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Erection of two no. 250Kw wind turbines and associated infrastructure, including access track without complying with condition 2 of permission 14/00133/FUL to allow to the installation of a different model of turbine

Report Item No  
A8

Land Off Farm Town Lane Farm Town Coleorton

Application Reference  
14/00669/VCU

Applicant:  
Hallmark Power Ltd

Date Registered  
18 July 2014

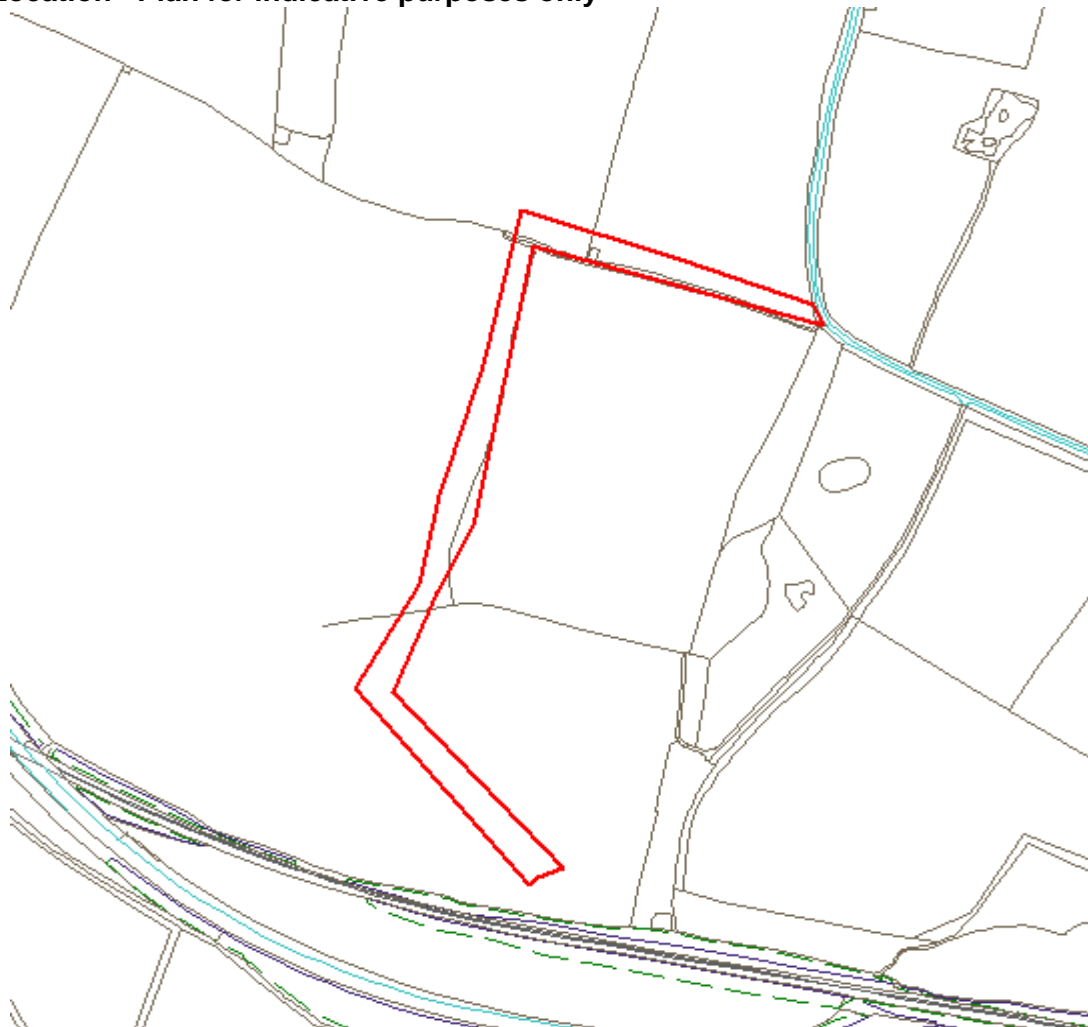
Case Officer:  
Hannah Exley

Target Decision Date  
12 September 2014

Recommendation:  
PERMIT

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Site Location - Plan for indicative purposes only



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## **EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL:**

### **Call In**

This application is reported to Members on the basis that a similar proposal was previously considered by Members at the 08 July 2014 meeting of the Planning Committee.

### **Proposal**

This is an application under Section 73 of the Town and Country Planning Act 1990 to vary condition 3 of planning permission 14/00133/FUL for the erection of two no.250Kw wind turbines and associated infrastructure, including access track which was approved on 08 July 2014. Section 73 relates to development of land without complying with conditions subject to which a previous planning permission was granted. The Council, in considering this application, is only entitled to consider the question of the conditions subject to which planning permission should be granted. Condition 2 attached to 14/00133/FUL which the applicant wishes to vary is listed below:

The proposed development shall be carried out strictly in accordance with the following schedule of plans, unless otherwise required by a condition of this permission:

- Site Location Plan (scale 1:5000), drawing number 250-00-1500 (Elevations for WTN 250 Tubular Tower 30m) and drawing number 329-50-000 (Foundation for WTN 329) which were deposited with the Local Planning Authority on 12 February 2014.

*Reason - To determine the scope of this permission.*

The key difference between the current and previously approved scheme is that an alternative model of turbine is now proposed. The turbine would have a hub height of 30.5m and an overall height of the turbines would be 45m which is 0.5m higher than the model considered under application 14/00133/FUL. The turbine remains a 3-blade model and the siting of the turbines would be as previously considered.

As with the previous application, an access track of permanent construction is also proposed to allow access for maintenance over a 20 year period. The track would begin at the highway (Farm Town Lane) utilising the existing gated access and upgrading an access track. Where the existing track ends, a new track would be created up to the turbines and would require the removal of a short section of existing hedgerow. The newly created access/upgraded track would be constructed of limestone hardcore that will be imported onto the site.

### **Consultation**

11 representations from third parties have been received objecting to the application and objections have also been received from Ashby de la Zouch Town Council. All other statutory consultees have no objections.

### **Planning Policy**

The development would comply with all relevant policies of the Local Plan as well as Paragraphs 17, 98, 118, 119, 123, 131, 132, 134, 188, 189 and 215 of the NPPF; and the Habitats Regulations, Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System), River Mease Water Quality Management Plan - August 2011 and Planning for Renewable Energy: A Companion Guide to PPS 22.

### **Conclusion**

The site has the benefit of permission for the erection of two wind turbines and this is yet to be implemented on the site. The revision to the scheme, comprising a turbine model of increased height, is considered acceptable as the revision would result in no significantly greater impact than the previously approved scheme on the landscape or its visual amenities, nearby heritage assets, neighbouring amenities (in terms of noise, vibration, shadow flicker or outlook), pedestrian or highway safety, or aviation, the internationally important features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. The proposal would not raise any significant concerns in relation to other material considerations, and other matters raised by third parties would not provide sufficient justification to refuse the application. It is therefore recommended that the application be permitted.

### **RECOMMENDATION - APPROVE SUBJECT TO CONDITIONS.**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommended reasons for approval, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

This is an application under Section 73 of the Town and Country Planning Act 1990 to 'vary' condition 3 of planning permission 14/00133/FUL for the erection of two no.250Kw wind turbines and associated infrastructure, including access track which was approved on 08 July 2014. Section 73 relates to development of land without complying with conditions subject to which a previous planning permission was granted. The Council, in considering this application, is only entitled to consider the question of the conditions subject to which planning permission should be granted. Condition 2 attached to 14/00133/FUL which the applicant wishes to vary is listed below:

The proposed development shall be carried out strictly in accordance with the following schedule of plans, unless otherwise required by a condition of this permission:

- Site Location Plan (scale 1:5000), drawing number 250-00-1500 (Elevations for WTN 250 Tubular Tower 30m) and drawing number 329-50-000 (Foundation for WTN 329) which were deposited with the Local Planning Authority on 12 February 2014.

*Reason - To determine the scope of this permission.*

The key difference between the current and previously approved scheme is that an alternative model of turbine is now proposed. The hub height of turbine would be 30.5m and the overall height of the turbines would be 45m which is 0.5m higher than the model considered under application 14/00133/FUL. The turbine remains a 3-blade model and the siting of the turbines would be as previously considered.

As with the previous application, an access track of permanent construction is also proposed to allow access for maintenance over a 20 year period. The track would begin at the highway (Farm Town Lane) utilising the existing gated access and upgrading an access track. Where the existing track ends, a new track would be created up to the turbines and would require the removal of a short section of existing hedgerow. The newly created access/upgraded track would be constructed of limestone hardcore that will be imported onto the site.

### 2. Publicity

45 no Neighbours have been notified (Date of last notification 4 August 2014)

Site Notice displayed 20 August 2014

Press Notice published 13 August 2014

### 3. Consultations

Coleorton Parish Council consulted 4 August 2014

Ashby de la Zouch Town Council

Natural England

LCC ecology

Airport Safeguarding

Highways Agency- affecting trunk road

MOD Safeguarding

National Air Traffic Services

Environment Agency

#### **4. Summary of Representations Received**

**Ashby de la Zouch Town Council** raises objection on the ground that the visual impact on the surrounding area is unacceptable.

**Coleorton Parish Council** has no comment on the change of turbine design as long as the noise levels are no worse than the original ones.

**Environment Agency** has no comments.

**Natural England** raises no objections.

**County Ecologist** has no objections subject to conditions.

**Highways Agency** advises that the proposed development is not expected to have a material impact on the closest strategic route, the A42 and therefore, has no objection to the proposal.

**National Air Traffic Services** has no safeguarding objection to the proposal.

**East Midlands Airport** as safeguarding authority has no objections.

**Environmental Protection Officer** has no objections.

No response has been received to the following consultees:

County Highways Authority  
English Heritage  
County Archaeologist  
MOD Safeguarding  
National Forest Company  
Ramblers Association  
Leicester and Rutland Wildlife Trust

Any comments received from these consultees before Planning Committee will be reported on the update sheet.

#### **Third Party Representations:**

All responses from statutory consultees and third parties are available for Members to view on the planning file.

11 letters of neighbour representation have been received, raising objection on the following grounds:

- inadequate consultation with local residents;
- the only difference between the previously approved scheme and the earlier refused application was a developer contribution;
- impact on the countryside and increase visual impact;
- impact on the increased height on the environment and the local community;
- additional noise pollution;
- the noise report was undertaken in 1999 using Danish Regulations;
- further photomontages should be produced to consider visual impacts;
- no weight should be attached to the developer contribution as it has not been agreed

- with the Church and is not CIL compliant;
- inappropriate structure in a rural area.

## 5. Relevant Planning Policy

### National Planning Policy Framework (NPPF) - March 2012

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
  - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
  - specific policies in this Framework indicate development should be restricted.

The NPPF (Para 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Paragraph 17 sets out the 12 key principles that should underpin plan-making and decision-taking which include:

- o always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings;
- o take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;
- o support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy);
- o contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework;
- o 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;

Paragraph 98 indicates that when determining planning applications, local planning authorities should:

- o not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and
- o approve the application (unless material considerations indicate otherwise) if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should also expect subsequent applications for commercial scale projects outside these areas to

demonstrate that the proposed location meets the criteria used in identifying suitable areas;

Paragraph 118 outlines that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- o if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- o proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest;

Paragraph 119 states that 'The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined;

Paragraph 123 indicates that planning policies and decisions should aim to:

- o avoid noise from giving rise to the significant adverse impacts on health and quality of life as a result of new development;
- o mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;
- o recognise that development will often create noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put them on because of changes in nearby land uses since they were established;

Paragraph 131 outlines that in determining planning applications, local planning authorities should take account of, amongst other things, the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

Paragraph 132 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional; Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional;

Paragraph 134 indicates 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 of the proposal, including securing its optimum viable use;

Paragraph 188 outlines that early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community;

Paragraph 189 states that local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they do offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community before submitting their applications.

The following policies of the North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

**North West Leicestershire Local Plan:**

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan;

Policy S3 sets out the circumstances in which development will be permitted outside Limits to Development;

Policy E2 seeks to ensure that development provides for satisfactory landscaped amenity open space and secures the retention of important natural features, such as trees;

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings;

Policy E4 seeks to achieve good design in new development and requires new development to respect the character of its surroundings;

Policy E7 seeks to provide appropriate landscaping in association with new development including, where appropriate, retention of existing features such as trees or hedgerows;

Policy F1 seeks appropriate provision for landscaping and tree planting in association with development in the National Forest, and requires built development to demonstrate a high quality of design, to reflect its Forest setting;

Policy F2 states that the Council will have regard to the existing landscape character of the site and the type of development when seeking new planting;

Policy F3 seeks to secure implementation of agreed landscaping and planting schemes for new development by the imposition of planning conditions and/or the negotiation of a planning agreement;

Policy T3 requires development to make adequate provision for vehicular access, circulation and servicing arrangements;

Policy T20 seeks to prevent development that would adversely affect the operational integrity or safety of East Midlands Airport;

**Submission Version Core Strategy**

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw



the Submission Core Strategy.

**Other Guidance:**

*The Habitat Regulations*

The Conservation (Natural Habitats &c.) Regulations 2010 (the 'Habitats Regulations') provide for the protection of 'European sites', which include Special Areas of Conservation (SACs) and the key issues relating to protected species;

*Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System)*

Circular 06/2005 sets out the procedures that local planning authorities should follow when considering applications within internationally designated sites and advises that they should have regard to the EC Birds and Habitats Directive in the exercise of their planning functions in order to fulfil the requirements of the Directive in respect of the land use planning system. The Circular sets out a flow chart for the consideration of development proposals potentially affecting European sites;

*River Mease Water Quality Management Plan - August 2011*

This plan draws together all existing knowledge and work being carried out within the SAC catchment, along with new actions and innovations that will work towards the long term goal of the achievement of the Conservation Objectives for the SAC and bringing the SAC back into favourable condition;

*Planning Practice Guidance for Renewable and Low Carbon Energy (DCLG) dated 2013.*

This guidance provides advice on the planning issues associated with the development of renewable energy. It should be read alongside other planning practice guidance and the National Planning Policy Framework and can be a material consideration in planning decisions and should generally be followed unless there is clear reasons not to.

*Footnote 17 on Page 22 of the National Planning Policy Framework:*

In assessing the likely impacts of potential wind energy development when identifying suitable areas, and in determining planning applications for such development, planning authorities should follow the approach set out in the National Policy Statement for Renewable Energy Infrastructure (read with the relevant sections of the Overarching National Policy Statement for Energy Infrastructure, including that on aviation impacts). Where plans identify areas as suitable for renewable and low carbon energy development, they should make clear what criteria have determined their selection, including for what size of development the areas are considered suitable.

**6. Assessment**

The principle of the proposed development was assessed and found to be acceptable under application reference 14/00133/FUL and as such does not need further consideration under this application. In these circumstances the only matters for consideration relate to whether the revised turbine model (0.5m higher) would impact adversely on the amenities of nearby residents, whether there would be any significant impacts on the character and appearance of the rural environment, the historic environment, protected species and aviation. The issues in respect of highway safety and implications to the integrity of the River Mease SAC would not be of relevance to this particular application given that the revised turbine model would not change the amount of surface water run-off from the site and there would be no amendments to access arrangements.

**Landscape and Visual Impact:**

It is identified, in Paragraph 17 of the NPPF, that planning should "recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it," and Paragraph 109 states that the planning system should protect and enhance valued landscapes. Paragraph 98 of the NPPF also states that when determining wind turbine planning applications, local planning authorities should "approve the application if its impacts are (or can be made) acceptable."

In terms of impacts on the character of the landscape and visual amenities (including cumulative impacts), these matters were considered in detail with respect to planning application 14/00133/FUL and concluded that although there will be an impact on the landscape, in particular the turbines being visually prominent from closer views, vegetation and topography will help to screen the turbines and there are also a limited number of direct open views at close proximity. The level of visual prominence will reduce further away from the turbines, with distance, topography, and existing vegetation and buildings reducing its overall prominence. The external finish of the tower and blades can also be controlled to reduce the turbines' visibility in longer views. It was also noted that the area is not considered to be of significant scenic quality and it is not within any nationally or locally statutory landscape designation. Whilst there will be some impact on and change to the landscape, given the above circumstances the turbines would not significantly undermine or change its character or that of the National Forest and therefore, on balance, it is considered that the impact would not be so significantly detrimental to the landscape and its visual amenities to justify a reason for refusal. When having regard to the distance between the site and other turbine developments across the wider landscape and the number of approved schemes, it is considered that the proposals are unlikely to contribute to an overall impression of a landscape with wind farms. Therefore, the overall impact in terms of sequential cumulative effects would be less than significant.

It is not considered that the proposed 0.5m increase in height arising from the revised wind turbine design would have any materially greater visual impact or impact on the character of the landscape than the previously approved scheme. As such the proposal would not conflict with the principles of Policy E4 of the Local Plan.

**Historic Environment:**

With respect to the impact of the proposal on heritage assets, this was considered in detail with respect to planning application 14/00133/FUL and it was concluded that the proposed turbines would not result in substantial harm to the significance of nearby heritage assets and as such are to be determined in accordance with the aims of Paragraph 134 of the NPPF which concludes 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 of the proposal."

It was considered that the provision of the turbines would provide some public benefits given that the proposal would generate energy from a renewable source equivalent to that required to provide 258 homes per year with electricity and assist the wider public interest of tackling climate change by reducing carbon emissions. Furthermore, the proposal would represent farm diversification and help reduce the farming costs for the landowner. Overall, taking all the above matters into account, it was considered that the proposal would not conflict with the principles of Paragraphs 131, 132 and 134 of the NPPF.

It is not considered that the proposed 0.5m increase in height arising from the revised wind turbine design would have any materially greater impact on nearby heritage assets than the previously approved scheme. As such the proposal would accord with the above-mentioned

principles of the NPPF.

### **Residential Amenities:**

As set out on the Department of Energy and Climate Change's (DECC) website, at the current time government advice is that the ETSU report is the relevant guidance against which turbines should be assessed in terms of noise impact. A Noise Impact Assessment has not been submitted with the application but the supporting statement accompanying the application considers the issues of noise and its impact on neighbouring residential amenities. The Attenuation Noise Specifications for the model of turbine proposed are also included and referred to in the supporting information.

The supporting information accompanying the application shows that noise levels for the model of turbine proposed would be to an acceptable level of 35 db(A) at a distance of 425m from the turbine. The nearest residential properties are identified as Little Alton Farm (505m to the south east), Gamekeepers Cottage (off Corkscrew Lane 650m north west) and Breach Farm (680m south west) and therefore, the proposal would comply with ETSU-R-97 limits. Furthermore, the supporting information identifies that the background noise levels in the locality are significantly more than would be expected in rural areas, with traffic noise from the A42 and the A511. The supporting statement concludes that there should be any unacceptable noise nuisance from the proposed turbines affecting residential amenities.

On the basis of information submitted, it is considered that the proposed development would have no significantly greater impact on neighbouring residential amenities than the approved scheme. The Council's Environmental Protection team has been consulted on the proposal and has no objections and as such it is considered that the turbine would not generate a level of noise which would be sufficiently detrimental to the amenities of neighbouring properties.

In terms of vibration, the DECC's website advises that 'There is no evidence that ground transmitted low frequency noise from wind turbines is at a sufficient level to be harmful to human health.' A comprehensive study of vibration measurements in the vicinity of a modern wind farm was undertaken in the UK in 1997 by ETSU for the DTI (ETSU W/13/00392/REP). Measurements were made on site and up to 1km away in a wide range of wind speeds and direction. The study found that:

- o Vibration levels of 100m from the nearest turbine were a factor of 10 less than those recommended for human exposure in critical buildings (i.e. laboratories for precision measurement).
- o Tones above 3.0 Hz were found to attenuate rapidly with distance, the higher frequencies attenuating at a progressively increasing rate.

On the basis of this government advice, vibration is considered to not be an issue in this case given the sufficient distance to residential receptors.

Consideration is also given to potential for shadow flicker to residential properties (created by passing of the blades across direct sunlight). The Department of Energy and Climate Change advises that there are a number of variations in determining the likelihood of this occurring and its significance, in particular that it only occurs within 130 degrees either side of north from a turbine and that potential shadow flicker is very low when more than 10 rotor diameters (in this case 300 metres) from a turbine. In this case the nearest dwellings are Little Alton Farm (505m to the south east) and Gameskeepers Cottage (640 metres to the north-west) from the site of the nearest turbine which is well outside the distance that shadow flicker can affect a property. There are a limited number of properties that would have a direct outlook of the turbine, largely due to the screening from vegetation, changes in land levels and the distance of the turbine from nearby dwellings. It is considered that the turbine would not be overwhelmingly dominant

when viewed from these properties.

Overall the proposal would not conflict with the principles of Paragraphs 98 and 123 of the NPPF and Policy E3 of the Local Plan.

**Protected Species and Ecology:**

With respect to the impact of the proposal on protected species and ecology, this was considered in detail with respect to planning application 14/00133/FUL and on the basis of an Ecological Assessment including an Extended Phase I Habitat Survey the following conclusions were reached:

*The turbine locations do not form part of any statutory designated sites for nature conservation. All statutory sites identified were of habitat interest only and therefore, no direct or indirect impacts on the habitats of designated sites are anticipated due to the separation distances involved. No non-statutory designated sites will be directly affected by the proposals and indirect impacts are unlikely.*

*The proposed turbines will be located on arable land which is considered to be of limited biodiversity value and field boundaries are not anticipated to be affected by the proposal, although it is recommended that measures should be introduced to ensure that these are protected during the construction phase.*

*The survey area and adjacent land were identified as being potentially suitable for a range of protected species and the wider area offers some possible foraging and roosting habitat for bats and birds. Evidence of badgers was also found within the survey area but no evidence was found of Otter, Water vole or Reptiles, although areas of suitable habitat were found for Dormouse and Amphibians.*

*With regard to birds, the potential impacts include collision (bird strike) and displacement. The ornithological value of the site is identified as low but it is considered likely that the site supports farmland birds. These species are only likely to visit the site on an occasional basis and therefore, it is concluded that it is highly unlikely that any impacts will occur as a result of the proposal. Any potential disturbance to vegetation within the nesting season could disturb nesting birds and therefore, this should be controlled by an appropriately worded condition.*

*In terms of bats, these are European Protected Species and as such receive protection under the Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended). The report advises that no bat roosts will be directly affected by the proposed works and no removal of hedgerow or other bat habitat features is planned and therefore, indirect effects on commuting or foraging routes is considered unlikely to occur. The main potential impacts from the proposed development include ultrasound emission by the turbines and death/injury through collision or the effects of rapid changes in air pressure, although research shows that some species of bat are more vulnerable than others to the effects of wind turbines.*

*The report concludes that the survey area is considered to fall within a medium risk location for bats due to low to medium potential for foraging/commuting for bats within the hedgerows and other surrounding habitats. Overall, the consulting ecologist notes that whilst minor negative impacts on bats cannot be precluded, impacts on bat populations at the local level are considered unlikely.*

*In terms of other species, evidence of badgers was found within 500m of the proposed turbines*

*but no setts were found within 50m of the site. The report recommends a pre-construction survey to ensure that no new setts are constructed within the interim period. As for water voles and otters, the development would not result in any direct impacts upon any ditches and drains and therefore, the report concludes that no impacts upon these species are anticipated as a result of the proposal. With regard to reptiles and amphibians, records of great crested newt were identified in the desk study and two ponds were considered to offer suitable aquatic habitat. However, as the proposal would comprise the removal of a small area of arable land of low value to amphibian species, the effects of the development are noted as being minimal. Although as a pre-caution, a series of Reasonable Avoidance Measures are recommended during the construction phase of the development.*

The County Ecologist has been consulted on the application and has no objections to the proposed amendment as the proposed model has similar dimensions to the approved scheme. Subject to the imposition of conditions concerning the pre-cautionary recommendations for badgers and great crested newts, the County Ecologist raises no objections to the proposal. Overall, it is considered that the proposal would accord with the aims of Paragraphs 118 and 119 of the NPPF, the Habitats Regulations and Circular 06/05.

**Aviation:**

With respect to the impact of the proposal on aviation, this was considered in detail with respect to planning application 14/00133/FUL and Members were advised that the National Air Traffic Service (NATS) and East Midlands Airport find the proposal acceptable from a safeguarding viewpoint. These consultees have been consulted on the proposed variation of condition and their viewpoint has not changed.

**Other Matters:**

The proposal does not include the offering of a financial contribution towards the repair of the wall at St John's Chapel in Farm Town. Notwithstanding this, and as a point of clarification, as advised with respect to application 14/00133/FUL, such an obligation would not comply with the relevant policy and legislative tests as set out in the NPPF and the CIL Regulations, and would represent an inappropriate contribution.

With respect to local concerns about the adequacy of pre-application consultations with the community, the Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2013 came into force on 17 December 2013. The Order specifies that the requirement to carry out pre-application consultation under Section 61W of the Town and Country Planning Act 1990 shall now apply to all onshore wind development of more than two turbines or where the hub height of any turbine exceeds 15 metres. However, the Order clearly states under paragraph 3A(2) of Part 1A that this does not apply to applications made pursuant to section 73 of the 1990 Act (determination of applications to develop land without compliance with conditions previously attached). Therefore, as the proposal is a Section 73 application, there were no pre-application consultations that the applicant was required to undertake prior to submission the current application.

**Conclusions:**

The site has the benefit of permission for the erection of two wind turbines and this is yet to be implemented on the site. The revision to the scheme, comprising a turbine model of increased height, is considered acceptable as the revision would result in no significantly greater impact than the previously approved scheme on the landscape or its visual amenities, nearby heritage assets, neighbouring amenities (in terms of noise, vibration, shadow flicker or outlook), pedestrian or highway safety, or aviation, the internationally important features of the River Mease SAC, or any of the features of special scientific interest of the River Mease SSSI. The

proposal would not raise any significant concerns in relation to other material considerations, and other matters raised by third parties would not provide sufficient justification to refuse the application. It is therefore recommended that the application be permitted.

**RECOMMENDATION - PERMIT, subject to the following conditions:**

- 1 The development shall be begun before the expiration of three years from the date of this permission.

*Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).*

- 2 The proposed development shall be carried out strictly in accordance with the following schedule of plans, unless otherwise required by a condition of this permission:

- Drawing number NWA-30m Rev 00 (Turbine Elevations) received by the Authority on 18 July 2014;
- Site Location Plan (scale 1:5000) and drawing number 329-50-000 (Foundation for WTN 329) which were deposited with the Local Planning Authority on 12 February 2014 with respect to application 14/00133/FUL.

*Reason - To determine the scope of this permission.*

- 3 The overall height of the turbines shall not exceed 45 metres to the tip of the blades or 30 metres to the hub height, when the turbine is in the vertical position, as measured from the natural ground level immediately adjacent to the turbine base. The blades of the turbines shall not exceed 30 metres in length and there shall be no more than three blades.

*Reason - To define the scale parameters of the development, and to ensure that the ecological, noise and visual impacts of the turbine do not vary during its lifetime.*

- 4 No development shall commence until a scheme for the detailed external appearance of the turbines including materials and colour finish have been submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details which shall thereafter be so retained.

*Reason - In the absence of precise details and in the interests of the visual amenity of the area.*

- 5 The permission hereby granted shall endure for a period of 25 years from the date when electricity is first exported from the wind turbine to the electricity grid network (the 'First Export Date'). Written confirmation of the First Export Date shall be provided to the Local Planning Authority and East Midlands Airport no later than 28 days after the event.

*Reason - In recognition of the limited life expectancy of the development hereby approved, and to ensure that the use does not become permanently established on the site; so that a record can be kept of all operational turbines to aid in the assessment of cumulative impact in the interests of air safety, as the cumulative impact of wind turbine generation developments, which are in relatively close proximity, could compromise the safe control of aircraft in this area.*

- 6 Not later than 12 months before the end of this permission, a scheme for the decommissioning of the turbine and restoration of the site shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include a method statement and timetable for the dismantling and removal of the wind turbine, access track and associated above ground works and foundations, details of the route and any highway works to transport turbine for the site, site restoration measures and mitigation measures to be undertaken during the decommissioning period to protect wildlife and habitats. Decommissioning and site restoration shall be completed in accordance with the approved details within 12 months of the expiry of this permission.

*Reason - To ensure the highway, ecological, noise, and any other physical impacts can be properly assessed in the context of the area at the time of decommissioning.*

- 7 If the wind turbines hereby permitted fail to operate for a continuous period of six months, a scheme for the repair or removal of the turbine shall be submitted to and agreed in writing by the Local Planning Authority within three months of the end of that six month period, or any extended period agreed in writing by the Local Planning Authority. The scheme shall include, as relevant, a programme of remedial works where repair is required; or a method statement and timetable for the dismantling and removal of the wind turbine, access track and associated above ground works and foundations details of the route and any highway works to transport the turbine from the site, site restoration measures and mitigation measures to be undertaken during the decommissioning period to protect wildlife and habitats. The agreed scheme shall be completed within 12 months of the date of its approval by the Local Planning Authority.

*Reason - To ensure the highway, ecological, noise, and any other physical impacts can be properly assessed in the context of the area at the time of decommissioning.*

- 8 The access track shall only be constructed of a permeable material.

*Reason - In the interests of visual amenity and to prevent adverse impacts on the River Mease Special Area of Conservation/SSSI.*

- 9 No development shall commence on site until such time as a detailed method statement for construction of the turbine and access track has been submitted to and agreed in writing by the Local Planning Authority. The method statement should set out methodologies to remove any risk of fuel, soils, building materials and waste water entering the stream during construction, including how and where materials, fuel and plant will be stored and contained, containment of waste water on the construction site, use of site spill kits and briefing to construction staff. Construction works relating to the development hereby approved shall be carried out in accordance with the agreed method statement.

*Reason - To prevent an adverse impact on the River Mease Special Area of Conservation.*

- 10 The development hereby permitted shall not commence until such time as a Highway Method Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of construction traffic, tracking of the route for the largest vehicles, traffic management proposals, mitigation measures to prevent damage to the Public Highway, a survey of Corkscrew Lane and details of how any damage to the Public Highway will be rectified. The development shall be carried out strictly in accordance with the approved Highway Method Statement unless otherwise

agreed in writing by the Local Planning Authority.

*Reason - In the interests of maintaining a safe and efficient highway network and in accordance with chapter 4 the National Planning Policy Framework 2012.*

- 11 The development shall be carried out in accordance with the recommendations set out in paragraphs 4.5.1 - 4.5.6 in the Ecological Appraisal by avianecology (dated 13 March 2013) submitted with respect to application 14/00133/FUL. The development shall not commence until the findings of the pre-condition badger survey have been submitted to and agreed in writing by the Local Planning Authority. With respect to the requirements of paragraph 4.5.1, a pre-condition update of the badger survey will only be required if the construction of the turbines is delayed beyond 14 February 2014.

*Reason - To ensure the protection of protected species in particular badgers and great crested newts.*

- 12 Operations that involve the destruction and removal of vegetation shall not be undertaken during the months of March to August inclusive unless otherwise agreed in writing by the Local Planning Authority that breeding birds will not be adversely affected by any works.

*Reason - To reduce the impact of the proposal on nesting birds, which are a protected species.*

- 13 No work shall commence on site until the existing hedgerows alongside the proposed access track have been protected in accordance with a scheme that has been submitted to and agreed in writing by the Local Planning Authority. The agreed protection measures shall be retained until work on the construction of the development is completed.

*Reason- To ensure the existing hedgerows are adequately protected during construction in the interests of the protected species.*

- 14 The development shall be carried out in accordance with the Proposed Scheme for the Investigation and Alleviation of Electromagnetic Interference by Hallmark Power Ltd (dated 09 January 2014) submitted with respect to planning application 14/00133/FUL.

*Reason - To address any issues relating to television interference.*

### **Notes to applicant**

- 1 Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).
- 2 The applicant's attention is drawn to the attached report of Natural England dated 02 May 2013 received with respect to planning application 13/00266/FUL.
- 3 Written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £85 per request. Please contact the Local Planning Authority on 01530 454666 for further details.



