



Ministry of Housing,
Communities &
Local Government

Miss Kirsty Morris
Eversheds LLP
Bridgewater Place
Water Lane
Leeds
LS11 5DR

Our ref: APP/P4225/V/15/3139737

Your ref: NESBITP\177913-000012
15/00395/FUL

13 February 2018

Dear Miss Morris

**APPLICATION B: TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY SCOUT MOOR WIND FARM EXPANSION LIMITED
LAND AT SCOUT MOOR WIND FARM, ROCHDALE, LANCASHIRE
APPLICATION REF: 15/00395/FUL**

1. I am directed by the Secretary of State to refer to his letter of 6 July 2017 and to the report enclosed with that letter of the Inspector, John Woolcock BNatRes (Hons) MURP DipLaw MRTPI, who held a public local Inquiry over 8 days from 11 October 2016 into your client's application - in accordance with application reference 15/00395/FUL, dated 19 March 2015, for:
 - construction and operation of 16 wind turbines with a maximum height to the tip of the blade of 115 metres (above ground level) for a temporary period of 25 years together with:
 - the installation of associated ancillary infrastructure (new and upgraded vehicular access tracks, crane pads, underground electrical cabling, sub-station and compound, drainage infrastructure and temporary construction compound);
 - the installation of an anemometer mast of maximum height of 60 metres for a temporary period of 25 years;
 - the retention of those elements of ancillary infrastructure associated with the existing Scout Moor Wind Farm which it is necessary to retain on site post-2034 to enable the operation and maintenance of the proposed 16 wind turbines for a period of 25 years from the date of their first exportation of electricity to the national electricity grid network;
 - the implementation of a scheme of moorland restoration and management (MRMP) including the erection of fencing (without compliance with condition 10 of the consents

granted for the existing Scout Moor Wind Farm (reference GBDC/003/00005c-02)) pursuant to the provisions of Section 36 of the Electricity Act 1989 and Section 90(2) of the Town and Country Planning Act 1990;

- the erection of stock proof fencing, gates and stock holding pen in association with the creation of a permissive bridleway;
- the formation of paths for pedestrians and horse-riders to link existing and proposed wind farm access tracks to existing Public Rights of Way (PRoW).

2. A copy of the Secretary of State's letter of 6 July 2017 is enclosed at Annex A and forms part of the decision in this case.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that Application A for 14 wind turbines in Rossendale be refused planning permission and that Application B for 2 wind turbines in Rochdale be granted planning permission, subject to planning conditions. For the reasons set out in his letter of 6 July 2017, the Secretary of State agreed with the Inspector's recommendation and refused planning permission for Application A; and he indicated that he was minded to grant planning permission for Application B, subject to receipt of revised planning conditions that comply with the relevant legal and policy tests, including provisions for the Moorland Restoration and Management Plan (MRMP) and its implementation; and a revised noise condition that provides for limits related only to the noise emissions from PT15 and PT16 in combination with noise from any existing or permitted turbines at that time. Accordingly, the Secretary of State deferred his decision on Application B to enable the matter to be addressed.

Matters arising since the Secretary of State's letter of 6 July 2017

4. Following his letter of 6 July 2017, the Secretary of State received a letter dated 31 August 2017 from you, enclosing comments and proposed revisions to the MRMP condition and a completed table of final noise conditions – all approved by Rochdale Metropolitan Borough Council. On 20 October 2017, the Secretary of State wrote to interested parties, inviting representations on the revised conditions proposed in your representations of 31 August 2017.
5. Representations received were circulated to interested parties on 28 November 2017. All the relevant representations in relation to this case following the issue of the Secretary of State's "minded to allow" decision on 6 July 2017 are listed at Annex B. Copies of those representations may be obtained on written request to the address at the foot of the first page of this letter.
6. Having carefully considered these representations, the Secretary of State is satisfied that the proposed revised conditions comply with the relevant legal and policy tests and address his concerns.

Planning conditions

7. In light of his comments above, and having carefully considered the Inspector's analysis at IR486-499, the recommended conditions set out at the end of the Inspector's Report and the Addendum Report, and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance, the Secretary of State is satisfied that the revised conditions set out at Annex C of this letter comply with the policy test set out at paragraph 206 of the Framework and they should form part of his decision.

Formal decision

8. For the reasons set out above and in his letter of 6 July 2017, the Secretary of State agrees with the Inspector's recommendation and is satisfied that he can proceed to issue a final decision on this application. He hereby grants planning permission for the revised development as described below, subject to the conditions set out in Annex C of this decision letter for the construction and operation of 2 no. wind turbines with a maximum height to the tip of the blade of 115 metres (above ground level) for a temporary period of up to 25 years together with:

- the installation of associated ancillary infrastructure (new and upgraded vehicular access tracks, crane pads, underground electrical cabling and drainage infrastructure);
- the retention of those elements of ancillary infrastructure associated with the existing Scout Moor Wind Farm which it is necessary to retain on site post-2034 to enable the operation and maintenance of the proposed wind turbines for a period of up to 25 years from the date of their first exportation of electricity to the national electricity grid network; and
- the implementation of a scheme of moorland restoration and management (MRMP) including the erection of fencing (without compliance with condition 10 of the consents granted for the existing Scout Moor Wind Farm (reference GBDC/003/00005c-02)) pursuant to the provisions of Section 36 of the Electricity Act 1989 and Section 90 (2) of the Town and Country Planning Act 1990,

In accordance with application ref 15/00395/FUL, dated 19 March 2015.

9. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

10. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
11. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
12. A copy of this letter has been sent to Rochdale Metropolitan Borough Council and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

Merita Lumley

Authorised by Secretary of State to sign in that behalf

Annex A: Secretary of State's decision letter of 6 July 2017



**Department for
Communities and
Local Government**

Miss Kirsty Morris
Eversheds LLP
Bridgewater Place
Water Lane
LEEDS
LS11 5DR

Our ref: APP/B2355/V/15/3139740
APP/P4225/V/15/3139737

Your ref: 2015/0112
15/00395/FUL

06 July 2017

Dear Madam

**APPLICATION A: TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY SCOUT MOOR WIND FARM EXPANSION LIMITED
LAND AT SCOUT MOOR WIND FARM, ROSSENDALE, LANCASHIRE
APPLICATION REF: 2015/0112**

**APPLICATION B: TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION MADE BY SCOUT MOOR WIND FARM EXPANSION LIMITED
LAND AT SCOUT MOOR WIND FARM, ROCHDALE, LANCASHIRE
APPLICATION REF: 15/00395/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Woolcock BNatRes(Hons) MURP DipLaw MRTPI, who held a public local Inquiry over 8 days from 11 October 2016 into your client's applications - in accordance with application references: 2015/0112 and 15/00395/FUL, both dated 19 March 2015, for:
 - construction and operation of 16 wind turbines with a maximum height to the tip of the blade of 115 metres (above ground level) for a temporary period of 25 years together with:
 - the installation of associated ancillary infrastructure (new and upgraded vehicular access tracks, crane pads, underground electrical cabling, sub-station and compound, drainage infrastructure and temporary construction compound);
 - the installation of an anemometer mast of maximum height of 60 metres for a temporary period of 25 years;
 - the retention of those elements of ancillary infrastructure associated with the existing Scout Moor Wind Farm which it is necessary to retain on site post-2034 to enable the operation and maintenance of the proposed 16 wind turbines for a period of 25 years

from the date of their first exportation of electricity to the national electricity grid network;

- the implementation of a scheme of moorland restoration and management (MRMP) including the erection of fencing (without compliance with condition 10 of the consents granted for the existing Scout Moor Wind Farm (reference GBDC/003/00005c-02)) pursuant to the provisions of Section 36 of the Electricity Act 1989 and Section 90(2) of the Town and Country Planning Act 1990;
 - the erection of stock proof fencing, gates and stock holding pen in association with the creation of a permissive bridleway;
 - the formation of paths for pedestrians and horse-riders to link existing and proposed wind farm access tracks to existing Public Rights of Way (PRoW).
2. On 30 November 2015, the Secretary of State directed, in pursuance of Section 77 of the Town and Country Planning Act 1990, that your client's applications be referred to him instead of being dealt with by the relevant local planning authority.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that Application A be refused planning permission and that Application B be granted planning permission, subject to planning conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and his recommendations. He has decided to refuse planning permission to Application A and is minded to grant planning permission to Application B, subject to receipt of revised planning conditions that comply with the relevant legal and policy tests, including provisions for the Moorland Restoration and Management Plan (MRMP) and its implementation; and a revised noise condition that provides for limits related only to the noise emissions from PT15 and PT16 in combination with noise from any existing or permitted turbines at that time.
5. Copies of the Inspector's report (IR) and Addendum Report (AR) are enclosed. All references to paragraph numbers, unless otherwise stated, are to these reports.

Environmental Statement

6. In reaching this position, the Secretary of State has taken into account the Environmental Statement and further environmental information which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Having taken account of the Inspector's comments at IR335, the Secretary of State is satisfied that the Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Procedural matters

7. The Secretary of State notes that in June 2016 both councils consulted on proposed amendments to the scheme and that there were no objections to those amendments (IR6-12). He has considered the Inspector's comments at IR336-341 and has decided to determine the applications on the basis of the suggested amendments, as agreed by the applicant and the councils, using separate descriptions for each application, to properly reflect the development for that part of the scheme, as set out at IR Annex C2 and IR Annex C3. He is satisfied that there is no evidence to indicate that dealing

with the applications on the basis of the amended descriptions would prejudice the interests of any persons or parties.

Matters arising since the close of the Inquiry

8. The Secretary of State has had regard to correspondence submitted to him after the Inquiry, as set out in Annex B to this letter. He has carefully considered and taken into account these representations but he does not consider that they raise new planning issues that would affect his decision or require him to refer back to parties. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.
9. In response to the Secretary of State's request for additional information, the Inspector submitted an Addendum Report (AR), which sets out suggested revised conditions for Application B. The AR is also enclosed with this letter.

Policy and statutory considerations

10. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. For **Application A**, the development plan consists of Rossendale Local Plan Part 1: Core Strategy Development Plan Document: The Way Forward (2011- 2026) adopted 2011 (RossendaleCS). The Secretary of State considers that the development plan policies of most relevance are those set out at IR17-18. For **Application B**, the development plan includes the Rochdale Core Strategy, which was adopted on 19 October 2016 (RochdaleCS); and the saved policies of the Rochdale Unitary Development Plan, which was adopted in 2006 (UDP). The Secretary of State considers that the development plan policies of most relevance are those set out at IR19-20.
11. Other material considerations which the Secretary of State has taken into account for both applications include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'); the Overarching National Policy Statement (NPS) for Energy (EN-1) and NPS for Renewable Energy (EN-3); the Written Ministerial Statement relating to Local Planning issued on 18 June 2015 (WMS); and the Noise Policy Statement for England in 2010 (NPSE), and A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise by the Institute of Acoustics in 2013 (IoA GPG).
12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess. In accordance with section 72 of the LBCA, the Secretary of State has paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Main issues

13. The Secretary of State agrees with the Inspector that the main issues are those set out at IR344.

Green Belt

14. **Application A:** The Secretary of State notes at IR347 that the elements of the proposed development that would be within the Rossendale part of the Green Belt comprise underground cabling and the continued use of the existing access tracks. For the reasons given at IR347, he agrees with the Inspector that there is no reason to find that Application A is inappropriate development or that it would conflict with local or national policy concerning the Green Belt.
15. **Application B:** The Secretary of State has carefully considered the Inspector's analysis at IR348-350 and IR459-463. He notes that the proposed development is not included in the exceptions set out in paragraph 89 of the Framework, and that paragraph 90 does not apply. For the reasons given at IR348-350, he agrees with the Inspector that this part of the development would be inappropriate development in the Green Belt and should not be approved except in very special circumstances. He further agrees that the two proposed turbines, with their associated equipment and infrastructure, would have a significant adverse effect on the openness of the Green Belt, and that the resultant encroachment into the countryside would be at odds with one of the purposes of the Green Belt.
16. The Secretary of State gives significant weight to the renewable energy benefits of the scheme (see paragraph 27 below). Paragraph 91 of the Framework provides that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. The Secretary of State agrees with the Inspector at IR463 that these benefits would be sufficient to clearly outweigh the harm to the Green Belt and any other harm. Like the Inspector, he concludes that 'other considerations' in this case clearly outweigh the harm identified, and the very special circumstances necessary to justify the development exist.

Character and appearance

17. **Application A:** The Secretary of State has carefully considered the Inspector's analysis and conclusions at IR351-372 and IR376-377. He agrees with the Inspector that the proposal includes an area that is a valued landscape because of its openness, tranquillity and attractive views into the lower valleys. He notes that the proposal would extend the footprint of the existing wind farm and would introduce prominent views of turbines where none currently exist of the existing Scout Moor Farm. He considers that the proposed layout would not integrate well with the existing turbines. Overall, he agrees with the Inspector that the proposed turbines sited near to the edge of the moor would have a significant adverse effect on the landscape character and visual amenity.
18. **Application B:** The Secretary of State has carefully considered the Inspector's analysis and conclusions at IR351-358 and IR373-377. He agrees with the Inspector at IR373 that the proposal would be largely contained within the footprint of the existing wind farm and would have a negligible effect on the local landscape. He further agrees with the Inspector at IR374-375 that the proposal would integrate well with the existing wind farm and would have a localised visual effect of minor significance.

Local amenity and living conditions – Application A and Application B

19. The Secretary of State has carefully considered the impact of the proposal on the residential outlook. For the reasons given at IR378-383, he agrees with the Inspector at IR384 that the proposed turbines would not result in an overwhelming or oppressive impact on the outlook from nearby dwellings or their associated amenity space that would result in unsatisfactory living conditions.
20. The Secretary of State has carefully considered the potential impact of wind turbine noise, shadow flicker, health and well-being. For the reasons given at IR385-397, he agrees with the Inspector that, subject to appropriate planning conditions, the proposal could proceed without unacceptable impact on health and well-being; from shadow flicker from turbine blades or from noise.

Biodiversity - Application A and Application B

21. The Secretary of State has carefully considered the Inspector's analysis and conclusions at IR398-415. He agrees with the Inspector at IR414-415 that, subject to strict controls and enforcement of an approved construction management plan and restoration measures, the construction and operation of the proposed turbines would not be likely to have a significant adverse effect on biodiversity.
22. For the reasons given at IR405-410, the Secretary of State agrees with the Inspector that the suggested MRMP conditions would not meet the six tests set out in the Framework and therefore the claimed biodiversity benefits of the MRMP cannot be given any weight in determining the applications (IR411 & 415).

Heritage assets

23. For the reasons given at IR418-428, the Secretary of State agrees with the Inspector's conclusion that **Application A** would result in an adverse impact of low to moderate significance on heritage assets, whereas **Application B** would result in a negligible impact on nearby heritage assets.

Other considerations - Application A and Application B

24. The Secretary of State has carefully considered the Inspector's analysis of the impacts of the proposal on equestrian access and public rights of way. For the reasons given by the Inspector at IR429-436, he agrees with the Inspector that the scheme would be likely to have a neutral impact on the use of Scout Moor by equestrians and users of public rights of way.
25. For the reasons given at IR437, the Secretary of State agrees with the Inspector that there are no highway safety grounds against the proposal. For the reasons given at IR438, the Secretary of State considers that drainage and flood risk could be reasonably addressed by the imposition of planning conditions, and that measures could be secured to maintain water quality. For the reasons given at IR439, the Secretary of State does not consider that the limited duration and reversibility of the development are factors that should be given much weight in the planning balances that apply here.
26. The Secretary of State has given careful consideration to the Inspector's analysis at IR440-447 and he agrees with the Inspector's conclusions on each issue.

Renewable energy and climate change

27. The Secretary of State has given careful consideration to the Inspector's analysis and conclusions at IR448-452 and agrees that the scheme would make a significant contribution towards the generation of renewable energy, and so would assist in meeting local and national targets. He also agrees with the Inspector at IR452 that the scheme would reduce greenhouse gas emissions and provide energy security, which are important public benefits. He considers that these benefits weigh significantly in favour of granting planning permission to both applications.

Written Ministerial Statement (WMS)

28. **Application A:** The Secretary of State has considered the Inspector's analysis and conclusions at IR475-485 and agrees that Application A would result in significant adverse visual effects and would harm the appearance of the area for local receptors to the north and west of Scout Moor. Like the Inspector at IR483, the Secretary of State concludes that the proposal would not accord with the transitional arrangements in the WMS and considers that that this conflict attracts significant weight against the proposal.

29. **Application B:** The Secretary of State has carefully considered the issues raised by the affected communities and has had regard to the Inspector's analysis and conclusions at IR475-485. He agrees with the Inspector at IR484 that very special circumstances exist to outweigh the harm to the Green Belt; and that there would be a minor impact on the character and appearance of the area. He also agrees that none of the other issues raised by affected communities are of sufficient substance to bring the proposal into conflict with the WMS. Therefore he agrees with the Inspector's conclusion that this application would comply with the transitional arrangement in the WMS.

Planning conditions

30. **Application A:** The Secretary of State has given careful consideration to the Inspector's analysis at IR486-499, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector, except the MRMP and noise condition, comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of the conditions would overcome his reasons for refusing planning permission to this application.

31. **Application B:** The Secretary of State has given careful consideration to the Inspector's analysis at IR486-499, the recommended conditions set out at the end of the IR and AR, and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector, except the MRMP and noise condition, comply with the policy test set out at paragraph 206 of the Framework and that the conditions set out at Annex F Inspector's Addendum Report should form part of his decision.

Planning balance and overall conclusion

Application A

32. For the reasons given above and as set out at IR465-466, the Secretary of State considers that the application is not in accordance with Policies 20, 18 and 1 of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
33. The Secretary of State considers that the proposal would make a significant contribution to renewable energy targets and the reduction of greenhouse gas emissions; it would provide additional energy security; and would result in some benefits to the local and wider economy. These are important public benefits which attract significant weight.
34. In accordance with the s.66 and 72 duty, the Secretary of State attributes considerable weight to the identified harm to heritage assets, but considers that the public benefits of the renewable energy generated by the scheme would far outweigh any harm to heritage assets. However, he considers that the overall benefits of the scheme would not be sufficient to also outweigh the harm identified to the character and appearance of the area, which attracts significant weight against the proposal. He considers that the proposal does not accord with the WMS and this attracts significant weight.
35. The Secretary of State agrees with the Inspector that noise generated by the proposal would not unacceptably harm the amenities of any neighbouring properties and this is not a consideration that weighs against the proposal. He considers that no weight should be given to the biodiversity and other benefits of the MRMP.
36. Overall, taking all these considerations into account, and weighing the benefits of the scheme against the likely harm, the Secretary of State agrees with the Inspector that the planning balance falls against granted planning permission.

Application B

37. For the reasons given above, and as set out at IR468-470, the Secretary of State agrees with the Inspector that the application is in accordance with the relevant development plan policies. While the proposal would not entirely accord with Policy P2, which sets out measures for protecting and enhancing character, landscape and heritage, the Secretary of State notes that policy EN-3 recognises that some harm is inevitable from large turbines. Like the Inspector, the Secretary of state concludes that the proposal is therefore in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
38. The Secretary of State considers that the proposal would make a significant contribution to renewable energy targets and the reduction of greenhouse gas emissions; it would provide additional energy security; and would result in some benefits to the local and wider economy. These are important public benefits which should be given significant weight. The Secretary of State considers that the proposal accords with the WMS and this also attracts significant weight.

39. The Secretary of State considers that the proposal would have a negligible impact on nearby heritage assets, which attracts limited weight. Any impact on heritage assets in this case would be far outweighed by the public benefits of the scheme. Taking into account the combined effects on outlook, of shadow flicker and likely noise, the proposal would not have a significant adverse effect on the living conditions of any nearby residents, therefore these impacts attracts limited weight. The harm to the character and appearance of the area would be minor and localised and attracts limited weight. He considers that duration and reversibility attract little weight in determining whether very special circumstances exist.
40. The Secretary of State considers that the proposal would be inappropriate development in the Green Belt, would have an adverse impact on the openness of the Green Belt and would be a further intrusion into this part of the countryside, thus being at odds with one of the purposes of the Green Belt. These harms attract significant weight. He considers that the renewable energy benefits of the scheme weigh heavily in favour of the proposal. Paragraph 91 of the Framework provides that very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. The Secretary of State considers that these benefits would be sufficient to clearly outweigh the harm to the Green Belt and any other harm. He concludes that the 'other considerations' in the case clearly outweigh the harm identified, and the very special circumstances necessary to justify the development exist.

Formal decision

41. **Application A:** Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby refuses your client's application for:

The construction and operation of 11 no. wind turbines with a maximum height to the tip of the blade of 115 metres (above ground level) and 3 no. wind turbines with a maximum height to the tip of the blade of 100 metres (above ground level) for a temporary period of up to 25 years together with:

- the installation of associated ancillary infrastructure (new and upgraded vehicular access tracks, crane pads, underground electrical cabling, sub-station and compound, drainage infrastructure and temporary construction compound);
- the installation of an anemometer mast of a maximum height of 60 metres for temporary period of 25 years;
- the retention of those elements of ancillary infrastructure associated with the existing Scout Moor Wind Farm which it is necessary to retain on site post-2034 to enable the operation and maintenance of the proposed wind turbines for a period of up to 25 years from the date of their first exportation of electricity to the national electricity grid network;
- the implementation of a scheme of moorland restoration and management (MRMP) including the erection of fencing (without compliance with condition 10 of the consents granted for the existing Scout Moor Wind Farm (reference GBDC/003/00005c-02)) pursuant to the provisions of Section 36 of the Electricity Act 1989 and Section 90 (2) of the Town and Country Planning Act 1990;

- the erection of stock proof fencing, gates and stock holding pen in association with the creation of a permissive bridleway; and
- the formation of paths for pedestrians and horse-riders to link existing and proposed wind farm access tracks to existing Public Rights of Way (PROW).

42. **Application B:** Accordingly, for the reasons given above, the Secretary of State is minded to grant planning permission for the revised development as described below and at Annex C3 of IR, subject to the conditions set out at Annex A below and Annex F of the Inspector's Addendum Report; subject to the receipt of revised provisions for the MRMP and its implementation to ensure that they comply with the relevant legal and policy tests; and subject to the receipt of a revised noise condition that provides for limits related only to the noise emissions from PT15 and PT16 in combination with noise from any existing or permitted turbines at that time:

The construction and operation of 2 no. wind turbines with a maximum height to the tip of the blade of 115 metres (above ground level) for a temporary period of up to 25 years together with:

- the installation of associated ancillary infrastructure (new and upgraded vehicular access tracks, crane pads, underground electrical cabling and drainage infrastructure);
- the retention of those elements of ancillary infrastructure associated with the existing Scout Moor Wind Farm which it is necessary to retain on site post-2034 to enable the operation and maintenance of the proposed wind turbines for a period of up to 25 years from the date of their first exportation of electricity to the national electricity grid network; and
- the implementation of a scheme of moorland restoration and management (MRMP) including the erection of fencing (without compliance with condition 10 of the consents granted for the existing Scout Moor Wind Farm (reference GBDC/003/00005c-02)) pursuant to the provisions of Section 36 of the Electricity Act 1989 and Section 90 (2) of the Town and Country Planning Act 1990.

43. As set out at paragraphs 4, 31 and 42 above, before reaching a final decision, the Secretary of State considers that it is necessary for the applicant to amend the MRMP provisions and the noise condition to ensure that they meet the relevant legal and policy tests. The Secretary of State proposes to allow eight weeks from the date of this letter (i.e. to 31 August 2017) for the amended conditions to be revised and agreed by the main parties. He then intends to proceed to a final decision as soon as possible. It should therefore be noted that he does not regard this letter as an invitation to any party to seek to re-open any of the other issues covered in it.

44. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

45. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an

application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

46. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
47. A copy of this letter has been sent to Rossendale Borough Council and Rochdale Metropolitan Borough Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Merita Lumley

Authorised by Secretary of State to sign in that behalf

Annex A: Possible revised planning conditions for Application B (subject to comment from the parties)

Description of proposed development for RMBC application as follows.¹

The construction and operation of 2 no. wind turbines with a maximum height to the tip of the blade of 115 metres (above ground level) for a temporary period of up to 25 years together with:

- the installation of associated ancillary infrastructure (new and upgraded vehicular access tracks, crane pads, underground electrical cabling and drainage infrastructure);
- the retention of those elements of ancillary infrastructure associated with the existing Scout Moor Wind Farm which it is necessary to retain on site post-2034 to enable the operation and maintenance of the proposed wind turbines for a period of up to 25 years from the date of their first exportation of electricity to the national electricity grid network; and
- the implementation of a scheme of moorland restoration and management (MRMP) including the erection of fencing (without compliance with condition 10 of the consents granted for the existing Scout Moor Wind Farm (reference GBDC/003/00005c-02)) pursuant to the provisions of Section 36 of the Electricity Act 1989 and Section 90 (2) of the Town and Country Planning Act 1990.

In the following Conditions:

The 'First Export Date' means the date when the turbine generators forming part of the development hereby permitted have first supplied electricity to the national grid on a commercial basis save for the purposes of testing.

'ES' means the Environmental Statement dated March 2015.

Notwithstanding the details in the MRMP submitted with the application, in this planning permission and in the following Conditions the 'MRMP' means the scheme of moorland restoration and management approved pursuant to Condition 23 below.

'ECoW' means Ecological Clerk of Works.

'MoD' means Ministry of Defence.

The 'Noise Condition' for the purposes of these Conditions and Guidance Notes is Condition 36.

1. The development hereby permitted shall commence before the expiration of five years from the date of this permission. Written confirmation of the Commencement of Development shall be provided to the local planning authority no later than one week after the event.
2. The development hereby permitted shall be removed in accordance with Condition 3 below after a period of 25 years from the First Export Date. Written notification of the First Export Date shall be given to the local planning authority no later than one calendar month after the event.

¹ Taken from Annex C3 of Inspector's Report.

3. Not later than 12 months before the expiry of the 25 year period referred to in Condition 2, a Decommissioning and Site Restoration Scheme shall be submitted to the local planning authority for approval in writing. The Scheme shall include a timetable for completion of all works and shall be informed by relevant ecological surveys and make provision for;
 - a) the removal of the turbines and the associated above ground equipment and infrastructure and turbine foundations to a depth of at least one metre below the ground;
 - b) the management and timing of any works together with a Traffic Management Plan to address likely traffic impact issues during the decommissioning period and restoration measures for the land from which the turbines and any ancillary equipment and structures have been removed;
 - c) earth moving and soil replacement;
 - d) the decommissioning effects on flora and fauna along with the restoration of the landscape;
 - e) reinstatement of public rights of ways, paths and footpaths; and
 - f) monitoring and remedial actions.

The approved Scheme shall be implemented within 12 months of either the expiry of the 25 year period referred to in Condition 2 or the local planning authority's approval of the Scheme, whichever is the later, and shall be completed in accordance with the approved timetable.

4. No later than 12 months before works commence to decommission the Existing Scout Moor Wind Farm Development a Decommissioning and Site Restoration Scheme in respect of turbines PT15 and PT16, hereby permitted, shall be submitted to and approved in writing by the local planning authority. This Scheme shall be supported by ecological surveys which have been undertaken to inform the Scheme.

The Scheme shall also include the management and timing of any works together with a Traffic Management Plan to address likely traffic impact issues during the decommissioning period and restoration measures for the land where the turbines and any ancillary equipment and structures have been removed.

Not later than one month from the date on which the last turbine of the Existing Scout Moor Wind Farm Development is removed from the site turbines PT15 and PT16 and the associated above ground equipment and turbine foundations to a depth of at least one metre below the ground shall be removed in accordance with the approved Scheme. That part of the site thereafter shall be restored in accordance with the approved Scheme within 12 months of the removal of turbines PT15 and PT16.

In this Condition 'Existing Scout Moor Wind Farm Development' means the existing wind farm the subject of Consent GDBC/003/00005C-02 dated 25 May 2005 and any subsequent variation of this Consent.

5. If any of the turbines hereby permitted fail to operate for a continuous period of 12 months following the First Export Date, not due to it being under repair or

replacement, then the local planning authority shall be notified in writing within one month of the end of the 12 month period.

Within one month of the notification a Partial Decommissioning Scheme or a Scheme for Repair shall be submitted to the local planning authority for its written approval. If the Scheme is for decommissioning then it shall include a method statement and timetable for the dismantling and removal of the relevant turbine and associated above ground works and foundations to a depth of at least one metre below ground; a Traffic Management Plan; and a method statement and timetable for any necessary restoration works following removal of the relevant turbine. The Scheme shall thereafter be implemented in accordance with the approved details and timetable.

6. Subject to the Conditions attached to this permission, including arrangements for micro-siting and any details approved pursuant to Conditions, the development shall be carried out in accordance with the following approved plans and documents:
 - ES/001 (Application Site and Administrative Boundaries);
 - ES/002 (Proposed Layout – Masterplan);
 - ES/003 (Proposed Layout North Inset);
 - ES/004 (Proposed Layout West Inset);
 - ES/004a (Proposed Layout South Inset);
 - ES/005 (Proposed Layout East Inset);
 - ES/012 (Retained Infrastructure between 2034 and 2042);
 - ES/020 (Proposed Connections between the New and Existing Access Tracks).
7. The turbines hereby permitted shall have three blades which shall rotate in the same direction. The overall height of the turbines shall not exceed 115 m to the tip of the blades when the turbine is in the vertical position and the rotor diameter of the blades shall not exceed 85 m.
8. No turbine shall be erected on site until details of the finish and colour of the turbines, together with transformer locations have been submitted to and approved in writing by the local planning authority. No name, sign, symbol or logo shall be displayed on any external surfaces of the turbines other than those required to meet statutory health and safety requirements. The development shall thereafter be carried out and operated in accordance with the approved details.
9. All electrical cabling between the individual turbines and between the turbines and the control building shall be installed underground.
10. No development shall commence on site until a Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include proposals for;
 - a) a pre-construction highway condition survey including public rights of way;
 - b) the routing of construction traffic;
 - c) the timing of delivery vehicle movements including turbine component delivery vehicles;
 - d) the management and design of junctions to and crossings of the public highway and other public rights of way;

- e) the management of the site entrance from the public highway;
- f) temporary warning signs and any temporary or permanent works, including locations, required in the public highway to enable the construction of the development;
- g) mechanisms required for the transportation of abnormal loads to the site;
- h) details of a banksman to escort abnormal loads to the site;
- i) the levels and timing of development traffic to minimise effects on Edenfield village and its community;
- j) details of arrangements for off-road car parking facilities within the Edenfield Community Centre during the period of construction of the development hereby permitted; and
- k) details of the site manager who would be the main contact for the public during the construction period.

The Plan shall be implemented as approved by the local planning authority.

Following the completion of the development a scheme to restore any damage done to the highway(s) and public rights of way as a result of the development (in accordance with the pre-condition survey(s)) shall be submitted to and approved in writing by the local planning authority.

11. No development shall commence until a Construction Method Statement (hereinafter CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include details of the following;
- a) details of the phasing of construction works;
 - b) the provision of parking, loading and unloading, and manoeuvring areas for vehicles within the site;
 - c) the methods of working to be employed in the construction of the cable trenches, crane pads and foundation works;
 - d) site illumination during the construction period;
 - e) the siting and details of wheel washing facilities;
 - f) the cleaning of the entrance to the site and the adjacent public highway and the sheeting of all heavy goods vehicles taking spoil or construction materials to or from the site to prevent spillage or deposit of any materials on the highway;
 - g) the method of disposal of foul drainage and sewage;
 - h) dust management;
 - i) details of emergency procedures;
 - j) the disposal of surplus materials;

k) details of how the construction compound and associated construction works will be reinstated, including a timetable for completion of the post construction restoration and reinstatement works;

l) proposals for the restoration of the site following the completion of the development; and

m) a Construction Noise Management Plan including identification of access routes, locations of materials lay-down areas, details of equipment to be employed, operations to be carried out and any necessary mitigation measures.

The construction of the development shall be carried out in accordance with the approved CMS, subject to any variations approved in advance in writing by the local planning authority.

12. No development shall commence until a Construction and Environmental Management Plan, prepared in accordance with the details contained in ES Volume 3 Technical Appendix 5.1, has been submitted to and approved in writing by the local planning authority. The development shall be implemented thereafter in accordance with the approved Plan or any updated version approved in advance in writing by the local planning authority.
13. Prior to the commencement of construction of the footpath links to the existing public rights of way as shown on ES Figure 5.15, plans confirming the method of construction and surfacing for each section of new access track, along with a timetable for the implementation of the same, shall be submitted to and approved in writing by the local planning authority. The access tracks shall thereafter be constructed as approved.
14. Construction work and any associated traffic movements to or from the site shall only take place between the hours of 07.00 to 19.00 Mondays to Fridays inclusive and the hours of 07.00 to 14.00 on Saturdays with no such work or associated traffic movements on a Sunday or Public Holiday. Outwith these specified hours development on the site shall be limited to turbine erection, maintenance, pouring of concrete, emergency works and dust suppression, unless otherwise approved in advance in writing by the local planning authority. Where emergency works are required written notification shall be given to the local planning authority within 48 hours of their occurrence.
15. No development shall commence on site until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation, which has been submitted to and approved in writing by the local planning authority. The Scheme shall include;
 - a) the programme and methodology of site investigation and recording which shall include a timetable for reporting the findings to the local planning authority;
 - b) provision for post investigation assessment, reporting and dissemination;
 - c) provision to be made for deposition of the analysis and records of the site investigation; and
 - d) any requirement for an Archaeological Watching Brief.

The Scheme shall be implemented as approved by the local planning authority.

A report of the findings from any archaeological site works shall be submitted to the local planning authority in accordance with the approved timetable.

16. The turbines hereby permitted shall be erected at the following grid co-ordinates:

Turbine	Easting	Northing
PT15	383290	418287
PT16	384156	418418

Notwithstanding the terms of this Condition the turbines and other infrastructure hereby permitted may be micro-sited within 30 m, save that;

- a) no turbines or other infrastructure may be micro-sited within the 30 m buffer zone shown on ES Volume 2B Figure 13.1; and
- b) the turbine PT16 shall not be micro-sited any closer to the residential property known as Higher Red Lumb Farm.

A plan showing the actual position of the turbines on the site along with tracks, hard standings, access areas, infrastructure routes, borrow pits etc. shall be submitted to the local planning authority within three months of the First Export Date.

17. Written confirmation of;

- a) the date of commencement of construction;
- b) the date of completion of construction;
- c) the maximum height of construction equipment; and
- d) the latitude and longitude of each wind turbine

shall be provided to the local planning authority and the MoD no later than one week after each event.

18. No development shall commence on site unless and until a Radar Mitigation Scheme has been submitted to and approved in writing by the local planning authority to address the impact of the development upon air safety. Before approving the Scheme, the local planning authority shall consult the MoD as to the Scheme's suitability and shall take into consideration the MoD's views as to whether the Scheme adequately addresses the MoD's concerns regarding the impact of the development upon air safety.

In this Condition 'Radar Mitigation Scheme' means a scheme designed to mitigate the impacts of the development upon the operation of the Primary Surveillance Radar at Warton Aerodrome (the Radar) and the air traffic operations of the MoD which are reliant upon the Radar. The Radar Mitigation Scheme shall set out the appropriate measures to be implemented to mitigate the impact of the development on the Radar.

19. No turbines shall become operational unless and until all measures required by the approved Radar Mitigation Scheme have been implemented and the local planning authority has confirmed this in writing. The development shall thereafter be operated fully in accordance with the approved Radar Mitigation Scheme.

In this Condition 'Radar Mitigation Scheme' means a scheme designed to mitigate the impacts of the development upon the operation of the Primary Surveillance Radar at Warton Aerodrome (the Radar) and the air traffic operations of the MoD which are reliant upon the Radar. The Radar Mitigation Scheme shall set out the appropriate measures to be implemented to mitigate the impact of the development on the Radar.

20. No part of any turbine shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by the local planning authority in order to avoid the impact of the development on the Primary Radar of the Operator located at Manchester and St Annes and associated air traffic management operations.

No blades shall be fitted to any turbine unless and until the approved Primary Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with the approved Scheme.

For the purpose of this Condition:

'Operator' means NATS (En Route) plc, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act).

'Primary Radar Mitigation Scheme' or 'Scheme' means a detailed scheme agreed with the Operator which sets out the measures to be taken to avoid at all times the impact of the development on the Manchester and St Annes primary radar and air traffic management operations of the Operator.

21. Prior to the First Export Date a written scheme shall be submitted to and approved in writing by the local planning authority setting out a protocol for the assessment of and remedial measures to alleviate shadow flicker in the event of any valid complaint to the local planning authority from the owner or occupier of any building which lawfully exists or had planning permission at the date of this permission. Operation of the turbines shall take place in accordance with the approved protocol, subject to any variations approved in advance in writing by the local planning authority.

22. No development shall commence until areas requiring surveys have been identified on a plan and a specification for checking surveys for nests of breeding birds and badger setts on the development site, to be carried out by a qualified ecologist, has been submitted to and approved in writing by the local planning authority. The specification shall include the methodology for the surveys and a timetable for the checking surveys and submission of a report detailing the results of the surveys.

A report detailing survey results and identifying any mitigation measures required as a result of the surveys for any construction works, work forming part of the MRMP or clearance of vegetation between 1 March and 31 August shall also be submitted to and approved in writing by the local planning authority prior to any site preparation and construction work commencing. The specification and mitigation measures shall be implemented as approved under the supervision of a suitably qualified ECoW, details of whom shall first be submitted to and approved in writing by the local planning authority.

23. No development shall commence until a scheme of moorland restoration and management (MRMP) to give effect to the description of the development hereby permitted and to mitigate the effects of the development on the moor, along with a timetable for its implementation, shall have been submitted to and approved in writing by the local planning authority. The scheme shall thereafter be implemented in accordance with the approved details.
24. No later than each of the sixth, eleventh, sixteenth and twenty-first anniversaries of the date of implementation of the MRMP the developer shall submit to the local planning authority a report identifying the progress made with the MRMP.
25. Prior to commencement of construction of the turbines an Access for Recreation Strategy shall be submitted to and approved in writing by the local planning authority. The Strategy shall provide details of;
- a) the way marked recreational trails (including details of the route(s), the location, type and content of interpretation panels and details of the promotional literature to be made available to members of the public for the first three years of operation of the turbines;
 - b) the programme of wind farm familiarisation days which are to be made available to local stables, liveries and horse owners; and
 - c) a liaison mechanism between the turbine operator and successors in title and recreational users over the life of the development.
- The Strategy shall thereafter be implemented in accordance with the approved details prior to the First Export Date.
26. No development shall take place until a Local Employment Procurement Strategy has been submitted to and approved in writing by the local planning authority. The Strategy shall aim to promote training and employment opportunities at all stages of the development for local people and maximise the use of local contractors and supply chains, in so far as this is commercially viable. The development shall be carried out in accordance with the approved Strategy and any amendments to the Strategy shall be approved in advance in writing by the local planning authority.
27. Prior to the commencement of development details of piling or any other foundation designs using penetrative methods shall be submitted to and approved in writing by the local planning authority. The details shall include sufficient information to determine that no resultant unacceptable risk to groundwater would arise. Construction of the development shall be carried out in accordance with the approved details.
28. No development shall commence until a Surface Water Sustainable Drainage Scheme (hereinafter SWSDS) has been submitted to and approved in writing by the local planning authority in consultation with the Environment Agency and United Utilities.
- The SWSDS shall include, as a minimum;
- a) measures to ensure that no surface water from the site discharges directly into the public sewer (save for surface water from the substation building and/or the construction compound which may discharge at an attenuated rate directly into the public sewer provided that it is demonstrated to be necessary having had regard to the surface water hierarchy contained in the Planning Practice Guidance and subject to the prior approval in writing of the local planning authority in consultation with United Utilities);

- b) information about the design storm period and intensity (1 in 30 and 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of compound and turbine base levels in AOD;
- c) measures to ensure and evidence that the surface water run-off from the development hereby permitted will not exceed the pre-development run-off rate;
- d) details of an assessment of site conditions, to include site investigation, and test results to confirm infiltration rates;
- e) details of any water quality controls to be implemented;
- f) a programme for the implementation of the SWSDS, including any phasing; and
- g) a strategy and programme for any ongoing maintenance and the implementation of any remedial work and/or mitigation measures required for the lifetime of the development hereby permitted.

The SWSDS shall be implemented as approved and shall be retained, managed and maintained until the development hereby permitted is decommissioned.

29. No development shall commence until a strategy in respect of surface and groundwater quality monitoring (hereinafter Monitoring Strategy) to be undertaken during the pre-construction, construction and operational phases of the development hereby permitted has been submitted to and approved in writing by the local planning authority in consultation with the Environment Agency and United Utilities.

The Monitoring Strategy shall include, as a minimum;

- a) details of an assessment of site conditions, to include site investigation, in order to validate the baseline conditions referred to in ES Volume 1 Chapters 13 and 14 and to inform the monitoring methodologies referred to in b) below;
- b) details of methodologies to be adopted in respect of water quality monitoring, groundwater monitoring and water table monitoring, such methodologies to include appropriate locations for monitoring stations (as approved in writing by the local planning authority in consultation with the Environment Agency and United Utilities), and to be prepared in accordance with ES Volume 1 paragraphs 13.210 – 13.217 and paragraphs 14.297 – 14.300, together with ES Volume 3 Technical Appendices 5.1, 5.2 and 13.4;
- c) a programme for the monitoring undertaken at approved locations during the pre-construction, construction and operational phases of the development hereby permitted, along with a timescale for the provision to the local planning authority, the Environment Agency and United Utilities of an analysis of the data collected, such analysis to be prepared by an independent hydrological consultant (whose appointment shall be approved in writing by the local planning authority) and to include, as a minimum;
 - i. the data collected and results of the monitoring undertaken;

- ii. a review of water quality and the condition of the water supply and hydrological regime across the site; and
- iii. any remedial work and/or mitigation measures required to address any identified deterioration in water quality and/or change in condition of the water supply and hydrological regime across the site,

d) a strategy and programme for the implementation of any remedial work and/or mitigation measures identified as being necessary by the independent hydrological consultant's analysis referred to in c) above.

The Monitoring Strategy shall be implemented as approved during the pre-construction, construction and operational phases of the development hereby permitted.

30. No development shall commence until a Water Quality Management Scheme (hereinafter WQMS) has been submitted to and approved in writing by the local planning authority. The WQMS shall initially include the submission of a Baseline Methodology Assessment, which shall set out a methodology for determining when water quality deteriorates to an unacceptable level. It shall also include the methodology for an assessment of water quality in private water supplies at specific locations which have previously been approved by the local planning authority and a timetable for carrying out the assessment which shall be prior to any disturbance of the site (including disturbance caused by investigative pre-construction works). This will form the baseline data for the site and shall be submitted to and approved in writing by the local planning authority prior to any disturbance on the site.

In the event that the baseline assessment identifies that the development hereby permitted has the potential to impact on the water quality in private supplies the initial assessment shall be expanded upon to include the following details, which shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development:

- a) A timetable for the monitoring of the water quality at the approved locations along with an analysis of the data by the approved ECoW throughout the construction period. The timetable shall be linked to specific construction activities which have the greatest potential impact on water quality. This data shall be made available at the request of a statutory undertaker within one working day of the request.
- b) A timetable for the monitoring of the water quality at the approved locations along with an analysis of the data by the approved ECoW until the turbines are fully decommissioned and the site restored. This data shall be made available at the request of a statutory undertaker within one working day of the request.
- c) A timetable for the submission of Water Supply Quality Update Reports (hereinafter WSQUR) to be submitted to the local planning authority until the turbines are decommissioned fully. The first WSQUR shall be submitted within one year of the First Export Date and a final WSQUR shall be submitted to the local planning authority within one year after the decommissioning of the turbines has been completed. The report should include results of all water quality tests undertaken, a review of overall water quality and details of any mitigation measures carried out in response to changes in water quality.

The WQMS shall be implemented as approved.

In the event that the water quality deteriorates to an unacceptable level, as determined in accordance with the approved Baseline Methodology Assessment, as a direct result of the development hereby permitted, full details of the suggested mitigation measures along with their timescale for implementation shall be submitted to and approved in writing by the local planning authority. Thereafter the mitigation measures shall be completed in accordance with the approved details and timescale for implementation.

31. No development shall commence until investigation works have been undertaken by the developer to confirm coal mining conditions on the site. In the event that the site investigations confirm the need for remedial works to treat areas of shallow mine workings and/or any other mitigation measures to ensure the safety and stability of the development, then works for the construction of the turbines and associated infrastructure in an area affected by such remedial works shall not commence until such works have been undertaken.
32. Prior to commencement of development a scheme for further geo-technical ground investigations shall be submitted to and approved in writing by the local planning authority. The scope of the further geo-technical investigations shall reflect the recommendations of the Mining Risk Assessment set out in ES Technical Appendix 13.3. The results of the further mining and geo-technical ground investigations shall also be submitted to the local planning authority prior to development commencing along with details of the proposed ground improvement and stabilisation works and foundation designs for individual turbines. The development shall thereafter be implemented in accordance with the approved details.
33. Prior to the First Export Date a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to terrestrial television caused by the operation of the turbines shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a lawfully occupied dwelling (defined for the purposes of this Condition as a building within Use Class C3 and C4 of the Use Classes Order 1987) which lawfully exists or had planning permission at the date of this permission, where such complaint is notified to the developer by the local planning authority within 12 months of the First Export Date. Where impairment is determined by the qualified television engineer to be attributable to the development, mitigation works shall be carried out in accordance with the scheme which has been approved in advance in writing by the local planning authority, with the permission of the owner.
34. No turbine shall be brought into operation before a scheme for the assessment and regulation of Amplitude Modulation has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented for the lifetime of the development and shall be in general accordance with the final report of the Institute of Acoustics Amplitude Modulation Working Group and results of the DECC-commissioned Research into Human Response to the Amplitude Modulated Component of Wind Turbine Noise.
35. Prior to the First Export Date the turbine operator shall submit to the local planning authority, for written approval, a Scheme for measuring the noise emissions from the turbines including the quantification of any Amplitude Modulation components. The Scheme shall be prepared by a consultant approved in writing by the local

planning authority. The objective of the Scheme shall be to test and confirm compliance with the noise limits specified at Tables 1 and 2 of the Noise Condition for a range of wind speeds and wind directions and the degree of Amplitude Modulation present. The Scheme shall require noise measurements to be made at no fewer than three or more than four locations. Measurements shall be undertaken in accordance with the Scheme as approved and shall be commenced within one month of the First Export Date, and shall terminate when compliance with the noise limits has been demonstrated and notice of confirmation of compliance given in writing by the local planning authority.

36. The rating level of noise immissions from the combined effects of the turbines (including the application of any tonal penalty) when determined in accordance with the Guidance Notes attached to this Condition, shall not exceed the values for the relevant integer wind speed set out in, or derived from, the Tables attached to this Condition at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

a) The turbine operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1d. These data shall be retained for a period of not less than 24 months. The turbine operator shall provide this information in the format set out in Guidance Note 1e to the local planning authority on its request, within 14 days of receipt in writing of such a request.

b) No electricity shall be exported until the turbine operator has submitted to the local planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the local planning authority.

c) Within 21 days from receipt of a written request from the local planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the turbine operator shall, at its expense, employ a consultant approved by the local planning authority to assess the level of noise immissions from the turbines at the complainant's dwelling in accordance with the procedures described in the attached Guidance Notes. The written request from the local planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the local planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall, prior to the commencement of any measurements, have been submitted to and approved in writing by the local planning authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the local planning authority under paragraph c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where a dwelling to which a complaint is related is not listed in the Tables attached to this Condition, the turbine operator shall submit to the local planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits shall be those limits selected from the Tables specified for a listed location which is the geographically nearest dwelling to the complainant's dwelling, unless otherwise approved in writing by the local planning authority due to location-specific factors.

f) The turbine operator shall provide to the local planning authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within two months of the date of the written request of the local planning authority for compliance measurements to be made under paragraph c), unless the time limit is extended in writing by the local planning authority. Unless otherwise approved in writing by the local planning authority, the assessment shall be accompanied by all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1e with the exception of audio data which shall be supplied in the format in which it is recorded. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1a and certificates of calibration shall be submitted to the local planning authority with the independent consultant's assessment of the rating level of noise immissions.

g) Where a further assessment of the rating level of noise immissions from turbines is required pursuant to Guidance Note 4c, the turbine operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph d) above unless the time limit has been extended in writing by the local planning authority.

Table 1 – Noise Limits 2300-0700 (dB LA90)

Location	Standardised 10 metre-height Wind Speed m/s (as defined in accordance with the attached Guidance Notes to the Noise Condition)											
	1	2	3	4	5	6	7	8	9	10	11	12

Note: For the purposes of this Condition, a 'dwelling' is a building within Use Class C3 and C4 of the Town and Country Planning (Use Classes) Order 1987 which lawfully exists or had planning permission at the date of this planning permission.

Guidance Notes for Noise Condition

These notes are to be read with and form part of the Noise Condition. They further explain the Noise Condition and specify the methods to be employed in the assessment of complaints about noise immissions from turbines. The rating level at each integer wind speed is the arithmetic sum of the turbine noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled *The Assessment and Rating of Noise from Wind Farms* (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

- a. Values of the $L_{A90,10\text{min}}$ noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 2014 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- b. The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the local planning authority, and placed outside the complainant's dwelling. Measurements should be made in 'free field' conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her dwelling to undertake compliance measurements is withheld, the turbine operator shall submit for the written approval of the local planning authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- c. The $L_{A90,10\text{min}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1d, including the power generation data from the turbine control systems.
- d. To enable compliance with the conditions to be evaluated, the turbine operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine, and at any on site meteorological mast(s), if available, together with the arithmetic mean power generated by each turbine, all in successive 10-minute periods. All 10-minute

arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data, as determined from whichever source is approved in writing by the local planning authority as being most appropriate to the noise compliance measurements being undertaken, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter.

- e. Data provided to the local planning authority in accordance with the Noise Condition shall be provided in comma separated values in electronic format.
- f. A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Guidance Note 1d.

Guidance Note 2

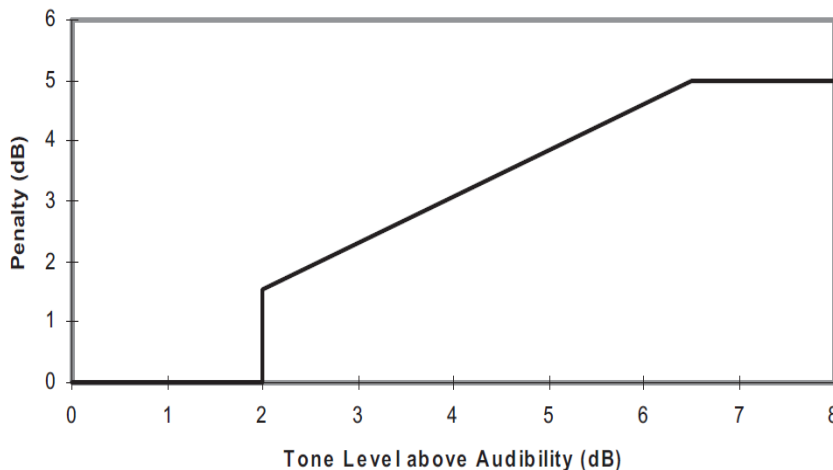
- a. The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2b.
- b. Valid data points are those measured in the conditions specified in the written protocol under paragraph d) of the Noise Condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10-minute period concurrent with the measurement periods set out in Guidance Note 1.
- c. For those data points considered valid in accordance with Guidance Note 2b, values of the $L_{A90,10min}$ noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed, as derived from the site measured wind speed source(s) approved in writing by the local planning authority in accordance with Guidance Note 1d, shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares 'best fit' curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the turbine noise level at each integer speed.

Guidance Note 3

- a. Where, in accordance with the approved assessment protocol under paragraph d) of the Noise Condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- b. For each 10-minute interval for which $L_{A90,10min}$ data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during two minutes of each 10-minute period. The two-minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted

data are available ('the standard procedure'). Where uncorrupted data are not available, the first available uninterrupted clean two-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

- c. For each of the two-minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.
- d. The average tone level above audibility shall be calculated for each wind speed bin, each bin being 1 m/s wide and centred on integer wind speeds. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- e. The tonal penalty for each wind speed bin is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

- a. If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the local planning authority in its written protocol under paragraph d) of the Noise Condition.
- b. If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.
- c. In the event that the rating level is above the limit(s) set out in the Tables attached to the Noise Condition or the noise limits for a complainant's dwelling approved in accordance with paragraph e) of the Noise Condition, the independent consultant

shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to turbine noise immission only.

- d. The turbine operator shall ensure that all necessary turbines in the development are turned off for such period as the independent consultant requires to undertake any further noise measurements required under Guidance Note 4c. If the number of turbines to be turned off is less than the total number of turbines on the site then this shall be approved in advance in writing by the local planning authority.
- e. To this end, the steps in Guidance Note 2 shall be repeated with the required number of turbines shut-down in accordance with Guidance Note 4d in order to determine the background noise (L3) at each integer wind speed within the range requested by the local planning authority in its written request under paragraph c) and the approved protocol under paragraph d) of the Noise Condition.
- f. The turbine noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10\log[10^{L_2/10} - 10^{L_3/10}]$$

- g. The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Guidance Note 3) to the derived turbine noise L1 at that integer wind speed.
- h. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with Guidance Note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the Noise Condition or at or below the noise limits approved by the local planning authority for a complainant's dwelling in accordance with paragraph e) of the Noise Condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the Noise Condition or the noise limits approved by the local planning authority for a complainant's dwelling in accordance with paragraph e) of the Noise Condition then the development fails to comply with the Noise Condition.

Annex B: Schedule of Post Inquiry Representations

Party	Date
Nicola Hodgson, Open Spaces Society	15 March 2017
Clare Greenwood, Director, Business2Business Recruitment Ltd	6 April 2017
Graham Jones, Bright Green Creative	10 April 2017
Andy MacNae, Chairman, Pennine Mountain Bike Association	11 April 2017
Bob Killelea, Managing Director, James Killelea & Co Ltd	13 April 2017
Stuart Sugarman, Chief Executive, Rossendale Borough Council	25 April 2017
Philip Seddon, Head of Finance & Property Services, Rossendale Borough Council	26 April 2017

Annex B: Schedule of representations received in response to the Secretary of State's reference back to parties of 20 October 2017

Party	Date
Peter Nesbit	31 August 2017
John Newcombe	21 October 2017
Daniela Ripa	23 October 2017
Tom Whitehead	23 October 2017
Michael Holly	25 October 2017
Tom Whitehead	25 October 2017
Heather Massie	27 October 2017
Michael Holly	27 October 2017
James Gartside	27 October 2017
Tom Whitehead	30 October 2017
Adrian Smith	17 November 2017
Kirsty Morris	5 December 2017

Annex C: Planning conditions – Application B

Description of proposed development for RMBC application as follows.

The construction and operation of 2 no. wind turbines with a maximum height to the tip of the blade of 115 metres (above ground level) for a temporary period of up to 25 years together with:

- the installation of associated ancillary infrastructure (new and upgraded vehicular access tracks, crane pads, underground electrical cabling and drainage infrastructure);
- the retention of those elements of ancillary infrastructure associated with the existing Scout Moor Wind Farm which it is necessary to retain on site post-2034 to enable the operation and maintenance of the proposed wind turbines for a period of up to 25 years from the date of their first exportation of electricity to the national electricity grid network; and
- the implementation of a scheme of moorland restoration and management (MRMP) including the erection of fencing (without compliance with condition 10 of the consents granted for the existing Scout Moor Wind Farm (reference GBDC/003/00005c-02)) pursuant to the provisions of Section 36 of the Electricity Act 1989 and Section 90 (2) of the Town and Country Planning Act 1990.

In the following Conditions:

The 'First Export Date' means the date when the turbine generators forming part of the development hereby permitted have first supplied electricity to the national grid on a commercial basis save for the purposes of testing.

'ES' means the Environmental Statement dated March 2015.

Notwithstanding the details in the MRMP submitted with the application, in this planning permission and in the following Conditions the 'MRMP' means the scheme of moorland restoration and management approved pursuant to Condition 23 below.

'ECoW' means Ecological Clerk of Works.

'MoD' means Ministry of Defence.

The 'Noise Condition' for the purposes of these Conditions and Guidance Notes is Condition 36.

1. The development hereby permitted shall commence before the expiration of five years from the date of this permission. Written confirmation of the Commencement of Development shall be provided to the local planning authority no later than one week after the event.
2. The development hereby permitted shall be removed in accordance with Condition 3 below after a period of 25 years from the First Export Date. Written notification of the First Export Date shall be given to the local planning authority no later than one calendar month after the event.
3. Not later than 12 months before the expiry of the 25 year period referred to in Condition 2, a Decommissioning and Site Restoration Scheme shall be submitted to

the local planning authority for approval in writing. The Scheme shall include a timetable for completion of all works and shall be informed by relevant ecological surveys and make provision for;

- a) the removal of the turbines and the associated above ground equipment and infrastructure and turbine foundations to a depth of at least one metre below the ground;
- b) the management and timing of any works together with a Traffic Management Plan to address likely traffic impact issues during the decommissioning period and restoration measures for the land from which the turbines and any ancillary equipment and structures have been removed;
- c) earth moving and soil replacement;
- d) the decommissioning effects on flora and fauna along with the restoration of the landscape;
- e) reinstatement of public rights of ways, paths and footpaths; and
- f) monitoring and remedial actions.

The approved Scheme shall be implemented within 12 months of either the expiry of the 25 year period referred to in Condition 2 or the local planning authority's approval of the Scheme, whichever is the later, and shall be completed in accordance with the approved timetable.

4. No later than 12 months before works commence to decommission the Existing Scout Moor Wind Farm Development a Decommissioning and Site Restoration Scheme in respect of turbines PT15 and PT16, hereby permitted, shall be submitted to and approved in writing by the local planning authority. This Scheme shall be supported by ecological surveys which have been undertaken to inform the Scheme.

The Scheme shall also include the management and timing of any works together with a Traffic Management Plan to address likely traffic impact issues during the decommissioning period and restoration measures for the land where the turbines and any ancillary equipment and structures have been removed.

Not later than one month from the date on which the last turbine of the Existing Scout Moor Wind Farm Development is removed from the site turbines PT15 and PT16 and the associated above ground equipment and turbine foundations to a depth of at least one metre below the ground shall be removed in accordance with the approved Scheme. That part of the site thereafter shall be restored in accordance with the approved Scheme within 12 months of the removal of turbines PT15 and PT16.

In this Condition 'Existing Scout Moor Wind Farm Development' means the existing wind farm the subject of Consent GDBC/003/00005C-02 dated 25 May 2005 and any subsequent variation of this Consent.

5. If any of the turbines hereby permitted fail to operate for a continuous period of 12 months following the First Export Date, not due to it being under repair or replacement, then the local planning authority shall be notified in writing within one month of the end of the 12 month period.

Within one month of the notification a Partial Decommissioning Scheme or a Scheme for Repair shall be submitted to the local planning authority for its written approval. If the Scheme is for decommissioning then it shall include a method statement and timetable for the dismantling and removal of the relevant turbine and associated above ground works and foundations to a depth of at least one metre below ground; a Traffic Management Plan; and a method statement and timetable for any necessary restoration works following removal of the relevant turbine. The Scheme shall thereafter be implemented in accordance with the approved details and timetable.

6. Subject to the Conditions attached to this permission, including arrangements for micro-siting and any details approved pursuant to Conditions, the development shall be carried out in accordance with the following approved plans and documents:

ES/001 (Application Site and Administrative Boundaries);

ES/002 (Proposed Layout – Masterplan);

ES/003 (Proposed Layout North Inset);

ES/004 (Proposed Layout West Inset);

ES/004a (Proposed Layout South Inset);

ES/005 (Proposed Layout East Inset);

ES/012 (Retained Infrastructure between 2034 and 2042);

ES/020 (Proposed Connections between the New and Existing Access Tracks).

7. The turbines hereby permitted shall have three blades which shall rotate in the same direction. The overall height of the turbines shall not exceed 115 m to the tip of the blades when the turbine is in the vertical position and the rotor diameter of the blades shall not exceed 85 m.
8. No turbine shall be erected on site until details of the finish and colour of the turbines, together with transformer locations have been submitted to and approved in writing by the local planning authority. No name, sign, symbol or logo shall be displayed on any external surfaces of the turbines other than those required to meet statutory health and safety requirements. The development shall thereafter be carried out and operated in accordance with the approved details.
9. All electrical cabling between the individual turbines and between the turbines and the control building shall be installed underground.
10. No development shall commence on site until a Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall include proposals for;
 - a) a pre-construction highway condition survey including public rights of way;
 - b) the routing of construction traffic;
 - c) the timing of delivery vehicle movements including turbine component delivery vehicles;
 - d) the management and design of junctions to and crossings of the public highway and other public rights of way;

- e) the management of the site entrance from the public highway;
- f) temporary warning signs and any temporary or permanent works, including locations, required in the public highway to enable the construction of the development;
- g) mechanisms required for the transportation of abnormal loads to the site;
- h) details of a banksman to escort abnormal loads to the site;
- i) the levels and timing of development traffic to minimise effects on Edenfield village and its community;
- j) details of arrangements for off-road car parking facilities within the Edenfield Community Centre during the period of construction of the development hereby permitted; and
- k) details of the site manager who would be the main contact for the public during the construction period.

The Plan shall be implemented as approved by the local planning authority.

Following the completion of the development a scheme to restore any damage done to the highway(s) and public rights of way as a result of the development (in accordance with the pre-condition survey(s)) shall be submitted to and approved in writing by the local planning authority.

11. No development shall commence until a Construction Method Statement (hereinafter CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include details of the following;
- a) details of the phasing of construction works;
 - b) the provision of parking, loading and unloading, and manoeuvring areas for vehicles within the site;
 - c) the methods of working to be employed in the construction of the cable trenches, crane pads and foundation works;
 - d) site illumination during the construction period;
 - e) the siting and details of wheel washing facilities;
 - f) the cleaning of the entrance to the site and the adjacent public highway and the sheeting of all heavy goods vehicles taking spoil or construction materials to or from the site to prevent spillage or deposit of any materials on the highway;
 - g) the method of disposal of foul drainage and sewage;
 - h) dust management;
 - i) details of emergency procedures;
 - j) the disposal of surplus materials;

k) details of how the construction compound and associated construction works will be reinstated, including a timetable for completion of the post construction restoration and reinstatement works;

l) proposals for the restoration of the site following the completion of the development; and

m) a Construction Noise Management Plan including identification of access routes, locations of materials lay-down areas, details of equipment to be employed, operations to be carried out and any necessary mitigation measures.

The construction of the development shall be carried out in accordance with the approved CMS, subject to any variations approved in advance in writing by the local planning authority.

12. No development shall commence until a Construction and Environmental Management Plan, prepared in accordance with the details contained in ES Volume 3 Technical Appendix 5.1, has been submitted to and approved in writing by the local planning authority. The development shall be implemented thereafter in accordance with the approved Plan or any updated version approved in advance in writing by the local planning authority.
13. Prior to the commencement of construction of the footpath links to the existing public rights of way as shown on ES Figure 5.15, plans confirming the method of construction and surfacing for each section of new access track, along with a timetable for the implementation of the same, shall be submitted to and approved in writing by the local planning authority. The access tracks shall thereafter be constructed as approved.
14. Construction work and any associated traffic movements to or from the site shall only take place between the hours of 07.00 to 19.00 Mondays to Fridays inclusive and the hours of 07.00 to 14.00 on Saturdays with no such work or associated traffic movements on a Sunday or Public Holiday. Outwith these specified hours development on the site shall be limited to turbine erection, maintenance, pouring of concrete, emergency works and dust suppression, unless otherwise approved in advance in writing by the local planning authority. Where emergency works are required written notification shall be given to the local planning authority within 48 hours of their occurrence.
15. No development shall commence on site until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation, which has been submitted to and approved in writing by the local planning authority. The Scheme shall include;
 - a) the programme and methodology of site investigation and recording which shall include a timetable for reporting the findings to the local planning authority;
 - b) provision for post investigation assessment, reporting and dissemination;
 - c) provision to be made for deposition of the analysis and records of the site investigation; and
 - d) any requirement for an Archaeological Watching Brief.

The Scheme shall be implemented as approved by the local planning authority.

A report of the findings from any archaeological site works shall be submitted to the local planning authority in accordance with the approved timetable.

16. The turbines hereby permitted shall be erected at the following grid co-ordinates:

Turbine	Easting	Northing
PT15	383290	418287
PT16	384156	418418

Notwithstanding the terms of this Condition the turbines and other infrastructure hereby permitted may be micro-sited within 30 m, save that;

a) no turbines or other infrastructure may be micro-sited within the 30 m buffer zone shown on ES Volume 2B Figure 13.1; and

b) the turbine PT16 shall not be micro-sited any closer to the residential property known as Higher Red Lumb Farm.

A plan showing the actual position of the turbines on the site along with tracks, hard standings, access areas, infrastructure routes, borrow pits etc. shall be submitted to the local planning authority within three months of the First Export Date.

17. Written confirmation of:

- a) the date of commencement of construction;
- b) the date of completion of construction;
- c) the maximum height of construction equipment; and
- d) the latitude and longitude of each wind turbine

shall be provided to the local planning authority and the MoD no later than one week after each event.

18. No development shall commence on site unless and until a Radar Mitigation Scheme has been submitted to and approved in writing by the local planning authority to address the impact of the development upon air safety. Before approving the Scheme, the local planning authority shall consult the MoD as to the Scheme's suitability and shall take into consideration the MoD's views as to whether the Scheme adequately addresses the MoD's concerns regarding the impact of the development upon air safety.

In this Condition 'Radar Mitigation Scheme' means a scheme designed to mitigate the impacts of the development upon the operation of the Primary Surveillance Radar at Warton Aerodrome (the Radar) and the air traffic operations of the MoD which are reliant upon the Radar. The Radar Mitigation Scheme shall set out the appropriate measures to be implemented to mitigate the impact of the development on the Radar.

19. No turbines shall become operational unless and until all measures required by the approved Radar Mitigation Scheme have been implemented and the local planning authority has confirmed this in writing. The development shall thereafter be operated fully in accordance with the approved Radar Mitigation Scheme.

In this Condition 'Radar Mitigation Scheme' means a scheme designed to mitigate the impacts of the development upon the operation of the Primary Surveillance Radar at Warton Aerodrome (the Radar) and the air traffic operations of the MoD which are reliant upon the Radar. The Radar Mitigation Scheme shall set out the appropriate measures to be implemented to mitigate the impact of the development on the Radar.

20. No part of any turbine shall be erected above ground until a Primary Radar Mitigation Scheme agreed with the Operator has been submitted to and approved in writing by the local planning authority in order to avoid the impact of the development on the Primary Radar of the Operator located at Manchester and St Annes and associated air traffic management operations.

No blades shall be fitted to any turbine unless and until the approved Primary Radar Mitigation Scheme has been implemented and the development shall thereafter be operated fully in accordance with the approved Scheme.

For the purpose of this Condition:

'Operator' means NATS (En Route) plc, incorporated under the Companies Act (4129273) whose registered office is 4000 Parkway, Whiteley, Fareham, Hants PO15 7FL or such other organisation licensed from time to time under sections 5 and 6 of the Transport Act 2000 to provide air traffic services to the relevant managed area (within the meaning of section 40 of that Act).

'Primary Radar Mitigation Scheme' or 'Scheme' means a detailed scheme agreed with the Operator which sets out the measures to be taken to avoid at all times the impact of the development on the Manchester and St Annes primary radar and air traffic management operations of the Operator.

21. Prior to the First Export Date a written scheme shall be submitted to and approved in writing by the local planning authority setting out a protocol for the assessment of and remedial measures to alleviate shadow flicker in the event of any valid complaint to the local planning authority from the owner or occupier of any building which lawfully exists or had planning permission at the date of this permission. Operation of the turbines shall take place in accordance with the approved protocol, subject to any variations approved in advance in writing by the local planning authority.
22. No development shall commence until areas requiring surveys have been identified on a plan and a specification for checking surveys for nests of breeding birds and badger setts on the development site, to be carried out by a qualified ecologist, has been submitted to and approved in writing by the local planning authority. The specification shall include the methodology for the surveys and a timetable for the checking surveys and submission of a report detailing the results of the surveys.

A report detailing survey results and identifying any mitigation measures required as a result of the surveys for any construction works, work forming part of the MRMP or clearance of vegetation between 1 March and 31 August shall also be submitted to and approved in writing by the local planning authority prior to any site preparation and construction work commencing. The specification and mitigation measures shall be implemented as approved under the supervision of a suitably qualified ECoW, details of whom shall first be submitted to and approved in writing by the local planning authority.

23. No development shall commence until a scheme of moorland restoration and management (MRMP) - covering the area of land approximately 6 metres from the final position (following micrositing) of the proposed access tracks, crane hard standing and wind turbines - to give effect to the description of the development hereby permitted and to mitigate the effects of the development on the moor, along with a timetable for its implementation and arrangements for the review of the effectiveness of the measures and implementation of any necessary adjustments identified in the review has been submitted to and approved in writing by the local planning authority. The scheme shall thereafter be implemented in accordance with the approved details.
24. Prior to commencement of construction of the turbines an Access for Recreation Strategy shall be submitted to and approved in writing by the local planning authority. The Strategy shall provide details of;
- a) the way marked recreational trails (including details of the route(s), the location, type and content of interpretation panels and details of the promotional literature to be made available to members of the public for the first three years of operation of the turbines;
 - b) the programme of wind farm familiarisation days which are to be made available to local stables, liveries and horse owners; and
 - c) a liaison mechanism between the turbine operator and successors in title and recreational users over the life of the development.
- The Strategy shall thereafter be implemented in accordance with the approved details prior to the First Export Date.
25. No development shall take place until a Local Employment Procurement Strategy has been submitted to and approved in writing by the local planning authority. The Strategy shall aim to promote training and employment opportunities at all stages of the development for local people and maximise the use of local contractors and supply chains, in so far as this is commercially viable. The development shall be carried out in accordance with the approved Strategy and any amendments to the Strategy shall be approved in advance in writing by the local planning authority.
26. Prior to the commencement of development details of piling or any other foundation designs using penetrative methods shall be submitted to and approved in writing by the local planning authority. The details shall include sufficient information to determine that no resultant unacceptable risk to groundwater would arise. Construction of the development shall be carried out in accordance with the approved details.
27. No development shall commence until a Surface Water Sustainable Drainage Scheme (hereinafter SWSDS) has been submitted to and approved in writing by the local planning authority in consultation with the Environment Agency and United Utilities.

The SWSDS shall include, as a minimum;

- a) measures to ensure that no surface water from the site discharges directly into the public sewer (save for surface water from the substation building and/or the construction compound which may discharge at an attenuated rate directly into the public sewer provided that it is demonstrated to be necessary having had regard to the surface water hierarchy contained in the Planning Practice Guidance and subject

to the prior approval in writing of the local planning authority in consultation with United Utilities);

b) information about the design storm period and intensity (1 in 30 and 1 in 100 year +30% allowance for climate change), discharge rates and volumes (both pre and post development), temporary storage facilities, the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters, including watercourses, and details of compound and turbine base levels in AOD;

c) measures to ensure and evidence that the surface water run-off from the development hereby permitted will not exceed the pre-development run-off rate;

d) details of an assessment of site conditions, to include site investigation, and test results to confirm infiltration rates;

e) details of any water quality controls to be implemented;

f) a programme for the implementation of the SWSDS, including any phasing; and

g) a strategy and programme for any ongoing maintenance and the implementation of any remedial work and/or mitigation measures required for the lifetime of the development hereby permitted.

The SWSDS shall be implemented as approved and shall be retained, managed and maintained until the development hereby permitted is decommissioned.

28. No development shall commence until a strategy in respect of surface and groundwater quality monitoring (hereinafter Monitoring Strategy) to be undertaken during the pre-construction, construction and operational phases of the development hereby permitted has been submitted to and approved in writing by the local planning authority in consultation with the Environment Agency and United Utilities.

The Monitoring Strategy shall include, as a minimum;

a) details of an assessment of site conditions, to include site investigation, in order to validate the baseline conditions referred to in ES Volume 1 Chapters 13 and 14 and to inform the monitoring methodologies referred to in b) below;

b) details of methodologies to be adopted in respect of water quality monitoring, groundwater monitoring and water table monitoring, such methodologies to include appropriate locations for monitoring stations (as approved in writing by the local planning authority in consultation with the Environment Agency and United Utilities), and to be prepared in accordance with ES Volume 1 paragraphs 13.210 – 13.217 and paragraphs 14.297 – 14.300, together with ES Volume 3 Technical Appendices 5.1, 5.2 and 13.4;

c) a programme for the monitoring undertaken at approved locations during the pre-construction, construction and operational phases of the development hereby permitted, along with a timescale for the provision to the local planning authority, the Environment Agency and United Utilities of an analysis of the data collected, such analysis to be prepared by an independent hydrological consultant (whose

appointment shall be approved in writing by the local planning authority) and to include, as a minimum;

- iv. the data collected and results of the monitoring undertaken;
- v. a review of water quality and the condition of the water supply and hydrological regime across the site; and
- vi. any remedial work and/or mitigation measures required to address any identified deterioration in water quality and/or change in condition of the water supply and hydrological regime across the site,

d) a strategy and programme for the implementation of any remedial work and/or mitigation measures identified as being necessary by the independent hydrological consultant's analysis referred to in c) above.

The Monitoring Strategy shall be implemented as approved during the pre-construction, construction and operational phases of the development hereby permitted.

29. No development shall commence until a Water Quality Management Scheme (hereinafter WQMS) has been submitted to and approved in writing by the local planning authority. The WQMS shall initially include the submission of a Baseline Methodology Assessment, which shall set out a methodology for determining when water quality deteriorates to an unacceptable level. It shall also include the methodology for an assessment of water quality in private water supplies at specific locations which have previously been approved by the local planning authority and a timetable for carrying out the assessment which shall be prior to any disturbance of the site (including disturbance caused by investigative pre-construction works). This will form the baseline data for the site and shall be submitted to and approved in writing by the local planning authority prior to any disturbance on the site.

In the event that the baseline assessment identifies that the development hereby permitted has the potential to impact on the water quality in private supplies the initial assessment shall be expanded upon to include the following details, which shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development:

a) A timetable for the monitoring of the water quality at the approved locations along with an analysis of the data by the approved ECoW throughout the construction period. The timetable shall be linked to specific construction activities which have the greatest potential impact on water quality. This data shall be made available at the request of a statutory undertaker within one working day of the request.

b) A timetable for the monitoring of the water quality at the approved locations along with an analysis of the data by the approved ECoW until the turbines are fully decommissioned and the site restored. This data shall be made available at the request of a statutory undertaker within one working day of the request.

c) A timetable for the submission of Water Supply Quality Update Reports (hereinafter WSQUR) to be submitted to the local planning authority until the turbines are decommissioned fully. The first WSQUR shall be submitted within one year of the First Export Date and a final WSQUR shall be submitted to the local planning authority within one year after the decommissioning of the turbines has been completed. The report should include results of all water quality tests undertaken, a

review of overall water quality and details of any mitigation measures carried out in response to changes in water quality.

The WQMS shall be implemented as approved.

In the event that the water quality deteriorates to an unacceptable level, as determined in accordance with the approved Baseline Methodology Assessment, as a direct result of the development hereby permitted, full details of the suggested mitigation measures along with their timescale for implementation shall be submitted to and approved in writing by the local planning authority. Thereafter the mitigation measures shall be completed in accordance with the approved details and timescale for implementation.

30. No development shall commence until investigation works have been undertaken by the developer to confirm coal mining conditions on the site. In the event that the site investigations confirm the need for remedial works to treat areas of shallow mine workings and/or any other mitigation measures to ensure the safety and stability of the development, then works for the construction of the turbines and associated infrastructure in an area affected by such remedial works shall not commence until such works have been undertaken.
31. Prior to commencement of development a scheme for further geo-technical ground investigations shall be submitted to and approved in writing by the local planning authority. The scope of the further geo-technical investigations shall reflect the recommendations of the Mining Risk Assessment set out in ES Technical Appendix 13.3. The results of the further mining and geo-technical ground investigations shall also be submitted to the local planning authority prior to development commencing along with details of the proposed ground improvement and stabilisation works and foundation designs for individual turbines. The development shall thereafter be implemented in accordance with the approved details.
32. Prior to the First Export Date a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to terrestrial television caused by the operation of the turbines shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a lawfully occupied dwelling (defined for the purposes of this Condition as a building within Use Class C3 and C4 of the Use Classes Order 1987) which lawfully exists or had planning permission at the date of this permission, where such complaint is notified to the developer by the local planning authority within 12 months of the First Export Date. Where impairment is determined by the qualified television engineer to be attributable to the development, mitigation works shall be carried out in accordance with the scheme which has been approved in advance in writing by the local planning authority, with the permission of the owner.
33. No turbine shall be brought into operation before a scheme for the assessment and regulation of Amplitude Modulation has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented for the lifetime of the development and shall be in general accordance with the final report of the Institute of Acoustics Amplitude Modulation Working Group and results of the DECC-

commissioned Research into Human Response to the Amplitude Modulated Component of Wind Turbine Noise.

34. Prior to the First Export Date the turbine operator shall submit to the local planning authority, for written approval, a Scheme for measuring the noise emissions from the turbines including the quantification of any Amplitude Modulation components. The Scheme shall be prepared by a consultant approved in writing by the local planning authority. The objective of the Scheme shall be to test and confirm compliance with the noise limits specified at Tables 1 and 2 of the Noise Condition for a range of wind speeds and wind directions and the degree of Amplitude Modulation present. The Scheme shall require noise measurements to be made at no fewer than three or more than four locations. Measurements shall be undertaken in accordance with the Scheme as approved and shall be commenced within one month of the First Export Date, and shall terminate when compliance with the noise limits has been demonstrated and notice of confirmation of compliance given in writing by the local planning authority.
35. The rating level of noise immissions from the combined effects of the turbines (including the application of any tonal penalty) when determined in accordance with the Guidance Notes attached to this Condition, shall not exceed the values for the relevant integer wind speed set out in, or derived from, the Tables attached to this Condition at any dwelling which is lawfully existing or has planning permission at the date of this permission and:
- a) The turbine operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1d. These data shall be retained for a period of not less than 24 months. The turbine operator shall provide this information in the format set out in Guidance Note 1e to the local planning authority on its request, within 14 days of receipt in writing of such a request.
- b) No electricity shall be exported until the turbine operator has submitted to the local planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the local planning authority.
- c) Within 21 days from receipt of a written request from the local planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the turbine operator shall, at its expense, employ a consultant approved by the local planning authority to assess the level of noise immissions from the turbines at the complainant's dwelling in accordance with the procedures described in the attached Guidance Notes. The written request from the local planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the local planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall, prior to the commencement of any measurements, have been submitted to and approved in writing by the local planning authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken and also the range of meteorological and operational

conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the local planning authority under paragraph c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where a dwelling to which a complaint is related is not listed in the Tables attached to this Condition, the turbine operator shall submit to the local planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant’s dwelling for compliance checking purposes. The proposed noise limits shall be those limits selected from the Tables specified for a listed location which is the geographically nearest dwelling to the complainant’s dwelling, unless otherwise approved in writing by the local planning authority due to location-specific factors.

f) The turbine operator shall provide to the local planning authority the independent consultant’s assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within two months of the date of the written request of the local planning authority for compliance measurements to be made under paragraph c), unless the time limit is extended in writing by the local planning authority. Unless otherwise approved in writing by the local planning authority, the assessment shall be accompanied by all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1e with the exception of audio data which shall be supplied in the format in which it is recorded. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1a and certificates of calibration shall be submitted to the local planning authority with the independent consultant’s assessment of the rating level of noise immissions.

g) Where a further assessment of the rating level of noise immissions from turbines is required pursuant to Guidance Note 4c, the turbine operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant’s assessment pursuant to paragraph d) above unless the time limit has been extended in writing by the local planning authority.

Table 1 – Noise Limits 2300-0700 (dB LA90)

Location	Standardised 10 metre-height Wind Speed m/s (as defined in accordance with the attached Guidance Notes to the Noise Condition)											
	1	2	3	4	5	6	7	8	9	10	11	12
Higher Red Lumb	39.7	39.	39.	39.	39.	39.	39.	39.	39.	39.	42.	46
Nutters Restaurant (now known as Ashworth View	40.7	40. 7	40. 7	40. 7	40. 7	40. 7	40. 7	40. 7	40. 7	41. 0	42. 2	43. 8
Waterworks House	41.6	41.	41.	41.	41.	41.	41.	41.	41.	41.	42.	47.
Willowfield Farm	42.8	42. 8	42. 8	42. 8	42. 8	42. 8	42. 8	42. 8	42. 8	42. 8	42. 8	43. 1

Table 2 – Noise Limits 0700-2300 (dB LA90)

Location	Standardised 10 metre-height Wind Speed m/s (as defined in accordance with the attached Guidance Notes to the Noise Condition)											
	1	2	3	4	5	6	7	8	9	10	11	12
Higher Red Lumb	37.4	37.4	37.4	37.4	37.6	38.8	41.6	43.5	44.4	45.0	45.8	47.8
Nutters Restaurant (now known as Ashworth View Nursery)	49.1	49.2	49.2	49.2	49.5	49.6	49.7	49.8	49.8	49.8	49.7	49.7
Waterworks House	28.0	28.0	28.0	28.0	28.0	28.0	29.0	31.3	36.0	40.2	44.4	48.5
Willowfield Farm	37.7	37.7	37.7	38.1	38.7	39.2	39.8	40.5	41.2	42.0	43.0	44.1

Table 3: Coordinate locations of the dwellings listed in Tables 1 and 2

Dwelling	Easting	Northing
Higher Red Lumb	384056	416138
Nutters Restaurant (now known as Ashworth View Nursery)	382686	416443
Waterworks House	385784	416342
Willowfield Farm	383937	420100

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Note: For the purposes of this Condition, a 'dwelling' is a building within Use Class C3 and C4 of the Town and Country Planning (Use Classes) Order 1987 which lawfully exists or had planning permission at the date of this planning permission.

Guidance Notes for Noise Condition

These notes are to be read with and form part of the Noise Condition. They further explain the Noise Condition and specify the methods to be employed in the assessment of complaints about noise immissions from turbines. The rating level at each integer wind speed is the arithmetic sum of the turbine noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled *The Assessment and Rating of Noise from Wind Farms* (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

- a. Values of the LA90,10min noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of

the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 2014 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

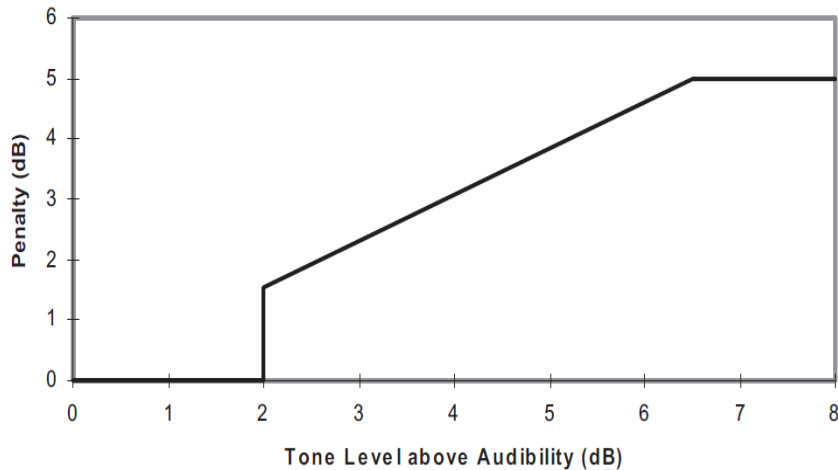
- b. The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the local planning authority, and placed outside the complainant's dwelling. Measurements should be made in 'free field' conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her dwelling to undertake compliance measurements is withheld, the turbine operator shall submit for the written approval of the local planning authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- c. The $L_{A90,10min}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1d, including the power generation data from the turbine control systems.
- d. To enable compliance with the conditions to be evaluated, the turbine operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine, and at any on site meteorological mast(s), if available, together with the arithmetic mean power generated by each turbine, all in successive 10-minute periods. All 10-minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data, as determined from whichever source is approved in writing by the local planning authority as being most appropriate to the noise compliance measurements being undertaken, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter.
- e. Data provided to the local planning authority in accordance with the Noise Condition shall be provided in comma separated values in electronic format.
- f. A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Guidance Note 1d.

Guidance Note 2

- a. The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2b.
- b. Valid data points are those measured in the conditions specified in the written protocol under paragraph d) of the Noise Condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10-minute period concurrent with the measurement periods set out in Guidance Note 1.
- c. For those data points considered valid in accordance with Guidance Note 2b, values of the $L_{A90,10min}$ noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed, as derived from the site measured wind speed source(s) approved in writing by the local planning authority in accordance with Guidance Note 1d, shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares 'best fit' curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the turbine noise level at each integer speed.

Guidance Note 3

- a. Where, in accordance with the approved assessment protocol under paragraph d) of the Noise Condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- b. For each 10-minute interval for which $LA_{90,10min}$ data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during two minutes of each 10-minute period. The two-minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ('the standard procedure'). Where uncorrupted data are not available, the first available uninterrupted clean two-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.
- c. For each of the two-minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.
- d. The average tone level above audibility shall be calculated for each wind speed bin, each bin being 1 m/s wide and centred on integer wind speeds. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- e. The tonal penalty for each wind speed bin is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

- a. If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the local planning authority in its written protocol under paragraph d) of the Noise Condition.
- b. If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.
- c. In the event that the rating level is above the limit(s) set out in the Tables attached to the Noise Condition or the noise limits for a complainant's dwelling approved in accordance with paragraph e) of the Noise Condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to turbine noise immission only.
- d. The turbine operator shall ensure that all necessary turbines in the development are turned off for such period as the independent consultant requires to undertake any further noise measurements required under Guidance Note 4c. If the number of turbines to be turned off is less than the total number of turbines on the site then this shall be approved in advance in writing by the local planning authority.
- e. To this end, the steps in Guidance Note 2 shall be repeated with the required number of turbines shut-down in accordance with Guidance Note 4d in order to determine the background noise (L3) at each integer wind speed within the range requested by the local planning authority in its written request under paragraph c) and the approved protocol under paragraph d) of the Noise Condition.
- f. The turbine noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10\log[10^{L_2/10} - 10^{L_3/10}]$$

- g. The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Guidance Note 3) to the derived turbine noise L1 at that integer wind speed.
- h. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with Guidance Note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the Noise Condition or at or below the noise limits approved by the local planning authority for a complainant's dwelling in accordance with paragraph e) of the Noise Condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the Noise Condition or the noise limits approved by the local planning authority for a complainant's dwelling in accordance with paragraph e) of the Noise Condition then the development fails to comply with the Noise Condition.



Ministry of Housing, Communities & Local Government

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

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

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

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

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

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

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