings. Accordingly I have concentrated on those locations, sites and buildings referred to at the Inquiry.

Aston Conservation Area

82. As the Conservation Area is some 2 kms distant, it is hard to argue that the appeal proposal would be development "adjacent" to it in the terms of LP Policy

- BH6. However, that Policy does refer to respecting important views within, into and out of a conservation areas as well as its setting. This reflects advice in PPG15, Planning and the Historic Environment, that the desirability of preserving or enhancing the character or appearance of a conservation area, applicable to development proposals within such areas, should also be a material consideration when assessing proposals which are outside but which could affect their settings or views in or out.
83. I take the Action Group's point, supported by the Revival Properties case²⁷, that the setting of the Conservation Area should be construed widely and without undue geographical constraint. However, I consider it is going too far to argue that any development with a visual relationship with a heritage asset must be within its setting, as did the Group's landscape witness in written evidence (though she resiled somewhat from this in cross examination). It seems to me that for something to be within the setting of a conservation area then there must be some more or less direct visual or functional relationship with that area that directly contributes to or complements its character or appearance and that reinforces, or at least reflects, the reasons for its designation²⁸.
84. In my opinion the character of the Conservation Area stems principally from the sense of enclosure within the main built up area of the village and principally along Benington Road, deriving from buildings close to the highway, further emphasised in parts by surrounding trees, hedges and boundary walls. That most of the older buildings of the village are found along and around that highway underlines the origins of the village as an agricultural community no doubt largely reliant on farmland close by. Outward views to the surrounding countryside are fairly limited, and mainly confined to those over the cricket field towards the modern houses on Stringers Lane and beyond; they are not an essential part of the village's character. Although the landscape on the opposite side of the Beane Valley provides an attractive pastoral backdrop to the village, I do not share the Action Group's view that it is an integral part of the setting of the Conservation Area. At some 2 kms away it is too distant and insufficiently related to the village in functional, or historic terms to be so. The houses on Stringers Lane define the edge of the Conservation Area very clearly such that the setting of the Conservation Area can be construed as extending little beyond them. Although the turbines would be visible over their roofs, and at roughly the same elevation on the other side of the Beane Valley as the village (*AG 31; AG/MB 3-5*), they would not unacceptably impinge on the setting of the Conservation Area. The character and appearance of that Area would thus be preserved.

Listed Buildings

85. S66 of the Planning (Listed Buildings and Conservation Areas) 1990 states that in considering whether to grant planning permission for development that would affect the setting of a listed building special regard is to be had to the desirability of preserving that setting. There is no statutory definition of what constitutes a "setting" but PPG15 advises that is often an essential part of the

²⁷ Revival Properties Ltd v SoS, Deerpark Securities Ltd and Richmondshire District Council [1996] JPEL, June 1996, pB86

²⁸ Essentially the same applies to listed buildings also.

building's character, may include land some distance away, and might be affected by a high or bulky building some way away.

86. As with conservation areas (above) I do not believe that the setting of a listed building can generally be defined solely in visual terms, by reference to where it can be seen from or, conversely, whether proposed development would be seen from or its curtilage. Other matters need to be considered such as the function of the listed building and why the particular site was chosen for it; the relationship between building and surrounding area; the character of that area; and the extent to which the surrounding area contributes to the value and appreciation of the building. It is then necessary to assess the effects of proposed development on the setting and come to a view on the desirability of preserving the setting, weighing any adverse effects on the setting against other material considerations.
87. Gregory's Farmhouse stands some 0.7 km from the appeal site and at roughly the same elevation. Together with an extensive range of barns and outbuildings it stands in an area of open pastureland, across which there are fairly extensive views. A number of rights of way converge on the farm and the south west elevation of the Farmhouse is clearly seen from the Chain Walk that runs along the property's drive.
88. From that direction the turbines, and particularly Nos. 1 and 2, would be seen directly behind the property (*APP 6G; AG 3; AG/MB 12*) and, although there would be some limited and low-level screening from trees both near and distant, I agree with the assessment in the ES that there would be "visual confusion and competition with the heritage feature" and that the overall impact would be considerable and significant. In fact the generally low profile of the half-timbered house would be dwarfed by the scale of the turbines and their unashamed mechanical appearance would be directly at odds with the historic and weathered character of the building.
89. Although the relationship between the farmhouse and its surroundings has been somewhat altered by modern equestrian-related development, its setting clearly encompasses the surrounding fields that would traditionally have been the mainstay of the farm. It seems likely too that the isolated farm steading was intended to be the focus of the holding, "isolated farms" being cited in the RSS as a feature of the historic environment of the Region²⁹. In my view the height of the turbines, the motion of their blades and their uncompromising appearance would detract severely from the attractive, historically important, open and unspoiled setting of the listed building.
90. Although the turbines would be visible from around the Wagon and Horses public house in Watton at Stone, they would be largely screened by trees in the foreground and middle distance and would not feature strongly in views of the pub at close range (*AG/MB 11*). It seems to me that the setting of that building, both historically and visually, is confined to the main village street and its immediate surroundings, extending only as far as the river bridge, and has no close connection with the wider landscape within which the turbines would lie. That setting would thus be preserved.

²⁹ CD/RB12, Policy ENV6, p59

91. For convenience I deal with the several listed buildings on Frogmore Hill together, namely Frogmore Farmhouse and its entrance gates, Frogmore Cottages and Waterbridge. These properties have more or less extensive curtilages on their east sides which principally define their settings, both visually and historically; and Frogmore Farm and Waterbridge are set well back from the highway and largely concealed from direct view. The turbines would be seen from the road, at a distance of just under a kilometre, but would often be screened by foreground trees and hedges, and there would be few views in which they and the listed buildings would be seen together in such a way that the former would intrude unduly on the latter. I agree with the Action Group that the secluded nature of Frogmore Hill contributes further to the settings of the listed buildings along its length but overall I believe that the settings of those buildings would be preserved.
92. Frogmore House, referred to in the listing citation as “an interesting and idiosyncratic 19th century architect’s house, little altered”, would be some 900 m from the nearest proposed turbine. Although its park has evidently been greatly reduced in size over the years, what remains still provides an attractive setting for the striking building and is seen as such from the permissive footpath which runs through the property. In my opinion that setting also extends visually to include the rising ground to the north east, towards the appeal site, that provides a wider landscape context for the park. Seen from the south west, the turbines, at a distance of some 1.4 kms and upwards, would appear above the house, dominating it in scale and alien in their form and motion to the pastoral character of the park (*AG/MB 9*). That the viewpoint chosen may not itself have any particular historical significance, as the Appellant argued, does not diminish the scale or nature of this adverse impact. Nor does the fact that ownership of park and house have been severed detract from their visual and historic relationship. Passing north-eastwards through the park, the turbines would appear further from the house but in the same frame of view (at least until the house was passed), again compromising the setting of the listed building (*AG/MB 10*).
93. The remaining listed buildings can be covered fairly shortly. The setting of Benington Lordship is principally the gardens to the west of the house, falling towards the lake, though the wider park beyond also provides a landscape context. Although the turbines would be visible from some places in the gardens and park they would be very much peripheral to the main prospect from the house and they would not impinge on any views of it (*ES 13; AG E; AG Document 10*). The setting of the listed building would thus be preserved.
94. Although the turbines would be clearly visible from the entrance to Benington Park from Town Lane (*AG 41*), views from within the grounds would be very largely screened by trees, even in the winter, and to the extent that they would be seen they would be perceived as essentially “beyond” the park that historically and visually forms the principal setting of the house (*AG/MB 14*). There are no significant viewpoints from which turbines and house would be seen together in a way that would significantly harm the setting of the latter.
95. The setting of Haultwick Hall is principally confined to its curtilage and, even if it is construed more widely as including land to the south west, it certainly cannot be reasonably extended to include the appeal site, some 4 kms away. The elevated position of the Hall means that the turbines would be seen on the

skyline (AG 9) but at this distance they would occupy only a tiny part of the view and would be essentially peripheral in any direct views of the Hall. The setting of the listed building would be preserved.

Historic Parks and Gardens

96. PPG15 advises that local authorities should protect registered historic parks and gardens; and that the effect of proposed development on such a site or its setting is a material consideration in the determination of a planning application. The Action Group present no detailed evidence that there would be unacceptable harm to either the registered Benington Lordship or the locally important sites, Benington Park and Frogmore Park, protected under LP Policy BH16.
97. As noted under listed buildings, above, I believe that limited views of the turbines from Benington Lordship, from a few places within the park and where trees would permit, would not put at serious risk the special qualities of the park and gardens which appear to me to derive primarily from the complex of gardens of differing character around the house, and the near reaches of the park to the west. Much the same would apply at Benington Park where the informal park, with many good trees, could be appreciated in its own right and without undue interference from essentially peripheral views of the turbines. At Frogmore Park the impact of the turbines would be more direct and correspondingly more harmful. As noted above, they would be directly seen across the park and at fairly short range in a way that would inevitably contrast starkly in both scale and character with the pastoral character of the park and its venerable trees. Here I believe that there would be appreciable harm to the local landscape character.
98. To sum up under this issue, there would be significant harm to the setting of two listed buildings, Gregory's Farmhouse and Frogmore Hall, and to the character of the locally designated Frogmore Park, contrary to the aims of RSS Policy ENV6 and LP Policies BH12 and BH16. This is not determinative in itself but has to be weighed in the balance with the benefits of the appeal proposal, under the final main issue, below.

Sixth Issue: Contribution to renewable energy generation

99. It is not necessary to rehearse in detail the importance that national policy attaches to encouraging renewable energy generation; it is made abundantly clear in PPS22 (2004) and is reiterated and reinforced in a succession of further statements of policy made thereafter and referred to by the Appellant, including The Energy Challenge: Energy Review Report (2006)³⁰, the White Paper, Meeting the Energy Challenge (2007)³¹, the Supplement to PPS1 on Planning and Climate Change (2007) and the UK Renewable Energy Strategy (2009)³². The scale and urgency of the challenges of addressing the causes of climate change and developing renewable energy on a necessary scale are made manifest in all these documents.

³⁰ CD/RB22

³¹ CD/RB23

³² CD/RB25

100. Briefly, the benefits of renewable energy proposals, including those to the wider society and economy beyond the immediate area affected, are to be given significant weight in the planning process; the pace of development must be increased dramatically if national energy targets are to be met; regional targets should be reviewed regularly and revised upward if met; planning applications should not be rejected simply because the level of output is small; and renewable energy development should be capable of being accommodated throughout England provided that environmental and other impacts can be addressed satisfactorily. PPS22 sets out the Government's target to generate 10% of the UK's electricity for renewable energy sources by 2010 and their aspiration to double that figure to 20% by 2020. The most recent major statement of policy, the UK Renewable Energy Strategy, increases this latter figure to 30%. The Council accept that such targets are important, that significant weight should be given to the wider environmental and economic benefits of renewable energy schemes (in line with PPS22) and that the appeal proposal would make a meaningful contribution to meeting the RSS target for renewable energy generation.
101. There were understandably differing views at the Inquiry as to the importance of targets. They are not an overriding consideration, as both the Inspector and the Secretary of State made clear in the Crook Hill decision³³; performance against them must be placed in the balance with all other relevant planning considerations. But neither are they, in the words of the Action Group's advocate, almost an irrelevance. Though the PPS1 supplement advises that strategic targets should not be applied directly to individual planning applications, they must be a relevant consideration when considering those applications simply because it is only through an accumulation of individual proposals that any target will be achieved. An approach which sought to keep individual planning applications and regional targets entirely separate would be irrational not only in terms of the Government's aim of securing substantially more renewable energy generation capacity but also of the whole basis of the plan-led system. The prominence given to them in national policy makes them an important consideration.
102. As to the weight to be accorded to the contribution of a particular proposal, the Secretary of State is on record, again in the Crook Hill case, as endorsing the argument that the greater the need by reference to national and regional targets, the greater the weight to be given to a particular contribution. However, I do not believe that such weight increases as the target date approaches. As national guidance says that, when reached, targets should be raised upwards, weight is essentially a constant. Also, as the Council pointed out, the illogical conclusion of the argument is that if a target was close to being met, less weight should be accorded to a particular proposal's contribution.
103. At December 2008, the latest date for which information is available, there was in the East of England Region some 428 MW of installed capacity for generation from onshore renewables as a whole, of which onshore wind accounted for about 128 MW³⁴. The former figure amounts to just over half of the relevant RSS target of 820 MW. The corresponding percentage expressed

³³ CD/RB51(j); Secretary of State's decision letter, para. 16

³⁴ CD/RB29, Table 1

in GWh is around 60% of the target figure³⁵. The single largest contribution has been made by landfill gas, a source which, on the Appellant's unchallenged evidence, has little scope for further expansion. Although in 2008 Renewables East believed the Region to be "well on target to meet its 2010 target of 14% electricity from renewable sources", on the evidence at the Inquiry the onshore target remains out of reach. It is equally clear, again without any serious dispute at the Inquiry, that wind power is the onshore technology with greatest potential to meet shortfalls³⁶. However, although the Appellant describes progress towards the Regional targets as poor, it is noteworthy that the East of England is the best performing of all the English regions in that respect³⁷. The story is mixed; much has been done but much remains to be done.

104. The targets in the RSS derive from work undertaken by the East of England Sustainable Development Round Table whose 2003 report, *Making Renewable Energy a Reality*³⁸, recommended that regional guidance also incorporate county targets; that recommended for Hertfordshire was 153 GWhs, of which 96 GWhs would come from onshore wind generation, a figure deemed by the Appellant to be equivalent to some 46 MW of installed capacity. The Entec report of 2005, already referred to under the second main issue, above, expressly does not recommend targets for the County but suggests that a small wind farm in East Hertfordshire might contribute 5 MW of capacity to a "possible case" scenario that would provide just over 10 MW of wind energy for the County. An "extended case" scenario of 65 MW, equivalent to 30 large modern turbines in the County as a whole, would potentially be capable of meeting the whole 153 GWhs figure from wind energy alone³⁹. The Arup study of 2008, again already referred to⁴⁰, commissioned to inform review of the RSS, set out to advise on sub-regional (county) targets but was apparently defeated by deficiencies in the data then available. Against all these figures, and attempts to establish figures, the current wind generation installed capacity in Hertfordshire is just 0.225 MW in one turbine.

105. Although the Appellant asked that weight be given to the figures for Hertfordshire in these technical documents, they are not County targets. The panel that conducted the Examination in Public into the RSS, and that had the Round Table's report before them, concluded that inclusion of such targets in the East of England Plan was not appropriate at that stage and must await a review of the Plan, possibly a single issue review⁴¹. The only information available at the Inquiry on the ongoing review of the RSS to 2031, due to be published in draft in 2010, states that Policy ENG2, Renewable Energy Targets, will be reviewed and that a new overarching climate change policy is required. However, it is silent on the question of sub regional targets. Accordingly I regard the various technical reports as essentially work in progress that does not in itself add anything of great substance to the RSS targets so far as the Benington proposal is concerned.

³⁵ CD/RB19, Table 3.5 and ES, Table 2.3

³⁶ CD/RB29, p3

³⁷ Ibid, p2

³⁸ CD/RB18

³⁹ CD/RB14, pp.47, 48 and 70

⁴⁰ CD/RB14

⁴¹ Extract from Panel report in Mr Kendall's evidence.

106. Having said that, there is obviously a good case in principle for Hertfordshire to "do its bit" towards achieving those targets, against the background of PPS22 advice that "renewable energy developments should be capable of being accommodated throughout England...where environmental, economic and social impacts can be addressed satisfactorily". The key here is the environmental and other impacts and on all the evidence I am not convinced that these have yet been considered across the County in sufficient depth and detail that it can be said with confidence that the RSS follows the approach advised in PPS22, paras. 2 and 3, whereby targets should derive from, among other things, assessment of environmental impacts and capacity. Certainly there is nothing in the Round Table report that suggests that such matters were considered in any real sense prior to the targets being drawn up; and the conclusions of the work undertaken since, including the Arup report, still have to be tested through the development plan system.
107. The Benington proposal would provide some 6 MW of installed generation capacity, equivalent to about 13% of the suggested County figure for 2010 but only 0.73% of the Regional target for that year. PPS22 makes clear that even small contributions should not be eschewed; and I also take the Appellant's point that the RSS targets, published in May 2008, arguably underestimate what is now needed in the light of the EU renewables directive of April 2009⁴² and of more recent policy statements, notably the UK Renewable Energy Strategy. The need for further renewable energy developments is real and pressing. However, for all the reasons set out above I consider that the Regional renewables targets, whilst important considerations, are in this case principally indicative of a direction of travel, rather than carrying the very heavy weight in the planning balance urged by the Appellant. The County figures, whilst similarly indicative of that direction, add no further weight to the targets.
108. I conclude on the sixth and final issue that the appeal proposal would make a tangible contribution to regional and national targets for renewable energy generation, bearing in mind national planning policy. It would thus accord with the positive thrust of RSS Policy ENG2 and with the support in principle offered by LP Policy SD3.

Other Matters

109. A good deal of support for the proposal has been expressed, both in writing and at the Inquiry, by members of the public concerned, among other things, about climate change and implications of declining oil reserves. Many welcome the sight of wind turbines as an indication of tangible efforts to tackle global warming and as attractive machines in their own right; and it is suggested that the "silent majority" who have not expressed their views might well be favourably disposed, or at least neutral, towards development of wind energy. It is also pointed out that the landscape is evolving all the time in response to man's activities, that the Beane Valley has seen significant changes over the last century, and that other forms of renewable energy that have been referred to, such as biomass and biogas, are not without problems of their own.

⁴² CD/RB20.

110. I have taken all these matters into account in making my decision and fully accept the urgency of tackling climate change, as is emphasised in national planning policy. However, that same policy acknowledges that for renewable energy developments to be acceptable environmental impacts must be addressed satisfactorily. A balance must be struck. Looked at in the round, environmental impacts can certainly be construed to include the effects of climate change itself but they also include effects on landscape character and historic assets, and which I regard as main issues in this case.
111. The Action Group and others raised a number of additional objections including impact upon the equestrian enterprise at Gregory's Farm; distraction of drivers on nearby roads; effects on nature conservation; and damage to highways and disruption of traffic during construction. On the first point, the turbines would be some 680 m from the outdoor training ménage and there is no persuasive evidence that at this range the very limited incidence of shadow throw predicted, likely noise or the motion of the turbines would unduly disturb horses. So far as driver distraction is concerned, the turbines would be visible to a greater or lesser extent from many local roads, including the A602, but not in a sudden or disturbing way that might surprise drivers. In any case national advice⁴³ is that it is incumbent on drivers to take reasonable care over safety; and that wind turbines should not be treated any differently from other distractions, and should not be considered particularly hazardous. Ecological impacts are comprehensively addressed in the ES and the conclusion that they would not be significant has not been convincingly challenged. Nor have English Nature raised objections, subject to certain mitigation measures. Finally, whilst there would undoubtedly be some disruption to the local highway network during construction, it is likely that it would be short lived and there would be no serious risk of long-term damage to highways, their surroundings or associated infrastructure. None of these matters weigh heavily in the balance against the proposal.

BALANCING AND OVERALL CONCLUSIONS

112. In addition to the normal balancing of potential benefits and adverse impacts arising from most planning proposals, there is here the need to apply the test particular to the Green Belt. PPG2 makes clear that inappropriate development is by definition harmful to the Green Belt and should not be approved, except in very special circumstances. For such circumstances to exist the harm by reason of inappropriateness, and any other harm, must be clearly outweighed by other considerations. I have concluded under the first main issue that the construction of two of the three turbines would be inappropriate development in the Green Belt; would conflict with one of the Green Belt purposes, that of assisting in safeguarding the countryside from encroachment; and would significantly reduce openness⁴⁴. It would thus be at odds with the aims of LP Policy GBC1 and of national advice in PPG2.
113. In term of other potential harm, I conclude under the second main issue that the scale, motion and intrusion of the turbines would have significant adverse visual effects and impacts on landscape character in four of the five principal

⁴³ Companion Guide to PPS22, Planning for Renewable Energy, p171, para. 54.

⁴⁴ The associated meteorological mast would also detract from both Green Belt purposes and landscape character but my analysis includes these impacts with those of the turbines.

local LCAs and lesser but still harmful effects on a further two such areas. There is a danger that analysis by reference to LCAs can be seen as somewhat mechanistic and I have sought to counter this by considering effects in the round, and as they would be perceived by someone moving around the local countryside. Such a person's views would be screened at times by vegetation and landform, and perception of the turbines would also be affected by changing conditions of weather and visibility. Also, wind turbines must inevitably have significant visual and character effects in almost any landscape. I have also borne in mind the fact that planning permission is sought for a period of 25 years. However, as such a time period is roughly a third of an average lifetime I have some difficulty in regarding it as "temporary" in any real sense. If the turbines would cause significant harm to landscape character, as I believe is the case here, that harm would not be made more acceptable by the prospect of their ultimate removal. In my opinion, overall the impacts here would be severe and contrary to the aims of RSS Policy ENV2 and LP Policy GBC14.

114. Under the third issue I identify a serious adverse effect on living conditions in one local dwelling. This has to be seen in the context of the wider economic and social benefits that would accrue from renewable energy generation; and the near inevitability that at least some local residents would suffer some disadvantage from a proposal on this scale. Without disrespect to those who would be affected, it is not something that can weigh heavily in the balance here.
115. Under the fourth main issue I conclude that some users of nearby rights of way would be likely to have their enjoyment of the countryside diminished by sight of the turbines at close range, especially where relative tranquillity and absence of development can presently be enjoyed, qualities emphasised by the near invisibility in much of the landscape of nearby Stevenage. This is not determinative in itself but it adds some further weight to the harm I have identified in terms of visual and landscape character impacts.
116. Under the fifth main issue I conclude that there would be significant harm to the setting of two listed buildings, Gregory's Farmhouse and Frogmore Hall, and to the character of the locally designated Frogmore Park. I accept that PPG15 says that the historic environment of England is all-pervasive and cannot in practice be preserved unchanged; and that in a county like Hertfordshire it would be hard indeed to find a site for wind turbines that did not have some impact on the historic environment. And in this case only two listed buildings would be involved. However, in both cases important attributes of their settings would be damaged, namely rural isolation at Gregory's Farm and the historic park in the case of Frogmore Hall; and I regard the latter as particularly significant given the role that Hall and park together play in the local landscape and its history. In these respects the appeal proposal would be contrary to the aims of RSS Policy ENV6 and LP Policies BH12 and BH16.
117. Under the sixth and final issue I find that there would a tangible contribution to regional and national targets for renewable energy generation in line with the positive thrust of RSS Policy ENG2 and with the support in principle offered by LP Policy SD3. The benefits in terms of electricity development and carbon dioxide savings are significant. On the Appellant's unchallenged evidence the Benington turbines would produce some 14,400 GWhs of electricity per year,

enough to meet the needs of nearly 6% of the District's homes. They could also bring annual savings of between around 5,000 and 12,000 tonnes of carbon dioxide emitted by conventional generators. Other benefits, again essentially uncontested at the Inquiry, would include the prospect of services and supplies for erection and maintenance being provided by local firms; and of income to the landowner and developer being re-circulated locally. The proposal also carries some weight in that the site is arguably less constrained than other locations in Hertfordshire, notably in terms of air safety. Finally there would be landscape and recreation benefits in terms of additional hedgerow and tree planting, creation of chalk grassland and provision of a permissive bridleway, all volunteered by the developer, though the planting would have relatively limited impact during at least the early life of the turbines. All these benefits must be weighed against the harm identified in respect of the previous issues.

118. PPS22 and successive statements of Government policy make clear the imperative to develop sources of renewable energy but that imperative is accompanied by the need to take account of the effects on the environment. Thus advice on the universality of opportunities is accompanied by the caveat that environmental and other impacts should be addressed satisfactorily; that there should be appropriate environmental safeguards; and that targets should be reviewed and revised upwards subject to, among other things, the region's environmental capacity⁴⁵. The most recent statement of policy, the UK Renewable Energy Strategy, gives equal emphasis to reducing carbon emissions and securing energy supply, and safeguarding the landscape and natural heritage⁴⁶. In this case I consider that the importance of the latter should prevail.
119. Green Belt policy has for over half a century been, in the words of PPG2, an essential element of planning policy; and para. 1.4 of that guidance records its fundamental aim as to keep land permanently open. The imperative for renewable energy generation does not detract from that aim.
120. I conclude that the benefits of the proposal, substantial though they are, do not outweigh the harm to the natural and historic environment. So far as the Green Belt is concerned, the harm by reason of inappropriateness, and the other harm I have identified, are not clearly outweighed by other considerations in the shape of the benefits of the proposal; and the very special circumstances necessary to justify the development do not therefore exist. Accordingly, for the reasons given above, and bearing in mind all other matters raised, I conclude that the appeal should be dismissed.

Robin Brooks

INSPECTOR

APPEARANCES

⁴⁵ PPG2 paras. 1(i), 1(ii) and 3.

⁴⁶ CD/RB25, para. 4.9.

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Philip Williams	Local resident
Ken Grundy	Member, Benington Parish Council
Dave Stimpson	Chairman, Aston Parish Council
Nigel Poulton	Member, East Hertfordshire District Council and Watton-at-Stone Parish Council
Kevin Fitzgerald	Hon. Director, Hertfordshire Branch, Campaign to Protect Rural England

INTERESTED PERSONS:

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Giles Scrivener	Member, East Hertfordshire District Council
Alan Massam	Local resident
Philip Newman	Local resident
Tom Whitton	Local resident
John Shaw	Local resident
Jennifer Cobb	Local resident
Mrs D Ridley	Local resident
Jim Ranger	Member, East Hertfordshire District Council
Harry Bott	Local resident and appellants family
Nicholas Collingridge	Local resident
Oliver Heald MP	MP, North East Hertfordshire
Norman Plumb	Local resident

DOCUMENTS

Council Documents *(all prefixed DC)*

- 1 Opening statement
- 2 Council's briefing note on review of East of England Plan; and
information pack and consultation paper, East of England Regional

- Assembly, September 2009
- 3 Bundle of consultation responses from, and correspondence with, Natural England, Hertfordshire and Middlesex Wildlife Trust, Hertfordshire Biological Records Centre and Hertfordshire and Middlesex Bat Group
- 4 Closing statement

Appellant's Documents (*all prefixed APP*)

- 1 Opening statement
- 2 Errata to Mr Newland's proof of evidence
- 3 Draft National Policy Statement for Renewable Energy Infrastructure, Department of Energy and Climate Change, November 2009
- 4 Bat Survey of Benington Lordship, Patty Briggs, June 2006
- 5 Appeal decision letter on proposed wind turbine development south east of North Tawton, Devon, Ref. APP/Q1153/A/06/2017162, 11 December 2009
- 6 Transparencies of existing and predicted views in Environmental Statement
- 7 Map of baseline noise measurement locations
- 8 Table of sound power levels of GE Wind Energy 2.x turbine
- 9 Suggested viewpoints for Inspector's visits
- 10 Closing statement

Stop Benington Wind Farm Action Group's Documents (*all prefixed AG*)

- 1 Opening statement
- 2 List of appearances
- 3 Appeal decision letter on proposed wind turbine development at Busseys Loke, Hempnall, Norwich, Ref. APP/L2630/A/08/208443, 8 December 2009
- 4 Table of trends in generation from renewables by region, 2008, from Restats statistics data base
- 5 Appeal decision letter on proposed wind turbine development at Gorsedd Bran, Nantglyn, Denbighshire, Ref. APP/R6830/A/08/2074921, 18 November 2009
- 6 Article from www.wind-watch.org; New Evidence Shows that Government Suppressed Expert Advice to Lower Wind Turbine Noise Limits Intended to Protect Residents
- 7 Extracts from third draft of report on low frequency noise at three wind farms by Hayes MacKenzie Partnership for DTI
- 8 Transparencies derived from wireframes in Ms Hawkins rebuttal evidence⁴⁷
- 9 Table comparing assessment of historic assets in Ms Hawkins' and Ms Bolger's evidence
- 10 Photograph from Benington Lordship with height of proposed

⁴⁷ Based in turn upon photographs in Ms Bolger's evidence

- turbines superimposed
- 11 Map extracts from Placing Renewables in the East of England (CD/RB19), February 2008
- 12 Suggested viewpoints for Inspector's visits
- 13 Closing statement

Other Documents

- A Inquiry attendance sheets
- B Statement of Common Ground and agreed erratum
- C Lists of Core Documents
- D Lists of suggested conditions and noise guidance notes
- E Statement of objection by Hertfordshire Gardens Trust
- F Statement of objection by Cllr Jim Ranger
- G Letter of objection from Margaret Woods
- H Letter of objection from John Woods
- I Letter of objection from Dr IJ McCallum
- J Statement of support by Nicholas Collingridge
- K Statement of support by Philip Newman
- L Statement of support by Harry Bott
- M Statement of support by Tom Whitton
- N Statement of support by John Shaw
- O Statement of support by Jenny Cobb
- P Statement of support by Mrs D Ridley
- Q Statement of support by Alan Massam
- R Letters of support from Jennifer Scrope; Jean Pooley on behalf of the Rural Issues Group of the CDA for Hertfordshire; and Richard Sugden; submitted by Harry Bott
- S Statement by Cllr Giles Scrivener