



Department for
Communities and
Local Government

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Our Ref: APP/B3030/A/13/2208417
Your ref: 073127.010701

19 November 2014

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY NOTTINGHAM TRENT UNIVERSITY
LAND AT BRACKENHURST COLLEGE, BRACKENHURST LANE, SOUTHWELL,
NOTTINGHAMSHIRE NG25 0QF
APPLICATION REF: 11/00792/FUL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Paul K Jackson BArch (Hons) RIBA, who held a public local inquiry between 15 and 18 July 2014 into your client's application for the erection of two wind turbine generators and associated crane pads and access track dated 6 June 2011, in accordance with application ref: 11/00792/FUL.
2. The appeal was recovered for the Secretary of State's determination on 20 February 2014, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a renewable energy development.

Inspector's recommendation

3. The Inspector recommended that the appeal be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Policy Considerations

4. In deciding this appeal, 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. The adopted development plan comprises the Newark and Sherwood Local Development Core Strategy (CS), March 2011, and

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the Allocation and Development Management Development Plan Document (DMDP) of July 2013 (IR12). The Secretary of State notes that the Council's reasons for refusal refer to now superseded policies of the former Newark and Sherwood Local Plan; and he agrees with the Inspector that the CS and DMDP policies referred to at IR13-25 are the most relevant. He also agrees that, for the reasons given at IR238, the development plan is in broad conformity with national policy as set out in the Framework.

5. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework – March 2012) and associated Guidance (March 2014); the Written Ministerial Statements on 'Local Planning and onshore wind' (DCLG) and 'Onshore wind' (DECC); the Planning Practice Guidance for renewable and low carbon energy; the National Policy Statements (NPS) for Energy (EN-1) and Renewable Energy (EN-3); and Ministerial Written Statements on renewable energy published in June 2013 by the Secretary of State for Energy and Climate Change and by the Secretary of State for Communities and Local Government. He has also taken into account the Community Infrastructure Levy (CIL) Regulations 2010 as amended.
6. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), the Secretary of State has paid special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess.

Main issues

7. The Secretary of State agrees with the Inspector that the main considerations are those set out at IR237.

The effect of the proposed development on the settings of heritage assets

8. Having given very careful consideration to Inspector's findings with regard to the effect of the appeal scheme on the settings of heritage assets at IR239-268 and its wider visual impact at IR270, the Secretary of State agrees with him at IR276 that there would be a noticeable and significant adverse and harmful impact on the settings of listed buildings at Southwell Minster, Brackenhurst Hall and Thurgarton Hundred Workhouse together with its associated Registered Park and Garden. He further agrees that the landscape setting of Southwell Conservation Area, including the Minster at its centre, would be adversely affected; and that the settings of heritage assets at Manor Farm, Halloughton and Holy Trinity Church would be harmed to a lesser extent. He agrees that the heritage significance of each asset would be diminished; and that the visual amenity of the users of rights of way - particularly the Robin Hood Way, which includes as part of the experience appreciation of the conservation area and the Minster as well as landscape character - would be adversely affected.
9. However, for the reasons which the Inspector goes on to give at IR276, the Secretary of State also agrees with him that the level of harm would not be "substantial" in the terms set out in the Framework but that, in accordance with s66 of the LBCA, the preservation of setting is to be treated as a desired or sought-after objective, and considerable importance and weight attaches to the desirability of preserving the setting of listed buildings when weighing this factor in the

balance. The Secretary of State takes the view that it does not follow that if the harm to heritage assets is found to be less than substantial, then the subsequent balancing exercise undertaken by the decision taker should ignore the overarching statutory duty imposed by section 66(1) and, like the Inspector, he therefore sees a need to give considerable weight to the desirability of preserving the setting of all listed buildings.

Whether the environmental and economic benefits of the scheme outweigh any harm

10. The Secretary of State agrees with the Inspector (IR277) that addressing climate change is in itself a public benefit and that renewable energy is sustainable by definition. For the reasons given at IR277, the Secretary of State agrees with the Inspector that, although the importance of renewable energy to the future energy security of the country cannot be underestimated, considerable weight and importance also needs to be placed on the desirability of preserving heritage assets and their surroundings. In this particular case, the Secretary of State agrees with the Inspector that the effect of the appeal scheme, which would only be about 2km from the Minster, would be to appreciably diminish the largely unaltered quality of its surroundings and alter for the worse the ability to understand and enjoy the heritage significance of the Minster and the conservation area – which have longstanding and meaningful links with the countryside around the town. The Secretary of State also agrees with the Inspector that the harm to the significance of the heritage assets and to visual amenity, as referred to at IR279, add further weight to the case against the appeal proposal.
11. Having regard to the other side of the balance, the Secretary of State agrees with the Inspector at IR278 that the adverse impact on the heritage significance of the Minster and the conservation area, although “less than substantial”, would significantly and demonstrably outweigh the limited production of electricity that would be produced. He also agrees that, although the scheme would be time-limited, 25 years would represent more than a generation in which the heritage significance of the highest importance would be diminished.

Conditions

12. The Secretary of State has considered the Inspector’s reasoning and conclusions on conditions, as set out at IR227-231. He is satisfied that they are reasonable and necessary and would meet the tests of the Framework and the guidance. However, like the Inspector, he does not consider that they overcome his reasons for dismissing the appeal.

Planning Obligation

13. The Secretary of State has considered the terms of the Unilateral Undertaking submitted by the appellants and considered by the Inspector at IR232-236; but he agrees with the Inspector at IR236 that the undertaking does not meet the requirements of the Framework or the CIL Regulations and so can only be given very limited weight in the overall balance.

Overall conclusions

14. The Secretary of State acknowledges the appellant's desire to create a community fund into which local people and organisations would be able to invest, but the lack of any firm commitment or undertaking in this regard means that it can be given very little weight. He also acknowledges the benefits of the proposal in terms of an increase in the supply of renewable energy and a reduction in CO2 emissions, assisting in mitigating climate change. However, against the environmental benefits and outweighing them, the Secretary of State considers that there would be a noticeable and significant adverse and harmful impact on the settings of a wide range of heritage assets as well as a detrimental impact on the visual amenity of the users of rights of way including the Robin Hood Way.

Formal Decision

15. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the erection of two wind turbine generators and associated crane pads and access track dated 6 June 2011, in accordance with application ref: 11/00792/FUL.

Right to challenge the decision

16. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

17. A copy of this letter has been sent to Newark and Sherwood District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Paul K Jackson B Arch (Hons) RIBA

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

Date 22 September 2014

Town and Country Planning Act 1990

Newark & Sherwood District Council

Appeal by

Nottingham Trent University

Inquiry opened on 15 July 2014

Brackenhurst College, Brackenhurst Lane, Southwell, Nottinghamshire NG25 0QF

File Ref: APP/B3030/A/13/2208417

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**Brackenhurst College, Brackenhurst Lane, Southwell, Nottinghamshire
NG25 0QF**

- The appeal was recovered for decision by the Secretary of State by a direction, made under section 79 and paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990, on 20 February 2014.
- The appeal is made by Nottingham Trent University (NTU) against the decision of Newark & Sherwood District Council.
- The application Ref 11/00792/FUL, dated 6 June 2011, was refused by notice dated 9 May 2013.
- The development proposed is erection of two wind turbine generators and associated crane pads and access track.

Summary of Recommendation: That the appeal is dismissed.

Preliminary Matters

1. The Inquiry opened on 15 July 2014 and sat for 4 days. An accompanied site visit was carried out on 18 July 2014 and I carried out extensive unaccompanied visits in the surrounding area at other times including publicly accessible locations and viewpoints identified at the Inquiry and in representations, as well as the listed buildings and other heritage assets and public rights of way drawn to my attention.
2. Turbines are referred to in the Report as T1 and T2¹. Before and during the site visit, turbine positions were marked on the ground with coloured flag markers.
3. Prior to the Inquiry, 'Rule 6' status was granted to a group of residents, the Halloughton Action Group (HAG).
4. A signed and dated section 106 (S106) unilateral undertaking² (UU) has been submitted by the appellant. The object of this is to provide for the provision of funding of a conservation plan and conservation works at Brackenhurst Hall over the lifetime of the development. One of the turbines is to be identified as the 'enabling' turbine for this purpose. The undertaking specifies that the other 'commercial' turbine would not be erected until the 'enabling' turbine is erected. It is common ground that the proposed works which are listed provisionally in the undertaking, would not be 'enabling works' in the meaning set out in English Heritage (EH) guidance³.
5. A procedural history, detailing the application process and setting out which documents were submitted when, is set out in the Statement of Common Ground (SOCG) at section 2. In all references to documents in this Report, it is the latest versions that are referred to, unless otherwise stated. These include the revised Landscape and Visual Impact Assessment (LVIA) by FPCR Environment and Design Ltd dated May 2012. A written statement on noise by Hepworth Acoustics of July 2012 is the most recent version. The Council does not object on landscape or noise grounds. The Archaeological and Heritage Assessment by ECUS reached its final iteration in June 2012.

¹ In this decision, for clarity, I have assumed the westernmost turbine to be T1 and that to the east, T2

² Doc 16

³ Doc 1

The site and surroundings

6. The site of the proposed turbines would be an arable field south of Brackenhurst Hall, a grade II listed building. T1 would be about 320m away from the southern façade with T2 somewhat to the east of T1. Brackenhurst Hall lies about 1.7 kilometres (km) south of Southwell Minster and slightly further from the centre of the town of Southwell. It lies on a ridge of raised ground about 30m above the land around the Minster but almost level with other parts of Southwell, such as 'High Town' around Lowes Wong and Ash Tree Close. It is an early 19th century house and is associated with a number of other separately listed buildings and structures and extensive gardens. Since 1949, the Hall has been developed as an Agricultural College and now forms the Brackenhurst Campus of Nottingham Trent University (NTU). The campus continues to be developed as a place of learning and it now includes extensive halls of residence and educational buildings, notably a recently completed library.
7. A short distance to the south west of Brackenhurst is the hamlet of Halloughton which lies on somewhat lower ground on a tributary to the Halloughton Dumble⁴. It consists of a ribbon of houses, farms and former agricultural buildings but is dominated by St James's Church and Manor House Farm, which includes a tower house, listed at grade II*.
8. Southwell lies in a shallow basin, enclosed by partly wooded hills to the west and more open fields to the north; and open to the Trent valley to the east. The town centre lies on undulating ground between local streams the River Greet and the Potwell Dyke. The town is dominated by Southwell Minster, a very substantial church originating in the 12th century. It is a nationally important building, listed at Grade I, and is widely regarded as being of international importance in certain respects. Since 1884 it has been the Cathedral Church of Nottinghamshire and Derbyshire. Alongside the Church lie the ruins of the 14th century Archbishop's Palace, an extensive group of buildings damaged in the Civil War and not restored.
9. Other notable features of Southwell include its early 19th century Workhouse and associated Registered Park and Garden (RPG) now restored by the National Trust; and Holy Trinity Church, a Victorian church with a conspicuous high steeple built in a thirteenth century style.
10. A large part of central Southwell is designated a conservation area and it contains many listed buildings in its medieval pattern of streets. Notable amongst these are the 'prebendary' houses, large and impressive dwellings that were occupied by secular canons who were maintained from the revenues of 16 surrounding parishes by prebends.
11. The proposal would affect to varying degrees the following heritage assets, identified by English Heritage (EH) in its submissions: Brackenhurst Hall (comprising four Grade II Listed Buildings), Southwell Minster (Grade I), Bishop's Manor, Southwell (Grade I), Bishops Palace, Southwell (Scheduled Monument), Roman Building, Southwell (Scheduled Monument), Southwell Workhouse (Grade II Listed Building and RPG), together with two Conservation Areas at Halloughton and Southwell. Within Halloughton there is the Halloughton Manor House at

⁴ A local word referring to a wood lined stream, often in a small, steep sided valley

Grade II* and St James's Church (Grade I). In addition to the Minster and Bishop's Palace, Southwell Conservation Area includes four Grade II* Listed Buildings and 202 Grade II Listed Buildings. Undesignated heritage assets that could be affected by the proposals include the parkland that forms part of the Brackenhurst Hall estate and nearby historic farm complexes including Durdham Farm and Rudsey Farm.

Planning Policy

12. For the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004, the adopted development plan comprises the Newark and Sherwood Local Development Core Strategy of March 2011 (CS) and the Allocations and Development Management Development Plan Document of July 2013 (DMDP). The Council's reasons for refusal refer to now superseded policies of the former Newark and Sherwood Local Plan. The following CS and DMDP policies are most relevant.

Core Strategy

13. There are 2 area objectives in the CS for Southwell. Objective So AO1 seeks the preservation of the special character of Conservation Areas - including such character identified in Conservation Area Character Appraisals (CAA)⁵ which will form the basis for their management. Important open spaces and features identified through the CAA process will be protected through subsequent allocation in the DMPD. Objective So AO2 supports the sustainable development of the Nottingham Trent University Brackenhurst Campus, both as a place of learning and as a potential driver for economic growth in the District. The proposed turbines would be situated within the grounds of the campus.
14. CS policy 10 sets out targets for carbon reduction and promotes the development of renewable and low carbon energy and heat generation projects.
15. CS policy 14 seeks the continued preservation and enhancement of the character, appearance and setting of heritage assets and the historic environment, including Scheduled Monuments and other archaeological sites, Registered Historic Parks and Gardens, Listed Buildings and buildings of local historic importance, Conservation Areas and other cultural assets of significant value; and the preservation of the special character of Conservation Areas, including such character identified in CAAs which will form the basis for their management. Important open spaces and features identified through the Conservation Area Appraisal process will be protected through subsequent allocation in the DMPD.
16. Policy SoAP1 concerns the role and setting of Southwell. Amongst other aims it seeks to protect and enhance the historic character of Southwell Conservation Area, ensuring that new development respects the form and function of the town and addresses the findings of the Southwell CAA SPD; and identify, protect and enhance the setting of Southwell, including the views of Southwell Minster, the ruins of the Archbishop's Palace and the Workhouse.
17. Policy SoAP2 relates to the NTU campus and advises that the Council will work with NTU and other partners to support the development of new educational and

⁵ The Southwell CAA is at CD3.7

research facilities at the Brackenhurst Campus; encourage the development of businesses and companies locally which harness the education and research potential of the Campus; and ensure that new development does not detrimentally affect the setting of the Campus or the town of Southwell.

Allocations and Development Management Development Plan Document

18. Turning to the DMPD, the preamble to the section on Southwell states that it is a town of outstanding architectural and historic interest, containing the Minster and associated diocesan administration, a wealth of historic buildings and a large Conservation Area. The CAA was adopted as a Supplementary Planning Document (SPD) in July 2005. The text advises that the CAA reached a series of conclusions regarding the protection of the Conservation Area; of particular concern is the need to ensure that its rural nature is preserved along with its landscape setting and the important open spaces, both public and those associated with Prebendal houses within it.
19. It advises that key to the distinctive character of Southwell are the views of and across, as well as the settings of the principal heritage assets of the Southwell Minster, Archbishop's Palace, Thurgarton Hundred Workhouse and the Holy Trinity Church. The text says that it is therefore important that future development respects these views and settings and does not negatively impact upon them. In line with the requirements of CS policy SoAP1, these important views and an area considered to provide the 'immediate surroundings' of the Workhouse have been defined on the Policies Map, but are not intended to definitively define the extent of views or settings; development proposals which fall outside of them may still present the potential for detrimental impacts. It is therefore important that proposals appropriately address the requirements of policies So/PV 'Southwell Protected Views' and So/Wh 'Thurgarton Hundred Workhouse'. The effect on the Workhouse is not specifically referred to in the reasons for refusal but is the subject of objection from the owners, the National Trust, and others.
20. So/PV states that the Council will seek to protect views of and across the principal heritage assets of the Minster, Holy Trinity Church, Archbishop's Palace and Thurgarton Hundred Workhouse including the view cones identified on the Policies Map (extract shown on Map 6 at page 58 of the DMPD). Development proposals within the view cones will be required to demonstrate that they do not negatively impact on the views of these heritage assets. Those proposals which do detrimentally impact on the views of these heritage assets will not be acceptable; and beyond the areas defined within the view cones, development proposals which have the potential to negatively impact on the views of these heritage assets will not normally be acceptable. The level of potential impact will be dependent on factors such as scale, height, location and the scope for mitigation.
21. So/Wh states that the Council will seek to protect and enhance the setting of Thurgarton Hundred Workhouse. Development proposals within the area defined as the immediate surroundings of the Workhouse on the Policies Map should ensure that they do not negatively impact on these surroundings. Those proposals which do detrimentally impact on the setting of the Workhouse will not be acceptable. Beyond the boundary of the immediate surroundings of the Workhouse, as defined on the Policies Map, development proposals which have

the potential to negatively impact on the setting of the Workhouse will not normally be acceptable. As in So/PV, the level of potential impact will be dependant on factors such as scale, height and location and the scope for mitigation.

22. DMPD policy DM4 says that planning permission will be granted for renewable and low carbon energy generation development, where its benefits are not outweighed by detrimental impact from the operation and maintenance of the development and through the installation process upon various aspects, the most relevant of which are 1) the landscape character of the district arising from the individual or cumulative impact of proposals; 2) Southwell Views as defined in Policy So/PV or the setting of the Thurgarton Hundred Workhouse, as defined in Policy So/Wh; 3) heritage assets and or their settings; and 4) amenity, including noise pollution, shadow flicker and electro-magnetic interference.
23. DMPD policy DM9 concerns protecting and enhancing the historic environment. All development proposals concerning heritage assets will be expected to secure their continued protection or enhancement, contribute to the wider vitality, viability and regeneration of the areas in which they are located and reinforce a strong sense of place. In respect of listed buildings, proposals for the change of use of listed buildings and development affecting or within the curtilage of listed buildings requiring planning permission will be required to demonstrate that the proposal is compatible with the fabric and setting of the building.
24. Development proposals in conservation areas should take account of the distinctive character and setting of individual conservation areas including open spaces and natural features and reflect this in their layout, design, form, scale, mass, use of materials and detailing. Impact on the character and appearance of Conservation Areas will require justification in accordance with the aims of CS policy 14. The policy goes on to state that all development proposals affecting heritage assets and their settings, including new operational development and alterations to existing buildings, where they form or affect heritage assets, should utilise appropriate siting, design, detailing, materials and methods of construction.
25. Policy DM12 of the DMPD reflects the advice in the National Planning Policy Framework (the Framework) at paragraph 14. It says that a positive approach to considering development proposals will be taken that reflects the presumption in favour of sustainable development contained in the Framework. Where appropriate, the Council will work pro-actively with applicants jointly to seek solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions within the district.

National policy

26. As a result of EU Directive 2009/28/EC, the UK is committed to a legally binding target to achieve 15% of all energy generated from renewable resources, including electricity, heat and transport, by 2020. The 2006 Energy Review has an aspiration of 20% of electricity to be from renewable resources by 2020. The Climate Change Act of 2008 sets a target of at least an 80% cut in greenhouse gas emissions by 2050. The overarching strategy to reduce carbon emissions to meet the requirements of the EU Directive and the Climate Change Act is contained in the 2009 UK Renewable Energy Strategy and the UK Low Carbon

Transition Plan; the lead scenario is that 30% of electricity is to be derived from renewable resources by 2020, though this is not binding. The UK Renewable Energy Roadmap (the Roadmap) was published in 2011 and focuses on 8 technologies which are considered to offer the greatest potential to deliver the infrastructure to meet the target, including onshore wind energy. An update to the Roadmap was published in November 2013⁶ which confirms that to the end of June 2013, there was a total of installed onshore wind capacity of 7.0 Gigawatts (GW). A total of over 19.5GW of onshore wind capacity was in operation, under construction or had entered the formal planning system. The document records that very good progress has been made against the 15% target but that the Government retains strong ambitions for renewables deployment beyond 2020.

27. Not all of the developments anticipated in the Roadmap will be consented and not everything will be built, but the majority of new onshore wind developments will be in Scotland. There is no cap on capacity. The Roadmap advises that onshore wind, as one of the most cost effective and proven renewable energy technologies, has an important part to play in a responsible and balanced UK energy policy. The Government will continue to provide a stable long term investment framework for the sector.
28. The 2013 Update states that the Government recognises that some people have concerns about onshore wind developments and it remains committed to ensuring that projects are built in the right places, with the support of local communities; and that they deliver real local economic benefits. New proposals are still needed to meet the 2020 ambition and longer term decarbonisation.
29. The Framework of 2012 replaced the previous Planning Policy Statements (PPSs) and Planning Policy Guidance Notes, though PPS5 Planning for the Historic Environment Practice Guide (PPS5PG) remains extant. The Framework says at paragraph 98 that applicants for energy development should not have to demonstrate the overall need for renewable or low carbon energy. Applications should be approved⁷ if their impacts are (or can be made) acceptable. The Framework advises that decision makers should follow the approach set out in the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3), read with the Overarching NPS for Energy (EN-1), both dated 2011.
30. The advice needs to be read as a whole. Particularly relevant to this case is section 5.8 of EN-1 which concerns the historic environment. Paragraph 5.8.18 says that when considering applications for development affecting the setting of a designated heritage asset, the IPC (or the decision maker) should treat favourably applications that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of, the asset. When considering applications that do not do this, the IPC should weigh any negative effects against the wider benefits of the application. The greater the negative impact on the significance of the designated heritage asset, the greater the benefits that will be needed to justify approval.
31. Paragraph 5.9.18 advises that all proposed energy infrastructure is likely to have visual effects for many receptors around proposed sites and that a judgement has to be made on whether the visual effects on sensitive receptors, such as local

⁶ CD 5.5

⁷ Unless material considerations indicate otherwise

residents and visitors to the area, outweigh the benefits of the project. EN-3 states at paragraph 2.7.6 that appropriate distances should be maintained between wind turbines and sensitive receptors to protect amenity, the two main impact issues being visual amenity and noise. Paragraphs 2.7.48/49 say that commercial wind farms are large structures and that there will always be significant landscape and visual effects for a number of kilometres around a site; the arrangement of turbines should be carefully designed to minimise effects on the landscape and visual amenity whilst meeting technical and operational siting requirements and other constraints.

32. The Framework has a number of core principles at paragraph 17. One of these specifically supports the transition to a low carbon future in a changing climate and encourages the use of renewable resources (for example, by the development of renewable energy). Another core principle says that a good standard of amenity should always be sought for existing and future occupants of buildings and that planning should take account of the different roles and character of different areas.....recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. Another says that planning should also conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
33. The planning guidance issued in March 2014 in the section titled 'Renewable and low carbon energy' advises that:
- the need for renewable or low carbon energy does not automatically override environmental protections;
 - cumulative impacts require particular attention, especially the increasing impact that wind turbines and large scale solar farms can have on landscape and local amenity as the number of turbines and solar arrays in an area increases;
 - local topography is an important factor in assessing whether wind turbines and large scale solar farms could have a damaging effect on landscape and recognise that the impact can be as great in predominately flat landscapes as in hilly or mountainous areas;
 - great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting;
 - proposals in National Parks and Areas of Outstanding Natural Beauty, and in areas close to them where there could be an adverse impact on the protected area, will need careful consideration;
 - protecting local amenity is an important consideration which should be given proper weight in planning decisions
34. In accordance with the duty set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), special regard needs to be paid to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess. Special attention must also be given to the desirability of preserving or enhancing the

character or appearance of conservation areas, as required by section 72(1) of the LBCA.

Supplementary Planning Documents (SPDs)

35. The following documents are agreed to be material planning considerations:

36. The **Newark and Sherwood Landscape Character Assessment** of December 2013 (NSLCA).⁸

37. The **Southwell Landscape Setting Study** of November 2012 (SLSS).⁹ This document outlines the underlying information and the approach the Council adopted in defining the principal protected views of Southwell. It includes the advice that (paragraph 6.2) the heritage significance of the heritage assets within these views will be sustained if:

- The silhouette of the Minster spires and tower can continue to be seen as the principal built elements that cross over the horizon from the surrounding assessment points. Changes to the appearance of the town and landscape should therefore not introduce any visually competing elements and where possible remove existing competing elements, where this is desirable.
- The inter-visibility between the ability to see the spire of the Holy Trinity Church to the south and south west and in relation to those of the Minster is retained and not eroded.
- Development will take the opportunity to reveal views of the Minster and workhouse and will consider density, layout and design in a manner that preferably enhances and demonstrably preserves the views.
- The position, scale, colour and height of new development should not detract from the views of Southwell.
- The longer views out across the town to surrounding ridge lines are considered particularly where new development would add to and potentially detract from wider views incorporating the key heritage assets within Southwell.
- The ability to appreciate the historic environment within the views from the higher ground within the hills around Southwell particularly from rights of way is maintained and not eroded by the addition of visual distraction.
- Where possible trees and woodland planting are carefully designed to frame views of the Minster and the Workhouse rather than obscuring them.
- Wherever possible and appropriate the rural mixed farming landscape character of the area is preserved and enhanced.

38. The **Wind Energy Supplementary Planning Document** adopted on 26 March 2014 (WESPD)¹⁰ contains detailed guidance on how proposals to develop wind energy schemes will be assessed in the District. It says that '*the principal heritage assets of the Southwell Minster, Archbishop's Palace, the Workhouse and the Holy Trinity Church are integral to Southwell's distinctive character. The*

⁸ CD3.3

⁹ CD3.2

¹⁰ CD 3.5

views of and across these assets as well as the area considered to be the immediate surroundings of the Workhouse are particularly significant in this regard. It is therefore crucial that proposed wind energy development respects the views and settings of the assets and does not negatively impact on them.....These view cones however do not definitively set the extent of the views and proposals which fall outside of them may still have the potential for detrimental impact'.

39. The guidance then refers to policy So/PV and advises that in terms of wind energy development, given the potential scale and height of turbines, this is considered to be a development type which could have the potential to detrimentally impact on these important views beyond the extents defined on the Policies Map. It says that assessment of the impact on the Southwell Protected Views designation should be led by and take account of the Southwell Landscape Setting Study. The factors set out in the SLSS are considered important to sustaining the heritage significance of the assets within the views, and are repeated here.
40. The SPD then repeats a similar set of criteria in respect of the Workhouse.
41. The **Newark and Sherwood Landscape Capacity Study for Wind Energy Development** of March 2014 (LCSWE)¹¹ assesses the capacity of different landscapes within the district to accommodate further wind energy. It has reached its final form after consultation but at the date of the Inquiry, had not been formally adopted. It provides guidance from a respected firm of consultants (LUC) on landscape capacity and I give it moderate weight. Landscape sensitivity is defined for a series of wind turbine heights. The study does not represent a comprehensive assessment of heritage assets in the district but does address a number of heritage designations including registered parks and gardens, conservation areas, and locally-protected landscapes including around Southwell. The presence of these designations has informed the sensitivity assessment, but the SPD advises that effects on these and other heritage assets, and their settings, need to be assessed in detail on a project-specific basis.
42. Figure 2.1 identifies existing, consented and proposed wind energy developments including the appeal proposal. The guidance notes at paragraph 3.13 that the setting of the town of Southwell has been the subject of a detailed study, which has led to the definition of protected views from, of and across the town's principal heritage assets (the Minster, Holy Trinity Church and Workhouse) and an area defined as the immediate surroundings of the Workhouse. The extent of these designations are defined on the Policies Map, and the associated policies So/PV and Policy So/Wh are noted. The SPD says that the views and the settings of the assets will be particularly sensitive to wind energy development, concluding that in reviewing these historic landscapes it is recognised that the most vulnerable are the protected views around Southwell, *'This designation is specifically visual, relating to the setting and surroundings of three landmark buildings, and is therefore likely to be highly sensitive to the introduction of turbines, even outside the designated areas.'*
43. The appeal site lies in Local Landscape Character Type (LCT) *Mid Nottinghamshire Farmlands: Village Farmlands*. The study identifies a moderate

¹¹ CD 3.4

level of sensitivity to medium sized turbines up to 80 metres (m) high with high/moderate sensitivity above 81m. The guidance states that *'the landscape setting of Southwell is recognised in planning policy as being of great significance. Of particular importance are the views from, of and across the town and its conservation area, which include the Minster, Archbishop's Palace, Workhouse and other landmarks. The presence of this key assemblage of historic buildings in the landscape indicates locally increased sensitivity in areas of the LCT close to Southwell, where turbines may affect appreciation of views of landmark buildings. Areas of increased sensitivity may extend beyond the areas defined in the LDF Policies So/PV and So/Wh'*. Under 'Guidance for development' the SPD says that *'the significant landscape setting of Southwell and key landmark buildings are identified as key sensitive features and characteristics. Avoid development which may adversely affect views from, of or across Southwell, and which could affect the setting of the conservation area and landmark buildings. Reference should be made to the Southwell Landscape Setting study, noting that adverse effects may arise from turbines located beyond the areas currently defined in planning policy'*. The protected views are identified on Figures 5.1 to 5.5 which are intended to illustrate graphically landscape sensitivity to different turbine typologies.

44. The appeal site lies within a short distance of a different LCT, *Mid Nottinghamshire Farmlands: Village Farmlands with Ancient Woodlands: Southern Area*, which extends to the west and south. The traditional pattern of farms and small rural villages is a characteristic feature. It says that parts of the LCT lie close to Southwell where skylines are considered particularly important when viewed from or across the town. The conservation area at Halloughton is specifically mentioned though the built-up part of the village lies in *Mid Nottinghamshire Farmlands: Village Farmlands*¹². The greatest area of sensitivity is considered to lie in the southern parts of the area and that is considered to be medium/high with respect to medium size turbines of the sort proposed.
45. The SPD concludes that the setting of Southwell is recognised in the LDF as one of the most important locations in the district due to the assemblage of historic buildings within the landscape. The area around Southwell is considered to be of higher sensitivity to wind energy development, which could alter the skylines around the town, or adversely affect the appreciation of views of, from or across the conservation area and its landmark buildings.

The Case for Nottingham Trent University

The main points are:

46. The reasons for refusal refer to three designated heritage assets:
- Southwell Minster
 - Brackenhurst Hall
 - Southwell Conservation Area
47. HAG relies on the Council's reasons for refusal but also raise issues in relation to:

¹² The study uses the parish boundaries which frequently pass across more than one LCT

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- Southwell Workhouse
 - Manor Farm House, Halloughton
 - Church of St. James, Halloughton
48. The exceptional significance of Southwell Minster is not challenged by the appellant. The Minster is best experienced within its own precincts and from within. The architectural importance of Southwell Minster is of international appeal, particularly manifested in the "Leaves of Southwell"¹³, the Pulpitum¹⁴ and the roof buttresses. What is very telling indeed is that amongst all the literature and academic references from HAG, it could only identify three places in which it said that reference was made to the wider landscape setting around Southwell making any real contribution to the overall heritage significance of the Minster. When these are interrogated (1) the Reverend Arthur Dimock was describing the fabric of the building and a brief history of the Episcopal See and refers to views from the meadows on the south-east which would not be affected; or from the more distant view "when approaching by rail from Rolleston" which must be a number of kilometres away at the very least and not obscured (2) Arthur Grant in "The Grey Shrines of England" describes the view going downhill from Halloughton which would be away from the turbines; and views from the immediate vicinity of the Minster close to the west front; and (3) John Harvey in "The English Cathedrals".
49. For the overwhelming majority of visitors, it is the approach to the building on foot from Church Street to the north and from Market Place/Westgate to the west which is of paramount importance. There are other important views of the Minster and towers from other points within Southwell and most involve other listed buildings and structures of heritage significance. Close views of the Bishop's Manor and the remains of the Bishop's Palace and the Minster would not be affected.
50. In terms of longer views, a long view of the Minster from the junction of Upton Road and Normanton Road is possible but the turbines would appear considerably to the right of the towers. A long view from the north in which the proposed turbines would be roughly in line with the Minster is Viewpoint 19/Visual 36A¹⁵; the contribution to the overall significance of the Minster from this view is relatively low. Users of Corkhill Lane would experience views in which the turbines would appear to "move" from the right and for a period of about 400m would be roughly in line with the Minster; with almost any wind turbine scheme, it is possible at some point or another to find a location from which turbines can be seen close to or behind a heritage asset such as a church. What matters with such an incidental view is the extent to which there is harm caused to those elements of setting which contribute to the overall heritage significance of the Minster and in turn, what harm might be caused to overall heritage significance of the asset. The contribution to the overall significance of the Minster from this view is relatively low. As was described by a local resident, this is a quiet lane with six houses on it and very few walkers ever observed.

¹³ Naturalistic stone carvings in the Chapter House

¹⁴ The stone screen dividing the choir from the nave

¹⁵ LVIA. From Corkhill Lane.

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51. Views from the central tower of the Minster are not normally available to members of the public but insofar as the view towards Brackenhurst Hall is concerned, it is almost engulfed by modern structures.
52. In a very real sense, Brackenhurst Hall is the control property; if the scheme fails because of the impact on the significance of Brackenhurst Hall then there is little need to go on to consider Southwell. If the impact on Brackenhurst Hall is acceptable then it is hard to see how the long distance impacts on Southwell would then render the scheme unacceptable.
53. At Brackenhurst Hall, the clearest views of the turbines will be from the top of the tower which is a private view and one which is already affected by nearby modern campus buildings. Only a small arc of view from the tower would be affected. Views from the windows of two former bedrooms and from the intermediate bow window would be affected. Views from ground floor windows and terraces are filtered to varying degrees by trees and shrubs. The most significantly affected view would be the prospect from the bow window in the former dining room. There would also be views of parts of the turbines from the gardens to the west, south and east of the Hall.
54. Even where the turbines and Hall are visible in the same view, the observer's attention would still be drawn towards the Hall as the main focus of aesthetic and architectural interest.
55. The third reason for refusal, relating to Southwell Conservation Area, uses a slightly different term from the first reason for refusal. When referring to the Minster, the Council referred to a "wider" landscape setting. In relation to the conservation area the Council refers simply to a landscape setting. The Minster is the most prominent building within the conservation area and in broad terms the conservation area has much the same surroundings as the Minster.
56. It is clear from the way that policy So/PV is worded that there is a hierarchy; the restriction on development which lies within the identified view cones is couched in absolute terms. Importantly, the appeal site lies outwith the identified northern and southern view cones. Development which lies outside the view cones needs to be considered on a case by case basis with the restriction being couched in relative terms. It is true that wind turbines are specifically singled out as the sort of development that can cause harm to views even when located outwith the view cones, but on a proper analysis, these two particular turbines do not cause unacceptable levels of harm when the planning balance required by policy DM4 is undertaken.
57. With regard to the other heritage assets mentioned:
- Harm to Halloughton Conservation Area would be minor;
 - Harm to Halloughton Manor Farm House would be slight;
 - Harm to the Church of St. James, Halloughton would be slight;
 - Harm to Southwell Workhouse would be a slight visual impact;
 - Harm to Holy Trinity Church, Westgate would be minor;
 - Harm to the other heritage assets in Southwell would be negligible.

Statutory considerations

58. With regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas Act) 1990 (LBCA) the Barnwell Manor litigation¹⁶ has made plain that the statutory duty is separate to the planning policy position. In summary, the assessment of harm is a matter of planning judgment. However, once the decision-maker finds some harm to a heritage asset, the effect of s66(1) is that the harm must be given "considerable weight" in the balance, creating a "strong presumption" against the grant of planning permission.
59. In striking the balance, it is not enough simply to ask whether the advantages of the scheme outweigh the harm in a loose or general sense, but whether they sufficiently outweigh harm to rebut that strong presumption. The courts will need to see a clear indication on the face of the decision that the section has been approached in that way. Even though the Inspector in that case referred (in several places) to s66(1), the judge thought that he "appears to have treated the less than substantial harm to the setting of the listed buildings...as a less than substantial objection to the grant of planning permission". Even where harm is properly assessed as less than substantial, "it does not follow that the 'strong presumption' against the grant of planning permission has been entirely removed"¹⁷. This must mean that a presumption which is "strong" in the case of substantial harm to a Grade I listed building becomes less strong in the case of less than substantial point down to somewhere close to its strength being entirely removed. The "strong" presumption must also be less strong in the case of a lower grade designated asset and lowest of all in the case of less than substantial harm to a Grade II listed asset.
60. The Court of Appeal also agreed that the Inspector had misapplied policy on heritage assets in what was then PPS5 (now incorporated into the Framework), undermining his assessment of the harm as "less than substantial". He had failed to properly examine the contribution the setting of the assets made to their significance, with the result that his assessment of the harm caused by the introduction of the turbines to that setting was flawed. Nor was it clear, at any rate without further explanation, how he could rationally have treated the distinction between "substantial" and "less than substantial" harm as hinging on the observer's ability to distinguish between the heritage assets and the obviously modern turbines.
61. Whilst inter-relationships between various heritage assets can be taken into account when determining overall heritage significance of an individual asset, it is not methodologically correct to aggregate harm as was floated by the Secretary of State in the Asfordby appeal¹⁸. A determination of the degree of harm is against the overall heritage significance of an asset. If such a route were to be followed, the total reservoir of heritage significance would of course increase in the same ratio. What it is absolutely wrong to do is to suggest that the relative proportion of harm has changed simply by adding lumps of harm together and then adding some more for good measure.

¹⁶ CD6.5, CD6.6

¹⁷ Paragraphs 28 and 29 of the judgment

¹⁸ Doc 2

62. Turning to section 72(1) of the LBCA, because no development would take place within a conservation area, the appellant submits that section 72(1) is not engaged in this appeal. The setting of the conservation area has to be considered as a matter of policy but this is not a statutory matter. On this issue, the appellant takes a different view to that expressed by the Council.

Policy considerations

63. The Framework supersedes most previous national policy in this area although considerable continuity is apparent. One of the core planning principles in paragraph 17 is the conservation of heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations. Significance is something that is experienced through an understanding of the heritage asset and which should be expressed in terms of archaeological, architectural, artistic or historic interest. This is an exhaustive list of the special interests which go towards significance, drawn from the definition in Annex 2 to the Framework. The authors of PPS5 and then the Framework specifically did not adopt the value based approach advocated by English Heritage (EH) in *Conservation Principles*. As EH itself accepts, such values are more subjective and discretionary.

64. The hierarchy of (1) primary legislation in the LBCA, (2) national planning policy, (3) PPS5 Practice Guide and then below those three, (4) English Heritage guidance (which includes *Conservation Principles*) is clear and set out in Figure 1 of the *Guidance on Setting of Heritage Assets*. The starting point, however, is section 38(6) of the Act. Section 66 of the LBCA is a material consideration.

65. Significance is not the same thing as general visitor amenity; nor is it the same as a contemporary landscape and visual amenity assessment. Any assessment of the significance of a heritage asset should include the contribution of its setting. Any heritage asset will have a setting, including a conservation area. Any assessment should recognise that elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

66. Setting is not a heritage asset in itself and nor is it a heritage designation; its importance lies in what it contributes to the heritage significance of a heritage asset. The key question is to understand whether and to what extent elements of the setting of a heritage asset contribute to significance. It is then possible to assess whether any change in that setting due to the proposed development would affect the significance of the asset. Change in itself does not constitute an effect on significance.

67. The Framework and the EH guidance on setting do not use terms like 'wider setting' or 'landscape setting'. These are simply working terms and are neither required nor should be used in place of the policy definition in Annex 2 to the Framework when properly applied. When an asset is likely to be affected, significance must be assessed in its entirety. This involves looking at setting 'in the round'. Particular views may be more important (because they were designed or because they convey more heritage relevant information) than others but an assessment must not be restricted merely to views in which a development may have an effect.

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68. Policy guidance does not provide clear guidance on where the line between "substantial harm" and "less than substantial harm" should be drawn. However, planning guidance makes plain that the threshold is a high one. Importantly however, Jay J. concluded in the decision of *Bedford Borough Council v SSCLG and Nuon UK Limited*¹⁹ that the Inspector was correct in saying that 'for harm to be substantial, the impact on significance was required to be serious such that very much, if not all, of the significance was drained away'. Plainly in the context of physical harm, this would apply in the case of demolition or destruction, being a case of total loss. It would also apply to a case of serious damage to the structure of the building. In the context of non-physical or indirect harm, the yardstick was effectively the same. One was looking for an impact which would have such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced'.
69. With regard to reversibility, paragraph 2.7.17 of NPS EN-3²⁰ directs that when undertaking an assessment of the likely impacts of wind turbines on both the landscape and cultural heritage assets, the decision maker should take reversibility into account²¹. This echoes EH's own guidance on Wind Energy and the Historic Environment²² which provides in the last bullet point on the checklist that consideration should always be given to the reversibility of wind turbines. Reversibility can only serve to mitigate any harm arising and militate in favour of the grant of planning permission. Therefore, it is a benefit.
70. Drawing these threads together, Government policy aims to preserve the significance of heritage assets. All assets have a setting and that setting may contribute to the significance of the asset. Change in the setting of an asset may affect that contribution. Change (for example visual change) is not in itself an impact on the significance of an asset. An impact will only occur if the change affects the contribution made by setting.
71. The correct basis for an assessment is therefore an analysis of the significance of the asset, including the contribution made by setting. In cases where only setting is affected, only the portion of significance derived from setting can be affected. It cannot be assumed that visual change constitutes an adverse impact or that more visual change will be a greater impact. So, proximity to and intervisibility with turbines are not useful criteria, on their own, for assessment of impact magnitude. What must be understood is how this visual change affects the contribution made by setting before a conclusion can be reached about magnitude.
72. It cannot be assumed that a more important asset (typically a high grade designated asset) will experience a greater magnitude of impact. What matters is the extent to which its significance derives from setting and this is unrelated to the importance of the asset. In most cases, the majority of significance ascribed to an asset lies in its fabric and will be unaffected by change in the setting.

¹⁹ Ref [2013] EWHC 4344, CD 6.4

²⁰ CD 2.3

²¹ EN-3 states: The time-limited nature of wind farms, where a time limit is sought by an applicant as a condition of consent, is likely to be an important consideration for the IPC when assessing impacts such as landscape and visual effects and potential effects on the settings of heritage assets. Such judgements should include consideration of the period of time sought by the applicants for the generating station to operate and the extent to which the site will return to its original state may also be a relevant consideration.

²² CD 8.2

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73. 'Harm' in all cases, means 'harm to the significance of a heritage asset'. Where the setting of an asset contributes to its significance, change in that setting may harm the significance of the asset. Policy does not recognise a separate concept of 'harm to the setting'.
74. The key difference between the LBCA and the Framework is that whilst s66(1) only requires the decision-maker to have 'special regard' to the preservation of Listed Buildings or their settings, the 'great weight' afforded to the conservation of assets in paragraph 132 of the Framework applies to all designated heritage assets and their settings. The requirements to have 'special regard' and to afford 'great weight' are effectively the same standard, a conclusion supported by the recent judgement in the Court of Appeal where the reference to 'special regard' in the Act was interpreted as meaning 'considerable importance and weight'²³. Differences in the vocabulary used in the 1990 Act and the Framework reflect the 22 year gap between them, not any actual difference in meaning.
75. The Framework raises the level of protection afforded to all types of designated heritage assets and their settings up to a level already provided for Listed Buildings through the 1990 Act. Whilst the 1990 Act continues to place a distinct statutory duty on decision makers solely with respect to Listed Buildings, this does not create a higher test regarding the acceptability of any harm to Listed Buildings compared with any other designated asset.
76. The Council seems to misunderstand the point that in setting only cases, it is only that proportion of overall heritage significance which is derived from setting that can be affected. It is precisely because of this that a finding of 'substantial harm' in a setting only case will be rare. What the Council have done in the case of each of the main assets is to conflate visual change in a view or series of views with a finding of substantial harm to overall significance.
77. Furthermore, the Council criticises the appellant's approach to the CS and the consistency of DMPD policy DM9, but does not give proper recognition to the fact that DMPD policy DM4 was adopted after issue of the Framework to deal with heritage issues in renewable energy schemes, in full knowledge of the duty in the LBCA.
78. The witnesses for HAG are over-sensitive. This can be calibrated from their clearly stated view that the Hockerton turbine is causing "substantial harm" within the meaning of paragraph 133 of the Framework to (1) Southwell Minster and (2) Southwell Conservation Area. This is absurd. If that is their view, it is hardly surprising that they predict "substantial harm" all over Southwell from these two turbines. It was clear from their evidence that the action group is unable to separate visual change in a view of a heritage asset from the concept of substantial harm to the overall heritage significance of an asset. The result is that both the Council and HAG find 'substantial harm' far too easily and in circumstances where the degree of harm to overall heritage significance of each respective heritage asset does not come close to reaching such levels.
79. The significance of these and the other heritage assets is not challenged in any way by the appellant. What is challenged is the alleged impact of the turbines on

²³ CD5.12, paragraph 29

those elements of setting which do actually go to such overall heritage significance of such strong assets.

80. Paragraph 4.212 of the LCSWE confirms that even in the event that planning permission were to be granted for the Brackenhurst turbines, then the authors of the study believe that there could still be remaining capacity for onshore wind turbines in lower sensitivity areas without changing the underlying character of the local landscape character area. The Brackenhurst turbines were known to the authors of study and specifically named. However, a clear distinction has to be drawn between contemporary landscape and visual impact assessment and heritage assessment. A contemporary LVIA would look at how an historic building or buildings might characterise the landscape of today and not directly at the heritage significance which it might enshrine. This distinction was clearly recognised and understood by the Council when, in full knowledge of all the contemporary landscape materials and guidance, it decided that it could not refuse planning permission on this basis. This was expressly confirmed in evidence on behalf of the Council. If any residual concerns linger then the detailed case on behalf of the appellant is set out in the LVIA and written statement of FPCR.
81. In conclusion, Southwell Minster and Southwell Conservation Area are robust and complex heritage assets that can satisfactorily absorb far greater levels of change than those caused by the proposed two turbines on the distant horizon. Similarly, the heritage significance of Brackenhurst Hall is well able to sustain any impacts which may result from this scheme, with or without taking the reversible nature of the turbines into account.

Benefits

82. NTU is one of the leading green universities in the United Kingdom. NTU has topped the People and Planet Green League twice and received many awards for its innovative approach to sustainability for teaching and campus operations. NTU has invested heavily in all three of its campuses and Brackenhurst has seen over £25 million of investment since 1999. NTU has a target of reducing carbon emissions by 48% by 2020/2021 as compared with the baseline year of 2005/2006. NTU published the Carbon Elephant Plan in 2013 which sets out how the institution aims to meet its emissions target; these wind turbines are a key element of what is a coherent and clear plan.
83. There is a clear and logical underpinning to this exemplar renewable energy scheme. The energy demand of the University fluctuates throughout the year and there is virtually no requirement for heat during the summer. Accordingly, when installing further renewable and low carbon technologies, consideration has to be given to both the annual energy requirements of NTU itself as well as the ability to manage excess supply during periods of low demand. Because excess electricity can be exported to the National Grid at periods of low demand, the installation of renewable energy technologies is clearly to be favoured over renewable heat installations.
84. There are two further particular things of note regarding this scheme: NTU has committed by means of the unilateral undertaking to set aside substantial funds generated by one turbine, amounting to a total of about £1.2 million to fund a conservation management programme at Brackenhurst Hall. Whether or not this complies with EH's own definition of enabling works is somewhat of a red herring.

The unilateral undertaking is lawful and complies with the Community Infrastructure Levy Regulations. Provision of dedicated heritage related repair and restoration funding is directly referable to this particular development and necessary, given acknowledged harm to overall heritage significance at Brackenhurst. It is a material consideration and was accepted to be so by the Council both at the time of determination of the planning application based upon the second revised and in the carefully re-written iteration of the officer report to committee; and again in oral evidence. A sum of £1.2 million awarded by the Lottery Heritage Fund for restoration of the Bishop's Palace was described by HAG as an extraordinary amount and yet an identical sum of money for Brackenhurst Hall is somehow met with scepticism and a rather studied sense of doubt. This is an important point in this appeal. It is obviously inappropriate to guarantee a fixed sum, but it would be a fixed percentage; that would enable the Council to monitor and control. Substantial weight can and should be afforded to a unique heritage repair, restoration and maintenance opportunity in the planning balance.

85. NTU is also committed to providing a community turbine fund to be operated by the local community with the ability for the local community to buy into the second turbine and the creation of a fund to be operated by the local community which will contribute directly to locally identified projects. This will provide social and economic benefits to Southwell. The materiality of community benefits continues to attract rather conflicting statements in national planning policy. Out of an abundance of caution, the appellant does not say that the general community financial benefit is a material consideration which weighs in the planning balance. Encouraged as it is by the Coalition Government, it is there as part of the backdrop but not relied upon to justify the grant of planning permission.

Local objection and support

86. As with any other case, it is important to disentangle the material planning concerns raised by local objectors from the more general invective aimed at fending off change of any sort. Of course local residents identify the local landscape, townscape and heritage as unique and as valued by them. Just like everywhere else, they are valued and there is nothing unusual or unique in this situation. The key is to ensure that the location and design of the wind farm are such that any inevitable effects do not give rise to unacceptable impacts.
87. The recent planning guidance reminds the decision maker to pay attention to local views. It did not give those views a significance they would not otherwise have had, beyond the fact that they are the views of people who will have to live with the development if it goes ahead. Accordingly, it is clear that it is land use planning concerns which should be accorded due weight. The raw number of objections isn't particularly relevant; as it has always been, it is the substance of such objections which must be considered. Whilst members of HAG and other local residents are articulate and forthright, the point remains that vocal opposition is limited to a relatively small number of local people and seemingly drawn from a fairly narrow socio-demographic.
88. No unacceptable impacts on equestrian, cycling or walking would occur and the relationship between turbines and PROWs is one seen successfully accommodated across the United Kingdom. There is a matrix of PROWs and

alternative routes when travelling in all directions. Whilst the appellant does not believe that any unacceptable impacts would result, in the event that the decision maker considers it necessary, it offers a further alternative permissive route pursuant to a condition which would take users away from the turbine and comply with the most recent BHS Guidance for England (2013).

89. There is no credible evidence to suggest that members of the public would not use and properly enjoy any part of the PROW network, were the wind farm to be built.
90. It is a striking feature of the case that support for the scheme is drawn from very diverse sections of the community; from those involved with Southwell Minster itself through to local youth groups. In full knowledge of the varied facets of Southwell as a town, its heritage assets, tourism draw and economic well being, the Town Council as elected local custodians of the settlement convincingly voted to support these turbines. That is a very telling piece of evidence indeed.
91. The overall benefits can be summarised as:
- The supply of a material amount of renewable energy and contribution to the achievement of the national target of meeting 15% of the United Kingdom's energy demand from renewable resources by 2020. This remains an important material consideration in its own right, even following the recent announcement by the European Union to remove national targets which will not take effect until 2020;
 - The contribution that the scheme would make to mitigating climate change;
 - Energy security through contributing to a mix of renewable resources in Nottinghamshire
 - Furtherance of NTU's sustainability objectives;
 - Provision of renewable energy at lowest cost to the consumer;
 - Direct and indirect economic benefits which are recognised by the Coalition Government;
 - Provision of substantial funding for heritage repair and restoration works to Brackenhurst Hall;
 - Community involvement in renewable energy and carbon reduction; and
 - The proposed development is a wholly reversible form of development which will leave the landscape character and visual resource intact.
92. When the planning balance is undertaken carefully, the proposed development would comply with the lead policy DM4 in the DMPD and pursuant to section 38(6) and the presumption in favour of sustainable development contained in both policy DM12 and paragraph 14 of the framework, planning permission should be granted in the form in which it has been sought.

The Case for Newark and Sherwood District Council

The main points are:

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93. The relevant evidential documents include the CAA, the SLSS and the LCSWE amongst others. These documents all militate against the scheme, providing guidance on the factors that cause harm to Southwell and its heritage assets and which should be avoided. It should be noted that the LCSWE does not provide support for the scheme as suggested by the appellant. It is telling and disappointing that the appellant's heritage witness makes no reference to any of these documents at all when providing his opinion to the inquiry. This is despite the SOCG recording the appellant's agreement that these are all material considerations in the determination of this appeal.
94. The issue is in respect of the categorisation of the level of harm. While the inquiry has spent some time on the meaning of "substantial harm" as compared to "less than substantial harm", having regard to the agreed position between the parties, the scheme falls to be dismissed in any event. The reasons for this are as follows.
95. The starting point for the determination of this appeal must be the statutory context. The Council's case is that there is substantial harm to the Southwell Minster, the Southwell Conservation Area and Brackenhurst Hall and less than substantial harm to a vast number of other heritage assets including South Hill House, Halloughton Conservation Area, the Workhouse, Halloughton Manor Farm House, Holy Trinity Church and the Park and Gardens of the Workhouse. The appellant's heritage witness puts the harm (differing from his written assessment) to Brackenhurst Hall as the 'highest harm' being 'half way up the ladder of less than substantial harm'. But as noted above, since he reached all his conclusions without actually setting out what the contribution of the setting is to the significance of each of the heritage assets – his conclusions are difficult to give weight to.
96. However, for the purposes of the statutory test, as there will be harm then the "strong presumption" against planning permission which arises from s66 of the LBCA is squarely engaged. The appellant's planning witness told the inquiry that he did not address this strong presumption in his planning balance. This is a fundamental flaw. Having simply stated that he has understood 'the conclusions of the Court of Appeal and in undertaking my planning balance have had special regard as I am required to do' he says that his approach is that having reviewed the matters which are relevant to the determination of this appeal it seems to him that the overall point to be addressed is whether the very significant public benefit of providing a renewable energy project together with the other public benefits is outweighed by any harm arising to heritage assets.
97. There is no evidence that he did consider or apply the strong presumption – on the contrary he said he had just applied in effect policy DM4 of the DMPD. Nowhere does he deal with this strong presumption against the grant of planning permission in this case. Far from understanding the duty under s66, his evidence shows he has disregarded it in his planning balance. He has done a simple balancing exercise of the type said to be flawed in the case of Barnwell and others²⁴.
98. The starting point needs to be the tests in s66 and s72 of the LBCA. The strong presumption is engaged. Considerable importance and weight must be given to

²⁴ CD6.6

the harm to the heritage assets²⁵. It is also highly pertinent that the harm to the large number of other heritage assets which result in less than substantial harm must also be given considerable importance and weight.

99. Discussion was had at the inquiry about the meaning of 'substantial harm'. This issue needs to be put in context. There was no challenge to the Council's heritage witness's assessment of the heritage assets and the characteristics of the impacts or harm or the reasons why she found harm. Indeed, the appellant expressly agreed with her assessments. Therefore, however the harm is labelled, the effects of the scheme are agreed. These effects are in clear conflict with the need to conserve heritage assets and in clear conflict with the development plan for the area.
100. The CS and the DMPD are entirely up to date, the DMPD having been recently found sound in the light of the Framework and the soundness tests. It is not the business of the appellant to query compliance with the Framework in those circumstances. There is a separate statutory local plan examination under the 2004 Planning Act and the Development Plan Regulations process that determines whether or not a draft submission local plan is sound and that includes compliance with the Framework. Compliance is examined in the light of all the evidence and hearings. Once found sound and adopted, this constitutes the statutory development plan for the area. Paragraph 215 of the Framework has no role in respect of the DMPD whatsoever. It is a misapplication of that paragraph to do what the appellant appears to have done in giving the harm or the conflict less weight because it is thought DM9 of the DMPD does not comply with the Framework. This is a further serious flaw in the appellant's balancing exercise. Indeed, there was some confusion as to whether the appellant was now giving full weight or not to the DMPD. The plan is up to date and sound and not challenged. Full weight needs to be given to the policies and any conflict.
101. The development is in fundamental conflict with policy DM9. The appellant agreed that there is conflict. There is also conflict with DM4. Even when the benefits are considered, "considerable importance and weight" must be given to the harm to heritage assets. DM4 requires a consideration of the harm to heritage assets and their settings and especially Southwell views as defined in policy SO/PV. SO/PV is fundamentally conflicted with and the appellant agreed that there was conflict with the second bullet point. The suggestion of "hierarchy" in the policy makes no sense. The policy is the policy and the scheme by reasons of its scale, height and location and lack of scope for mitigation negatively impacts on views of and across the Southwell Minster. In the light of the appellant's heritage witness's evidence that he did not disagree with the Council's evidential analysis and the specific effects identified and which he agreed were all to be taken as "negative" it follows that this conflict is obvious.
102. This harm to heritage assets, when giving it considerable importance and weight, including applying the strong presumption against the grant of planning permission as per Barnwell – does not begin to be outweighed by the benefits of the scheme, which are documented in the Council's evidence and given due

²⁵ The Council's closing remarks contain quotations from Appeal Court judgments [South Lakeland District Council v Secretary of State for the Environment](#) [1992] 2 AC 141 and [Barnwell Manor Wind Energy Limited and East Northamptonshire District Council and others](#) [2014] EWCA Civ 137 which are omitted from the summary here

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- weight. The issue of reversibility is misconceived in the appellant's submissions; it is not a "benefit" to be given weight. At best it is "mitigation" and this was accepted in cross examination. In any event 25 years is a considerable proportion of a lifetime and there can be no guarantee permission will not be renewed in any event.
103. As to the community fund, this was also in the appellant's balance but the appellant said at the outset of the inquiry that "it did not form a material consideration" in the determination of the appeal. Therefore once again, the appellant adds weight to the benefits side of the scale when it should not. Furthermore, there is no apparent means by which this community fund is secured.
104. The so called "enabling" development is nothing of the sort. The appellant conceded that it was not development that complied with any of the principles of enabling development in the EH guidance. There is no evidence whatsoever that the harm caused by the turbine to all the heritage assets is necessary in order to do the listed maintenance works over a 25 year period. There is nothing to suggest that the appellant cannot afford to do the works. The appellant has a duty to maintain and look after its own assets and it is surprising that it should consider that so much harm to the public interest and the enjoyment of these significant heritage assets by the public should be sacrificed so that it can complete a maintenance programme on its own campus – and indeed significantly harming that very heritage asset in the process.
105. The Vice Chancellor of NTU confirmed that as part of its social conscience the University would in any event have made provision to maintain its assets. The appeal scheme is not enabling development. And the wish to produce another income stream to fund maintenance of Brackenhurst Hall does not provide a "clear and convincing justification" for the harm to heritage assets including to Brackenhurst Hall itself (paragraph 132 of the Framework). No weight can realistically be given to this matter. There is no analysis (as the proposed maintenance works are unknown) as to whether the benefits of the maintenance works outweigh the harm caused to Brackenhurst College, Southwell Minster and the conservation area and the other heritage assets in any event. Again, the appellant's balancing exercise is flawed as this has been given weight. There is also nothing that ties the scheme to delivering the £1.2m sum that was mentioned several times. Nothing in the section 106 UU refers to this sum at all.
106. The appellant has done a great deal of "double or treble counting". The "renewable energy" benefits have been taken into account at least 3 times when considering policy DM4 and possibly also in respect of investment and jobs. The appellant misunderstands the role of the CS. It contains strategic policies and there is nothing inconsistent in it with the Framework. Indeed, the DMPD examination recognised that the DMPD implements the CS – and as the appellant told the inquiry through its planning witness, it is not aware of any issues of inconsistency. In any event, plans have to be read as a whole and sensibly – no sensible issue has been raised in that context by the appellant.
107. Insofar as the harm to the heritage assets is concerned, even on the appellant's own case that the harm to Brackenhurst Hall would be "half way up the ladder of less than substantial harm" means that it has not been properly

weighed in the balance. Minor harm is attributed to harm to the Brackenhurst Hall when it should attract more than that.

108. It is also worth reflecting that the appellant's case is that "substantial harm" is a high test equivalent to demolition of the asset. If that is their approach, harm that is half way up the ladder of less than substantial harm can be concluded to be very serious harm indeed. The true assessment and level of harm to Brackenhurst Hall as assessed by the appellant's heritage witness has simply not been put into the balance, and this was acknowledged in cross-examination.
109. The appellant's case on planning balance is unsafe and suffers from legal and qualitative flaws in the exercise even before it is considered whether or not there is substantial or less than substantial harm to the 3 assets in the Council's reasons for refusal. Even if the harm were less than substantial in respect of the 3 assets referred to, when the proper approach to decision making is applied, and the proper tests applied, it can be seen that the scheme conflicts with the development plan policies and that harm (to which considerable importance and weight should be applied) is not outweighed by any other material considerations or benefits. The presumption against the scheme arising from the harm to the assets (all the assets) is not outweighed by any benefits arising from this two turbine scheme.
110. Obviously the position is even starker if the Secretary of State agrees that the harm to the Minster, the Southwell CA and Brackenhurst Hall is substantial harm which the Council considers it is. The Council's assessment accords with that of EH which has provided a properly analysed detailed objection to the proposal. The appellant has not given any cogent explanation why it does not accept EH's opinion. However the appellant rightly agreed that very significant weight must be given to their opinion that the harm to these assets is substantial.
111. There is no support for the gloss put on the meaning of "substantial" by the appellant. Reliance on the Bedford Borough Council v Nuon decision is misconceived. It does not provide any definition of "substantial". All the court was doing was looking at whether the inspector erred in his approach. If anything, the Court was clear that the idea that substantial harm meant something equivalent to demolition was wrong. In paragraph 26 which is pertinent, the Court states that it has considered whether "something approaching demolition or destruction" was putting the matter too high. The Court asks, does it "add a further layer of seriousness" and the Court held it "may do but it does not necessarily". All would depend on how the Inspector interpreted and applied the adjectival phrase "something approaching". It is somewhat flexible in its import. I am not persuaded that the inspector erred in this respect".
112. This demonstrates that adding a further layer is a flawed approach. The Court gave the inspector the benefit of the doubt that he was not so doing because of the flexibility in the import of the formulation. Far from lending support for the idea that the harm should be "broadly equivalent" to demolition, as the appellant suggests, this judgement is cautionary in that this should not be done. Finally, the claim was brought by Bedford Borough Council against the background that neither it nor EH had at the inquiry objected on the basis that substantial harm would be caused. The judge agreed with the second defendant's characterisation that the Claimant was "acting in a somewhat opportunistic way" in alighting on

the heritage issue having not taken this point at the inquiry. The judge's approach needs to be understood against the full context of the judgment and not isolated paragraphs.

113. The more important the asset, the greater the weight should be given to its conservation²⁶. Conservation is to sustain or enhance its significance. This scheme is agreed not to do that. What is agreed is how highly significant and important the Southwell Minster is and its setting. The appellant routinely informed the Inquiry that it was "right up there" amongst the most important assets and that it was of national and international significance. That being so, it must follow that relatively little change or impact can result in substantial harm to the significance of this asset and for the reasons given by the Council and indeed HAG's witnesses, this scheme does cause substantial harm to Southwell Minster and Southwell Conservation Area.
114. The competition of the turbines with the Minster's towers seen from Corkhill Lane is not disputed by the appellant. It is agreed that they will do this and be distracting. Having regard to the dominance of the Minster over Southwell and its significance, this is substantial harm. Similar conclusions apply in respect of Southwell Conservation Area and Brackenhurst Hall. The PPG itself states that the scale, design and prominence of a wind turbine within the setting of a heritage asset may cause substantial harm to the significance of the asset. The setting is a key element of the significance of these heritage assets. The harm to this key element is substantial.
115. In reality, given the areas of agreement by the appellant to the Council's evidence, the only shelter sought in order to suggest 'less than substantial harm' was in the 'pie chart' approach. The appellant wants the Secretary of State to ignore harm (however significant) if for example, other good view points exist which are not harmed. With respect this is unsustainable and again seeks to undermine the importance of conserving heritage assets. Harm to the significance of an asset may be substantial harm, even if there are other elements of an asset which are not harmed. It is no part of government policy to encourage the "chipping away" of a rich heritage asset because it has greater significance than a less important asset. This is also contrary to the strong statutory presumption against the grant of planning permission where harm is caused to a heritage asset.
116. In all the circumstances, the harm caused to the Southwell Minster, Southwell Conservation Area and Brackenhurst Hall is substantial. However, even if the harm were considered to be less than substantial, when the correct approach to decision making is undertaken and the correct factors placed in the balance including the harm to the other heritage assets affected, the scheme conflicts with the development plan and no material considerations indicate that the appeal should be determined other than in accordance with the development plan in this case. This appeal needs to be dismissed in the public interest.

²⁶ Para 132 of the Framework

The Case for the Halloughton Action Group

The main points are:

117. What is proposed are two 66.7m wind turbines in the most sensitive of historic landscape settings with very substantial impacts on all sides: at the Brackenhurst site itself, the turbines would interrupt designed landscape views and would impact upon the historic Grade II house itself (substantial harm); to the immediate east, the turbines would affect the historic settlement of Halloughton, a unique, small and linear conservation area (substantial harm), harming the settings of listed buildings at St James' Church (Grade II) and Manor House (Grade II*) (both substantial harm); from the National Trust Workhouse (Grade II*) they would impinge upon the setting of the building, which is also a registered park and garden (further harm). The turbines would also juxtapose irresponsibly with the proud spire of Holy Trinity Church in Southwell (substantial harm) and impact upon views from the Memorial Gardens, Archbishop's Palace and the soon-to-be-opened Palace Gardens (substantial harm). There is no doubt that they would cause significant harm from a wide range of perspectives across the town and in its surrounding hills (in each case adding to the harm). Most fundamentally, key views of the medieval Minster would be seriously compromised (substantial harm).
118. The HAG group consists of about 30 volunteers with a deep interest in a very special landscape. They are not against renewables. Many other parties also object, such as EH, the NT, the County Council, the Cathedral Architect and a strong body of local opinion. It is common between the parties at the Inquiry that harm occurs.
119. If the Inspector agrees that the harm is 'substantial' for the purposes of heritage policy, the appellant accepts that the development cannot be justified. If the Inspector concludes that harm is caused, but is 'less than substantial', that gives rise to a "a strong presumption" against granting planning permission²⁷ and the requirement in the Framework at paragraph 132 applies: "as heritage assets are irreplaceable, any harm or loss should require clear and convincing justification". The appellant must show that "public benefits" outweigh the harm.
120. Depending on the level of harm, a second issue might arise as to whether the harm to heritage assets is clearly and convincingly justified by public benefits so that the presumption against granting planning permission is overcome. Relevant to this issue are both the amount of overall renewable energy benefit to be derived from the scheme and the extent to which it might be considered that alternative, less harmful, options could meet the same objective.
121. Finally, a number of subsidiary matters fall to be considered that do not form the heart of the HAG case, but are material considerations for the Secretary of State's ultimate decision. These are:
- Cumulative impact
 - Precedent
 - Impact upon landscape

²⁷ CD6.6 East Northamptonshire DC v SSCLG [2014] EWCA Civ 137; [2014] 1 P & CR 22 ("Barnwell Manor" para.23)

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- Impact upon rights of way
 - Impact upon bridleways 72 and 8

Setting of the Minster

122. On any view, the Minster is of exceptional, international significance in architectural terms. The appellant has never properly appreciated the Cathedral of Nottinghamshire on its doorstep. The grounds of appeal inexplicably assert that the Minster is “not of international significance”²⁸. No mention was made of the Minster in the Design and Access Statement (DAS) submitted with the application. It appears that the decision to position the two turbines at Brackenhurst was made without regard to the Minster. Even the landscape and visual impact assessments drawn up later in 2011²⁹ do not list the Minster as something of landscape sensitivity, an omission that is hard to explain given that Southwell Work House and Flintham Hall (both registered parks and gardens considerably further away) are listed and briefly assessed. The likely explanation is an unthinking desk-based approach to landscape assessment with minimal regard to heritage assets.
123. That starting point appears to have dictated the appellant’s subsequent management of the application and appeal. In his evidence, the appellant’s heritage witness does not list the Minster as a primary consideration, but addresses it tersely in three pages. Nor does he assess the significance of the Minster’s setting (arguably the key issue on appeal); only in cross-examination did he recognise the very great significance of the setting of the Minster, agreeing essentially with the Council’s detailed evidence on this. The explanation for not explaining the significance of the setting in his own evidence was essentially that it was so manifestly obvious that it could be taken as read: he clarified not only was its setting very significant but one was “not going to find many buildings with a more sensitive setting than Southwell Minster”. This late admission casts real doubt on the quality of the appellant’s appraisal, which does not otherwise acknowledge the point.
124. There are three reasons why the Minster’s setting in its wider landscape is so significant. First is the remarkable roofline. Views of the crossing tower in the centre and the imposing, early 12th century pyramidal western towers over the town and on the horizon are of architectural importance. As noted by Harvey in ‘The English Cathedrals’, “Southwell is in fact our only cathedral to preserve all three Romanesque towers, dating from the first half of the twelfth century”. Rev. Arthur Dimmock in his ‘The Cathedral Church of Southwell’ noted that “the grouping of the three towers can only be properly appreciated from a greater distance ...”.³⁰
125. Second is the sense of power, arrival and pilgrimage that the Minster intended to convey. Medieval cathedral builders designed their buildings to be dominant within their landscape setting, the main purpose of the cathedral being to establish the building’s architectural and hence spiritual supremacy within the landscape. Candida Lycett Green says in ‘Unwrecked England’ “from miles away,

²⁸ Paragraph 6.6

²⁹ CD11.1

³⁰ Doc 12

you can see Southwell Minster, the mother church of Nottinghamshire rising from the small hill town, like a large ship sailing above a sea of roofs. For nine hundred years it was the domain of the Archbishops of York, who founded the college of secular canons here and who were responsible for all the buildings ..."³¹. Even Sir Nikolaus Pevsner, who generally was unreceptive of settings and wider landscapes, wrote that Southwell was "a country town with the overpowering presence of a large medieval church". EH rightly recognised the significance of the Minster's "visual dominance of its near and wider setting"³².

126. Third is the unspoilt rural setting of the Minster; the general lack of modern sprawl or intrusive features which creates an impression of beauty and surprise. Thorald's Nottinghamshire (Shell Guide)³³ notes the "approach (to Southwell) from Newark ... suddenly, and before long, just beyond Upton, the Minster comes into sight, and then the little town; indeed approaching it from anywhere, the sense of surprise is one of the ingredients of Southwell's charm ...". The town has changed little over the centuries and has over 200 listed buildings. Dimmock records "there is not an unsuitable building in sight". The stunning sculpted foliage within the Minster and Chapter House reflect the rural surrounds: the hedgerows, fields and woods that would have served as models for the sculptors, embodying both the setting and the glory of nature in stone.
127. The iconic profile of the Minster was designed to be seen from all around and has been seen for over 1,000 years. It has been much depicted, photographed and otherwise enjoyed, and has also been used in numerous local designs and motifs. The significance of the setting of the Minster in evidential, historical, aesthetic and communal terms is paramount.
128. The appellant's assessment fails properly to record the impact of the turbines upon its setting. Even including the additional viewpoints requested by the Council, Fig. 7 of the 2012 LVIA³⁴ shows many perspectives on the Minster that will be affected by the turbines. Of those assessed, the most serious is undoubtedly viewpoint 19 (whether or not "worst case", only one of many views from the north where the turbines would compete with the otherwise open skyline for dominance with the Minster). HAG submits that the impact would be "disastrous", opening up a "painful rivalry" in the words of their specialist heritage witness. The appellant's explanation that "there is nothing intentional, or designed, or optimised, in this view" (Heritage Assessment paragraph 3.7(iii))³⁵ is insulting and false to the very intentional dominance of the Minster that has afforded optimal views to residents and visitors to Southwell for centuries.
129. There are various points around the Minster from which the turbines would act as an unhappy and damaging distraction. A good example of such a location not considered by the appellant would be the footpaths in and to the west of assessment point 5 in the SLSS³⁶. A similar point may be said of views from Cundy Hill and the sections of the Westhorpe Dumble Trail that pass by³⁷. In

³¹ Doc 3

³² EH letter of 16 November 2012

³³ Doc 8

³⁴ All the viewpoint locations are shown on Figure 6b

³⁵ Appendix 1 to Dr Edis' proof of evidence

³⁶ CD3.2: unnumbered page towards the end of the document. View from farmland south east of Southwell

³⁷ Cundy Hill lies NNW of Brackenhurst and WSW of the Minster

fairness, the appellant accepted that harm would be caused from very many locations where there would be intervisibility between the turbines and the Minster, although "slight". In reality, scenes of real historic and landscape beauty focussed upon the key heritage asset would be seriously damaged.

130. Views from the tower roof of the Minster would be clearly affected by the development (as with many other locations, the appellant has not provided an image to demonstrate the impact, but it may be imagined). This is not hypothetical harm, the roof is open to visitors on bank holidays or by appointment at other times and may properly be understood as part of the Minster experience. Perhaps even more serious are views from the newly reinstated and re-landscaped gardens to the Archbishop's Palace, as well as from Memorial Park, land that would have been hunting grounds for the Archbishops.
131. Given all that, it is hard to see how the turbines could be understood to cause anything other than substantial harm to this designated heritage asset. It is rare and special to find such astonishing architecture in such a pristine setting. The significance of the Minster is high. The sensitivity of its setting is high. The sensitivity of those viewing the Minster within its setting is high (i.e. pilgrims, walkers, tourists, visitors etc). The point that substantial harm was very arguably caused to the Minster when the smaller and more distant turbine to the north at Hockerton was erected (without any consideration of its effect upon the Minster) tends to bolster rather than undermine the conclusion and gives the Inspector some kind of guide on the potential impact of the Brackenhurst turbines if permitted.

Impact on Brackenhurst Hall

132. What may be described as a designed Georgian landscape park blends into the fields to the south and then the Trent Valley and is a very significant feature of the setting of the old estate originally begun in 1828. Permissive paths, bridle routes and other public rights of way criss-cross the wider area, as well as the King Charles heritage trail and the Robin Hood Way. The striking impact of the proposed turbines from the façade of the main building may be seen clearly³⁸. The key point about the baseline here is that the southern slopes are free from modern distractions. The lack of intrusion into a beautiful view makes the setting for the listed building special. On any sensible view, the turbines would become the dominant feature in the area and would significantly distract attention from Brackenhurst Hall. There is no real basis for the assertion that the observer's attention would still be drawn to the hall as the appellant suggests.

Impact on the Workhouse

133. The impact on the NT Workhouse is primarily on views out; as with other viewpoints, the turbines would represent a new feature on an otherwise pristine southern tree line, save for the Minster towers themselves. They would be visible from the grounds and (to a greater extent from the first and second floor windows). This impact needs to be understood in light of the significance of the building as the best preserved workhouse in England, and the spirit of its founding and setting. The NT document 'The Workhouse – The Spirit of Place' states that "the rural location is a stark reminder of the atmosphere of the

³⁸ LVIA Figs. 52 and 56

Workhouse; glimpses of Southwell Minster from the upper windows serve to reinforce this, beckoning poignantly to a better world beyond." The County Council considered in its letter of 17 November 2011 that the south facing aspect of the workhouse would be harmed; the NT also objects³⁹. The towers and blades in the location proposed compromise the garden setting of the workhouse. This amounts to harm.

Impact on Halloughton Conservation Area and listed buildings

134. The impact on heritage assets at Halloughton is very difficult to assess on the appellant's materials. It is common ground that the settlement is of special architectural interest and this is particularly the case for the grouping of medieval buildings and place of worship at the western end of the village. HAG has produced detailed evidence of the historic, social and architectural significance of Halloughton. What is clear is that the village and some of its key individual heritage assets, St James' Church and Manor House Farm with its unique medieval tower house, fall within the range of "significant impacts" from the nearby 67m turbines. As the LVIA states, "on the southern slopes between Halloughton and Weldon Farm the turbines would become the visually most dominant features"⁴⁰.
135. The initial LVIAs provided no viewpoint of Halloughton. One was added in the 2012 LVIA at the request of the Council, apparently to understand the impact of the development on the village and its heritage⁴¹. On no basis does that viewpoint assist – the turbines are entirely obscured by a barn (but otherwise would be very visible). If this viewpoint was chosen to evaluate the impact it appears selected to minimise it. If it was simply provided to satisfy the Council's request it shows a lack of thought or care in the appellant's approach to the impacts from the turbines. The assertion in the LVIA that the photomontage demonstrates the effect on the village and the conservation area is hopeless and the appellant's reliance upon it only goes to show the lack of care in the NTU's assessment of heritage impacts.
136. The experience of the turbines from points where they will be visible – the church yard, the garden setting of the Manor House and the more open views at the entrance to the village from the A612 and the western end need to be considered. The appellant acknowledged that slight harm is caused; the Action Group's case is that these would be substantial. The appellant's assessment is entirely inadequate to demonstrate otherwise.

Impact on Holy Trinity Church

137. There would be a significant impact from certain viewpoints on the Victorian spire which is built to a 13th century design; from locations around the viewpoint in Fig. 30 the turbines may well be capable of appearing in the same skyline as both the Holy Trinity Church spire and the Minster roof. EH's opinion is consistent with this: that from certain viewpoints the turbines would compete with the spire⁴². The turbines would amount to harm in the heart of the

³⁹ See NT letter see its letter of 8 January 2014

⁴⁰ Para 6.3

⁴¹ Fig.55

⁴² EH letter 22 May 2014

conservation area and from protected viewpoint locations. There would be a substantial adverse impact on heritage significance.

138. The appellant's selection of viewpoints tends to downplay the extent of the harm. The photomontages that have been provided are of poor quality and do not show the full extent of the harm on the skyline to the south. Assessment point 7 in the SLSS is a good record of how open the views from the north can be with the hedgerows under control and when there is less foliage.
139. The Action Group submit that the appellant has wholly failed to comply with paragraph 128 of the Framework that requires a description of the significance of heritage assets at a level of detail proportionate to the assets' importance.

Limitations of appellant's methodology

140. The appellant entirely inappropriately suggests that Brackenhurst Hall is a 'control property' so that if the impact on those listed features is acceptable all other impacts on more distant heritage assets should also be acceptable. It is hard to think of a cruder and more unthinking approach to heritage protection. If the impact on one heritage asset is acceptable, that does not give a developer a licence to ignore others. Fundamentally, heritage policy is concerned with impacts on all designated heritage assets, all of which deserve to be protected in the public interest. In a case such as this where there is an exceptionally high concentration of heritage assets over a small area which overlap and have historical connections to each other, the suggested approach is even more perverse. In fact both a correct and logical approach is to aggregate the total harm in order to understand the necessary justification for that harm. In undertaking that exercise, the approach of the Secretary of State in the decision of 4 March 2014 relating to land at Asfordby Business Park in Leeds⁴³ is both logical and reasonable: there the Secretary of State considered that a number of impacts might suffer from less than substantial harm if considered in isolation, but "looking at the sum total of the impact on so many and varied assets the harm caused is arguably greater than the sum of its parts"⁴⁴. Certainly in coming to a view about the impact of the proposed turbines on the Southwell conservation area, this seems to be a sensible approach, as it does when considering the impact on the setting of the Minster. Also, harm to Brackenhurst Hall only aggravates the harm to Halloughton, given that the founder of the estate at Brackenhurst, Rev. Thomas Coats Cane, is buried in St James' churchyard. In an environment as rich with heritage as this one, the insults add up, or as the HAG witness put it put it, there is a tightening of stranglehold.
141. There was some difficulty understanding the alternative "proportional" approach relied upon by the appellant. The appellant's heritage witness says "the degree of harm (to the setting of a heritage asset from a wind turbine) will depend upon whether the affected view constitutes (1) the only or main appreciation of the setting and significance of the listed building or (2) one of several positions ... If there are several other views which are not affected, or are not affected to the same degree, it follows that a proportion of the setting will be preserved for the purposes of the duty under the Act and the assessment under

⁴³ Doc 2

⁴⁴ Paragraph 17

the Framework”⁴⁵. He was reluctant to suggest that the ‘proportional’ approach outlined should be applied strictly, and appeared to resile from it to some extent by saying that there must be a qualitative element to any assessment. However, the ‘proportional’ approach can have no role in proper heritage assessment. It is essentially to apply a ‘pie chart’ to heritage assets and seek to downplay the amount of harm caused by comparing it to the rest of the pie. The implication of this is that if a building, such as Southwell Minster, is of superb architecture, quality and design and may be appreciated from many different aspects in many different ways, its heritage significance, rather than protecting it, counts against it; that is, significant harm may be done and would not be substantial given all the other heritage attributes (assuming they are unaffected). That is illogical. A small piece of a very large pie is substantial. As above it is hard to see how the appellant can at one and the same time recognise the significance of the Minster’s setting and argue that impacts upon key elements of that setting will not be substantial.

Policy

142. The appellant has also entirely misunderstood and misapplied what is required to show “substantial harm” for the purposes of national policy, and has misunderstood the nature of Jay J’s rejection of the judicial review claim in the Nuon case⁴⁶. The judge in fact considered seriously the argument that “something approaching demolition or destruction” was putting the test too high, but accepted that there was sufficient flexibility in the phrase “something approaching” that he was not prepared to find an error of law. The case however is far from being authority that the Inspector’s formulation in that case is helpful for other decision-makers in other contexts. For that the best approach is to return to the Framework, planning guidance and the development plan where no such exacting language is found.

Reversability

143. The appellant’s heritage witness accepted that reversibility does not reduce the level of harm, although it might provide some mitigation as to its length. The Inspector is invited to have very little regard to that consideration in this case and to follow the sound approach of the inspector at paragraph 3.36 of the Matlock Moor decision⁴⁷. This is particularly important given the nature of the heritage assets in this case, which has a strong communal and spiritual element. It would be wrong in such circumstances to underplay a period of 25 years, or a whole generation. Reversibility also does not avoid the development acting as precedent either for further turbine development in the same area or repeated development on the same site after 25 years.

The justification for harm

144. The benefits relied upon by the appellant are listed⁴⁸. The appellant has confirmed that no reliance is placed on the mooted but as yet inchoate community element, so that falls to be removed (and is deserving of no more mention by any party). Besides from that the arguments made are entirely

⁴⁵ Dr Edis’ proof of evidence Paragraph 3.8

⁴⁶ CD6.4 Bedford BC v Nuon UK Ltd [2013] EWHC 2847 (Admin)

⁴⁷ CD7.5

⁴⁸ Listed at paragraph 6.45 of Mr Downes’ evidence

generic except for the funding of a conservation management programme. The appellant makes special pleading about its status as a University and its obligation to reduce its carbon budget, but it is hard to see how the identity of the appellant should be a material planning consideration. The arguments essentially come down to (i) a need for low carbon development and (ii) some sort of heritage conservation gain. Neither argument is sufficient to demonstrate a public benefit that clearly and convincingly outweighs the heritage harm.

145. The amount of renewable energy that would be produced in this case is strictly limited. Furthermore it was established that there is no serious need for renewable energy in the first place; with the wind turbines the campus would be virtually carbon neutral. It already benefits from two installed solar projects (over 100kW) and a substantial biomass unit (with installed capacity of 600-650kW). The turbines cannot sensibly be said to amount to a necessary "step change" in the context of the Brackenhurst campus, which is already doing far more than its fair share to contribute to the University estate's global target of a 48% carbon footprint reduction (which does not, of course, all have to come from sources of electricity supply).
146. It appears that the appellant is seeking to use Brackenhurst to cross-compensate for the carbon deficit in other parts of the campus. The Action Group does not consider this to be appropriate if it requires harmful development. Whether or not the University is now onto "more difficult" projects, there must be more appropriate ways somewhere on the University's estate of meeting its carbon commitments. The appellant accepted that the University has a whole variety of projects in the pipeline across its estate of which the modest wind proposal at Brackenhurst is just one small part. Regardless of the serious local impacts, it can hardly be said in that context that it is necessary for climate change reasons for wind turbines to be erected here. The Inspector is entitled to take alternatives into account.
147. Insofar as it is sought to rely upon a conservation scheme of some kind for Brackenhurst Hall, this is conspicuous by its lack of detail. What is asserted is that a sum of money (£1.25m) will be made available for restoration of the grounds, gardens, buildings and other features over 25 years, that is around £50,000 per annum. It is not suggested that this is enabling development in the established sense of the word, nor is it clear to what end the money would be put, at one stage the appellant went so far as to state that the money "enables something ... beyond that it doesn't matter". No weight can be given to such a vague and unwarranted proposal.
148. First, no conservation deficit is identified. It is entirely unclear why any of the work needs doing and how that is costed against the £50,000 per annum that would apparently be made available. Secondly, there is no suggestion that the appellant would not fund any maintenance and restoration works out of its budget, regardless of whether or not the turbines are constructed; the contribution would be about £50,000 per annum in respect of an annual university budget for estate maintenance of £55m. The vice-chancellor confirmed that the University would continue to maintain and restore the Brackenhurst campus as necessary regardless of the outcome of this appeal. Restoration is no doubt an ongoing commitment, there is a sign at the site that refers to the garden restoration project that it is understood was under way in 2011 before the turbine applications were progressed. There is therefore no

need for the additional commitment. Thirdly, the UU proposed to secure implementation of the plan is vague and very arguably unenforceable. In particular the Action Group notes the loose definition of "Heritage Enabling Works" as including "improving the heritage assets" where there is no definition as to the scope of those improvements or what they could require. There is also nothing to prevent the £50,000 per year simply offsetting money that would otherwise be spent on maintenance or restoration at Brackenhurst. In that respect the mechanism may be liable to amount to little or nothing in terms of concrete gain.

149. To the extent that any vague economic or education benefits are relied upon, these cannot amount to the kind of clear public benefit necessary to outweigh harm. It should also be noted that they cut both ways. Tourism is an economic benefit that may well be adversely affected by the siting of turbines within the setting of Southwell. Proximate turbines are surely not necessary to impart knowledge of renewable energy to students, but to the extent that there might be very minor associated educational benefits if relevant courses are taught on campus (which is not clear), the harm to young people's understanding and appreciation of their heritage must also be taken into account.
150. As for other matters, cumulative impact needs to be highlighted, as required in planning guidance. Precedent is a real concern; the idea of 'chipping away at a tiny bit of it (heritage significance)', in the words of the appellant's heritage witness, indicates the danger. Moreover, there is currently no turbine development to the south of Southwell. Lastly, the exceptionally large number of footpaths and bridleways reflects the history of the area and the visual impact on users of them, including horse riders, must not be ignored.

Interested parties

151. In this section, where speakers made similar points, they have not been repeated in this summary.
152. **Michael Struggles** is Planning Secretary of the **Southwell Civic Society**. The Civic Society is an independent, non-political, voluntary charity, which works to protect the local environment. The Society was formed over forty years ago to safeguard the unique character of the town, its environment, its open spaces and its rural setting. The society also works to ensure the protection, preservation and conservation of old buildings and encourage good modern design of any new buildings. The Society has two hundred members and is affiliated to Civic Voice the national coordinating body. The Civic Society agrees with and supports the viable generation of electrical energy from non-carbon power sources and have previously supported Nottingham Trent University's planning applications for solar/photo voltaic power generation and a bio-mass heating plant. Its objection to the turbines is not about the merits or demerits of wind power but about the effect that these particular tall, industrial, intrusive structures with rotating blades, would have on the surrounding countryside and the historic setting of Southwell.
153. Southwell is probably the least known of the cathedral towns in England but undoubtedly has one of the finest settings nestling as it does in the Greet Valley. One of the great strengths of the town is its open spaces and in particular the way in which the countryside reaches right into the heart of the town to the Archbishop's Palace and the Minster. The countryside dissolving into the town

through the Memorial Park and the extensive gardens in the conservation area. The importance of maintaining the rural setting of the town and the historic setting of the Minster for the future development of Southwell cannot be over emphasised.

154. From its foundation, Southwell's development has been dependent on the Minster and the now ruined Archbishop's Palace, which has recently received a £1.3 million Heritage Lottery Fund grant for its restoration and the development of tourism. The quality of this Grade 1 listed building lies as much in respect of its position in the surrounding landscape as in the immediate environs of the town. Views of the building are enjoyed from the roads and numerous footpaths from within and around Southwell. It is the setting of this building, which is so important, and in many ways defines the whole character of the town. Southwell's future development as a tourist destination is largely dependent on the unique charm of its "Cathedral in a Village" and nothing should be done to prejudice this.
155. However the appellant's Heritage Report seeks to significantly play down the impact of the turbines, for example a visit to viewpoint 19, Corkhill Lane, shows that in reality the Minster appears much closer than shown in the photomontage and that the Minster and the proposed turbines behind will be far more dominant to the naked eye. All the photomontages produced show the turbines as fuzzy and blurred whereas in reality they will be clear and distinct. The photomontages cannot portray the admitted distracting motion of the blades. The movement will always draw the viewer's eye to the turbines and away from a stationary building even though they may not even be in line with each other. The wind farm at Bilsthorpe can be clearly seen rotating behind the Minster towers although they are some 9Km away. Other turbines can be seen from popular footpaths around the town including "The Robin Hood Way". The very large diameter circle swept by the blades represents the true mass of the structure's impact rather than the at rest image portrayed in a photograph.
156. The Heritage Report dismisses the impact on the Holy Trinity on the basis that many of the viewpoints are from housing estates that have no heritage interest and are outside the conservation area. This is not a reason to conclude that the turbines will have negligible impact on the setting of Holy Trinity Church. For the residents of these estates the views, which they have enjoyed for half a century, of the church spire and Brackenhurst beyond will be seriously compromised. In reality the turbines will appear much nearer and much clearer than portrayed in the photomontages.
157. The turbines will be visible from vantage points throughout the conservation area. Sometimes it will be only glimpses but often a full view will present itself. This is especially true from the houses on higher ground along Burgage Lane and from the Memorial Park. Partial views of a stationary object may in some circumstances be acceptable but the turbines are moving objects, which are totally distracting to the viewer.
158. Since the determination of this application there have been several new turbines erected in the area. If one stands at Brackenhurst looking northwards over Southwell nine turbines can currently be seen and there are more in the pipeline. Although these turbines are much further away than those proposed at Brackenhurst, this view of the town and its heritage assets has already started to

be compromised by the cumulative effect of these turbines. Fortunately those closest to the town are the smallest. However almost the whole of the 102m high turbine at Caunton can be clearly seen despite being some 10km away and 8km beyond the Minster. If the Brackenhurst turbines were to be erected, the views from the east would also be seriously compromised as has been clearly stated in the reasons for refusal.

159. The countryside around Southwell, although not recognised by any national landscape designation, is very attractive undulating countryside and, lying outside the coal mining area, is unspoiled by industry. There are no derelict coalmines or large artificial hills sculptured out of the old slag heaps. The natural landscape form reflects the geology of the area and it provides a rural retreat from the densely populated industrial areas. The countryside around Southwell and the vast unspoiled area without any public roads, which stretches as far as Epperstone, is a haven for walkers both local and from the more industrial parts of the East Midlands. The erection of these turbines will have a negative visual impact and diminish the amenity throughout the area. Closer to the turbines there will be the added effects of noise and flicker. The Robin Hood Way passes through the Brackenhurst estate. Commendably to encourage the public the University has created a network of permitted footpaths and bridleways complete with information boards about the wildlife and flora that can be seen and experienced. In the Brackenhurst Walks leaflet published by the college it states: "the site contains numerous features that are important in term of landscape, heritage and wildlife. These include ancient trackways, woodland, the Dumbles, ponds and hedgerows. Brackenhurst Walks has been designed to guide visitors around the estate discovering these special places". The erection of wind turbines will be totally contrary to the concept of the rural idyll suggested in this statement.
160. The maximum capacity of the two proposed turbines is 660 kW. Using the higher capacity factor figure of 28%⁴⁹ this would give an average output of 184.8 kW, (equivalent to 90 kettles) which equates to 0.003% of the 6.1 GW currently awaiting or under construction⁵⁰. Clearly it cannot be argued that refusal is going to undermine the government's objectives to have 15% of renewable energy by 2020 or that these two turbines would contribute significantly to the 7 GW in the pipeline when they would add less than one thirty seven thousandth (1/37,000) of that total. In fact data published from Southwell's first wind turbine on the opposite hillside and at a similar altitude shows that the average capacity factor is 15.11% and in the best year was 16.77% considerably less than the 28% theoretically calculated for this part of Nottinghamshire by the appellant.
161. In conclusion we urge refusal of this appeal. The two turbines, if constructed, would be overbearing and significantly detract from the impression of Southwell as an historic, rural, market town. There is only one Minster but, unlike the Brackenhurst proposal, there must be dozens of potential locations for wind turbines in the County that would not be visible from Southwell. The risk to the Minster cannot be decided "on the balance of probabilities" but on the basis of "beyond reasonable doubt". We have no doubts whatsoever that once erected the

⁴⁹ Paragraph 5.53 of the Grounds of Appeal

⁵⁰ Paragraph 5.23 of the Grounds of Appeal

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- turbines would be a permanent overbearing feature of the town and surrounding countryside to the detriment to the residents of Southwell and visitors alike.
162. **John Robinson** says that there are other sources of renewable energy that are open to NTU without the same degree of harm such as ground source heat exchangers, more solar panels. He considers that wind is a fickle resource and turbines are an inefficient means of producing energy; this is against the public interest. He also lists 6 Prebendal Houses and some other properties that would have winter time views from at least some of their windows.
163. **Vanessa Johnston** lives on Crink Lane. She says that Southwell Minster appears as a large ship sailing above a sea of roofs on the approach from the Nottingham Road⁵¹. Seen from the approach from Newark, there is hardly a jarring building. She has also made written representations.
164. Professor **Neil Gorman** is Vice Chancellor of NTU. The proposal enjoys the complete commitment of the NTU senior management team and the board of governors. This wind turbine scheme is the culmination of three years work. It is a logical application which arises from targets set by the Higher Education Funding Council for England. They in turn have acted on behalf of the previous and current UK governments. These carbon reduction targets are not optional for universities and NTU takes its responsibility to limit catastrophic climate change seriously. On the Brackenhurst campus NTU has gone as far as it can with other sustainable schemes, for example a biomass boiler, building refurbishments and solar panels. By adding the wind turbines the target handed to it for this campus will be met.
165. It is understood that this particular application has raised concerns from some quarters. In recognition of these concerns a sensible location has been chosen on the far side of the Brackenhurst ridge from Southwell. NTU have pursued what are regarded as 'medium sized' onshore turbines, rather than industry standard units which stand at about 120m in height. New onshore wind energy is still a vital component of UK government energy strategy. Indeed at Brackenhurst, the school of Animal, Rural and Environmental Science teaches students the importance of local renewable energy schemes and farm diversification.
166. NTU recognises its position in the local community and it plays an active part in life in and around Southwell. Like the nearby, and successful, Hockerton wind turbine it is committed to ensuring the second turbine has a community ownership model and generates money for a community trust fund. Since taking ownership of the Brackenhurst campus in 1999, NTU have positively transformed the site, investing over £25m in physical improvements. Investment in the site will continue in future and this application will solidify its commitment to heritage enhancement. NTU is willing to commit half of the profits generated by the NTU turbine to be ring fenced for on-campus heritage enabling works. This will provide a net heritage benefit to the on-campus assets which will be well received by students, staff and visitors.
167. NTU is heartened by the continued support received. The levels of support for the scheme seem almost unprecedented for turbine applications and they have consistently outnumbered the objections. NTU is proud that Southwell Town

⁵¹ Quote from Doc 3

Council, Southwell Minster and various local groups have publicly supported the scheme. NTU has been particularly inspired by the If Not Then What photo petition of local people. That group originated from pupils at the Southwell Minster School, which crystallises the importance of this scheme to future generations. NTU sincerely believe this project delivers substantial benefits for the future while safeguarding the past.

168. **Abigail Sommers** spoke on behalf of If Not Then What (INTW): a youth led campaign that was set up to support the wind turbines and to counteract the anti-wind turbine group in Southwell. She says that the anti group are the vocal minority. There are more people in favour than those not but they just had no opportunity to voice this opinion. INTW took over 400 photos of local people holding up a white board with a personal message expressing their support for the wind turbines. INTW collected hundreds of signatures including more than 300 messages on post-it notes from students at the Minster school. They had an independent survey done of the Brackenhurst students which showed 96.2% were in favour. Further to this, 137 individuals wrote to the planning committee showing support, compared to only 66 who wrote in opposing the turbines.
169. Ms Sommers points out that the District Council decided to reject the wind turbines primarily in order to protect the heritage of the extraordinary, historical and unique buildings in and around Southwell which should be cared for and preserved for as long as possible. The Minster is thought to have been first built 1387 years ago. It is an incredible feat of architecture and a truly spectacular building. However the Minster is situated in Nottinghamshire and Nottinghamshire is in the UK and the UK is on this planet. This simple fact indicates that what happens to the world as a whole, directly impacts Southwell and its heritage. Climate change will have a huge impact on everyone, including the Minster. Southwell had a taste of what climate change will be like in the form of the floods in 2013. The Brackenhurst wind turbine development is an opportunity to show that the county, but more importantly the community, is supporting long term, global solutions to climate change.
170. Ms Sommers says that NTU have ring-fenced 50% of the profits of one of the turbines. This money will be spent entirely on the restoration and maintenance of Brackenhurst Hall. This long term improvement outweighs the short term and subjective visual impact of the turbines. There is already a number of wind turbines scattered at a similar distance to where the Brackenhurst wind turbines would be, though these are rarely seen. Nottingham Trent University should be given the go-ahead so that a step can be made towards protecting heritage in a long term and sustainable way.
171. **District and Town Councillor Julian Hamilton** points out that Southwell Town Council approved this application by 8 votes for and 3 against. He spoke on behalf of Southwell Town Council and on his own account. On the two occasions when the application came before the NSDC planning committee it was turned down in each case by a majority vote. On both occasions he voted for the application. His Ward covers both the Minster itself and the Workhouse.
172. Wind Turbines proliferate in an area known locally as "Turbine Alley" along the A614 where some 10 can be seen from a certain vantage point. So they are not new and the public is now generally aware that the need for this sustainable energy source is laid down by a Government committed to mitigation of the

effects of global warming and as such there is no "right to a landscape" without their intrusion. The matter is therefore not whether they can be seen but whether their presence represents an abnormal loss of visual attractiveness of a particular scene. In this case there are arguably 5 important sites, the Minster and associated Bishops Palace, the Workhouse, the Prebendal Houses (each a fine example of Georgian or Victorian building) and the conservation area in the centre of Southwell; and finally Brackenhurst itself.

173. The District Council's most recent appraisal indicated a reliance first on its "Visibility Cones" and then a more detailed visual amenity analysis covering the proposed site from a number of different aspects. The "cones" do not mean that all views in these areas are affected and it's unclear what height they operate at and whether they are 'from' or 'to' the object. They fail to take into account the folds in the terrain or houses or hedges.
174. First it should be noted that Southwell itself is shaped rather like an inverted leaf with the main stem in the middle (the ridge between Halam Road and Oxtou Road) and the outer parts of the leaf rising towards the hills around. Another description might be a saucer with a teaspoon across the centre. We are more aware of these contours since the area was flooded in July 2013 affecting 200+ houses, caused by the run off of severe rainfall which severely affected areas either side of this stem. In almost all areas properties are bounded by high hedges and particularly by huge mature trees which are a feature of the area — these essentially block out the outer landscape.
175. The location of the turbines is on the far side of Brackenhurst and is shielded from Southwell by those buildings. It is almost certain that the proposed turbines cannot be seen from 95% of the town which is basically within this saucer. The main areas where it can be seen are right across to the far side of the saucer down Corkhill Lane where it will be seen by 6 or so farms at the top of the ridge and in that case the turbines might appear on the skyline alongside the Minster. The turbines will not be seen from the front door of the Workhouse, nor from the grounds of the Minster itself or the Bishop's Palace (though it probably can from the Minster Tower, but this is seldom visited). It will not be seen from the Prebendal Houses nor from the Southwell Conservation Area. It seems ridiculous to object that Brackenhurst Hall itself will be affected by its own development because it is a University and not available for public access.
176. It is possible that the turbines might be seen from houses along either side of Westgate and Westhorpe but no views of either the Minster or the workhouse would be compromised from there. The turbines will probably be seen from several houses in the town but this is no more than what other areas have put up with and it seems very unlikely that they will have views which compromise views of other listed buildings in the town. On balance there seems to be no good reason why planning permission should be refused.
177. Mr Hamilton made additional observations relating to the heritage evidence:
178. Halloughton hamlet: the road into the hamlet runs almost due east/west whereas the main road runs north/south. The houses along the road in Halloughton generally face south. It is almost impossible to see the turbines from that angle. As the road goes further on it also declines making it impossible to see the site at all. The exception to that is the Church which may well have full sight of the turbines as it is on the north side of that road.

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179. Brackenhurst: The turbines would lie almost 2 km due south of the Minster. So any interference with views of the Minster can only arise from a very narrow angle.
180. Views from Hillside Road and parallel streets cannot see both the Minster and the turbines at the same time. Hillside road runs almost due north/south connecting with Westgate as do the streets parallel to that. It is impossible to see both the Minster and the turbines at the same time from the same aspect. The Holy Trinity Church lies on the other side of Westgate below the level of Hillside which itself rises quite sharply towards the crest; from that height the Church Spire is not itself very prominent at all.
181. **Brian Ayling** is chairman of the Southwell Minster 'Slimming the Footprint' committee but spoke in a personal capacity. He supports the development on ethical and educational grounds and considers the scheme would encourage the local community in energy saving. He acknowledged that supporting the scheme was not official Minster policy.
182. **Synergy Southwell** was represented by Mr Compton. Synergy Southwell has links to If Not Then What. He pointed out there are relatively few turbines near Southwell and the landscape is affected by pylons. With regard to heritage assets, Halloughton is in a dip in the land and Southwell is on low lying land- the Minster is only affected by this development when seen from Corkhill Lane.

Written Representations

183. A number of written representations are submitted both for and against the proposal. The points made generally fall in line with those made by others at the Inquiry. The following points reflect concerns raised that are not already summarised above or are of particular interest.
184. **English Heritage**⁵² is the Government's principal adviser on all aspects of the historic environment, including historic buildings and areas, archaeology and the historic landscape with responsibilities that extend to the urban, rural and marine environments. Alongside its statutory duty to conserve the heritage, it is also required to advance understanding and enjoyment by the public. It says that the planning proposals would affect the setting and therefore the significance of important heritage assets. English Heritage is concerned that the proposed scheme would be an unduly prominent feature in the landscape occupied by heritage assets⁵³ – particularly in some views either from and/or towards the Brackenhurst Hall complex, Southwell Minster, Halloughton Conservation Area, Southwell Workhouse and Holy Trinity Church, Southwell.
185. The proposals will result in harm to the setting and thereby the significance of Halloughton Conservation Area and Southwell Workhouse; substantial harm to the setting and thereby significance of Brackenhurst Hall, and from certain viewpoints, substantial harm to the setting and thereby the significance of Southwell Minster - one of England's most cherished and exceptionally significant religious buildings. To accord with the Framework, the decision maker must be

⁵² This summary is based on the EH submissions in response to the application. A further and detailed expansion of the EH case is made in a letter dated 22 May 2014 included as Appendix 5 to Ms Schofield's evidence, which followed the issue of Planning Guidance.

⁵³ See paragraph 11

convinced that the public benefits and substantial public benefits that may derive from the proposal outweigh the harm and substantial harm respectively (Framework, policies 134 and 133). The proposal must also constitute sustainable development, and comply with Government's core planning principle of conserving heritage assets in a manner that is appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations (Framework, policy 17).

186. With regard to setting, it should be noted that EH does not concur with some of the statements in the introduction to the appellant's Heritage Assessment. Contrary to paragraph 1.18, 'Setting embraces all of the surroundings (land, sea, structures, features and skyline) from which the heritage asset can be experienced or that can be experienced from or with the asset' (*The Setting of Heritage Assets, EH 2010, p4*). The formal definitions in the Framework and English Heritage setting guidance do not set out requirements for '... material historical or architectural connections'. Contrary to paragraph 1.11 of the Heritage Assessment, substantial harm has been found by an Inspector deciding appeals relating to wind farms, for example at Truthan Barton Farm⁵⁴. Furthermore, with regard to the arguments presented in paragraph 1.14 of the Heritage Assessment regarding the possible consideration of the scheme as enabling development, it should be noted that eight tests are recognised for the acceptability or otherwise of an enabling development case⁵⁵. These tests include whether the development will '...materially harm the heritage values of the place or its setting', and sufficient subsidy for conservation must not be '...available from any other source'.
187. Brackenhurst Hall: the Landscape and Visual Assessment concludes that the magnitude of change from several key viewpoints looking towards and from Brackenhurst Hall would be 'high' or 'high/medium', and; that the effects on visual amenity from the offices (VP 25) and tower (VP 28) would be 'substantial', and; from Gypsy Lane (VP 11) 'substantial/moderate'. In the view of EH the loss of heritage significance at Brackenhurst Hall would represent substantial harm.
188. Southwell Minster: Southwell Minster is a religious building of the highest quality and significance - and it is often referred to as Nottinghamshire's finest historic building. Moreover, it has a strong and commanding presence within the wider landscape, especially by virtue of its highly distinctive twin western towers capped with pyramidal spires. The significance of the Minster is therefore very considerably enhanced by its visual dominance of its near and wider setting.
189. EH is concerned by the evidence presented at VP 19 of the Landscape and Visual Assessment which confirms that from some views to the north of Southwell, the proposed twin turbine arrangement would be in close visual juxtaposition to the twin western towers of the Minster, and would compete with the Minster for visual dominance. From certain viewpoints, we therefore believe that there would be substantial harm to the setting and thereby the significance of Southwell Minster.
190. Halloughton Conservation Area: EH considers that harm to the quintessential rural and agrarian setting of the Conservation Area would be an inevitable

⁵⁴ Truro, Cornwall (Appeal Ref: APP/D0840/A/11/2163691)

⁵⁵ Enabling Development and Conservation of Significant Places, EH 2008, p5)

consequence of the introduction of development of this proximity, scale and type. Although not considered within the Heritage Assessment which focuses on the listed buildings within Halloughton, the setting of the Conservation Area makes an important contribution to its character and appearance. EH notes the statutory duty as set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that requires special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

191. Other heritage assets: The photomontages of the proposed development from various viewpoints within Southwell⁵⁶ make it clear that there would be harm to the setting of the Workhouse and Holy Trinity Church. The turbines would adversely affect the setting of the Workhouse, which has few other modern intrusions within the main view from the asset. From certain views, the turbines would compete with Holy Trinity Church, the significance of which is enhanced by its own visual dominance of the setting.
192. Impacts on townscape and landscape: With regard to the impacts on the townscape of Southwell and the landscape character and historic landscape character of the environs to Southwell and Halloughton, EH notes the commitment of Government to sustainable development and on securing appropriate safeguards for the historic environment in the Framework at paragraph 17. All of the policies in the Framework articulate Government's view of what sustainable development means in practice. It follows that development that fails to comply with the historic environment policies, for example because it fails to give due weight to conservation, is not sustainable development.
193. Public Benefits and Harm: EH recognises that climate change is likely to be damaging to the historic environment, and Government endeavour to limit carbon emissions is therefore beneficial. This does not mean, however, that broad assumptions about damage and benefit can be transferred to all heritage assets. Framework policy 133 confirms that consent should be refused unless it can be demonstrated 'that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss'. Framework policy 134 requires that, 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits'.
194. EH notes that one of the turbines is proposed for part or whole community ownership, which would appear to confirm that one of the turbines is surplus to the energy needs of the campus. Because of the uncertainty currently associated with this aspect of the scheme, the implications are unclear for the planning balance and the weighing up of public benefits against harm.
195. EH has assessed the proposal as having harmful effects on a number of highly graded, nationally important heritage assets. The overall effect on the historic environment would be harmful. There are some public benefits which would derive from the proposal, but EH believes these could be achieved in a way that either significantly reduces or eliminates the harm. It has not been demonstrated that the public benefits claimed could not be delivered in a less harmful way, that the substantial harm is necessary, or that the benefits outweigh the loss in this case. The current proposals are of an industrial scale

⁵⁶ VP 14, 18 and Fig 35

and would be a highly prominent feature in the mainly rural, agrarian and gently undulating landform to the south of Southwell.

196. The Southwell area of Nottinghamshire is rich in the quality and number of heritage assets, and also with regard to the historic significance of the visual relationships of its places of worship with the surrounding landscape. The sensitivity of the views, which are valued and enjoyed by local communities together with the many visitors to the area, is also high. Given the siting, proximity and height of the proposed turbines, EH considers that harm would result to heritage assets, and with regard to Brackenhurst Hall and certain views of Southwell Minster, substantial harm. Justification for the development has not been made in terms of public benefits which might be judged to outweigh the substantial harm and harm to the significance of important heritage assets
197. In EH's view the application does not sustain or better reveal the significance of heritage assets, neither does it preserve nor enhance the character or appearance of Conservation Areas
198. The Workhouse and its associated garden are owned by **The National Trust** (NT) and are open to the public. The Workhouse survives as the least altered example of its kind in existence today and one of its key significances (as stated by Kathryn Morrison of EH in 1997 and quoted in the Workhouse Conservation Plan of 1998 and in the current Property Management Plan) is that 'No other English workhouse can compete with this building in terms of its state of preservation. It is also unusual in that its rural setting has been preserved: most 19th century workhouses have been engulfed by spreading suburbs.'
199. The Workhouse is a Grade II* Listed Building and the adjacent Infirmary building is Listed separately as a Grade II structure. Both Listed Buildings are contained within one of the District's few RPGs (Grade II).
200. Since its opening in 2002 the Workhouse has become an established tourist attraction and it now attracts more than 40,000 visitors each year. The NT is generally supportive of renewable energy developments, and indeed has undertaken many on its own properties, but is also concerned to ensure that such developments are appropriate to their location by taking account of the full range of environmental considerations, including the protection of valued landscapes, biodiversity, the historic environment, and peoples' well-being.
201. In terms of the nature of the current outlook from the south side of the Workhouse and the location, height and apparent impact of the two turbines, the view in this direction is available from a number of rooms on the visitor route; three on the second floor and six on the first. During the autumn and spring periods the visibility will be greater as the trees will not be in full leaf. It is common ground between the NT and NTU that both of the proposed wind turbines, from below nacelle level upwards, will be visible from the visitor route within the Workhouse, with the full sweep of the blades on one of the turbines being visible⁵⁷. Specifically this view is the key one looking directly out from windows on the front of the Workhouse towards Southwell.

⁵⁷ Figure 29, Photomontage Viewpoint No. 18

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202. Potentially there is also inter-visibility from the Registered Historic Park and Garden at the Workhouse from ground level. In these views few structures are visible, Southwell Minster being a noted and isolated exception. The original rural setting generally remains intact; the Workhouse is still 'out of sight, out of mind' in terms of its relationship with the urban area close by. The wider setting of the Workhouse is an important consideration. It was deliberately sited outside and indeed out of sight, both from and to the built up areas of Southwell. Unlike many other workhouses it has not since been swallowed up by expanding urban development but largely retains its rural setting. That relationship would be significantly altered if the turbines were to be erected as proposed as they are located on the main view-line from the property and the moving blades would draw attention to these new features in the landscape.
203. As a result of the demonstrable adverse impacts upon the setting of the Workhouse, the NT considers that the one of its key significances would be compromised if the development was to proceed.
204. The applicant's Landscape Assessment (in the Landscape and Visual Analysis) suggests that the impact upon the RPG would be medium/low in terms of the magnitude of change with 'no' significance. Having regard to the adopted methodology the NT agrees that the magnitude of landscape change would not be "high adverse"; however, it is considered that there would be notable change in the context of the Workhouse to key characteristics/features; and the 'significance' would be "moderate". Contrary to the appellant's conclusion at paragraph 6.8 this is a 'significant' impact.
205. Similarly it is considered that the visual assessment relating to viewpoint 18 (The Workhouse) is also "significant". The NT's assessment is that the view from the Workhouse would at least "notably deteriorate" as a result of the installation of the proposed turbines (arguably the view would be 'fundamentally changed' equivalent to a 'high adverse' magnitude of change). Accordingly the significance of the visual impact is at least "moderate", not 'moderate/slight' as suggested in the Table on pages 35/36, and potentially could be considered to be "substantial".
206. Turning to the separate Heritage Assessment document that has been prepared it is noted that in terms of impacts upon views from the Workhouse that these are assessed as being "moderate negative" (as opposed to the moderate/slight conclusion set out in the Visual Assessment of the LVIA). This appears to be contradictory. As set out in the previous paragraph the NT considers that the visual impact would be at least "moderate" and potentially "substantial".
207. The commentary on page 45 of the Heritage Assessment notes the "Moderate impact will detract from the outward view from the second floor". It also states that "the overall setting of the Work House is a material consideration for the development due to it being deliberately sited outside, and indeed out of sight both from and to the built up areas of Southwell"; this is agreed. However, it then suggests that "the setting of the Workhouse has suffered from a cumulative expansion of modern development from Southwell". It is considered by the Trust that whilst there has been some development over the years around Southwell by and large this is not apparent from the Workhouse, this is demonstrated by the applicant's photographs showing the view from the Workhouse (Viewpoint

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- 18). It is also considered to be incorrect to suggest that the setting of The Workhouse "is largely its grounds rather than the wider landscape"; indeed the approach set out in the Council's adopted CS clearly confirms the wider sphere of influence of the Workhouse.
208. A specific approach to the setting of the Workhouse has recently been incorporated into the adopted CS. The relevant policy is SoAP1 which states that the Council and its partners will seek to 'identify, protect and enhance the setting of Southwell, including the views of Southwell Minister, the ruins of the Archbishop's Palace and the Workhouse'. Policy SoAP2 relating specifically to Brackenhurst Campus, in particular the final bullet point, is also relevant to the current proposals.
209. There would be a significant impact upon views from the Workhouse to the detriment of its setting. Attention is drawn to the CS requirement that the setting of Southwell, including the views of Southwell Minster and the Workhouse, are protected and enhanced. Also policies So/Ho/2, So/Ho/3, So/MU/1 and So/E/1 require individual developments to respect the setting of the Workhouse. Paragraphs 3.13 and 3.14, policy So/PV, policy So/Wh and Map 6: Southwell Proposals: whilst the proposed development is outside the immediate surroundings of the Workhouse it is covered by the second bullet point in Policy So/PV and the third bullet point in Policy So/Wh, as follows: "*Beyond the areas defined within the view cones, as defined on the Policies Map, development proposals which have the potential to negatively impact on the views of these heritage assets will not normally be acceptable. The level of potential impact will be dependent on factors such as scale, height, location and the scope for mitigation.*" And "*Beyond the boundary of the immediate surroundings of the Workhouse, as defined on the Policies Map, development proposals which have the potential to negatively impact on the setting of the Workhouse will not normally be acceptable. The level of potential impact will be dependant on factors such as scale, height and location and the scope for mitigation.*"
210. The NT also draws specific attention to policy DM4, second bullet point, regarding renewable energy generation and impacts upon Southwell Views and the setting of (Thurgarton Hundred) Workhouse. The NT concludes that the proposed development is clearly detrimental to the visual setting of the Workhouse.
211. The **Thoroton Society of Nottinghamshire** is the County's history society, established in 1897. It has a distinguished record of scholarship relating to the County and has had amongst its membership the leading scholars and academics associated with its local history. It is the view of the Thoroton Society, and in this it agrees with English Heritage, Newark and Sherwood District Council, Southwell Civic Society and many others, that the environs of Southwell Minster, Southwell Conservation Area and Brackenhurst Hall and its associated heritage would be harmed by the installation of the proposed wind turbines and their infrastructure which would stand high above the southerly rises of the town.
212. This society of historians, both lay and professional, hold Southwell Minster to be of tremendous significance to the county and the nation and are of the opinion that it is of great international importance because of its long history, the unique and influential features it contains and the fact that much of the ancient fabric remains without major alteration or renovation since the final phases of building

in the late 13th and 14th centuries. With the associated Great Hall and ruins of the Archbishop's Palace adjacent to the Minster, the whole ecclesiastical cluster makes for a wonderful central focus to the historic town and its fine houses. Post-mediaeval buildings abound, including the prebendal houses associated with the Minster, giving the whole town an attractive and historically interesting character. Recently awarded Heritage Lottery funding to restore, enhance and open up to the public, the Archbishop's Palace, Great Hall and gardens have been further acknowledged as gems in a town which is a jewel in Nottinghamshire's crown.

213. The Minster also has county-wide significance as the mother-church of the Diocese of Southwell and Nottingham. For the people of Southwell and its surrounding villages, for the many visitors who return again and again, the first sight of the Minster nestling in its historic setting lifts the heart each time it is seen. It is this setting which is at risk of being severely damaged.
214. Pevsner sums up the description of Southwell aptly when he says, in his *Buildings of Nottinghamshire*, "In appearance the town is like, say, Sherborne or Selby, a country town with the overpowering presence of a large medieval church." There is no doubt of the impact such an installation would have on Southwell but, to turn even closer to the proposal site, Grade II Brackenhurst Hall sits in a setting of great rural beauty overlooking the Trent Valley. It has historic associations and the remnants of significant landscaped parkland. Southwell has had a strong association with Brackenhurst College over many generations and it continues into the present with NTU generally being sympathetic to this special campus and its town. But this proposal is an insensitive scheme for the Brackenhurst site itself as well as for Southwell and would have a startlingly negative impact on Brackenhurst's historic buildings, hall and grounds.
215. The building itself is not threatened by this application but its setting most certainly is. The disruption to an historic landscape such as Southwell's should be strictly avoided. It is the Minster which dominates this small town with its beautifully constructed architectural mass - wind turbines would be a brutal dominance overlooking a town which is one of the most important historic settlements in Nottinghamshire and to which large numbers of visitors come to immerse themselves in its history.
216. **B N Atkinson** and **M Warburton Wood**⁵⁸ and others draw attention to the potential for a new hazard for motorists on the A612, saying that the area around Brackenhurst is a notorious accident blackspot. **Professor Stephen Bamforth** and **Sarah Bamforth** of Halloughton say that the Southwell Minster is of international significance confirmed both in the literature of cathedral architecture and in studies devoted to the naturalistic thirteenth-century leaf carving of the Chapter House in particular. Although not of the size of Westminster or Reims, Southwell Minster and its Chapter House is one of the glories of European Cathedral architecture, and hence of the world. Two seminal works by Nicolas Pevsner (*An Outline of European Architecture*, 1943, and *The Leaves of Southwell*, 1945) make this abundantly clear, as do many other standard works.

⁵⁸ Letter of 7 January 2014 (exact spelling unclear)

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217. Birthplace of Viscount Allenby of First World War fame, and situated in a relatively undisturbed parkland and gently rural setting, Brackenhurst Hall has historical and architectural significance, recognised in its Grade II listing. The presence of two 67m high structures with rotating blades only one field away from Brackenhurst Hall and its grounds will be visually highly intrusive over and above any other structures already in place. Both in materials and in scale, the proposed turbines would be totally out of context with their setting. Vistas both of and from Brackenhurst Hall would suffer substantial harm.
218. Southwell, Brackenhurst Hall and Halloughton sit in an area of farmland characterised by a rolling topography. The fields are irregular in size, there are areas of ancient and new woodland, old hedgerows, orchards, deep wooded dingles, quiet lanes, ponds and scattered pantiled farmsteads. The rolling hills offer both intimate and far reaching views. It is a pleasant, domestic landscape on a small scale and provides a pleasing backdrop to Southwell, the Minster, the Bishop's Palace, Brackenhurst Hall and the surrounding villages. The journey from Thurgarton to Southwell allows full enjoyment of this landscape, passing the conservation village of Halloughton, with a view of the 12th century church, 14th century tower and medieval fishponds. The journey culminates in the famous view of the Minster from Brackenhurst. A view that has changed very little since late medieval times. The town has expanded but the Minster still sits proud of the surrounding houses. The only jarring note is the flickering of wind turbines which draw the eye away from the Cathedral itself.
219. The two tall industrial structures and their attendant areas of concrete within this area of farmland above the Minster will result in the unbalancing of the small scale, domestic nature of the landscape. The turbines will be visible for miles around and compete with the towers of the Minster itself when approaching from the Normanton side of Southwell.
220. Professor Bamforth goes on to say that despite the growth of the town, the setting and significance of the Southwell conservation area remains essentially unchanged. Formerly ringed round by ancient deer parks, of which Brackenhurst was one, the rooflines of the settlement remain much the same, and the Minster survives as the dominant feature, giving its essential character to the town. As seen from the ridge on which Brackenhurst college stands, the one intrusive feature is the existing Hockerton wind turbine, which while smaller than the proposed Brackenhurst turbines, catches the eye with its white colour and turning blades. The visual impact of 67m turbines at Brackenhurst would be enormously intrusive, for the approach to Southwell and views from Southwell alike.
221. The **Nottinghamshire Campaign to Protect Rural England** (CPRE) says that while wind energy can make an important contribution to tackling climate change, it should not come at the expense of the beauty, character and tranquillity of rural England. The CPRE is very concerned that this development of two 67m high turbines, situated just a few hundred metres from Brackenhurst Hall, a grade II listed building, together with other listed buildings within the near vicinity, and overshadowing the view across its avenue of trees to the farmland beyond, will intervene harmfully within this historically important landscape. One of the turbines is located particularly close to a well-used public bridleway. The harm to the assets themselves and to their landscape setting would not be outweighed by the benefits to the community. There will be a substantial impact

on views from within the surrounding footpaths and bridleways and from Southwell itself, whose grade I listed Minster in its rural setting provides one of the loveliest views in England. Views of the Minster from the North of the town and also of the National Trust Workhouse, will be particularly compromised. This is contrary to Core Policy 13 of the Newark and Sherwood CS. Harming the setting of the Southwell Conservation Area and the Brackenhurst Campus is also contrary to the Area Policies SoAP1 and SoAP2 of the CS. We consider that this development, so close to important heritage assets and their historic landscape setting as to blight views from and of them, should not succeed.

222. **Angela Cooke** is Access and Bridleways Officer for the Nottinghamshire British Horse Society (BHS). She says there are several public bridleways in the area which would be within 200m of the proposed turbines for a significant distance. Current BHS guidance clearly states that turbines should be a minimum of 200m from the nearest public bridleway. In the proposed development, the westernmost turbine would be 150m away, and the easternmost (T2) a mere 60m away. Bearing in mind the turbines would be nearly 70m tall, this is unacceptable in terms of public safety. Many of the lanes and roads on the Brackenhurst campus are public highways; the rights of way are Public Rights of Way. These are not private university grounds; they are open to all. She represents the 'happy hacker'; the general public who want to go out and ride safely off road. She disagrees with the view of the Equestrian Manager at Brackenhurst Hall and feels very strongly that the proposed turbines would pose an unacceptable risk to users of the public bridleway. The good network of public bridleways in the area attracts riders from elsewhere, not just students of the Equestrian Centre, and it is these members of the public who must be considered when debating planning matters. She therefore objects to the proposal, on behalf of the BHS, on the grounds of public safety, due to the turbines being too close to a public bridleway, with one being so close as to constitute an illegal obstruction of a public right of way and a danger to members of the public.
223. **Halloughton Parish Council** advise that the proposed turbines will impinge on four listed buildings within the close vicinity, that is, St James's Church, Halloughton (Grade II), Manor House Halloughton (Grade II*) both of which are in a conservation area; South Hill House, Brackenhurst (grade II) and Brackenhurst Hall itself (Grade II). All are under 600metres from the proposed turbine site.
224. Brackenhurst Hall will be seriously compromised and though the appellant states that Halloughton will be mainly screened by vegetation they have not taken into account the fact that the tree screen alongside the A612 is not only deciduous but has a high proportion of dead and dying trees which will have to be felled in the near future. The tower house at Manor House Grade II* is open, on request, to the public, and its setting will be seriously affected by a 67m high turbine 510 metres away. Halloughton is a conservation area whilst the gardens at Brackenhurst Hall have been in the past considered sufficiently important as to be classified as historic though this has yet to be adopted. The PC are also very concerned over the impact of these turbines on motorists approaching, from Thurgarton, the turning at High Cross (on the edge of and within their parish) to

Bleasby and refers to Highways Agency policy on visual distractions⁵⁹. This particular junction is already considered to be highly dangerous by Nottinghamshire County Highways Department and they feel that there is huge potential for driver distraction at this particular point.

225. **Dr Melanie Atkinson** voices concerns over the effect of turbine noise on those sleeping, not least students of NTU who would be within a few hundred metres of them; and draws attention to the potential for harm to wildlife species especially raptors. Amongst other local residents who object, **Lisa Simpson and Kevin Phillips** live at Little Rudsey Farm which will have a direct line of sight view of the turbines. They object mainly because of the effect this will have on their quality of life and the value of their property. Some local people suggest that NTU should pursue other forms of renewable energy such as more solar panels and that the university owns other land where there would be a less harmful impact.
226. Correspondence in support is sent from members of the campaign group 'If Not Then What' and from many others including local residents. **Simon Tilley** represents Sustainable Hockerton Ltd and states that the concerns raised can be addressed by simply considering the impact of a turbine at a similar distance away from Southwell in Hockerton. Although the proposal is for a pair of taller turbines the physical and social similarities give a unique opportunity to discover the actual effect of installing renewable energy close to the historic setting in question. **Roger Steele** for the Nottingham ProWind Alliance strongly supports the scheme and considers that the visual impact on heritage assets has been overstated by the Council. The effect on the setting of Brackenhurst Hall would not be substantial. The turbines would be visible from the top of the Minster Tower but so would suburban housing and Staythorpe Power Station. The surroundings to Southwell have changed over many years of man's disturbance of the countryside across Britain, due to building, industrialisation or new farming practices. The need to cut carbon emissions and secure a UK based power generation for the future is a need that must not be pushed aside.

Planning conditions

227. The wording of the suggested conditions is generally that agreed at the Inquiry and is covered here without prejudice to my consideration of the issues. I have considered the suggested conditions in the light of planning guidance and Appendix A to Circular 11/95 *The Use of Conditions in Planning Permissions*. They have been adapted in accordance with the recommendations therein where appropriate, to ensure the wording is precise, necessary, relevant and enforceable.

⁵⁹ Highways Agency Spatial Planning Advice note12/09 'Any potential for visual distraction should be minimised, not by screening but rather by the provision of a clear, continuous view of the wind farm that develops over the maximum possible length of approach carriageway. The potential for distraction may be greater than with other roadside features — advertisements, etc., do not generally rotate — but a clear view from distance will considerably reduce the temptation for drivers to turn their heads when passing the towers. Sites where the topography, vegetation or buildings might conceal the view of the turbines until the last minute should be avoided as drivers may be distracted suddenly and take their attention from the road and other traffic. Wind farms should not be located where motorists need to pay particular attention to the driving task, such as the immediate vicinity of road junctions, sharp or unexpected bends.'

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228. The following are conditions that attracted controversy and drew comments at the Inquiry, or are addressed because they require explanation or important rewording. Should the Secretary of State decide to grant planning permission, they should be imposed for the reasons stated.
229. **Condition 17** requires aviation lighting. Because of the prominent position of the turbines and the certainty that visible wavelength lighting would be visible behind the Minster from the north, and would draw the eye from many other locations, the condition requires infra-red lights to be installed.
230. **Condition 19** relates to the micro-siting allowance where ground conditions indicate that turbines should be moved slightly. The condition is amended to prevent the turbine being located closer to Brackenhurst Hall (and by extension, Southwell Minster) because of the harm caused to heritage interests.
231. **Condition 20** ensures the provision and maintenance of a permissive right of way to avoid riders and walkers needing to pass unnecessarily close to T2 (see Inquiry Document 15).

Planning Obligation

In this and subsequent sections, numbers in brackets [] refer to the main paragraphs in this Report that are of relevance

232. A signed and dated Unilateral Undertaking (UU)⁶⁰ has been provided, with the objective of funding 'heritage enabling works' being works to restore and repair specified elements of the Brackenhurst Hall complex of heritage assets, using funds generated by one of the turbines (the 'enabling' turbine; the other being the 'commercial' turbine). The works would be specified within a Conservation Plan to be drawn up by a qualified heritage expert, his or her costs being drawn from an 'enabling bank account' which would hold the income from the enabling turbine. The list of proposed works (which is not limited to those listed) is contained in Schedule 2 and mainly consists of repairs to important built elements of the garden but also includes repair of entrance gates and orangery and first floor wrought iron railing. At the site visit, it was clear that as an old building there is a need for ongoing maintenance of the Hall. The works would form part of an ongoing programme of repair and restoration of the asset as a whole.
233. The Framework sets out at paragraphs 203 and 204 national policy on planning obligations which are governed by S106 of the Act and regulation 122 of the Community Infrastructure Levy Regulations 2010 (CILR). It advises that decision makers should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be sought where they meet all of the following tests:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.

⁶⁰ Doc 16

234. It is not suggested by the appellant that the works are necessary to make the development acceptable in planning terms, nor has it been shown how they would be directly related to the development. The appellant acknowledges that they would not meet the criteria set out in EH guidance on enabling works⁶¹. NTU acknowledged at the Inquiry that the University already commits to maintaining its heritage assets. There is nothing to suggest that the means would not be found to carry out necessary repairs without the turbines being erected. In any event, the funds that would arise from operation of one of the turbines are uncertain and would be half the resultant sum after maintenance and decommissioning costs are subtracted. The obligation provides no information on how the works will be prioritised or programmed or when, during the 25 year anticipated life of the turbine, they may take place. [148,166]

235. It is not clear as a result that the commitment to repair and restoration works would be fairly and reasonably related in scale or kind to the erection of 2 wind turbines. It is quite conceivable that no benefit would arise from the proposed S106 for a considerable amount of time, and in the event of the enabling turbine being decommissioned early, none at all; meanwhile, the remaining turbine would continue in operation. The Council would have no control over any of these matters.

236. Whilst the intention behind the S106 has merit and that is a consideration, the undertaking itself does not meet the requirements of the Framework or the CILR and can only be given very limited weight. [85,105,106,149]

Inspector's Conclusions

237. Following from the reasons for refusal, the main considerations upon which the decision on this application should be based are as follows:

- The effect of the proposed development on the settings of designated heritage assets; and
- Whether the environmental and economic benefits of the scheme would be sufficient to outweigh any harm that might be caused.

Policy matters

238. The CS was adopted in 2011 before the Framework was issued in 2012. The Framework replaced many of the Planning Policy Statements and Planning Policy Guidance Notes that had set out national planning policy prior to that date. However, the DMPD was adopted well after the Framework was issued. Whilst policies CS10 and CS14 do not specifically acknowledge the need for balance set out later in sections 10 and 12 of the Framework, the implementation policies set out in the DMPD are up to date. Read as whole, in particular taking into account the wording of DMPD policy DM4, the development plan is in broad conformity with national policy set out in the Framework including paragraph 109, which sets out that the planning system should contribute and enhance the natural and local environment by protecting and enhancing valued landscapes, and paragraph 131, which sets out that local planning authorities should take account of the

⁶¹ Doc 1

desirability of sustaining and enhancing the significance of heritage assets. [78, 100-102,107]

The settings of heritage assets

239. The heritage assets referred to in the reasons for refusal are considered in the first instance; then other heritage assets; then other matters, before turning to the final balance.

Southwell Minster

240. The heritage significance of the Minster is unquestioned. It is a Grade I listed building with a high level of archaeological, architectural, artistic and historic interest. It is also of cultural and faith interest to the local community and to the region as the cathedral church of Nottinghamshire. It is of international significance because of its early manifestation of the 'English' style of Norman architecture at the end of the 11th century and the quality of its internal stone carvings in the Chapter House and on the Pulpitum. Its pyramidal 'Rhenish' or 'pepperpot' towers are unusual in the UK and unique on a church of this size and stature. [49,124,125]

241. The appellant does not dispute that the church with its towers has been built high to represent power and influence as well as to represent a spiritual focus for pilgrims, in a similar manner to cathedral churches elsewhere⁶². The flagpole atop the central crossing tower is itself of some age⁶³ and is used to celebrate saints days and national days. As such, the visibility of the church from the surrounding town and the landscape beyond is an important positive factor that adds to its architectural and historic significance. The lack of official references to the Minster's wider landscape setting does not diminish this. [49,123-126]

242. The Minster also has important historical links to the surrounding countryside through the prebendal system, which comprises 16 secular canons maintained by the revenues of particular parishes, one of which is Halloughton. Each prebend is represented by a seat in the Chapter House, the location of the 'Leaves of Southwell'⁶⁴ naturalistic carvings. The close setting of the church includes the prebendal houses to the north and west of the Minster precincts. These links add to the historical interest of the Minster's setting and thus to its overall contribution to heritage significance. [51,127,128]

243. Southwell is a small town of about 7000 inhabitants. Located in a dip in the landscape with higher ground to north, west and south, it is surrounded by higher land from which the Minster is visible to various degrees. Many of these areas include public rights of way such as roads, footpaths and bridleways. The 'low-rise' nature of the town means that almost all of the residential and commercial development around the Minster is amongst trees and only the roofs of houses on higher ground such as High Town are visible. In all cases, the fields and vegetation on high ground beyond the centre of Southwell are visible in views across the town, with the 3 towers of the Minster forming a dominant focal point (complemented by the separate 19th century tall steeple of Holy Trinity church). The pinnacle of the Chapter House is also usually visible along with the

⁶² In response to Inspector's question

⁶³ Advised at the site visit that it is the mast of a ship from the 19th century

⁶⁴ Appendix 3 to Prof David Watkin's evidence

roof of the nave. The Minster is highly unusual in being a very large church in a relatively undeveloped town. A further unusual feature of interest is that a rural countryside character extends right up to the precincts of the church on the southern side, through the Memorial Park and the gardens around the Bishop's Palace. This undeveloped characteristic further adds to heritage significance and value. [49,127,150]

244. In this context, wind turbines on the surrounding higher ground inevitably have the potential to coincide with views of the Minster. The development would not fall within the view cone envelopes identified on Map 6. However the second bullet point of the policy addresses areas beyond the view cones and recognises the potential for a negative impact. The introduction of 66.7m high structures, just beyond the Brackenhurst crest, whilst not as high as many turbines being erected elsewhere, would negatively impact on views across Southwell from the northerly view cone because of their scale and height. There would be little or no scope for mitigation. This is demonstrated in photo montage viewpoint 19/Figure 36A of the LVIA. The quality of the printing is poor⁶⁵ and at the site visit, a great deal more detail was apparent on the Minster itself including details of the fenestration, the Chapter House roof and the nave. The turbines would be stark on the horizon, particularly seen against a clear sky, and would be a conspicuous anachronistic feature seen together with the Minster in a view which has little changed for around 800 years; made more noticeable by moving blades. Moreover, the turbines would be a distracting and competing visual focus on the horizon for users of a significant stretch of Corkhill Lane and on nearby footpaths looking across the River Greet valley towards Southwell, which currently has no other tall buildings or structures to divert the eye, apart from the pre-eminent Minster. The Holy Trinity church steeple is not a strong feature seen from here and in any event is complementary to the Minster because of its purpose and form. [51,57,156]
245. Whilst it is acknowledged that views of the Minster from the area around Corkhill Lane are not 'designed' in the sense that there is a vista or arrangement of buildings and/or landscape features focussing attention on the Minster, the nature of a cathedral church is that it is intended to be the highest and most significant building in the area and visible from a long distance. Its dominance in the landscape is 'designed' in that way. No particular weight can be attached to the lack of a deliberately designed vista when considering the impact of new development on such a building. [49,50,128]
246. The appellant draws attention to the small number of dwellings in Corkhill Lane and the fact that it is not a main route into Southwell, but it remains true that the road is a two way highway and is used by people for commuting and recreational cycling and walking. These people undoubtedly appreciate the presence of the Minster dominating Southwell in an unfolding panorama on travelling along the road. Importantly, it is identified in the SLSS as assessment point 7 and this document was used to define the views that needed to be protected. [51]
247. Existing turbines around Southwell are limited in number but one at Hockerton forms a prominent feature on the northern slopes and is seen in conjunction with

⁶⁵ An improved image was requested by the Inspector, but was not available

the Minster in views from the south. This is a community initiative. Although only 46.5m high, it is a distracting presence in some views, mainly due to its very white appearance in sunlight and relatively fast rotational speed. It is about 4km from the Minster in open countryside and provides an example of the potential for conspicuous moving blades to distract. It is not frequently seen in conjunction with the towers of the Minster in the same way that the much higher Brackenhurst turbines would be seen from Corkhill Lane, and these would be much closer. [79]

248. There are a few other developments around Southwell which have the potential to distract attention from the Minster in one way or another. Staythorpe Gas Power Station is a conspicuous industrial complex about 7.5km to the east in the Trent valley. However this is relatively low and only easily seen through trees from high ground or from the tower of the Minster itself. It does not greatly impinge on the view cones or any identified views of the Minster. Apart from the Hockerton project, other wind energy developments are either too far away or too small in size. HAG and objectors at the Inquiry drew attention to the fact that the view from the north remains the only view of the Minster unaffected by any wind or energy infrastructure at all and this attracts some weight. [150]
249. Other viewpoints have been visited including High Town, Park Hill, Cundy Hill and footpaths around Brackenhurst. From most of these, it would be possible to see the proposed turbines at the same time as the Minster and the town of Southwell, sometimes with a slight turn of the head. The turbines would be conspicuous due to their height and movement but would not prevent appreciation of the importance of the Minster as a piece of architecture or its dominance of the town, but an important aspect of the setting of the Minster includes the surrounding countryside which, apart from Hockerton, currently has no significant competing vertical elements to distract the eye. The turbines would introduce much higher modern industrial forms which would noticeably diminish this experience.
250. It is true that the aspects of the Minster's setting most commonly experienced by visitors to Southwell are the close confines of the church including its churchyard, nearby streets, the Archbishop's Palace and less frequently, the Memorial Park. The Brackenhurst turbines would not interfere with that experience to any extent. Those who climb the tower, at occasional times when it is open, would be presented with a broad prospect including the power station, the town and other turbines, singly and in groups in the distance. The view towards Brackenhurst would only occupy a small part of this and would include modern buildings which the turbines would be associated with. The overall impact on the total experience of the Minster's setting would be limited, but it would completely alter one sequence of views towards it which are identified as important in policy. This would be harmful and undesirable. [50,131]
251. The Framework requires that the degree of harm is quantified in order to properly balance the benefits of a proposed development. I concur with the view of EH that the impact on the view from Corkhill Lane would comprise serious harm to a proportion of the heritage significance of the Minster, but to extend this to cross the threshold of 'substantial harm' would be a step too far. There would remain many other views in which the dominance of the Minster would remain unaffected. In giving consideration to this matter, in principle, a 'pie

chart' or proportional approach is too simplistic a way of assessing the extent of harm to significance; in any particular case, the effect of development on heritage significance by means of an impact on a setting will depend on the contribution that aspect of setting makes to the significance of the asset as a whole, but it is also quite possible that a serious impact on one view of an asset could affect the experience of the setting to such an extent that much of its significance could be lost. That is not the case here. The harm to the significance of the Minster falls short of the threshold of 'substantial harm'. Nevertheless, using the appellant's methodology⁶⁶, given the Minster's sensitivity as very high, and the identified seriously intrusive impact on its setting, the significance of the effect would be major-moderate. The proposed development would conflict with the heritage protection aims of CS policy CS14, DMPD policies DM4, DM9, So/PV, the advice in SPDs and national policy.
[51,69,72,75,79,100,109,116,132,141-142]

Brackenhurst Hall

252. The heritage significance of this 1828 country house and its associated listed structures and buildings derives from its remodelling in 1899-1919 in response to the architectural influences of the time and to reflect wealth and status. The garden, which the Council regards as a non-designated heritage asset in its own right, reflects the status of the house and falls within its curtilage. The garden demonstrates aspects of design and planting from the early 19th century through to the influence of the Arts and Crafts movement and has been maintained by NTU and is open to the public from time to time. The building was listed in 1952.
253. Despite very significant development to the west and north of the hall in connection with the university's activities including halls of residence, teaching, support and library buildings, the original hall remains somewhat apart. It comes as a surprise to approach through 1960s student residential blocks and suddenly come upon an Edwardian house with extensive grounds including a lake⁶⁷. The house retains, to a large extent, its original form; and long distance views are available through mature trees in the grounds towards countryside to the south. The external quality of the house is replicated internally where, despite current office use and some alteration, many of the internal fittings and fixtures survive. This adds to the property's heritage significance. Some repairs are necessary to fabric and in the garden, but much has been maintained and restored.
254. The turbines would be conspicuous seen from the hall on its south side and would be prominent on approaching the house from any direction because of their relative height and close proximity⁶⁸. They would be the most visible feature beyond the ha-ha seen from most of the gardens including the lake and would become the main feature seen from the vista along the elm avenue. The house was built on high ground to take advantage of the far reaching southerly views to the south and the turbines would seriously interfere with that prospect. On the other hand they would be in an arable field with very little now to remind the viewer of the parkland setting that once existed; and the elm avenue is on a small scale and incomplete.

⁶⁶ Appendix F of GK Heritage 'Archaeological and Built Heritage Assessment'

⁶⁷ This point is well illustrated by aerial views and plans in Appendix 1 to Mr Downe's evidence

⁶⁸ See LVIA Figs 52, 56 and 57

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255. As distinctive, moving, distracting elements, they would markedly contrast with the well preserved house and gardens and diminish the experience of the asset for those working there and enjoying the gardens. It is likely that on occasion, turbine noise would add to the visual impact for those in the gardens, adding to the overall deleterious impact. In views of the hall from the nearby A612 and nearby lanes and footpaths, the turbines would dominate the hall and its tower, especially looking up the hill from the south, though a line of pylons also distracts⁶⁹. [54,55]
256. There is a sense in which the turbines, being for the benefit of the NTU as occupier and providing the means by which finance could be provided for some restoration work to be carried out⁷⁰, might be seen as a complementary part of a large educational enterprise spread out over a large site. That is a material consideration, but is quite apart from the impact on the defined heritage asset as a whole which has been kept separate from the bulk of later development on the site and is remarkably well preserved. It would be quite possible to imagine, sitting in the garden today, that the house was still in residential use and the manicured surroundings are largely as they were intended. As such, the impact of the turbines on the setting of the hall for anyone in the garden would be redefining, dramatic and disturbing, largely preventing any enjoyment of sense of peace and quiet, as one might think would have been the original designer's intention. [53,55,144,149,165]
257. I conclude on Brackenhurst Hall that there would be a serious degree of harm to its setting and heritage significance. Again using the matrix employed by GK Heritage, given a high level of sensitivity suitable for a Grade II listed building and a moderate magnitude of impact, the resulting significance of effect would be intermediate. So however serious the deterioration in the experience of the garden would be, it would be difficult to argue that the harm could be described as 'substantial' for the purposes of the definition in the Framework. The surrounding landscape would still be visible beyond and to the side of the turbines. The fabric of the building and the garden would remain unaffected. The view from the tower would be affected to the south but views to the east and west and over Southwell to the north would be retained. There are large trees which would provide some screening for the house and garden. The harm would be appreciable but 'less than substantial', and must be taken account of in the final balance. There would be conflict with CS policy CS14, DMPD policies DM4, DM9, SoAP2; and national policy. [54,133]

Southwell Conservation Area

258. There is no dispute between the parties as to the heritage significance of the Southwell Conservation Area which is well preserved and contains a large number of listed buildings, attracting many visitors, not least because of the Minster and the Bishop's Palace at its heart⁷¹. The Minster is inextricably linked to the conservation area around it because of historical and architectural connections and the obvious harmonies of scale, design and materials. In longer views, the dominance of the Minster above the trees contrasts with the almost concealed buildings in the conservation area, the subdued appearance of which lends

⁶⁹ See LVIA Figs 24 and 28

⁷⁰ See comments on the S106 in paragraph //

⁷¹ Conservation Area Appraisal at CD3.7

emphasis to the deliberate supremacy of the towers in the landscape. This relationship is very sensitive to competing vertical elements, as the Hockerton turbine demonstrates. The relatively undeveloped nature of the setting of the conservation area (the way in which the conservation area is experienced from outside it) is of crucial importance in supporting the heritage significance of its principal asset, the Minster. [50,56,63,125,189]

259. The WESPD says under 'Heritage Aspects' that the CAA highlights landscape setting as one of the most important features of the conservation area. Recognising that 'setting' must be viewed in the round, the recommendations of this very recently adopted advice deserve close attention. It says 'The wooded nature of this landscape context within the enclosed dumble valley contributes to its contained and intimate character. Undeveloped slopes to the north and south form a rural backdrop to the settlement. The importance of the approaches to Southwell, generally from higher ground, is noted'. Under 'Sensitivity Assessment' it says that 'These skylines are relatively prominent, when seen from the low lying floodplain of the River Greet. Distant skylines appear simple and flat with few distinctive features. Southwell Minster is a key landmark, and skylines are of major importance to views in and around the town'. It concludes that the landscape setting of Southwell is of great significance...and that areas of increased sensitivity may extend beyond the areas defined in the policies So/PV and SO/Wh. [81]
260. The impact on views across the conservation area seen from the north have been explored above and it is sufficient to say that the harm that would occur to the setting of the Minster applies equally to the setting and significance of the conservation area, because of the general lack of any conspicuous modern development in Southwell and the predominance of trees, with the Minster rising above them, in which circumstances the moving turbine blades would appear as incongruous and intrusive.
261. From within most of the conservation area the turbines would not be visible due to surrounding buildings and trees. The well wooded surroundings to Southwell also limit views of the application site from within the town but the turbines would be a conspicuous feature on the horizon seen from the higher parts, from the upper floors of buildings and from areas to the south and west around Westhorpe and Westgate; and from Memorial Park to a lesser extent. At a distance of about 1.2 - 1.5km, the towers and revolving blades would be clearly seen or seen in conjunction with trees and would be discordant in what is otherwise a largely unspoilt rural prospect. They would also be visible on the eastern approaches to the town above trees on the horizon to the south, before reaching the built up area, in which view the Minster towers currently provide the only vertical point of reference and essentially define the town. [66-68,176-7]
262. I conclude on the conservation area that the turbines would seriously undermine its unspoilt setting seen from the north and south. This conflicts with the aims of policy SoAP1 of the DPMD and the guidance in SPDs as well as national policy.

The Workhouse

263. The 1824 Workhouse is remarkable for being an unusual survivor of a type of building once common in Britain. Despite its prosaic title, the building itself has considerable scale, being 15 bays wide and symmetrical about a central

hexagonal feature⁷². In Southwell it was sited outside the town 'out of sight and out of mind' and it still benefits from almost completely unspoilt views towards the south from its windows and vegetable garden⁷³ (which is designated as an RPG) the views from the garden including the Minster towers. Some modern development is visible in winter but in summer (when visitors are able to tour the building) this is completely obscured.

264. Here the full sweep of the blades of T1 would be visible from the upper floors as well as much of the tower; the hub of T2 would be plain above the trees. There would be no associated group of buildings visible to give the turbines context or purpose. As such, they would be anachronous, out of keeping and harmful to the setting of the building, which remains much as it was when the building was first erected. The turning blades would be clearly perceived from the garden, which originally would only have provided views of the Minster for inspiration. The sensitivity of visitors to the Workhouse should be considered as high, as they will be trying to understand the purpose of siting the building where it is, and the Workhouse is an important cultural, architectural and historical site. I conclude that the turbines would compromise to some extent for visitors the ability to comprehend the purpose and lives of those once living there; harming the building's and the RPG's heritage significance to a moderate extent⁷⁴; and would conflict with the aims of DMPD policies DM4 and So/Wh. [134,199-211]

Halloughton Conservation Area and listed buildings

265. Although close to the turbines, visibility of them from this conservation area would be limited to a small area at the eastern end where the lane passing through Halloughton meets the A612. The turbines would be tall and conspicuous in fields on the other side of the road on exiting the conservation area. As they would clearly be outside it, it is difficult to conclude that its character or appearance would be unacceptably harmed, though the rural surroundings would certainly be changed.

266. St James's Church lies at the eastern end of the village and the conservation area but visibility of the turbines would be substantially screened by trees and vegetation, except from the far end of the churchyard. The degree of harm here would be insignificant. In contrast, the garden of the listed Manor farmhouse on the opposite side of the road, and the attached Grade II* tower house, which is one of the best preserved tower houses in England, would have a view of turbine blades above trees. The garden, which includes a large pond and open views over fields, makes a strong contribution to the heritage significance of these assets, which are currently unaffected by any modern development except the noise of traffic on the A612. However, the harm to their significance would be less than 'substantial harm' in terms of the Framework. [58,136-7,191]

Holy Trinity Church

267. The 19th century Grade II listed church is a landmark feature of Westgate with a tall 13th century style steeple that is visible from much of the southern side of Southwell. Turbine towers and blades would be visible in the same context as

⁷² Photograph at section 8 of Doc 3.2

⁷³ See LVIA Figs 44 and 46

⁷⁴ Using the assessment methodology set out in the appellants heritage assessment.

the steeple in views from higher ground outside the conservation area and from some locations within it, but in many views, modern housing development also features and this reduces the impact on heritage significance. Nevertheless the deterioration in the character of the rural surroundings would impact on the appreciation of this listed building and on its relationship to the conservation area. [58,138-9,157]

Other heritage assets

268. There is a large number of other heritage assets and listed buildings including Rudsey Farm, Durdham Farm near Brackenhurst and other buildings in and out of Southwell that may have views of the proposed turbines or which could be seen in conjunction with them. For reasons of distance, orientation, use or other nearby modern development I do not find any other additional significant impacts on heritage significance other than those noted above.

Other matters

269. The Council does not object to the proposal on grounds of landscape impact, but insofar as the important heritage assets contribute to the landscape and are referred to in SPD, the recommendations are a material consideration⁷⁵ and my conclusions on heritage impact cross over to some extent to landscape impact. [81]

270. There would be a significant effect on visual amenity as experienced by users of public rights of way. Southwell is criss-crossed by footpaths which extend into the surrounding countryside and are popular with walkers, riders and cyclists. The National Trail, the Robin Hood Way encircles Southwell and passes through the grounds of Brackenhurst Hall behind the house to the north. The turbines would be seen in the same context as the raised countryside surroundings to the town which currently do not have any significant wind energy development apart from the Hockerton turbine⁷⁶, which is some distance to the north. The proposed turbines would be more or less constantly visible, depending on vegetation, for around 3-4 km of the Robin Hood Way from Easthorpe to Westhorpe and would be particularly noticeable ascending Cundy Hill and Park Hill, from where the Minster is the most significant vertical presence, albeit not in the same line of sight. The turbines would challenge the Minster for dominance of the landscape in this experience. Publicity for the various walks around Southwell was provided at the Inquiry⁷⁷ and it is not doubted that these footpaths and routes are greatly valued by the local community and visitors. Recreational users are considered to have high sensitivity to wind turbine development and whilst it is true that individual attitudes to turbines vary, the adverse visual impact would still represent a noticeable significant change to the character of the countryside and the setting of Southwell Conservation Area for such users. This would be contrary to the advice in SPDs including the SLSS, the WESPD and the LCSWE, as well as planning guidance. [89,90,130,160]

⁷⁵ See paragraphs 37 and 41-45.

⁷⁶ And a smaller 28m turbine at Meadowlands, south of Hockerton, which is less easily seen

⁷⁷ Doc 7

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271. With regard to concerns that road safety on the A612 would be compromised, no objections have been raised by the Highway Authority. After looking at this matter specifically at the site visit, it seems to me that drivers using local roads approaching the area would have plenty of warning of the turbines' presence due to their location, height and general prominence. Drivers would not be taken by surprise. All vehicle drivers are expected to drive carefully and the turbines would be unlikely to cause an additional hazard to the extent that they would add an unacceptable degree of danger. [217,225]
272. With regard to objections from horse riders, a very high percentage of operational wind farms are in rural locations in which horse riding can and does take place; there is no reliable empirical evidence to demonstrate that commercial wind turbines are unsafe for horses and riders. Having walked Gipsy Lane and the local bridleways, I consider that the amount of shielding from vegetation and the suggested condition providing a permissive route avoiding a close passage by T2 would be sufficient to avoid any unacceptable risks. [89, 151, 223]
273. A large number of other benefits or concerns are aired by supporters and objectors and whilst those are recognised, it has not been shown that any are of sufficient weight, either separately or cumulatively with other harm identified, to weigh heavily for or against the proposal.

Overall balance

274. The benefits of the proposal in terms of an increase in the supply of renewable energy and a reduction in CO2 emissions, assisting in mitigating climate change, are very important factors in favour, coupled with some benefits to the local economy in terms of employment. The candidate turbines proposed are 2 No. 330kw Enercon E33. 330kw is the rated power of these machines and would be the maximum output; actual electricity production would be considerably less in line with the predicted capacity factor. The aims of NTU in reducing the University's carbon footprint fit well into the national aim to reduce reliance on fossil fuels. The support to the environmental nature of the teaching and research carried out at the campus, and the raising of awareness, deserve some weight. The likelihood of repairs resulting from the S106 attracts very limited weight. [83,92,105,150,160-161,165,170,186,237]
275. The appellant expresses a desire to create a community fund into which local people and organisations would be able to invest, but there is no firm commitment in place nor any undertaking in this regard. Acknowledging that the appellant does not rely on it, I give it little weight. [86,92,104]
276. Against that, there would be a noticeable and significant adverse and harmful impact on the settings of listed buildings at Southwell Minster, Brackenhurst Hall and Thurgarton Hundred Workhouse together with its RPG. The landscape setting of Southwell Conservation Area would be adversely affected and this includes the Minster at its centre. The settings of heritage assets at Manor Farm, Halloughton and Holy Trinity Church would be harmed to a lesser extent. The heritage significance of each asset would be diminished. Visual amenity of the users of rights of way particularly the Robin Hood Way, which includes as part of the experience appreciation of the conservation area and the Minster as well as landscape character, would be adversely affected. The setting of the Minster, as a cathedral church, extends for several kilometres around Southwell and the

conservation area is an integral part of the setting of the church and in this sense is a key element. I do not find that the level of harm would be 'substantial' in the terms set out in the Framework; the extent of the harm would not go to the heart of the reason why the assets are designated nor would it lead to the 'draining away' of heritage significance. However, in accordance with s66 of the LBCA, the preservation of setting is to be treated as a desired or sought-after objective, and considerable importance and weight attaches to the desirability of preserving the setting of listed buildings when weighing this factor in the balance. [34,58,69,113]

277. Addressing climate change is in itself a public benefit. Renewable energy is also sustainable by definition. The Framework says that the purpose of the planning system is to contribute to the achievement of sustainable development. The development of renewable energy is important to the future energy security of the country and cannot be underestimated. However the considerable weight and importance placed on the desirability of preserving listed buildings or their settings; and the special attention to be given to the desirability of preserving or enhancing the character or appearance of conservation areas, leads to a strong presumption against the grant of planning permission for development which causes harm. Planning guidance reinforces this in requiring that great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. A core planning principle seeks to ensure that heritage assets are conserved in a manner appropriate to their significance, and in this case, Southwell Minster is at the highest level. The surrounding conservation area and immediate countryside surroundings contribute strongly to the way the Minster's setting is appreciated and enjoyed by residents and visitors, and there are many locations of intervisibility between the Minster and the turbines. The effect of this proposal, which would be only around 2km from the Minster, would be to appreciably diminish the largely unaltered quality of its surroundings and alter for the worse the ability to understand and enjoy the heritage significance of the Minster and the conservation area, which have longstanding and meaningful links with the countryside around the town. [58,59,69,71-76,97,109]
278. The adverse impact on the heritage significance of the Minster and the conservation area, whilst 'less than substantial' would on its own significantly and demonstrably outweigh the limited production of electricity that would be produced. With regard to the time limited nature of the scheme, 25 years is more than a generation in which the heritage significance of the highest importance would be diminished. [81,103,143,146]
279. The harm to the significance of heritage assets at Brackenhurst Hall and Thurgarton Hundred Workhouse and its RPG, together with the harm to the significance of Manor Farm, Halloughton and Holy Trinity Church, and the harm to visual amenity for users of public rights of way add further weight to the case against this proposal.

Formal Recommendation

280. I recommend that the appeal should not be allowed to succeed. Should the Secretary of State disagree, then I recommend that the conditions set out in Annex 2 to this Report should be attached to any permission.

Paul Jackson

INSPECTOR

ANNEX 1 APPEARANCES

FOR THE APPELLANT:

David Hardy	Barrister and Solicitor, instructed by Eversheds Solicitors on behalf of Nottingham Trent University
He called	
Dr Jonathan Edis BA MA PhD MIFA IHBC	Heritage Collective
Patrick Downes BSc (Hons) MRICS	Harrislamb Property Consultancy

FOR THE LOCAL PLANNING AUTHORITY:

Saira Kabir Sheikh	Queens Counsel, instructed by Newark and Sherwood Council
She called	
Amy Schofield BA (Hons) MA IHBC	Senior Conservation Officer, Newark and Sherwood District Council
Simon Wood BA (Hons) BTP MRTPI	Urban Vision

FOR THE HALLOUGHTON ACTION GROUP:

Ned Westaway	Of Counsel, instructed by the Halloughton Action Group
He called	
Professor David Watkin	Professor Emeritus of the History of Architecture at the University of Cambridge
Professor Margaret Evans	Resident of Halloughton

INTERESTED PERSONS:

Abigail Sommers	Speaking on behalf of Naomi Tilley-Abbi of If Not Then What
Michael Struggles	Southwell Civic Society
Vanessa Johnston	Resident of Crink Lane, Southwell
John Robinson	Resident of Easthorpe
Brian Ayling	Chairman, Southwell Minster Shrinking the Footprint Committee
Professor Neil Gorman	Vice-Chancellor, Nottingham Trent University

Cllr Julian Hamilton

Town and District Councillor, speaking on his own behalf

Mr Compton

Synergy Southwell

INQUIRY DOCUMENTS

- 1 English Heritage guidance 'Enabling Development and the Conservation of Significant Places' supplied by the Council
- 2 Secretary of State decision ref APP/Y2430/A/13/2191290 Asfordby Business Park, dated 4 March 2014, supplied by HAG
- 3 Extract from 'Unwrecked England' by Candida Lycett Green, supplied by Mrs Johnston
- 4 Copy of 'The Bramley' dated July 2014, supplied by Mrs Johnston
- 5 Statement from Mr Struggles for the Southwell Civic Society
- 6 Statement from Mr Robinson
- 7 Bundle of 7 leaflets publicising heritage trails around Southwell, supplied by HAG
- 8 Extract from Shell Guide to Nottinghamshire by Henry Thorold, supplied by Mrs Johnston
- 9 Statement from Cllr Hamilton
- 10 Statement from Professor Gorman
- 11 Map showing viewpoints to be visited, from Mr Struggles
- 12 Extracts from publications referred to in evidence by HAG
- 13 Revised and adjusted sections through the landform between Southwell and the turbine site, provided by Mr Struggles
- 14 Series of images showing Southwell Minster in the context of the town and Hockerton wind turbine, provided by Mr Struggles
- 15 Suggested permissive route for bridleway avoiding close proximity to T2, supplied by the appellant
- 16 Signed and dated unilateral undertaking dated 14 August 2014
- 17 Submissions on the costs of zero carbon construction, from Mr Robinson
- 18 IF NOT THEN WHAT Photographic petition in support of Brackenhurst Wind Turbine, including statement by Abigail Sommers
- 19 Note received subsequent to the Inquiry at the request of the Inspector in respect of the potential for a PV installation at Brackenhurst College (supplied by the appellant)

ANNEX 2

SCHEDULE OF SUGGESTED CONDITIONS

Time Limits and Site Restoration
1. The development hereby permitted shall be commenced before the expiration of three 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 14 days after the event.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The planning permission hereby granted shall be for a temporary period not exceeding 25 years from the date when electricity is first exported from the wind turbines (excluding electricity

exported during initial testing and commissioning) ("First Export Date") and shall be decommissioned in accordance with condition 3. Written notification of the First Export Date shall be given to the Local Planning Authority within 14 days of that event.

Reason: In recognition of the expected lifespan of the wind farm and in the interests of safety and amenity once the plant is redundant.

3. Not later than 12 months before the date of expiry of this permission, a decommissioning and site restoration scheme ("the Restoration Scheme") shall be submitted for the written approval of the Local Planning Authority. The Restoration Scheme shall make provision for the removal of the wind turbine and associated above ground works approved under this permission and for the removal of the turbine foundation to a depth of at least 1 metre below the finished ground level. The Restoration Scheme shall also include the management and timing of any works and a traffic management plan to address likely traffic impact issues during the decommissioning period, location of material laydown areas, an environmental management plan to include details of measures to be taken during the decommissioning period to protect wildlife and habitats and details of site restoration measures. The approved Restoration Scheme shall be fully implemented within 12 months of the expiry of this permission.

Reason: To ensure the development is decommissioned and the site restored at the expiry of the permission.

4. If any wind turbine hereby approved ceases to produce electricity for a continuous period of 12 months then, unless otherwise agreed in writing with the Local Planning Authority, within six months from the end of the twelve month period the turbine and all associated equipment and works shall be dismantled and removed from the site and the site reinstated to its former condition in accordance with the Restoration Scheme.

Reason: To ensure appropriate provision is made for repair or decommissioning of the turbines.

Construction Method Statement

5. Prior to the commencement of development, a Construction Method Statement ("CMS") shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall be carried out in accordance with the approved CMS. The CMS shall include:

- a) Details of the temporary site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
- b) Details of the proposed storage of materials and disposal of surplus materials;
- c) Dust management;
- d) Pollution control: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;
- e) Temporary site illumination during the construction period including proposed lighting levels together with the specification of any lighting;
- f) Details of the phasing of construction works;
- g) Details of surface treatments and the construction of all hard surfaces and tracks;
- h) Details of emergency procedures and pollution response plans;
- i) Siting and details of wheel washing facilities;
- j) Cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway;
- k) A site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats;
- l) Areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles;
- m) Details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound; and
- n) Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009.

Reason: To ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process.

Construction Traffic Management Plan

6. Prior to the commencement of development a Construction Traffic Management Plan ("CTMP") shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall

include proposals for the routing of construction traffic, scheduling and timing of movements, details of escorts for abnormal loads, temporary warning signs, temporary removal and replacement of highway infrastructure/street furniture and the reinstatement of any signs, verges or other items displaced by construction traffic.

Reason: In the interests of highway safety.

Construction Hours

7. Except for the pouring of turbine foundations which will be undertaken in accordance with the terms of the Construction Method Statement referred to in condition 5, construction work shall only take place between the hours of 0730 – 1900 hours Monday to Friday inclusive and 0730 – 1300 hours on Saturdays with no construction work on Sundays or Public Holidays. Outside these hours, works at site shall be limited to emergency works and dust suppression. The Local Planning Authority shall be notified in writing of any emergency works within 3 working days of their occurrence.

Reason: In the interests of amenity to restrict noise impact and the protection of the local environment.

Delivery Hours

8. The delivery of any construction materials or equipment for the construction of the development, other than concrete material for turbine foundations and turbine blades, nacelle and tower, shall be restricted to the hours of 0730 – 1900 on Monday to Friday inclusive. Exceptions for deliveries outside these hours may be carried out with the prior written approval of the Local Planning Authority.

Reason: In the interests of minimising disturbance to local residents during the construction process.

Appearance

9. The planning permission hereby granted shall be for two 3 blade 330kW turbines with a hub height of no more than 50 metres, a blade height of 16.7 metres and a height to the tip shall not exceed 66.7 metres when the turbine is in the vertical position as measured from ground conditions immediately adjacent to the wind turbine base.

Reason: In the interests of the character and appearance of the area.

10. No development hereby permitted shall begin until details of the colour, appearance and finish of the towers, nacelles and blades and any external transformer units shall be submitted to and approved in writing by the Local Planning Authority. No part of the development hereby permitted shall carry any logo or lettering other than as required for health and safety reasons. The development shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area.

11. No development hereby permitted shall commence until design details of the electricity substation, to include the external appearance, dimensions and materials for the building; any associated compound or parking area; and details of surface and foul water drainage from the substation building are submitted to and approved in writing by the Local Planning Authority. The development of the substation building and any associated compound or parking area shall be carried out in accordance with the approved details.

Reason: In the interests of the character and appearance of the area.

12. All electrical cabling between the wind turbines and the electricity substation on site shall be laid underground.

Reason: In order to ensure a satisfactory appearance in the landscape.

13. The development hereby permitted shall be carried out in accordance with the following approved plans and drawings:

- Site Location Plan 1: 2500 (dated 03.06.2011)
- Site Location Plan 1: 7500 (dated 03.06.2011)
- Turbine and Crane Pads Location Plan (dated 03.06.2011)

unless otherwise agreed in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and in order to define the permission.

Ecology

14. Prior to the commencement of development a scheme for ecological mitigation, to be called

the Habitat Management Scheme shall be submitted to and approved in writing by the Council. The scheme shall remain in place until the wind turbines have been decommissioned and the works area restored. The objective of the scheme shall be the management and, where possible, the enhancement of the ecological and wildlife habitats of the site.

Reason: In the interests of nature conservation.

15. Vegetation shall only be removed/cleared outside of the period 1 March to 31 August if a suitably qualified ecologist has inspected the vegetation and confirmed in writing to the satisfaction of the Local Planning Authority that no nesting/breeding birds will be affected by the works. If any effects on nesting/breeding birds are identified then the suitably qualified ecologist will identify any measures required to mitigate those effects, such measures to be implemented as approved in writing by the Local Planning Authority.

Reason: To ensure that adequate provision is made for the protection of nesting birds on site.

Aviation Safeguarding

16. At least 6 weeks prior to the start of construction, the applicant/developer shall provide written confirmation of the following details to the Ministry of Defence (MOD), Civil Aviation Authority (CAA) and the Local Planning Authority:

- Location of turbine (latitude and longitude);
- Height of turbine (maximum height to blade tip);
- Lighting status of the feature/structure;
- The estimated and actual dates of construction (when it will start and end); and
- The maximum height of any construction equipment to be used.

In the event that the anticipated date of completion of the construction varies from that which has been notified to the MOD and CAA, an update shall be provided in writing to both parties prior to construction extending beyond the date of which they have been notified.

Reason: In the interests of aviation safeguarding.

17. No development hereby permitted shall begin until details of aviation warning lighting been submitted to and approved in writing by the Local Planning Authority. The details to be submitted shall provide for the installation of 25 candela infrared lighting with an optimized flash pattern of 60 flashes per minute of 200ms to 500ms duration. Development shall not be carried otherwise than in accordance with the approved details.

Reason: In the interests of aviation safeguarding.

Archaeology

18. No development shall commence until the wind farm operator has secured a programme of archaeological management and investigation in accordance with a written scheme which has been submitted to and approved in writing by the Local Planning Authority.

Reason: In order to protect any features of archaeological importance.

Micro-siting

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

Turbine	Easting	Northing
1	469611	351912
2	469750	351869

Notwithstanding the terms of this condition the turbines and other infrastructure hereby permitted may be micro-sited within 20 metres, but no closer to Brackenhurst Hall. A plan showing the position of the turbines and tracks established on the site shall be submitted to the Local Planning Authority within one month of the First Export Date.

Reason: To enable necessary minor adjustments to the position of the wind turbine and access tracks to allow for site-specific conditions.

Permissive Bridleway

20. No development shall take place until a scheme for the construction, implementation, maintenance and retention of a permissive right of way (equestrian, cycleway and footpath) has been submitted to and approved in writing by the Local Planning Authority. The permissive right

of way shall follow the route which is shown in green on Plan 1 (labelled "Bridleway Plan") between co-ordinates 469746, 351647 (southern end) and 469956, 352182 (northern end), and shall be provided in accordance with a timetable to be approved as part of the aforementioned scheme.

TV Interference

21. No development hereby permitted shall begin until a scheme to secure the investigation and mitigation (including the programme of works) of any electro-magnetic interference with television reception caused by the operation of the turbines has been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the alleviation of any interference with television reception caused by the operation of the wind farm which is notified to the developer within 24 months after the First Export Date; the scheme shall be implemented as approved.

Reason: In the interests of residential amenity.

Shadow Flicker

22. Prior to the construction of the first wind turbine, a written scheme shall be submitted to and approved in writing by the Local Planning Authority setting out a protocol for the assessment of shadow flicker in the event of any complaint to the Local Planning Authority from the owner or occupier of a dwelling (defined for the purposes of this condition as a building within Use Class C3 or C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission. The written scheme shall include remedial measures to alleviate any shadow flicker attributable to the development. Operation of the wind turbines shall take place in accordance with the approved scheme unless the Local Planning Authority gives its prior written consent to any variations.

Reason: In the interests of residential amenity.

Operational Noise

23. The rating level of noise immissions from the wind turbines (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in Tables 1 and 2 attached to these conditions and:

- (A) Prior to the First Export Date, the wind turbine operator shall submit 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.
- (B) Within 21 days from receipt of a written request of the Local Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind turbine operator shall, at its expense, employ an independent consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind turbines at the complainant's property 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. Within 14 days of receipt of the written request of the Local Planning Authority made under this paragraph (B), the wind turbine operator shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the Local Planning Authority in the format set out in Guidance Note 1(e).
- (C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind 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 are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Local Planning Authority shall include a written justification of the choice of the representative

	<p>background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.</p>
(D)	<p>Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind turbine operator shall submit to the local planning authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limits set out in the Tables attached to these conditions or approved by the local planning authority pursuant to paragraph (C) of this condition shall be undertaken at the measurement location approved in writing by the Local Planning Authority.</p>
(E)	<p>Prior to the submission of the independent consultant's assessment of the rating level of noise immissions, the wind turbine operator shall submit to the Local Planning Authority for written approval a proposed assessment protocol setting out the following:</p> <ul style="list-style-type: none"> (i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. (ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component. <p>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 information provided in the written request of the local planning authority under paragraph (B), and such others as the independent consultant considers likely to result in a breach of the noise limits. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Local Planning Authority.</p>
(F)	<p>The wind 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 2 months of the date of the written request of the Local Planning Authority made under paragraph (B) of this condition unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) 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.</p>
(G)	<p>Where a further assessment of the rating level of noise immissions from the wind turbines is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind turbine operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (F) above unless the time limit for the submission of the further assessment has been extended in writing by the Local Planning Authority.</p>
(H)	<p>The wind turbine operator shall continuously log nacelle wind speed, nacelle orientation, power generation and nacelle wind direction for the turbines in accordance with this consent, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data from the wind turbines shall be retained for a period of not less than 12 months. The wind turbine operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the Local Planning Authority on its request within 14 days of receipt in writing of such a request.</p>
	<p>Note: For the purposes of this condition, a "dwelling" is a building within Use Class C3 or C4 of the Use Classes Order which lawfully exists or had planning permission at the date of this consent.</p>

Table 1 - Between 07:00 and 23:00 – Free-field Noise Limit, dB L_{A90}, 10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods							
	3	4	5	6	7	8	9	10
	L _{A90} Decibel Levels							
Outside University Campus Accommodation (636382,5881225)	47	49	51	53	55	57	58	-
Outside University Campus Accommodation (636609,5881284)	40	42	44	47	49	52	54	57
Adjacent to Dwelling on Brackenhurst Lane (637073,5880998)	37	40	42	45	48	50	53	56
Outside Manor Farm, Halloughton (635976,5880664)	43	44	45	47	49	51	53	55

Table 2 - Between 23:00 and 07:00 – Free-field Noise Limit dB L_{A90}, 10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods							
	3	4	5	6	7	8	9	10
	L _{A90} Decibel Levels							
Outside University Campus Accommodation (636382,5881225)	43	45	46	47	48	48	-	-
Outside University Campus Accommodation (636609,5881284)	37	40	42	45	47	49	51	53
Adjacent to Dwelling on Brackenhurst Lane (637073,5880998)	36	39	42	45	48	51	54	56
Outside Manor Farm, Halloughton (635976,5880664)	37	40	42	44	47	49	51	54

Note to Tables 1 & 2: The geographical coordinates references set out in these tables are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies. The standardised wind speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

Guidance Notes for Noise Condition

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind turbines. The rating level at each integer wind speed is the arithmetic sum of the wind turbine noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind turbines" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

- (a) Values of the L_{A90,10-minute} noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), 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 before and after each set of measurements, using a calibrator meeting IEC 60945:2003 "Electroacoustics – sound calibrators" Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded.

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 shall 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 and be not more than 35 metres from it. Measurements should be made in "free field" conditions. To achieve this, the microphone shall 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 property to undertake compliance measurements is withheld, the wind 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 $L_{A90,10\text{-minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).
- (d) To enable compliance with the conditions to be evaluated, the wind turbine operator shall continuously log arithmetic mean nacelle wind speed (duly corrected for the presence of the rotating blades) arithmetic mean nacelle orientation, nacelle wind direction and arithmetic mean power generated during each successive 10-minute periods for the wind turbines on the site. The hub height wind speeds recorded from the nacelle anemometers or as calculated from the power output of the turbines shall be supplemented by standardised ten metre height wind speed data calculated for each 10-minute period from those measured at hub height assuming a reference roughness length of 0.05 metres and using the equation given on page 120 of ETSU-R-97. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary. Standardised 10 metre height wind speed data shall be correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c).
- (e) Data provided to the Local Planning Authority in accordance with paragraphs (E) (F) (G) and (H) of the noise condition shall be provided in comma separated values in electronic format.
- (f) A data logging rain gauge shall be installed within 3m of any sound level meter installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

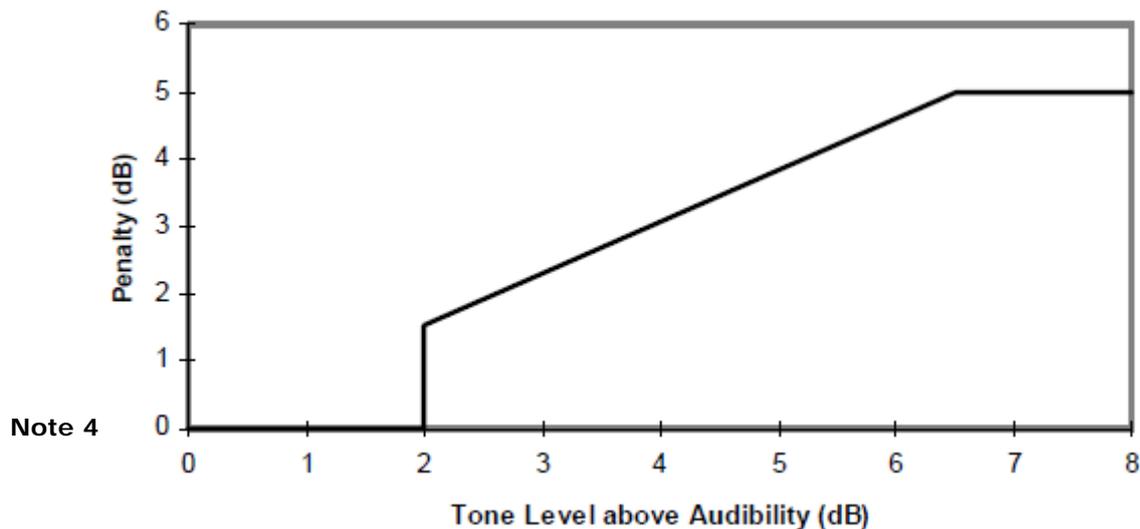
Note 2

- (a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).
- (b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Local Planning Authority under paragraph (E) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f).
- (c) Values of the $L_{A90,10\text{-minute}}$ noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and 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) shall be fitted to the data points to define the wind turbine noise level at each integer speed.

Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (E) 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 shall be calculated and applied using the following rating procedure.

- (b) For each 10-minute interval for which $L_{A90,10\text{-minute}}$ data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-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 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.
- (c) For each of the 2-minute samples the tone level above 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 tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- (e) A least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.
- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



- (a) If a tonal penalty is to be applied in accordance with 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 Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol under paragraph (E) 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 Note 2.
- (c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (C) 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 wind turbine noise immission only.

(d) The wind turbine operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

- i. Repeating the steps in Note 2, with the wind turbines switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (E) of this condition.
- ii. The wind turbine noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with the turbines running but without the addition of any tonal penalty:

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

- iii. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind turbine noise L_1 at that integer wind speed.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) 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 conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition then the development fails to comply with the conditions.

ANNEX 3

CORE DOCUMENTS

1 Adopted Development Plan Policies

NTU/LPA/HAG	1.1	Core Strategy Development Plan Document (adopted March 2011)
NTU/LPA/HAG	1.2	Allocations and Development Management Development Plan Document (adopted 16 July 2013)

2 National Planning and Energy Policy

NTU/LPA/HAG	2.1	DCLG: National Planning Policy Framework (March 2012)
NTU/LPA	2.2	Overarching National Policy Statement for Energy EN-1 (July 2011)
NTU/LPA	2.3	National Policy Statement for Renewable Energy Infrastructure EN-3 (July 2011)
NTU/HAG	2.4	Written Ministerial Statements relating to Local Planning and Onshore Wind issued by the Department of Energy and Climate Change and the Department for Communities and Local Government on 6 June 2013

NTU/LPA/HAG	2.5	National Planning Practice Guidance (online resource) (6 March 2014) (Extracts)
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3 Other Local Planning Authority Documents

NTU	3.1	Wind Energy Supplementary Planning Guidance (July 1999)
NTU/LPA/HAG	3.2	Southwell Landscape Setting Study (November 2012)
NTU/HAG	3.3	Landscape Character Assessment Supplementary Planning Document (December 2013)
NTU	3.4	Newark and Sherwood Landscape Capacity Study for Wind Energy Development (March 2014)
NTU/LPA	3.5	Wind Energy Supplementary Planning Document (March 2014)
LPA	3.6	Newark and Sherwood District Council Annual Monitoring Report
LPA/HAG	3.7	Southwell Conservation Area Appraisal Supplementary Planning Document

4 Regional Spatial Strategy and Evidence Base Documents

NTU	4.1	The Regional Strategy for the East Midlands (Revocation) Order 2013
NTU/LPA	4.2	Land Use Consultants, Centre for Sustainable Energy and SQW: Low Carbon Energy Opportunities and Heat Mapping for Local Planning Areas Across the East Midlands
LPA	4.3	Reviewing Renewable Energy and Energy Efficiency Targets for the East Midlands (June 2009)

5 Planning, Renewable Energy and Climate Change Documents

NTU/LPA	5.1	DTI Energy White Paper "Meeting the Energy Challenge" (2007) (Extracts)
NTU/LPA	5.2	DECC: The UK Renewable Energy Strategy (2009)
NTU/LPA	5.3	DECC: UK Renewable Energy Roadmap (July 2011)
NTU/LPA	5.4	DECC: UK Renewable Energy Roadmap Update (December 2012)
NTU/LPA	5.5	DECC: UK Renewable Energy Roadmap Update (November 2013)
NTU	5.6	DECC: Annual Energy Statement (November 2012)
NTU	5.7	Annual Energy Statement – Oral Statement by Edward Davey (29 November 2012)
NTU	5.8	DECC: Annual Energy Statement (October 2013)
NTU/LPA	5.9	The Energy Act 2008 [only available electronically unless requested]
NTU/LPA	5.10	The Climate Change Act 2008 [only available electronically unless requested]
NTU	5.11	Natural England: Sustainable Energy Policy (2008)
NTU	5.12	Natural England: Climate Change Policy (2008)
NTU	5.13	Natural England: Position on Wind Energy (2009)
NTU	5.14	Natural England: Future Landscapes – draft policy for consultation (2009)
NTU	5.15	Natural England: Making Space for Renewable

		Energy (2010)
NTU	5.16	DECC: The UK Low Carbon Transition Plan White Paper (July 2009) (Executive Summary)
NTU	5.17	The Coalition Government: Our Programme for Government (2010)
NTU	5.18	Letter to Lord Turner re: "Increasing the Target for Energy from Renewable Sources" dated 29 July 2010 and Letter to Rt Hon Chris Huhne "The Level of Renewable Energy Ambition to 2020" dated 9 September 2010
NTU/LPA	5.19	Committee on Climate Change: Renewable Energy Review (May 2011)
NTU	5.20	DECC: White Paper – Planning our Electric Future – a White Paper for Secure, Affordable and Low Carbon Electricity (July 2011)
NTU	5.21	National Infrastructure Plan (November 2011)
NTU	5.22	The Carbon Plan: Delivering our Low Carbon Future (December 2011)
NTU	5.23	DECC: Onshore Wind, Direct and Wider Economic Impacts (May 2012)
NTU	5.24	DECC: Special Feature – Renewable Energy in 2011 (June 2012)
NTU	5.25	DECC: Special Feature – Sub-national renewable electricity, renewable electricity in Scotland, Wales, Northern Ireland and the regions of England in 2011 (September 2012)
NTU	5.26	DECC: Electricity Market Reform: Policy Overview (November 2012)
NTU	5.27	DECC: Press Notice 'Government Agreement on Energy Policy sends clear,
NTU	5.28	Committee on Climate Change: Next Steps on Electricity Market Reform – securing the benefits of low carbon investment (May 2013)
NTU	5.29	DECC: Energy Trends (June 2013)
NTU	5.30	DECC: Onshore Wind Call for Evidence: Government Response to Part A (Community Engagement and benefits) and Part B (Costs) (June 2013)
NTU	5.31	DECC: Digest of UK Energy Statistics (DUKES) (July 2013)
NTU	5.32	The Energy Act 2013 [only available electronically unless requested]
NTU	5.33	DECC: Community Energy Strategy – Full Report (27 January 2014)
LPA	5.34	The United Nations Framework on Climate Change (1992) [only available electronically unless requested]
LPA	5.35	The Kyoto Protocol (1997) [only available electronically unless requested]
LPA	5.36	The European Union White Paper: Energy For the Future – Renewable Sources of Energy (1997) [only available electronically unless requested]
LPA	5.37	Renewable Energy Directive 2009/28/EC17 (April 2009) [only available electronically unless requested]
LPA	5.38	National Renewable Energy Action Plan (July 2010)
HAG	5.39	DECC: Digest of UK Energy Statistics (DUKES) (November 2013)
HAG	5.40	Renewable UK: Press Release – Record Breaking Month for Wind Energy (2 January 2014)
HAG	5.41	Higher Education Funding Council England: Carbon

HAG	5.42	Management Strategies and Plans (January 2010) Atkins: Revolving Green Fund 3 – Application, assessments and outcomes – A Report to HEFCE (July 2013)
HAG	5.43	Harper Adams University College: Carbon Management Programme (March 2011)
HAG	5.44	Harper Adams University College: Carbon Management Plan Update (March 2013)

6 High Court and Court of Appeal Decisions

NTU	6.1	R (Hulme) v Secretary of State for Communities and Local Government [2010] EWHC 2386 (Admin)
NTU	6.2	Michael William Hulme v Secretary of State for Communities and Local Government and RES Developments Limited [2011] EWCA Civ 638
NTU	6.3	R (Lee) v Secretary of State for Communities and Local Government, Maldon District Council, Npower Renewables [2011] EWHC 807 (Admin)
NTU	6.4	Bedford Borough Council v Secretary of State for Communities and Local Government, Nuon UK Ltd [2012] EWHC 4344 (Admin)
NTU/LPA	6.5	(1) East Northamptonshire District Council (2) English Heritage (3) National Trust v (1) Secretary of State for Communities and Local Government (2) Barnwell Manor Wind Energy Limited [2013] EWHC 473 (Admin)
LPA/HAG	6.6	Barnwell Manor Wind Energy limited v East Northants DC, English Heritage, National Trust and Secretary of State for Communities and Local Government [2014] EWCA Civ 137
LPA	6.7	North Norfolk District Council v Secretary of State for Communities and Local Government [2014] EWHC 279 (Admin), 2014 WL 517699
LPA	6.8	Wolverhampton v HSE [2012] UKSC 34
LPA	6.9	Stringer v MHLG [1970] 1 W.L.R. 1281
HAG	6.10	Christopher James Holder v Gedling Borough Council and John Nigel and Catherine Mary Charles- Jones [2014] EWCA Civ 599

7 Appeal Decisions

NTU	7.1	Sutton St Edmund (APP/D0515/A/12/2181777 and APP/A2525/A/12/2184954)
NTU	7.2	Nun Wood (APP/Y0435/A/10/2140401, APP/K0235/A/11/2149434 and APP/H2835/A/11/2149437)
LPA	7.3	Palmer's Hollow (APP/Y2430/A/09/2108595)
LPA	7.4	Truthan Barton Farm, Cornwall (APP/D0840/A11/216391)
LPA/HAG	7.5	Land belonging to Rushley Lodge Farm, Middle Moor/Matlock Moor (APP/R1038/A/09/2107667)
LPA	7.6	Thackson's Well (APP/E2530/A/08/2073384)
LPA	7.7	Little Linton, Cambridgeshire (APP/W0530/A/09/2108277 and APP/C1570/A/09/2108275)
LPA	7.8	Enifer Downs Farm (APP/X2220/A/08/2071880)
LPA	7.9	Kelmarsh (APP/Y2810/A/11/2154375)

LPA	7.10	Cotton Farm (APP/H0520/A/09/2119385)
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8 Cultural Heritage Documents

NTU/LPA/HAG	8.1	English Heritage: The Setting of Heritage Assets (October 2011)
NTU/LPA	8.2	English Heritage: Wind Energy and the Historic Environment (October 2005)
NTU/LPA	8.3	English Heritage: Climate Change and the Historic Environment (January 2008)
NTU/LPA/HAG	8.4	English Heritage: Conservation Principles, Policies and Guidance (April 2008)
NTU/LPA	8.5	PPS5: Planning for the Historic Environment Practice Guide (March 2010)
NTU/LPA	8.6	English Heritage: Seeing the History in the View (May 2011)
LPA/HAG	8.7	English Heritage: Understanding Place – Conservation Area Designation, Appraisal and Management (March 2011)
LPA/HAG	8.8	English Heritage: Designation Listing Selection Guide – Domestic 3: Suburban and Country Houses (October 2011)

9 Landscape and Visual Documents

NTU	9.1	The Landscape Institute, Institute of Environmental Management and Assessment: Guidelines for Landscape and Visual Impact Assessment, Second Edition (2002)
NTU/HAG	9.2	The Landscape Institute, Institute of Environmental Management and Assessment: Guidelines for Landscape and Visual Impact Assessment, Third Edition (2013)
NTU	9.3	The Countryside Agency: Landscape Character Assessment: Guidance for England and Scotland (2002)
NTU	9.4	Landscape Institute: Landscape Architecture and the Challenge of Climate Change (October 2008)
NTU	9.5	Landscape Institute: Photography and Photomontage in Landscape and Visual Impact Assessment, Advice Note 01/11
NTU	9.6	Scottish Natural Heritage: Guidelines on the Environmental Impacts of Windfarms and Small Scale Hydro Electric Schemes (2001)
NTU	9.7	Produced for Scottish Natural Heritage by the University of Newcastle: Visual Assessment of Wind Farms: Best Practice (2002)
NTU	9.8	Scottish Natural Heritage and Countryside Agency: Landscape Character Assessment Series: Topic Paper 9 Climate Change and Natural Forces – the Consequences for Landscape Character (2003)
NTU	9.9	Scottish Natural Heritage: Visual Representation of Wind Farms – Good Practice Guidance (2006)
NTU	9.10	Scottish Natural Heritage: Siting and Designing Windfarms in the Landscape, Version 1 (December 2009)
NTU	9.11	Natural England: All Landscapes Matter (2010)
NTU/HAG	9.12	Scottish Natural Heritage: Guidance Assessing the Cumulative Impact of Onshore Wind Energy Developments, Version 3 (March 2012)

NTU	9.13	Scottish Natural Heritage: Siting and Designing Windfarms in the Landscape, Version 2 (May 2014)
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10 Noise Documents

NTU	10.1	ETSU-R-97: The Assessment and Rating of Noise from Wind Turbines (September 1996)
NTU	10.2	Institute of Acoustics: A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise (May 2013)

11 Planning Application and Appeal Documents

NTU/LPA	11.1	Planning Application and Supporting Documents [provided in the Appeal Bundle]
NTU/LPA	11.2	Planning Committee Report – January 2013
NTU/LPA	11.3	Planning Committee Report – April 2013
NTU/LPA	11.4	Decision Notice dated 9 May 2013
NTU	11.5	Appellant's Statement of Case
NTU	11.6	Council's Statement of Case
HAG	11.7	Rule 6 Party's Statement of Case
HAG	11.8	Rule 6 Party's Corrected Statement of Case
NTU	11.9	Statement of Common Ground
NTU	11.10	Draft Section 106 Agreement

12 Other Documents

LPA	12.1	Planning (Listed Buildings and Conservation Areas) Act 1990
LPA	12.2	The Community Infrastructure Levy Regulations (2010)
LPA	12.3	Planning Inspectorate Good Practice Advice Note 16 – Submitting planning obligations (February 2011)



Department for Communities and Local Government

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 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

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. 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 under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: 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 report of the Inspector's report of the inquiry or hearing within 6 weeks of 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.