
Appeal Decision

Site visit made on 27 July 2016

by Brendan Lyons BArch MA MRTPI IHBC

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

Decision date: 21st July 2017

Appeal Ref: APP/X1355/W/16/3146228

Land east of Dene Leazes Farm, Hesleden, Hartlepool TS27 4PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Eden Farm Ltd against the decision of Durham County Council.
 - The application Ref CE/13/01502/FPA, dated 18 November 2013, was refused by notice dated 10 September 2015.
 - The development proposed is described as the installation of a single wind turbine with associated equipment and infrastructure including an access track extension.
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Decision

1. The appeal is allowed and planning permission is granted for the installation of a single wind turbine with associated equipment and infrastructure including an access track extension, at land east of Dene Leazes Farm, Hesleden, Hartlepool TS27 4PD, in accordance with the terms of the application Ref CE/13/01502/FPA dated 18 November 2013, subject to the conditions set out in the schedule annexed to this decision.

Main Issues

2. The main issues in the appeal are the landscape and visual impacts of the proposed turbine, and its effect on the setting of the nearby listed building, Hardwicke Hall.

Reasons

3. Dene Leazes Farm is situated to the north of the B1281 road, less than 2 miles inland from the coastal settlement of Blackhall Colliery. The small village of Hesleden lies some 550m away, to the south of the road, and the urban area of Peterlee some 600m to the north, but separated from the farm by a deep wooded 'dene' or valley. The farm comprises some 162ha of mainly arable land, laid out in medium-large generally rectangular fields. Access to the group of farm buildings, which include the original farmhouse and a more recent house, is via a short length of private road.
 4. Permission is sought to erect a single wind turbine located in the middle of a field some 680m to the east of the farm buildings. The turbine would be sited on a 15m diameter concrete pad and would have a 51m high tower and a three-blade rotor with a diameter of 54m, to give an overall height to the blade tip of 77.9m. The existing farm access track would be extended across the field to the site and a crane pad formed in crushed stone aggregate, beside which a substation would be erected, some 8.5m by 3.5m in area and 3.5 m
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high to the ridge of its roof. The turbine is intended to generate electricity that would contribute to meeting the power needs of the host farm and export any surplus to the national grid, over a 25 year period of operation.

Policy context

5. For the purposes of this appeal, the development plan comprises the saved policies of the District of Easington Local Plan, Adopted December 2001 ('LP'). A specific LP policy on renewable energy has not been saved. The Council officer's report also referred to policies of the emerging County Durham Plan, including those on wind turbine development and the Durham Coast and Heritage Coast, but went on to explain that only very limited weight could be given to these because of concerns raised at examination about the soundness of the Plan. The policies are not relied upon in the Council's reasons for refusal of the application or referenced in its appeal submission. In the absence of any further detail, I have not had regard to them in my consideration of the appeal.
6. Of the remaining LP policies, those of greatest relevance include Policy 1, which invokes the principles of sustainable development in setting out general planning considerations, including support for energy conservation measures but not for renewable energy generation. Energy conservation is also referenced by Policy 35, in the context of achieving good design that reflects local characteristics. Policy 3 seeks to protect the countryside from inappropriate development, with specific protection for areas of high landscape value offered by Policy 7, where development that adversely affects character and appearance is only to be permitted if it meets a need that outweighs the value of the landscape and there is no alternative location within the County. Policies 22 and 24 state that development will not be approved if it would have an adverse effect on the character or appearance of, respectively, conservation areas and listed buildings.
7. The LP is now of considerable age. Its general support for sustainable development is broadly consistent with the overall objective of the National Planning Policy Framework ('NPPF'). However, the absence of recognition of the role of renewable energy does not reflect the NPPF's encouragement of renewable energy development as part of the transition to a low carbon future. The NPPF makes clear that support for the delivery of renewable energy is central to the achievement of sustainable development.¹ All communities are said to have a responsibility to contribute to energy generation and local policy should seek to maximise renewable energy development, while ensuring that adverse impacts are addressed satisfactorily, including landscape and visual impacts.² Even small-scale proposals provide a valuable contribution.³
8. The LP's design, countryside, landscape and heritage policies are also broadly consistent with NPPF policy but do not fully reflect the latter's more balanced approach to the weighing of harms and benefits. Owing to the lack of a specific renewable energy policy and the other differences in policy emphasis, in assessing the appeal proposal greater weight must be attached to the more up-to-date provisions of the NPPF.

¹ Paragraph 93

² Paragraph 97

³ Paragraph 98

9. The general national policy support for renewable energy proposals is amplified by the Planning Practice Guidance ('PPG') on Renewable and Low Carbon Energy, but which also confirms that the need for renewable energy does not automatically override environmental protection.⁴ Guidance is offered on the particular planning considerations that relate to wind turbines.⁵
10. National planning policy sits in the context of wider government targets and binding international commitments, as outlined in the appellant's original Planning Statement, on the reduction of greenhouse gas emissions and an increasing share of electricity generation by renewable means.

Landscape and visual impacts

11. The proposal was supported by a professionally prepared Landscape and Visual Assessment ('LVA'), based on a 25km radius study area, which provides an assessment of the predicted effects on landscape character and visual amenity. The identified Zone of Theoretical Visibility ('ZTV'), plotted at both 5km and 25km radii, shows that views of the proposal, where not screened by planting or other features, would be mainly confined to the area south of the appeal site and to a narrow coastal strip, but the study concludes that impacts would not be significant beyond 5km distance. The photomontages and wireline views included in the LVA, which were supplemented during consideration of the application, provide a useful aid to understanding the likely impact of the proposed turbine from a range of locations within that zone.
12. The LVA outlines that the site lies within the East Durham Magnesian Limestone Plateau National Character Area, whose county-level equivalent is the East Durham Limestone Plateau County Character Area.⁶ At a finer grain this forms part of the Coastal Limestone Plateau Basic Landscape Type, within which the immediate area is the Coastal East Durham Broad Character Area ('BCA'). These classifications share a number of characteristics, essentially comprising a gentle rolling plateau dipping eastwards to the coast, and open largely arable farmland in medium-large fields, with low woodland cover other than in steep-sided denes.
13. The area around the appeal site, between Castle Eden and Blackhall Colliery, broadly conforms to these characteristics. The field in which the turbine would stand is part of a pattern of arable cultivation on ground that swells up from the B1281 road, before dipping down again to Castle Eden Dene to the north, while also dropping gently towards the coast to the east. The western edge of the appeal field is defined by a good line of mature hedgerow trees, but other boundaries are less strongly marked. Electricity cables cross the fields on tall timber poles, and there are other vertical features in the more distant views to the south and the coast. I accept the LVA judgement that there is a strong rural character, but with nearby settlements and distant industry also apparent, resulting in a landscape of good to ordinary quality and medium value.
14. The Council refers to a 2008 consultants' report,⁷ which had examined the potential for wind energy development in the area. The report had classed the

⁴ Paragraph 5-007-20140306

⁵ Paragraphs 5-014-20140306 to 5-024-20140306, 5-025-20150415, 5-026-20140410, 5-027-20150415, 5-028-20140410 to 5-030-20140410, 5-031-20150415, 5-032-150618, 5-033-150618

⁶ As defined by the County Durham Landscape Character Assessment 2008

⁷ Wind Farm Development and Landscape Capacity Studies: East Durham Limestone and Tees Plain, Arup, 2008

zone that includes the appeal site as of medium-high sensitivity and concluded that this zone was unsuitable for turbine development due to its settled characteristics, incised valleys and relationship with the coast. I agree with the appellant that the weight to be given to this conclusion must be tempered by the study's focus on groups of turbines of more than 100m in height, rather than individual medium-large turbines such as the appeal proposal, which it acknowledges can be more desirable in landscape terms. In my view, the components of highest sensitivity are the wooded denes and the coastal strip. The LVA's assessment of medium sensitivity for the area around the appeal site is reasonable.

15. No details have been provided of the justification for the designation of the area by the former Structure Plan as an Area of High Landscape Value, which LP Policy 7 seeks to protect. However, I consider that the highly distinctive quality of the incised denes will have influenced the decision. The land between the denes appears not of equivalent quality, but provides a pleasant contrast. Nevertheless, the designated area, including the denes, can be regarded as a 'valued landscape' which the NPPF advises should be protected and enhanced.⁸
16. The proposed turbine would be a significant addition to the landscape, being a man-made feature of much greater scale than anything in the immediate vicinity. The LVA acknowledges that there would be moderate-substantial impact on the landscape in the area surrounding the site, up to 0.5km distance, but reducing to moderate adverse for the BCA as a whole, mainly due to prominence reducing with distance, the potential for screening and the presence of other man-made elements.
17. I agree with the Council that this understates the prominence of the proposal, and hence its impact on landscape character, at a range up to 1km. However, there is no dispute that beyond that distance the impact would be considerably less. As noted in the Council's original in-house assessment, the undulating character of the landscape has the capacity to absorb much of the impact of tall structures even at medium distances. The proposal would have little or no impact on key elements of the BCA, in particular Castle Eden Dene and parkland. For these reasons, I consider that, despite the highly localised adverse impact, the effect on the character of the BCA would be moderate at worst. The effect on adjoining BCAs to the north and south would be significantly less. The overall effect on landscape character would be moderate-minor.
18. Potential visual impacts are reasonably well illustrated by the submitted photomontages. It is clear that the most significant visual impacts would be experienced by users of public rights of way in the immediate vicinity, in particular the footpath that runs along the western edge of the appeal site field towards Peterlee and the bridleway and footpaths slightly further east, running north from High Hesleden.⁹ Pedestrians and cyclists on the B1281 and the link road to Hesleden¹⁰ would also be classed as sensitive receptors, who would experience substantial impact. Vehicle users would be somewhat less sensitive but would still find significant impact. From other public viewpoints, the magnitude of change would be considerably less. The representative view from

⁸ NPPF paragraph 109

⁹ LVA Viewpoints 1 and 2

¹⁰ LVA Viewpoint 11

the Durham Coastal Path shows that the turbine would be seen above the skyline, but would be part of a panoramic view also containing other notable man-made elements and other wind energy development. The impact would be moderate at worst. The same would be true of more distant views from the north,¹¹ where the Council acknowledges that the proposal would be a small element in a visually complex settled landscape. From the south,¹² the turbine would have very little effect on the wide ranging rural scene.

19. The LVA notes potential effect on outlook from some dwellings close to the site, in particular the nearest houses to the east and at the northern edge of Hesleden. However, any potentially dominant effect of the turbine would be likely to be partly mitigated by local screening and oblique angles of view, and by the intervening distance, which would be more than seven times the turbine tip height in each case. The effect would not be overbearing and would not make the houses unattractive places to live.
20. The LVA considered potential cumulative effects of the appeal proposal in conjunction with other existing and proposed wind energy development. Of these, the one most likely to have joint effects was a proposed 5 turbine scheme at Sheraton Hill, but this has since been refused permission. Where existing installations, both on-and off-shore, are visible in some long views towards the appeal site, they tend to mitigate its potential intrusive effect rather than suggest cumulative adverse outcomes.
21. In conclusion on this issue, I find that the proposal would result in some moderate harm to landscape character, but of a highly localised extent. Substantial adverse visual impacts would be experienced only by limited numbers of people using local public highways and rights of way, and by a small number of local residents. The moderate adverse effect on the Area of High Landscape Value would be contrary to LP Policy 7, but that conflict is to be weighed against the up-to-date policy guidance of the NPPF.

Setting of listed building

22. The LVA includes an assessment of the proposal's effects on heritage assets within the 5km study area. This analysis was supplemented by the submission of a comprehensive Cultural Heritage Assessment ('CHA'), which examined potential effects on heritage assets within specified zones previously agreed with the Council. Within a 5km radius of the site, scheduled monuments and Grade I and II* listed buildings were considered, and within a 2km radius, Grade II listed buildings and designated and non-designated heritage assets located inside the ZTV.
23. The CHA concluded that the level of survival of archaeological and early agricultural remains on the site was likely to be low, so that any direct effects of development could be adequately mitigated by a scheme of monitoring secured by a condition. With regard to indirect effects, the conclusion was that the proposal would have no effect on the setting of the great majority of heritage assets, given the distances involved and the general lack of intervisibility. These conclusions are not contested by the Council and I have found no reason, from my examination of the written evidence and my inspection of the site and its surroundings, to take a different view. In

¹¹ LVA Viewpoint 6

¹² LVA Viewpoint 3

particular, I accept that the very restricted perception of the proposed turbine would have no adverse effect on the heritage significance of the listed buildings, including the Church of St James, and the registered parkland and gardens that form part of the Castle Eden Conservation Area.

24. The Council's objection relates to the risk of harm to the setting of Hardwicke Hall, which stands some 700m to the east of the appeal site. The Hall, which is listed Grade II, dates principally from the early-mid eighteenth century, but with possible earlier origins. It is described as a medium-sized country house, two storeys high on the main front and three storeys on the return wing, and is now in use as a hotel.
25. To the rear, the Hall is immediately adjoined by outbuildings and the neighbouring farm complex, but its two main elevations front onto an area of formal garden enclosed by a brick wall and containing a number of mature trees. Further south, an oval-shaped walled garden, which is separately listed Grade II, is hidden from view by trees and shrubs.
26. The Hall's rural setting makes a positive contribution to its historic character as a country house. However, there is no evidence of any designed aesthetic association between the Hall buildings and the surrounding landscape. In broad views encompassing the fields to the west of the Hall, the building is marked by the outline of its roof profile appearing among trees, but other buildings nearby, such as the modern houses that have been added to one side of the access drive, appear more prominent. There is no strong sense that the historic and architectural interest of the listed building relies on an unchanged relationship with the wider landscape context.
27. Because of its scale, the addition of the proposed turbine would be a significant feature in that landscape context. It would be prominent in some views towards the Hall from the footpath at the edge of the appeal site field and from parts of the B1281 and the link road to Hesleden village,¹³ but the Hall is not a distinctive feature in these views. Outlook towards the appeal site from the Hall appears to be mainly confined to upper floor rooms in the return wing, and views would be partly screened by trees. The turbine would be visible as an isolated prominent feature, at odds with the perception of the building's historic character, but not unduly dominant.
28. Therefore, in this wider context, there would be some adverse effect on the setting of the listed building, but the harm to the significance of the heritage asset would be low-moderate. I endorse the assessment of the CHA that a greater contribution to the significance of the listed building is made by the immediate setting provided by the enclosed garden. The evidence suggests that the turbine would be seen off to one side on leaving the front door of the hotel, but at least partly screened by the perimeter trees and not unduly dominant in scale, although notable due to its movement.¹⁴ There would be relatively minor intrusion to the experience of the building and its gardens as elements of the historic environment.
29. At present, there is little intervisibility between the appeal site and the listed walled garden. The appellant refers to the Council's recent approval of housing development within the space enclosed by the wall. In the absence of details, I

¹³ LVA Viewpoint 11

¹⁴ LVA Viewpoint 10-1

cannot agree that this would necessarily have a more adverse impact on setting than would the appeal proposal. But even if the approved development involved more opening up of the listed feature, it would still be largely visually contained by the site perimeter. The appeal proposal would have a very limited effect on the setting of the walled garden.

30. Overall, for the reasons outlined above, I consider that the setting of the listed buildings would not be preserved by the appeal proposal. However, the harm to the significance of the heritage assets at Hardwicke Hall arising from the turbine's impact on setting would be considerably less than substantial. The Council does not claim any higher degree of harm. Therefore, in accordance with NPPF policy guidance,¹⁵ this harm must be weighed against the proposal's public benefits.

Other matters

31. A number of other concerns have been raised in representations on the planning application, none of which has been taken forward by the Council as a reason to refuse the application. The application was accompanied by detailed evidence of the implications for highway safety, ecology and wildlife, noise, and shadow flicker. Following assessment by its specialist advisers the Council clearly considers that these matters would not give rise to unacceptable harmful effects. Notwithstanding the strongly felt concerns raised, I have found no reason to reach a different conclusion on any of these aspects, and agree that potential adverse impacts in respect of these and other matters, including TV reception and air safety, could be satisfactorily addressed by means of planning conditions.

Benefits of proposed development

32. The proposal would have benefits as a source of renewable energy. The appellant estimates that the proposed turbine would generate some 1633MWh annually. There would be an estimated reduction in CO₂ emissions of 220 tonnes per year, or over 4400 tonnes over the planned lifetime of the turbine. These outputs may be modest in comparison with major renewable energy installations, but in the light of the NPPF support for small-scale installations the proposal's contribution to meeting national targets for renewable energy supply and CO₂ reduction is a matter of considerable weight in its favour.
33. The application is accompanied by a detailed Business Case, which outlines the joint ownership of the appellant company, Eden Farm Ltd, and Dene Leazes Farm. The company operates a cold storage, packing and distribution business based in Peterlee, while the farm is a significant producer of eggs as well as arable crops. The submission explains that the power generated is intended to reduce the energy costs of both businesses as part of a move to lower carbon operation, already progressed by the installation of solar photovoltaics and low energy lighting. A convincing case is made for the potential of renewable energy to sustain the businesses and the many jobs and suppliers they support, but also to assist future progress by reducing energy cost inputs and by allowing them to meet the accreditation expectations of major customers.

Balance of considerations

¹⁵ NPPF paragraph 134

34. The NPPF introduces a presumption in favour of sustainable development. In this instance, the Council acknowledges that the development plan is silent in respect of renewable energy proposals, and I have found that other policies of the LP must now be seen as somewhat out-of-date. In those circumstances, the NPPF advises that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or unless specific NPPF policies indicate that development should be restricted.
35. The courts have ruled that the policies on heritage are restrictive policies of this type. Therefore, it is necessary first to carry out the heritage balancing exercise.¹⁶ I have concluded that the harm to the significance of heritage assets would be considerably less than substantial. I consider that the public benefits of the appeal proposal, comprising significant environmental gains in renewable energy generation and carbon reduction, but also economic and social gains in supporting the future of two local businesses, would be substantial. In my assessment, the heritage harm would be well outweighed by the public benefits.
36. As the potential policy restriction would be overcome, the balance of the presumption in favour must then be applied.¹⁷ The proposal would involve environmental harm, in terms of moderate adverse landscape and visual impacts, but on a confined scale and not to a critical element of the locally valued landscape. There would also be the heritage harm considered above. Taken together, these would not significantly and demonstrably outweigh the proposal's combined environmental, social and economic benefits. When assessed against NPPF policies as a whole, I find this is an instance where the three strands of sustainable development come together. The balance lies in favour of approval of the proposal.

Community support

37. In June 2015, the Government issued a Written Ministerial Statement ('WMS') on wind energy development, and the PPG was amended accordingly. As this was after submission of the planning application, the transitional arrangements outlined in the WMS apply in this case.
38. The updated PPG¹⁸ now advises that planning permission for wind energy development should only be granted where, following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed, and therefore the proposal has their backing. Whether the proposal has the backing of the affected local community is a matter of planning judgement.
39. A large volume of representation was received on the planning application, including many from beyond the immediate local area. There is some difficulty in defining the 'local community' in such instances. The Council accepts that the response was balanced, containing more expressions of support than objection. Adverse effect on the setting of Hardwicke Hall was not a particular concern raised in representations. A large number of objections were received on grounds of landscape and visual impact, not surprisingly including some

¹⁶ NPPF paragraph 134

¹⁷ NPPF paragraph 14

¹⁸ Paragraph 5-033-150618, relating to applications already submitted prior to 18 June 2015

from those in the relatively confined area most immediately affected. However, many representations also found the proposal to be environmentally acceptable.

40. The appellant points out that the proposal has been deliberately sited away from the most efficient location, in order to mitigate its visual impact. As I have concluded that there would be inadequate reason to reject the proposal on landscape and visual grounds, and that other environmental benefits would be significant, I consider that the issues raised by the local community have been addressed.
41. I conclude that the evidence suggests a balance in favour of support for the proposal from the local community.

Conditions

42. The appellant has not taken issue with the conditions put forward by the Council. Subject to some amendment in the interests of greater precision and enforceability I agree that these are reasonable and necessary.
43. In addition to standard conditions on commencement time and the identification of approved plans, further conditions are necessary to specify time limits for the requested period of operation and the decommissioning of the site at the end of that period or in the event of the installation earlier falling out of use, in order to limit the development's permanent impact on the landscape. This would accord with the guidance of the PPG.
44. Approval of details of the turbine itself and of the substation are necessary to ensure a satisfactory visual impact on the landscape setting. For the same reason, and to avoid harm to nature conservation, the precise siting of the installation needs to be fixed.
45. Location of the structure will be among the details needed to comply with conditions necessary for air safety, including a mitigation scheme for the effects on radar and civil and military air traffic control, and also the installation of a signal at the structure's highest practicable point.
46. Conditions securing the implementation of archaeological recording, tree protection and ecological mitigation are necessary in the interests of protecting the historic and natural environment.
47. For the protection of local residents' living conditions, it is necessary to control on-site construction work practices and working hours. For the same reason, conditions are needed on noise, electromagnetic interference, shadow flicker and ice throw, including action in the event of any complaint. I have amended the Council's draft conditions on the latter two issues to strengthen compliance.

Conclusion

48. For the reasons set out above, and having taken account of all representations made, I conclude that the appeal should be allowed and planning permission granted subject to conditions.

Brendan Lyons

INSPECTOR

Annex

Appeal Ref: APP/X1355/W/16/3146228

Land east of Dene Leazes Farm, Hesleden, Hartlepool TS27 4PD

Schedule of Conditions Nos.1-19

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
Location Plan Dene Leazes
Site Plan Dene Leazes Red Line Plan
Site Plan Dene Leazes Block Plan
Generic Combined Intake Substation Planning Drawing No. Exxx-21-01
G.A.HH 50 Turbine Drawing No.1000900
3. The planning permission hereby granted is for a period from the date of this decision until the date occurring 25 years after the Date of Commissioning of the Development. Written confirmation of the Date of Commissioning of the Development shall be provided to the Local Planning Authority no later than one calendar month after that event. Once the planning permission has expired the site shall be restored in accordance with a scheme that has been first submitted to and then approved in writing by the Local Planning Authority. The restoration shall be completed within 12 months from the date that the planning permission expires. If, prior to the expiry of the planning permission hereby granted, the wind turbine generator hereby permitted ceases to operate for a continuous period of 6 months, then restoration shall be completed within 12 months of the cessation of operation in accordance with a scheme that has first been submitted to and approved in writing by the Local Planning Authority.
4. The turbine hereby approved shall be coloured RAL 7035 (light grey).
5. The substation building as shown on Substation Planning Drawing No. Exxx-21-01 shall not be erected until details of the external materials to be used in its construction have been submitted to and approved in writing by the Local Planning Authority. The substation shall thereafter be constructed in accordance with the approved details.
6. The wind turbine installed shall be a EWT DW54 turbine positioned in accordance with the following grid reference coordinates: Easting 444379 Northing 538946.
7. No development shall take place until a Wind Turbine Mitigation Scheme has been submitted to and approved in writing by the Local Planning Authority. The Wind Turbine Mitigation Scheme shall provide for the mitigation of the anticipated impacts of the development on the operation of Durham Tees Valley Airport's primary surveillance radar and associated air traffic management operations. The Scheme shall demonstrate that, when the approved turbine is operational, no radar returns will be displayed to airport

air traffic controllers, and no otherwise adverse impacts upon airport air traffic control will take place.

The development shall not commence until the approved Wind Turbine Mitigation Scheme has been implemented in full and its effective operation approved in writing by the Local Planning Authority.

8. Written confirmation of the following details shall be provided to the Ministry of Defence prior to commencement of development:
Proposed date of commencement and completion of the development;
The maximum height of the construction equipment;
The latitude and longitude of the turbine.
9. The wind turbine hereby permitted shall be fitted at the highest practicable point with 25 candela omni-directional red lighting or infrared lighting, with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration.
10. No development shall take place until a strategy/programme of archaeological monitoring has been submitted to and approved in writing by the Local Planning Authority. The monitoring strategy/programme shall thereafter be implemented in accordance with the approved details and timescales.
11. No construction work shall take place, nor any site cabins, materials or machinery be brought onto the site until details of all works to trees and hedges necessary to implement the development have been submitted to and approved in writing by the Local Planning Authority. The submitted details must include details of any necessary tree/hedge protection measures, in accordance with BS 5837:2012, for those trees scheduled for retention. The agreed protection measures shall be implemented prior to the commencement of any works and retained until the cessation of works.
12. No development shall take place unless in full accordance with the ecological mitigation measures detailed under section D5 of the submitted Ecological Assessment Report No. 2, dated September 2014.
13. All works during the construction phase shall be carried out in accordance with the requirements of BS 5228, 2009: Code of Practice for Noise and Vibration Control on Construction and Open Sites and no works shall be undertaken outside of the following hours: 08:00 to 18:00 Monday - Friday and 08:00 to 13:00 on Saturday with no works on Sundays and Bank Holidays.
14. The rating level of noise emissions from the operation of the wind turbine (including the application of any tonal penalty in accordance with the methodology detailed in ETSU-R-97) at the location of the sensitive receptors at Hesleden Road and East Terrace (identified as NSR 1 and NRS2 respectively in the Noise Assessment submitted with the planning application) shall not exceed a maximum noise level ($L_{A90,10\text{ min}}$) of 35dB(A) at all wind speeds from 4 to 10 m/s when measured at a height of 10m during day-time periods (07:00 – 23:00) and 43dB(A) during night-time periods (23:00 – 07:00).

15. The rating level of noise emissions from the operation of the wind turbine (including the application of any tonal penalty in accordance with the methodology detailed in ETSU-R-97) at the location of the financially involved receptor at Dene Leazes Farm (identified as NRS3 in the Noise Assessment submitted with the planning application) shall not exceed a maximum noise level ($L_{A90, 10 \text{ min}}$) of 43dB(A) at all wind speeds from 4 to 10m/s when measured at a height of 10m during both day-time and night-time periods.
16. In the event of a noise complaint, the wind turbine operator shall, within a period of 28 days from the receipt of a written request from the Local Planning Authority, employ at their own expense an independent consultant approved by the Local Planning Authority to assess the level of noise emissions from the wind turbine at the complainant's property in accordance with the procedure as detailed in ETSU-R-97: The Assessment & Rating of Noise from Wind Farms for dealing with complaints of noise from wind turbines including applying a penalty for any tonal element to the noise in accordance with the methodology as detailed in ETSU-R-97. The written request from the Local Planning Authority shall include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component. Within 2 months of the date of the written request from the Local Planning Authority, the wind turbine operator shall provide to the Local Planning Authority the independent consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based.
- In the event that the results of the submitted assessment indicate that the specified noise limits have been exceeded at any dwelling then, within 21 days of notification in writing of this by the Local Planning Authority, the operator shall submit in writing to the Local Planning Authority:
- A scheme of noise control measures to achieve compliance with noise levels in these conditions;
 - A timetable for implementation of the noise control measures;
 - A programme of monitoring to demonstrate the efficiency of the noise control measures.
- The noise control measures shall be implemented and the monitoring undertaken in accordance with the scheme and timetable approved in writing by the Local Planning Authority.
17. Should any complaint be received within 12 months of the Date of Commissioning of the Development relating to electromagnetic transmission interference, the wind turbine operator shall undertake an investigation of the complaint within 1 month of the complaint being received. Should the investigation validate the complaint, a mitigation plan shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation plan shall be implemented.
18. At the request of the Local Planning Authority the wind turbine operator shall investigate and where necessary implement appropriate controls, which may include screening-based mitigation, to alleviate any shadow flicker effect to buildings caused by the turbine. If screening-based mitigation is unsuccessful details of technical constraints, including operational

restrictions, shall be submitted to and approved in writing by the Local Planning Authority. The technical constraints shall be implemented in accordance with the approved details.

19. At the request of the Local Planning Authority the wind turbine operator shall investigate and where necessary implement appropriate controls to alleviate any effect of ice throw from the wind turbine. Details of such controls to alleviate ice throw shall first be submitted to and approved in writing by the Local Planning Authority and the controls shall be implemented in accordance with the approved details.
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