

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78

**TOWN AND COUNTRY PLANNING APPEALS
(DETERMINATION BY INSPECTORS) (INQUIRIES PROCEDURE)
(ENGLAND) RULES 2000 (AS AMENDED)**

APPEAL BY: BROADVIEW ENERGY LTD

**SITE: LAND AT PILROW WIND FARM, LAND EAST of the M5 and SOUTH of
the A38 BRISTOL ROAD, ROOKSBRIDGE, AXBRIDGE, SOMERSET,**

APPEAL REF. APP/V3310/A/13/2197449

**NoPilrow Ltd
Closing Submissions**

1. Our starting point is that we are a group of local residents formed in the wake of the original Application by Broadview (the Appellant) for the Met Mast on the Pilrow site which was the precursor to the Planning Application for the wind turbines which was the precursor to this Appeal following Sedgemoor's decision to refuse planning permission on 8th April 2013.
2. We should emphasise we do not profess to be experts on any of the topics that we raise. Neither the Parish nor ourselves have ever had the resources that would enable detailed scrutiny of the impact of the Appellant's proposals on a local level, and by local level we mean the immediate Parishes of East Brent & Rooksbridge (and especially the Rooksbridge part of the Parish, as well as Brent Knoll, Mark, Chapel Allerton, and further afield in the valley to Compton Bishop and Cheddar. We have been encouraged by the level of support from neighbouring parishes a number of whom have made written representations and who also spoke, including County Councillor Denbee.
3. Its worth mentioning at the outset that East Brent & Rooksbridge, whilst one Parish, is in fact distinctly divided into East Brent largely on the western side of the M5 and Rooksbridge on the eastern side. Rooksbridge itself is divided by the A38 running through its centre giving rise to some specific issues on visual impact, traffic and construction, and whose population lies nearest the proposed development. East Brent (and the adjacent Parish of Brent Knoll) have the mass of Brent Knoll, the "Isolated Lowland Hill" as described by the Appellant, and the Iron Age Hill Fort as the Scheduled Ancient Monument atop within its part of the Parish together with the associated footpaths and roads from which "the Knoll" can be enjoyed. It's also worth mentioning that the Parish has a population of some 1300 and some 550 homes. The Inquiry also heard from witnesses describing a significant older population which might have less access eg to internet and sophisticated TV/Satellite systems in the event of disruption.

4. It remains our primary case we support wholeheartedly the opposition to this Appeal by Sedgemoor on the grounds of adverse significant and dominant impact on the landscape caused by the proposal. We would have supported Sedgemoor's opposition on the grounds of impact on habitat and ecology but we can only record our disappointment as to the position taken by English Nature in withdrawing its objection on ecology grounds.

5. We would have liked to have said something about the potential for energy generation from this proposal, but we thought it had been made clear at our Pre-Inquiry Meeting that the Secretary of State was unlikely to be moved by argument about the efficacy of wind turbines as a method of renewable energy generation, but by letter of 31st December 2013 the Appellants filed additional materials circulating all interested parties with notification that they were submitting an Energy Generation Report, (and Noise) but failing to tell those parties that the Inquiry was to start on 7th January 2014 giving insufficient time to make any meaningful response. As it happened, the Inspector was able to receive submissions from Professor Peter Gold, and Dr Hugh Clancy in a public session and we would urge the Secretary of State to take careful note of that rapidly prepared evidence and consider the question that if "the views of local communities should be listened to", these materials need to be made available in good time to the people impacted, as here, two individuals living in the village and with a direct concern about the proposal.

6. It remains NPL's case that the appeal should be dismissed by the appointed Planning Inspector in respect of all or any of the following considerations:
 - a) The adverse significant and dominant impact on the landscape caused by the proposal.

 - b) The adverse significant and dominant visual impact to living conditions caused by the proposal, including shadow flicker.

 - c) The adverse significant and dominant impact caused to heritage assets by the proposal, by which we mean the Iron Age Hill Fort on Brent Knoll, St Mary's Church and other listed buildings affected by the proposal.

 - d) The adverse significant and dominant impact on existing residential development caused by the proposal, including but not limited to the adverse effect on television reception that has not been appropriately demonstrated to be acceptable by the Appellant

 - e) The adverse and significant impact caused to local businesses by the proposal.

f) The adverse and significant impact on public safety by reason of the proximity of the proposal to the M5, A38/A370, and to public footpaths/bridleways, including but not limited to distraction and shadow flicker where we say insufficient work has been done by the Appellants to demonstrate that there will be no harm particularly to the villagers living in Rooksbridge, and its poor road safety history, by construction traffic

g) The application of the planning balance between these impacts and the production of renewable energy.

Whilst I will deal with these in turn it should be done in the context of policy and in particular developing policy to ensure that there is “proper weight” to local amenity.

7. We have tried to focus on that local amenity for the simple reason that we cannot be regarded as having any relevant expertise in Planning Policy on a National, Regional or Local level, (howsoever that might be defined) nor any ability to influence debate on Energy Policy in its broadest terms.

We ask the Secretary of State to keep at the forefront of his mind when considering this Appeal the PPG Guidance (July 2013). Within days of the issuing of the Guidance (and before NPL were added as an interested party in these proceedings) the Appellants and Sedgemoor had agreed a Statement of Common Ground excluding from debate (save as to conditions) a number of specific local issues including

- Impact on highway network, including construction traffic routing and disturbance to other road users
- Noise
- Cultural Heritage
- Equine
- Physical impacts on rights of way
- Shadow flicker
- Public safety
- Human Rights, by which we take to be the enjoyment of one’s home life
- Electro-magnetic interference and telecoms

We repeat that we fully support Sedgemoor’s robust defence of the interests of the local population with regard to the impact on our landscape of the proposed development, and fully understand that there have been constraints on what could or could not be done by Sedgemoor in assessing this Planning Application given the imbalance in financial resources available. The same must apply to English Heritage and English Nature and other Consultees. The practical effect appears to us to be that assessing local impact becomes a haphazard affair unless specific individuals or groups take an interest.

8. PPG July 2013 Paragraph 15 expressly asserts, and it is worth repeating in full:

15. In shaping local criteria for inclusion in Local Plans and considering planning applications in the meantime, it is important to be clear 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 recognize 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

9. We also observe The Ministerial Statements accompanying the Guidance suggests that *“Planning works best when communities have the opportunities to influence the decisions that affect their lives”* and that *“the views of local communities should be listened to”*. It seems evident from the issues that were likely to be ventilated at the Inquiry that the views of the local communities were not going to be listened to and we are grateful to the Inspector for permitting Rule 6 participation so that some material could be put before the Secretary of State.

Evidence, General

10. Three Parish Councillors, **Ed Champion**, **Bill Walker** and **Steve McGreavy** have given Statements about the views of the Parish Council and Parishioners; concerns on road safety and concerns on TV Reception. **David James** is a local resident who deals also with Road Safety, and impact of Shadow Flicker, and Visual Impact. **Nick Woolmington**, gave evidence about the construction process and why we think the information given in the ES is inadequate. **Colin Loader** is the Chairman of the local History Group and of East Brent Harvest Home and shared much historical and heritage information about The Knoll and its Hill Fort. **Gary Robinson** and **Gill Wall** run two different types of tourist businesses which are representative of the type of business prevalent in this area and who believe there may be harmful impact upon them.

We then come to individual householders who have made Statements The householders include **David James**, already mentioned earlier; **Terry Mogg & Louise Allen**, **Tony and Sheila Rendell**, **Margaret Liddington**, **Mandy Phillips**, **Paul Paton**, **Graham Donald**, and **Dave Hodgson**, who in addition to living on the perimeter of the site also runs a Kennels and a wildlife photography business from his home. You also received late evidence from **Peter Mugford** who has development plans for Wintine (Receptor 31) and concerns about the impact on his Stables/Paddock the latter of which is adjacent to the Business Park that will form the only access to the main development site. The Inspector has had an accompanied viewing of the site from their homes and land and will have formed his own impression of the potential impacts.

There was little challenge to the evidence given by these individuals. A thread running through the Planning Conditions applied to the Rendells, Mogg & Allen, Phillips and Mugford included:

- designs that fitted in to the local rural landscape, and personal and family use as opposed to commercial development
- equine to be for personal and family use and not commercial
- screening, lighting mitigation, all for the benefit of not causing disturbance to neighbours.

Compare and contrast the absence of similar considerations for the neighbours of this intended development. Note also that in all cases the Appellants gave a measurement of a distance to a turbine. In all cases attention was not drawn by the Appellant to:

- The areas of land enjoyed by each of the householders as part of their land. Amenity is not simply about the house that the householder lives in but the setting of that house and what facilities are enjoyed with it.
- The fact that in all cases, all four turbines would be visible, and
- The fact that in all cases there would be an arc or field of view in which the turbines would sit from each “Receptor”

All of which that will be of significance in determining whether the living conditions of these households become unbearable.

11. The Inspector has had the benefit of a good number of submissions from members of the public who have had access to the Inquiry. Despite the more or less standard response from the Appellant’s side that the issues raised had been covered by them, nevertheless, the Inspector had an opportunity to listen to these local concerns.

The Inspector has also had the benefit of seeing local people (the overwhelming majority of who spoke against the proposal) at the evening session at East Huntspill Village Hall on Tuesday 14th January 2014 despite the foul

weather and the closure of the M5 Northbound between Bridgwater (Jn23) and Burnham (Jn22) which as Witnesses have alluded to is a regular occurrence and has an immediate and knock on effect on local traffic. The Inspector has copies of submissions made so that these can be brought to the attention of the Secretary of State.

Local Opinion

12. This might be a convenient point to comment on what seems to be a sterile debate on percentages either side of the divide. All the Appellants principal witnesses, Mr Stevenson, Mr Dobson and Dr Colcutt engaged in a forensic examination of the relevance of the numerous objections received, with rather less emphasis on the “letters of support” received, with criticisms made of the format of letters and validity of objections from individuals, Parish Councils and others.

Dr Colcutt for example conducted a detailed examination to distinguish between the heritage and the landscape and visual aspects of the objections. You heard evidence from Mr Champion of the limited resources a Parish Council such as East Brent has to be able to properly analyse a major application such as this and to pounce on the fact that on the face of the document a Heritage objection did not appear as a specific Heritage objection and therefore must be discarded. It must have been obvious to the Inspector that to us the Hill Fort and Brent Knoll are indivisible notwithstanding Dr Colcutts forensic, and probably successful efforts, to explain as a matter of law the need to distinguish as he described. It is in the specific circumstances of this landscape and heritage a completely artificial way of proceeding when trying to analyse how “*the views of local communities should be listened to*” The tone of language used when describing and analysing those views is pejorative and somewhat unedifying to see from professionals.

13. When the Guidance is referring to the concept that “*the views of local communities should be listened to*” we do not believe it is the intention of the Guidance to take only into account the views that might for example accord with the forensic argument described by Dr Colcutt (4.4.11 and Footnote 5) in *R (on the Application of Enertag (UK) Ltd v Secretary of State QBD Admin Division March 09 2009 [2009}EWHC 679 (Admin)*.

We believe the Inspector made it clear that he took the point. On an entirely unscientific basis the “letters of support” (ignoring for the moment whether they all have planning validity) fill one lever arch file, and the letters of opposition fully fill three.

14. Its worth drawing the decision maker’s attention to the conduct of the Appellants in engaging Jeff (Rice) of “Yes to Wind” referred to in David James’ Statement (Para 36, Appendices H and I). The somewhat ramshackle appearance of the activist’s trestle table and banners shown in Appendix H belies the professional

nature of the activism carried out by this organisation. It's not the purpose of Submissions to lead evidence but we can draw attention to what's in the public domain. The decision maker can look at <http://www.yes2wind.com/> and see a very professionally prepared website and see its links to Pendragon PR <http://www.pendragon-pr.co.uk/>. A Google search on Jeff Rice (aka MacDonald) reveals a plethora of similar photographs as in Appendix H up and down the length and breadth of the country conducting similar activity.

15. What this reveals is an insidious use of PR in an attempt to influence a local debate and to generate "letters of support" which at this Appeal were used in the percentages analyses made in the Statements of Messrs Colcutt, Stevenson and Dobson. We would urge the Inspector to review a sample of them, to illustrate to the Secretary of State that a collection of signatures from largely non-locals, including foreign citizens, by a paid activist engaged by the Appellants should not have the same status as the thought out responses of local people whatever the forensic examinations by the Appellants would urge upon the decision maker. In a population of some 1300 in the Parish, if we were dealing with sterile percentages, there's a reasonable groundswell of informed opinion against the proposed development.

The fact that the Appellants have been willing to engage in this lobbying activity also colours the validity of the Appellants Statements and the ES raising the questions as to how much is "spin" and how much is the truth.

Heritage

16. Whilst we have mentioned Dr Collcutt in the context of local opinion, we are encouraged by the references made by Dr Collcutt to **Hill Lane Oldbury 2154175**, Oldbury-on -Severn with reference in the Decision of Inspector Gray (23 January 2012) in para 32 about Camp Hill Rockhampton,

"..It occupies a commanding position with extensive views over the Severn Vale and the Oldbury Levels. They comprise its setting and add to its significance, as the ES notes. The ES regards the setting of *high sensitivity* and the impact *moderate* but the effect slight and of *no significance*. I disagree. I am in no doubt that tall turbines with turning blades would be very prominent, occupying at least 16% of the available vista at a distance of less than 3km. The effect would be far more than slight, would be of at least *moderate significance* and damaging to it"

Continuing in para 33 about Oldbury Camp, Oldbury on Severn

"...here the impact would be less severe because it does not dominate its setting which has been substantially altered over time. The ES regards the setting as of *medium sensitivity*, the effect *negligible* and its *significance undiminished*. Once again I believe the effect is under-rated. Although I agree about sensitivity, I consider that the effect would be approaching moderate in significance because all four turbines would be

visible, occupying 19% of the horizon; and moving blades would appear prominent at a distance of 2.5km from the camp's northern edge.

Given the paraphrase in Dr Colcutt's Statement we believe it's necessary to look at Inspector Gray's conclusion at Para 45:

“Although the effects of the proposed development on the setting of some important heritage features would be minimal, there would be a very significant effect on the setting of other, mainly closer features. In my opinion they play a very important part in establishing the character of the Levels and are worthy of great care, notwithstanding the fact that not all of them enjoy the highest designations. The settings would all suffer, and the totality of the harm would be unacceptable, resulting in conflict with LP Policies...(listed)”

17. It is also worth looking at the public information available here on English Heritage (www.english-heritage.org.uk) to assist the comparison with Brent Knoll.

Camp Hill is List Entry Number 1004529. Grid Reference ST 65766 92766. Large multivallate hillfort. The highest point of the hillfort seems to be on the 55m contour line.

Oldbury Camp is List Entry Number 1013187. Grid Reference ST 60939 92718. Iron Age Fort. The highest part of the fort seems to be on the 10m contour line and is partly surrounded by housing in an area of Oldbury known as “The Toot”

Compare these heights to the 137m AOD of the Trig Point on the Knoll & 139m as the summit. If Camp Hill at 55m is in a “commanding position...over the Oldbury Levels” what does that make the Knoll?

18. We have received no evidence of any data illustrating the sort of forensic examination carried out by Dr Colcutt here that might have been carried out in Oldbury, but if the views of local communities should be listened to as opposed to forensic dissection of objections, and the random photography and art depictions on the internet, then even an asserted “slight significance” ought to be accorded greater weight. The attempt to graduate levels of importance to a listing of a nationally important monument in the way described by Dr Colcutt is divorced from the real life perceptions of those who do have the benefit of knowing about the Knoll and/or the Hill Fort whether or not a wider public knows of it and how to get there. Again we detect an over-forensic analysis here which does not chime with local views and concerns.
19. To dismiss other heritage assets and their settings as insignificant or unimportant also does not resonate with the findings in cases such as Inspector Baird in **Truthan Barton 2163691** on 23 August 2012 and Inspector Barton in **Woodford Farm 2177072** on 30 October 2013 (noting that the latter post dates the July 2013 Guidance)

Dealing first with **Truthan Barton** first in relation to heritage assets, we cite this Decision for its comparator guidance for the decision maker and the passages reproduced below seem to have particular significance to this Appeal.

Paragraph 15

“S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to have special regard to the desirability of preserving the building or its setting. The Framework requires the decision maker to identify and assess the significance of the heritage asset and take this into account when considering the impact of a proposal. The Framework defines significance of the heritage asset to this and future generations because of its heritage interest, which may be archaeological, architectural artistic or historic. Significance derives not only from a heritage assets physical presence but also its setting. Setting is defined as the surroundings in which a heritage asset is experienced.”

Paragraph 23

“Truthan House is an attractive substantial and imposing building nestling in a rolling landscape that displays strong characteristics of a medieval agricultural landscape. Having regard to the history of Truthan and guidance produced by English Heritage (EH) I consider Truthan House to be a historically and visually important building of medium to high significance. Although glimpses of the house are obtained from the road through the hamlet, where it is perceived as a building of importance and significance, I agree that the development would have no impact on the setting of Truthan House when viewed from its immediate environs.”

Paragraph 25

“Significant public views of Truthan House are obtained from the public footpath that runs for part of its route across open high ground to the south. For the majority of its length views of Truthan House are obscured by topography and dense planting. However from a substantial length of the path running across the highest ground, Truthan House is prominent seen against a backdrop of rising fields in the north. In this view Truthan House is seen as a substantial distinctive and attractive building and one that would be interpreted by the lay observer as a historically/visually significant building. Although power lines cut across the foreground of the view and the existing Carland Cross turbines are seen in the distance to the north-west of the house, these do not materially diminish its significance as a heritage asset and the importance of its setting to the north. In the view from the public footpath to the south, Turbines D and C would be seen immediately to the west of Truthan House, and Turbines E,B and A would be seen to the east. The separation from Truthan House to these turbines would be some 750m.”

Paragraph 26

“On this issue I conclude that the proposed windfarm would result in less than substantial harm to the significance of Castle Cottage, and substantial harm to the significance of Truthan House as designated heritage assets. In this regard the proposal would conflict with the objectives of LP Policy 4D.”

The conclusion we invite the Secretary of State draw from this Decision is that whilst there may be no impact on the setting of a heritage asset when viewed from its *immediate environs*, it's the public views of the heritage asset from public footpaths for example – the lay observer - that have to be borne in mind when assessing developments within the setting of heritage assets, which include visual dominance, scale, vistas and movement. The unacceptable domination of the Listed Buildings referred to in Truthan House would be replicated here if the Pilrow development were permitted.

20. Turning to Inspector Barton in **Woodford Farm 2177072** its worth starting from the position that this was an Application for a single turbine at **67m** to tip

Paragraph 18

“Whilst there are a significant number of heritage assets within the ZTV and 15 kilometres of the proposed turbine, the main impact would be on assets in the region of a kilometre or less away. The nearest boundary of Witheridge Conservation Area is around 895 meters from the turbine. Within the Conservation Area the Church is listed Grade 1 and there are 37 Grade II listed structures ranging in date from the 15th to 20th century.....”

Paragraph 20

“The Church...stands opposite the square relating to the historic core but slightly offset from the later village. It has changed over time with its spire being replaced and the tower lifted. Its high significance lies in its historical architectural and communal value. *There would be no views of the turbine from the Church other than possibly from the top of the tower were it to be open to the public.(our emphasis)* There would therefore be no change to its immediate setting in the Conservation Area.”

Paragraph 21

“However the surrounding countryside also forms part of its setting. The distinctive tower with its pinnacles is a dominant local landmark breaking the skyline on the horizon. This dominance signifies the importance of the building in the community and is a key element in its setting. The proposed turbine would be seen with the tower in a number of views. Although no view has been identified where the two would align, the scale of the modern structure would be greater than that of the church tower and it would vie with the tower for visual dominance on the skyline. Moreover the movement of the turbine blades would draw the eye further detracting from the dominance of the Church tower. Whilst this might not constitute substantial harm to the overall importance of the Grade 1 Listed Church, it would have a significant detrimental impact on its setting”

In conclusion at –Paragraphs 39 and 40 Inspector Barton stated that the combination of a significant impact of a key element of the setting of the Grade 1 listed Church in Witheridge and a minor impact on the setting of the Grade II Coombe House and its locally Registered Garden were sufficient to outweigh the perceived benefits of the proposal.

It must be unlikely that a reported decision on one wind farm Appeal falls four-square into the facts of another, but these cases can offer some assistance to the decision maker when examining the facts particularly those derived from physical viewing and experience of the landscape affected, and the heritage assets within it.

21. The Appellant is seeking to minimise the impact. Even if they are right on findings of “less than substantial harm”, with which we would disagree, there is sufficient comparison in other cases to result in minor impact being sufficient to refuse an Application. Here, we say the Knoll is a significant feature whether in landscape or heritage terms or a combination of both, as is the Church, as are a number of other Listed Buildings (about 25) conveniently scheduled in Appendix 7A-2 ES where the first page and a half of Grade II (and Grade I in the case of the Church) in a distance from 1.08 km to 2.25 km (Yew Tree Farmhouse). Those details indicate that 4 out of 4 blade tips/nacelles will be visible.
22. Some assistance on impact is derived from the colourings in Figures 7.4a and 7.4b ES on potential impact. The Inspector will see the area of the Church and its surrounding buildings including the School and its playground shaded in gray. Due north of the Church is the Parish Cemetery and Car Park accessed from Hill Lane. That is shaded green and yellow. Continuing due north just north of Brent Street which circles the Knoll the fields heading north are also shaded green and yellow. It will be from the footpaths heading in those directions that the Church will be most visible against the turbines, even though on the Appellants Figure they assert there will be no theoretical visibility from the Church itself.

Some additional assistance is derived from Figures 7.5a and 7.5b. If similar photomontages had been taken from Hill Lane and north of the village, the Church spire will have into view. As it is Figures 7.5a and 7.5b offer a useful illustration of heritage impact as the view captures the setting of Knoll Farmhouse, Jarvis Lane (LB 434383 at 1.63 km from T4 which may prove to be a useful comparator.

We would invite the Inspector to recommend to the Secretary of State that there would be sufficient grounds on heritage alone to refuse this Application.

Visual Amenity – Residential

23. We would draw the Secretary of State’s attention to some parts of the evidence of Mr Stevenson JSA Associates, (27 November 2013) again in the context of deference or otherwise to local concerns.

3.5 “In terms of altering the elements patterns and combinations of elements and patterns that give rise to regional character, *the Pilrow proposal would have little relevance except at the local scale.*”

3.8 “The wind farm landscape would be where the wind farm would be *the* defining key landscape characteristic and that would be how that part of the landscape would be defined and perceived and described. Essentially it would be where the wind farm would be the dominant element within perceptions.”

24. Mr Stevenson goes on to suggest that at Pilrow, in Table 3.1 there are three ranges.

- Theoretical Wind Farm Landscape 700-800m
- Probable theoretical local landscape with wind farm sub type 1.5 km
- Possible theoretical local landscape with wind farm sub type 2.5 km

After developing his argument Mr Stevenson goes on to assert

3.21 “The effect would be significant; *local rather than widespread*; long term as opposed to permanent; relatively easily reversed...and depending on persuasion, positively regarded by some, of no account for others and adverse for the remainder.

25. The difficulty with this analysis is that Mr Stevenson, and indeed the Appellant for whom he acts has failed absolutely in assessing the weight to be ascribed to local impact by virtue of a failure to carry out any robust consultation *similar* to that which is now compulsory under Section 61W Town and Country Planning Act 1990.

Using Mr Stevenson’s JSA Methodology as he describes it, a reader of Section 61W might conclude “. a majority of the persons (*to be consulted*) who live at or otherwise occupy premises in the vicinity of the land” as being either within a 700-800m radius, or a 1.5km radius, or even a 2.5 km radius depending on the size of the scheme and the nature of the landscape.

We agree that the Regulation has only been in force since 17th December 2013 but it has been widely trailed since 6th June 2013 and the Appellant has failed to adjust any of its ES and/or any engagement with the people most obviously impacted if the development goes ahead.

The Secretary of State should have regard to best practice as is enunciated by the recent Regulation. We agree that in 2010 when the Appellants started work on the ES they could not foresee that this Regulation would come into force, but it is to be assumed that they envisaged an impact at least of the order of that described by Mr Stevenson and they clearly have the resources. Figure 6.3.1 is the Location Plan of Residential Receptors. Figure 5.1 is the Shadow Flicker Potential Area of Effect. Appendix 4.2 is the list of Noise Sensitive Receptors. Appendix 6.E.1 is the Schedule of Residential properties. Its worth looking down the list and the distances, and the cases where reference is made to “clusters” as opposed to discussing individual houses with real people living in them.

Additional Figure A was produced for the Inquiry to show the 2.5 and 5.00 km radii from the site.

26. So the ES and in particular, the local engagement, must be measured against best practice today. If the Regulation has been enacted it can only have been so enacted to remedy a defect in the process and in an attempt to ensure that local concerns are met.

One of the troubles for practitioners in the law is that it keeps changing. You have to bear current best practice into account.

Here Parliament has spoken as to what it wants to happen now; it must be assumed that it has been unhappy at what has been happening to communities up to now to enact legislation. There will undoubtedly be schemes which would pass the tests now required even on a retrospective basis – community led schemes for example – but this is not one of those.

The Inspector has now toured the immediate and the wider area and will have a sense of the living conditions of the people within Mr Stevenson’s definitions of those affected by significant impact.

27. We cite in aid of our propositions on impact the recent Secretary of State Decision Letter dated 19th December 2013 in **Bozeat** 2140401, 2149434, 2149437 which was handed in during the Inquiry. In particular we read

Landscape Character

Paragraph 9

“He (The Secretary of State) notes the appellants case that the change as a result of the development would be sufficient to create a wind farm landscape in a localised area extending some 650-700m from the turbines- where these would be the defining and dominant element in the landscape character; and that thereafter and for a distance of some 3-4 kms from the turbines. The development would be the cause of local landscape sub-types within the context of the existing identified landscape character types.”

Paragraph 10

For the reasons given at IR228-229, the Secretary of State agrees...that the Appellants acknowledgement that a new windfarm landscape type would be created is itself a measure of the substantial impact of the proposed development. He agrees...that although the effect of the scheme on the landscape fabric would be limited (IR230), landscape character is derived from a number of contributory components and that the division of the effect of the windfarm into relatively geometrical inner and outer areas pays insufficient regard to other contributors (IR231). He agrees that at 125m the proposed turbines would be very tall components of the landscape; that the adoption of a standard radius to define the area of the new windfarm landscape is an acknowledgement of dominance, and that there would be nothing in any way

comparable in the immediate area of the turbines (IR231). He also agrees....(IR231) that although the impact of the turbines on landscape character would generally be reduced as the former landscape character reasserts itself, the assessment of effects is not just a measure of visibility”

Paragraph 11

“...Like the Inspector the Secretary of State is also concerned that the proposed edge of the windfarm landscape may be too close to the turbines, and that the location of the locally characterising sub-type outer boundary should have been more accurately assessed.”

28. Continuing on the Visual Effects,

Paragraph 12

“The Secretary of State has carefully considered the Inspectors assessment of visual effects at IR236-257, taking account of the level of agreement both between the principal parties that the visual effects would extend to 7-8kms from the turbines with the greater distances applying to the more elevated views, and between the landscape witnesses in relation to the potential for significant effects in EIA terms (IR237). The Secretary of State agrees....(IR238) that other than in relation to the more elevated viewpoints, over about 6kms the turbines would become relatively manageable components of the scene. He also agrees (IR241) that in relation to the interface between the built up area and its undeveloped surroundings, the relationships in all the settlements referenced in IR236 and IR240 is intimate and essential, *and in many ways the area immediately surrounding a settlement is the most important and accessible expression of its rural location.*”(our emphasis)

Pausing there, the relevance of these observations on distances across to the Mendip AONB and West Mendip Way become readily apparent, as well as the distances up and down the Cheddar/Axe Valley that forms the landscape of the levels.

29. We cite these passages however to illustrate that the Secretary of State recognizes that such a development would be dominant at least 650-700m from the turbines, but that the edge of windfarm sub-type may be too close to the turbines, from which we draw the conclusion that a formulaic approach should not be taken, and there should be recognition that on the Pilrow site there is a relationship between the southern edge of Rooksbridge and the northern edge of the settlements and hamlet at Vole Road, both of which the Inspector has seen that would resonate with the sentence “*and in many ways the area immediately surrounding a settlement is the most important and accessible expression of its rural location.*”

As an aside we mentioned that in Para 306 of that Inspector’s Report the suggestion that turbines might be regarded as “sculptural” was readily dismissed but we also note that on “reversibility” in Para 309 the likelihood of repowering diminishes the argument on reversibility and in Para 305 the Inspector says “*I recognize that in energy generation terms the renewables are sustainable*

because they don't need fuel, but I see no reason for the elevation of their status...."

30. So in dealing with Visual Amenity in our case, despite defining the radius in which there will be significant impact as 700-800m where the wind farm would be *the* defining key landscape characteristic, the Appellants want more. They seek to persuade the Secretary of State that despite the assertion above that “ *an acknowledgement that a new windfarm landscape type would be created is itself a measure of the substantial impact of the proposed development*” they go on to suggest that “the Lavender Test” permits the development despite a number of homes within their perimeter. See 4.21 of Mr Stevenson’s Statement. Mr Stevenson urged us not to apply a formulaic approach for example in 2.8 of his Statement where in the context of GLVIA methodologies he says “*The main difference is that GVLIA3 places greater emphasis on professional judgment and less emphasis on a formulaic approach*”
31. After spending several pages essentially arguing that the landscape character is “sufficiently strong” to accommodate the Isolated Lowland Hill as well as a “Theoretical Wind Farm Landscape” in a range of 700-800m, he then argues in 3.29 “the result of adding the proposed wind farm to the local environment would result in *only local* (our emphasis) change within a very large landscape type. This is I have to say another pejorative term. It may be “only local” to the Appellants but it’s very much on your doorstep for the people who live there and whose concerns have not been properly taken into account. The Appellants are applying geometrical formulae here in circumstances where the Secretary of State is clearly minded in **Bozeat** to shy away from geometry (Para 10 Decision Letter) and conduct a more accurate assessment (Para 11). The Inspector has the advantage of having been able to conduct his own site visits and will no doubt have these issues in mind when reporting to the Secretary of State.
32. The Appellants seem to want the best of both worlds. They want to impose a Wind Farm Landscape of a radius of their choosing, which happens to geometrically sit within the boundaries of the landowners contributing to the development site, but that’s not enough for them. They want to persuade the Secretary of State that in addition to the “substantial impact” of the development in the landscape at a local level, there’s an insufficient impact on the householders already living within that landscape to prevent this development. What they are really saying is that the inner and outer edges of the Wind Farm landscape are between 500 and 800 metres of the turbines and that’s an acceptable environment for those people to live in. We on their behalf disagree. Many have already expressed their disagreement in their letters of objection which the Secretary of State will see.
33. Mr Stevenson therefore falls into an entirely formulaic approach when arguing that within the 700 to 800m mark from the nearest turbine it is still possible for homes to be occupied and enjoyed without such property being an unattractive place to live. His 700 to 800m range chimes with **Enifer Downs 2071880** which

we note was a decision issued on 28 April 2009 following site visits in February 2009, so nearly five years ago now, and we draw attention to para 68

“68. From the south west, the turbines would be plainly visible from Little Pineham Farm and Dane Cottages (as well as from a range of other properties hereabouts, but which are more distant and generally angled away from the turbines or have a measure of screening from farm buildings). Little Pineham Farmhouse is a small, two storey detached cottage about 100 years old, with its bay-windowed front facing towards the turbine field. Dane Cottages are currently undergoing refurbishment but present a three storey gable end towards the turbine field. I understand that there are to be main windows on each floor in this gable end (including a first floor living room and balcony) to maximise views that, on a clear day, apparently extend as far as Pegwell Bay. The nearest photomontage to both of these properties is A20, taken at a distance of 510 m from turbine T4, which is some distance further back than Little Pineham Farmhouse. The spread of the turbines from this direction would again be 700 m between the outermost turbine towers (T3 and T5) and although there would be some masking of the lower part of the tower of T5 by contours and vegetation, the upper part of the tower and the rotor would be wholly visible. That turbine would be less than 600 m from Dane Cottages while T3, T4 and T5 would all be within 800 m of both Little Pineham Farm and Dane Cottages. The occupiers of these properties too would be faced with the unavoidable and, in my estimation, unpleasantly overwhelming presence of rotating turbines spreading both horizontally and vertically across a substantial proportion of their main outward field of view. By comparing the turbine spacing to the distance from these properties, I again liken that to conveying the impression of living in or at a wind farm, rather than simply having a turbine cluster close by. (our emphasis) The omission of turbine T1 would not significantly reduce this visual impact because it is the most distant from these properties and thus least prominent in this panorama.”

34. We perceive that in the apparent “slowdown in site availability and competition from other technologies” (Mr Dobson 7.24) has resulted in searches in smaller and smaller neighbourhoods to position turbines and the obvious effects on individuals and communities. The fact the Government has now needed to legislate about compulsory consultation tells us of a failure for developers to communicate with neighbourhoods in a meaningful manner.
35. Greater recognition of the impact on locals affected seems to be expressed in recent decisions such as **Bozeat** and to get a sense of scale we would wish to refer to Inspector Barton’s decision in **Sydeham Farm 2189089**, 28th October 2013, a location 8 km south of Exmoor National Park boundary, a single turbine **61m** to tip rendering a property 400 metres away having a severe and unacceptable detrimental impact and to a lesser extent, but still relevant to properties 670 and 665 metres away

With apologies for adding more text, the following seems to be of relevance.

Effect on the Living Conditions of Nearby Residents in terms of Visual Intrusion, Noise, Shadow Flicker and Shadow Throw

10. Paragraph 15 of the *Guidance* supports the safeguarding of neighbours. The closest non-connected dwellings are Thorfinns, Throwcombe and Westcott Farm. Thorfinns is a bungalow in the order of 400 metres to the south west of the appeal site. It stands at 250m AOD whilst the base of the turbine would be at a level of some 220m AOD. The rear of the dwelling faces towards the appeal site and includes main windows to rooms that include the kitchen. A conservatory on the end of the property also allows views towards the proposed turbine whilst areas of the garden would look directly towards the site and would be less than 400m from it. The turbine would also be seen on the approach to the dwelling along Sydeham Lane.

11. The outlook from Thorfinns and its garden is currently largely devoid of manmade structures and the introduction of a 61 metre high, moving, wind turbine in such close proximity would, in my view, create a looming and unavoidable presence that would be so oppressive that it would render the living conditions at Thorfinns unbearable. Whilst landscaping is proposed in the form of a bund with planting, akin to a Devon bank, it would take a number of years to reach any sort of maturity when the proposal is for a temporary period of 25 years. For much of the turbine's life the proposed landscaping would not provide the full mitigation it is designed to provide. In any event, it would only screen the lower part of the monopole. The proposal would, therefore, be contrary to the aims of saved LP Policy DVS3 A).

12. From within Throwcombe the turbine would mainly be seen in oblique views to the north west, although it would be more readily visible from the garden area, including the terrace close to the house. However, whilst there would be some impact from the introduction of the moving manmade structure, the separation distance of some 670 metres would be sufficient to prevent it having an unbearable impact on the living conditions of the residents.

13. Similarly, Wescott Farm is around 665 metres to the north east of the proposed turbine site. Although neither statutorily, nor locally, listed I note a report which indicates that Westcott Farm is 'an early medieval manor house within a Victorian re-clothing with significant surviving cob and stone farm buildings' and have considered it as a heritage asset. The blades of the turbine would be visible above trees in slightly oblique views from the windows on the front elevation, from the front garden, and from the fields in the vicinity of the house where visitors to the business might venture and where a public footpath descends into the wooded valley. The partial screening and separation distance would not totally mitigate the impact but would be sufficient to prevent the turbine from having an unacceptable impact on the setting of the heritage asset. The proposal would slightly conflict with the aims of saved LP Policy DVS3 A) in respect of these two properties.

Planning Balance

25. Even if the appellant's assessment of benefits is accepted, and notwithstanding the conclusions on landscape, cumulative impact and other matters, including access, the benefits of the proposed turbine in terms of reducing CO2 emissions and combating

climate change would be clearly outweighed by the severe and unacceptable detrimental impact that the proposal would have on the living conditions of the occupiers of Thorfinns, and to a lesser extent the residents of Throwcombe and Westcott Farm. That impact is the determining issue in this appeal.

36. We make no other submission in this regard save to record that the Inspector has had the benefit of Site Visits. If it be the case that a Wind Farm Landscape is created at 700-800m it seems that Inspector Lavender's approach in **Enifer Downs** was to engage public policy *at that range* to prevent harmful impact to those who would find themselves living on a wind farm as opposed to having a cluster nearby, and we would argue that the Secretary of State should avoid the formulaic approach that Mr Stevenson warns us of in a similar context of assessment on landscape. In this most recent decision of **Bozeat** there is express criticism of a geometric approach to inner and outer areas of a wind farm landscape which suggests that the whittling away of the original **Enifer Downs** range is in the process of being reversed in more accurate assessments of impact on neighbours. If you have to look at the issue mathematically, then if a 61m turbine makes it unbearable to live 400m away, (**Sydeham Farm**) arguably a 130m turbine would be unbearable 850m away, and in the Pilrow landscape, the turbines would be undisguisable.
37. We urge the Inspector to recommend to the Secretary of State that there is sufficient material to refuse this Appeal on this ground alone

Noise (Construction)

38. We have not had the benefit of live evidence from the Appellant or any party on the questions of noise relating to the proposed development. We shall deal with construction and traffic issues presently but we would like to draw the Secretary of State's, attention again in the context of deference or otherwise to local impact to what Stephen Arnott has said at 7.42 in his Proof of Evidence dated 9 December 2013 on Noise his reference BEL/SA/2

Construction Noise, including piling

7.42 Concerns were expressed that construction noise would be an issue and that insufficient details on construction methods had been provided in the ES.....

7.43 Section 3.7 of the updated ES outlined an indicative construction programme.....There is no indication at this time that piling would be required onsite so it's not possible to include this aspect in any assessment

7.44 When ION reviewed the noise assessment they observed that any potential noise impact was relatively minor **so they did not bother** to include a detailed construction noise review in their workscope.

7.45 Subsequently I reviewed the assessment by AMEC.....Some activities such as construction of the access track will be audible in the vicinity of the nearest Receptors (Peak View Farm) but such works are of limited duration....

39. This is an example of a lack of consideration of those most directly affected, with no mention of the impact on the users of The Stables Business Park, whether Poplar Farm, (Patons) Mudgley Wall House (Donalds), Wintine and Paddocks (Mugford), and The Paddocks, Mudgley Road (Hodgson) would be affected. I accept that there may be an opportunity to deal in more detail with additional materials to be supplied by William Tate of Donaldson Associates and Ian Lamb of Transolutions but I believe the context in which the AMEC ES was prepared and evidence filed thus far is a pretty clear indication of lack of concern on something specific that impacts on those closest to the proposed development

Ecology, specifically Ornithology

- 40 Whilst we have not called evidence on ecology, the Inquiry has had the benefit of the public presentation made by Simon Tidswell during the public session on the 14th January 2014 and to which the Inspector has already alluded as a topic on which additional work is needed by the Appellants. It is disappointing that all the professionals concerned have not reached a consensus on ecology, particularly ornithology, and it has been left to a local resident to bring such issues to the attention of the Inquiry. We can do no more at this stage than draw the Secretary of State's attention to the protection of several species perhaps regarded as more "common" such as Peregrine Falcons, Barn Owls, Kingfisher and the others referred to by Mr Tidswell and which carry the full protection of Schedule 1 of the Wildlife and Countryside Act.

This suggests the ES (and subsequent Statements) remain unreliable as a description of the potential impact. This is particularly because as Mr Tidswell states:

"Only data to answer the question "Is there bird traffic between the two SPA's?" has been gathered which is further limited to only a handful of species, so ignoring the majority of other species to their detriment"

The Inquiry also had the benefit of examples of the wildlife and landscape photography of David Hodgson which he added to his evidence at the Inquiry, including the Barn Owl in his own barn and the nesting Kestrels on his land, and the Inspector will have noted the proximity to the development site and the access to it across Mudgley Road, creating impacts that the Appellants have not included in their ES.

Traffic, Construction issues

- 41 We say all issues relating to highway safety cannot await some additional Construction or Traffic Management Plans after consent is given, but is sufficiently important to be addressed now. The ability of local people to influence events after consent is nowhere as robust as their ability to influence the debate pre-consent. What is particularly surprising is that the Appellants who are not novices at building Wind Farms are unable to tell us with any great accuracy what construction impacts there are going to be. It beggars belief that such little information has been given about such a large construction project with seemingly not a single ground investigation done similar to Tony Rendell's Site Investigation the details of which he shared with the Appellants and the Inquiry
- 42 We are sure the Inspector has taken the points about the movements upwards in traffic numbers, impact on the users of the Business Park, impact on Mudgley Road users, the effects discussed on the Site Visit to Acacia Farm about National Grid works, the failures to assess traffic volumes on both stretches of the A38 either side of the proposed development and the absence of terribly important accident information.

We wont call them "statistics" as no-one who was at East Huntspill Village Hall on Tuesday 14th January 2014 could fail to be moved by the composure of Pat Ireland when she relayed to the Inquiry in her anniversary month the terrible and distressing nature of her late husband's death.

What the Appellants have found is that the locals know more about the living and working conditions in their area than they do and by proceeding on a "desk top" assessment basis the Appellants proceed at their peril.

- 43 What seems odd is the changing position of the Appellant with regard to access to the site via the A38. Chapter 11.5.7 ES was categoric that during construction the A38/Mudgley Road which provides access would remain open to minimise impacts on business park tenants, presumably because the assessor had determined that the construction traffic would have an adverse impact but that in "lighter" months the new site entrance would be shared between the developer and business park tenants. If that was true in June 2012, and we see no reason for it not to be true then when the Application was being prepared, then it must still be true now. What is different now is that the ES traffic movements described in Table 11.6 have been uprated from 2193 loads, 4386 trips to (asserted worst case) 3718 loads, 7436 trips (Review by William Tate – Donaldson Associates December 2013).

So more than ever, there is likely to be an adverse impact during the construction period; whether it becomes "lighter" in the terms envisaged by ES 11.5.7 has

to be assessed against the 70% uplift measured between the AMEC ES and the Donaldsons Review.

- 44 The evidence given by Bill Walker of the planning history of the Business Park demonstrated the substantial efforts made by Rose Farm Developments to secure their A38 access on the grounds of improving the road safety of their own tenants, users, visitors etc, but also improving the road safety of their neighbours in Mudgley Road as shown in the many letters of support filed for the proposal.

Nevertheless, the Appellant's Agents, AMEC argued that during construction the Business Park tenants must use Mudgley Road, presumably for their own safety and well-being, without recognizing that several years had been spent by Rose Farm Developments trying to avoid the need to use Mudgley Road for the good of neighbourly relations. Having seen Bill Walker's evidence and that of Nick Woolmington, the Appellants then uprate their estimates of volumes and say in effect it's safe for the Business Park users to share with the construction traffic. We disagree. The Inspector has now visited and can draw his own conclusions. It's noteworthy that the Mudgley Road access which given its Planning Condition should have been permanently stopped up is self evidently not, so it remains the case, that barring enforcement action, the Business Park users still have that access available to them, should the truth of the matter be that the Appellants would really still wish to have exclusive access.

- 45 No information whatever has been supplied as to the exit from the Business Park across Mudgley Road and into the development site although that may be forthcoming by 31st January 2014 after the direction given by the Inspector at the closing of the public part of the Inquiry on 17th January 2014, and in which event we may comment further.

Traffic

- 46 The Appellants have failed to take local conditions into account as illustrated by the presentations made to the Inquiry by Pat Ireland and also David Maund of Lights for Life, and others about the School Bus issues in the village, and Wendy Griffin who at Yew Trees Nursery caters for up to 100 children at any one time with forty local members of staff.

- 47 Its worth the decision maker looking at a plan to illustrate starkly more for what is not revealed from the plan than what is. A convenient starting point is **Figure 11.3 Accident Survey Area**. What this reveals, or doesn't reveal as the case may be includes the following:

- The stark absence of any accident assessment from the centre of Rooksbridge eastbound on the A38, nor comment on the continuation of the route to Cross which is the junction where quarry lorries join the A38 from Cheddar

- Travelling northbound up the A38 from Junction 22, the absence of any comment that where Harp Road joins the A36 at White Cross (more familiarly known to us as the Fox & Goose crossroads) northbound traffic **must** turn left to go back down to the roundabout and come back up the A38,
- Ditto, traffic leaving Sanders Garden Centre also **must** turn left and head back to the roundabout before coming back up the A38
- That such safety features are not presently available to the users of the Battleborough Hotel and Ollie’s Café, more or less opposite each other on the A38, nor to the users of the very busy carvery restaurant at Brent House Hotel, and Lakehouse Lane, again more or less opposite each other on the A38.
- That progressing along the A38 eastbound, no mention of Margaret Liddington’s hazardous entrance to the A38 from her home at Chapel Farm, ditto the users of Mill Batch Farm.
- That whilst extolling the availability of the A38 access into the Stables Business Park, not commenting on the proximity of Peak View Farm (not shown on this edition of the OS Map) and Poplar Farm, and the minor road to the north of the A38 serving the Mendip Business Park (and which is the service access to the Southbound Sedgemoor Services)

48 We could continue in a similar detailed manner eastbound, and it may be argued that these are minor issues to be resolved “later”. However the complete absence of any assessment eastbound means that the decision maker has no means of assessing impact. Further the absence of any assessment of the impact of the extensions to Sanders and the National Grid Connection project makes it unsafe to place any reliance on this part of the Appellant’s ES. Equally it is inappropriate to rely on any comment from Consultees such as Somerset County Highways until it is shown that they have been supplied with proper and accurate information on which to base their responses.

Further all narrative in the ES dealing with Severance (11.3.13), Driver Delay (11.3.17), Pedestrian Delay (11.3.18), Pedestrian Amenity (11.3.20), Fear and Intimidation (11.3.22) is all plainly unreliable.

The Inspector has become familiar with the A38, its confluence with the A370, and then the M5 at Edithmead, and has had the opportunity to enjoy the facilities at Sanders whose facilities are seemingly about to double in size and so has seen much of the route that traffic (in whatever volumes are finally enumerated) will follow. As and when any additional information comes in from the Appellant we appreciate the opportunity to make further relevant comment to the Secretary of State.

Television

49. We believe the Inspector has taken into account the potential difficulties and the inability to deal with these issues by Condition. In these Applications

decision makers always receive statistics about the numbers of homes to be powered and carbon saved. Here the Appellant claims in its **Report on Energy Potential Table 10** (which we have not had an opportunity to address) that between 5250 and 6050 homes depending on turbine and domestic consumption could be powered.

50. It is all very well to suggest that those homes may be able to buy their power from the Appellants, but **Table 12.1** of the ES asserts that:

Turbine 1 potentially affects	2354 homes
Turbine 1	1484
Turbine 3	2016
Turbine 4	3525

51. It's not acceptable that those householders can't watch their TV or receive local programming for which they have paid their Licence Fees (or receive free depending on age), or have to pay out for mitigating costs without being sure that they will be reimbursed. This is a clear example of a failure to address local concerns. Maybe when Section 61W Town and Country Planning Act 1990 is fully complied with, Applicants will resolve such issues much earlier in the process rather than making assumptions that these are just residual issues to be looked at some stage after consent leaving locals vulnerable because of their inability to participate in post-consent matters. We won't make further comment until the additional materials requested by the Inspector are received.

The Planning Balance

- 52 Here we have to defer to those who know much more than we do on policy matters. To us there seems to be an unseemly scramble for apparently 28MW of wind power potential based on material noted some four years and more ago and time has moved on. We sense the thrust of Mr Dobson's approach is that because other areas are behind on "targets", whatever those targets are supposed to be, everyone else is required to contribute.

Well, Somerset is contributing a great deal, Hinkley both as now and in the future and there is a raft of public documentation showing what Hinkley B is now producing (850+MWH), and to seek use the local planning system to extract some over-performance in one locality to compensate for under-performance in another locality requires an over-arching approach that the local planning system is not designed to achieve – but might be appropriate at national infrastructure level.

The repeated use of the assertion that the proposed development is "urgent" is belied by the Appellant's own experience in Westnewton, Cumbria APP/G0908/A/10/2132949, consented on Appeal on 4th February 2011 and four years on, no sign of a date by when energy might be delivered to the grid.

53. The absurdity of the policy interpretation advanced by the Appellants could be illustrated by this example. We were struck by the observation of Nick van der Bijl, Chairman Mark Parish Council, that Mark has no street lights. East Brent has precious few, and likewise Rooksbridge away from the immediate centre of the village.

Driving as one does on a regular basis down the M5 from the north the orange glow of the Bristol & South Gloucestershire conurbation of something like a half million souls becomes substantially obvious from the peak of the hill past Junction 14 and heading down to the M4/M5 Junction. It's a substantial panorama, all aglow in orange. Driving through Bristol and out the other side past Junction 20 (Weston super Mare) darkness starts to dominate. That's because there's not a huge population, and a lot of where we live isn't lit.

54. So our rural community of some 1300 souls in East Brent and about 1500 in Mark, who enjoy little of the benefits taken for granted in conurbations such as super-fast broadband to name an obvious one, are expected to have a substantial impact on their landscape and visual amenity because half a million metropolitans wont switch their street lights off to save energy?

55. How can it be regarded as a reasonable planning balance that a failure of major population areas "to pull their weight" as it were should result in a substantial and disproportionate impact on a small population? We see nearly 38MW of Commercial Solar approved since January 2011 making its impact on the Sedgemoor landscape compared (in an entirely unscientific way) to eight or so turbines at and around the Avonmouth/Sevenside industrial zone as the visible contribution of a half million population to renewable energy.

56. The real truth here is that the Appellant has spotted an opportunity that in 2009 a Study of doubtful current validity has noted that a particular "Wind Development Zone" (as Mr Dobson described it from the Arup map that we have all looked at – Appendix A Fancourt), might produce 28 MW but hasn't yet, and the Appellants want to get hold of it before anyone else does, and don't appear willing to back away from the pursuit if someone else does indeed get to the alleged resource first. This is a simple pursuit of a commercial opportunity by this Appellant and others and should be looked at and assessed in that context, and not in the asserted context of seeking to mitigate whatever the impacts might or might not be of climate change.

57. On that latter topic we feel we must mention an issue that the Inquiry would not let us put to Mr Dobson. Any reader of Mr Dobson's Statement and any listener to his evidence would read and hear large sections of that evidence peppered with the "urgent" need to maximise deployment of wind energy in a target driven policy environment set by Europe. The tenor of the exhortations was almost messianic in nature.

58 On Europe, we wanted to put to Mr Dobson an anticipated public announcement from the EU Commission on 22nd January 2014 but this was suggested as equivalent to bringing a rabbit out of the hat. The issue had already been put to the Inquiry by Professor Peter Gold on 14th January 2014 in his penultimate paragraph of his Statement on Page 3 which we set out below:

“Finally, Mr Collett informed us last week that Sedgemoor will meet its renewable energy targets for 2020 and I note that the European Commission has accepted that EU members will not have to set renewable targets for 2030 in addition to targets for the reduction in CO2 emissions. So it will no longer be justifiable to argue that we must have on-shore wind farms in order to meet binding government targets for renewable energy. Britain will be free to meet its CO2 emission targets by whatever means it chooses”

59 Professor Gold gave the reference but you need to get past the Times “paywall” to get at it: www.thetimes.co.uk/tto/environment/article3972094.ece. It was that press cutting that we wished to put to Mr Dobson as he had not mentioned in his evidence any observations on or challenge to Professor Gold’s evidence in this regard.

Given that this Inquiry remains open for Submissions it should now be noted that the EU Commission has issued its press releases, and comment has appeared in many journals and will no doubt continue to do so in the time between now and the Secretary of State reaching his decision on this Appeal. A Rule 6 Party could not hope to make any detailed analysis of the changes this new approach will bring, but a brief perusal of materials on http://ec.europa.eu/energy/2030_en.htm, would suggest that much of Mr Dobson’s argument is now swept away. Member states would now be able to meet their greenhouse gas reduction targets in the most cost effective manner in accordance with their own specific circumstances, and there are no targets as to how those reductions might be achieved through renewables. In passing, press comment suggests the nuclear industry seems to be happy with the outcome, the wind lobby less so.

60 So taken to a logical extension, if a brave government legislated for us all to drive at 50mph on the Motorways, or even strictly enforced current urban and trunk road limits, or switched off the street lights, insulated and draught proofed the housing stock, to name but a few, then those would be an acceptable means of achieving reductions in greenhouse gas emissions without any of the substantial landscape, visual amenity, heritage, construction and traffic impacts that would otherwise be visited on this neighbourhood, and we could all watch local TV without interruption, remembering to switch off rather than leaving on standby. We are not being entirely facetious here. The scope for reducing greenhouse emissions by adjusting, or “nudging” human behaviour in that direction seems limitless.

61 Mr Dobson chided Sedgemoor across his piece and stated in 6.4 quoting (with his emphasis) from the Strategic Objective

“Promoting coastal and surface water management, minimising greenhouse gas emissions, encouraging energy efficiency, renewable energy generation, sustainable construction, climate change resilience, habitat compensation and adaptation will all be necessary.”

- 62 It would now seem that Sedgemoor were ahead of the EU here, and a more up to date expression of policy would now be, as underlined below (*with our emphasis*)

“Promoting coastal and surface water management, minimising greenhouse gas emissions, encouraging energy efficiency, renewable energy generation, sustainable construction, climate change resilience, habitat compensation and adaptation will all be necessary. – and then add *“in accordance with our own specific circumstances”*.”

63. For the reasons we have alluded to above (and there are more) we would urge the Inspector to recommend to the Secretary of State that this Appeal be dismissed.

30th January 2014

Martin Keegan

NoPilrow Ltd