

## STEADINGS WIND FARM

### OPENING STATEMENT ON BEHALF OF THE APPLICANT

#### **Approach**

1. The applicant is Steadings Wind Farm Limited ("SWFL").
2. These opening submissions outline the applications before this Inquiry, deal with various preliminary aspects, and touch upon the matters identified by PINS, on behalf of the Secretaries of State, as being matters about which the latter wish to be informed in considering the relevant applications. I do not intend to anticipate to any material extent the evidence to be called.
3. In so far as possible, SWFL, and its various consultants, have sought to discuss matters in advance of the Inquiry, particularly with Tynedale Council ("TC"). Much work has been done on various Statements of Common Ground. Problems have, however, been caused, for instance, by difficulties in obtaining aviation information, particularly from the MoD, and the late, apparent decision by TC to seek inclusion of a number of additional schemes in any cumulative landscape/visual assessment.

4. At the end of last week Mr Crean, as requested, helpfully provided an outline of TC's legal submissions. SWFL will, if and in so far as necessary, respond in writing when it has further considered these. For present purposes:

- a. Submissions (a), (f), (g) and (i) do not appear to be directed at Steadings.
- b. TC apparently accepts - Submission (b) - that section 38(6) of the Planning and Compulsory Purchase Act 2004 ("the 2004 Act") does not apply here (see further below).
- c. Submissions (c) and (d) are less than clear. Clearly policy cannot itself be lawful in so far as it seeks to make lawful that which is unlawful. But TC does not here argue that any particular aspect of policy is unlawful. Thus TC's apparent point at present seems irrelevant.
- d. Submission (e) - "alternative" sites - is touched on below.
- e. As to Submission (h), there will here be no decision to grant permission for Steadings but rather one as to whether such permission shall be deemed to be granted. Whether, however, this latter formulation is sufficient for sections 66 of the Planning (Listed buildings etc) Act 1990 still to apply is a moot point. Fortunately it is probably academic because, as with section 38(6), the end result is likely to be little different.
- f. Submission (j) appears too simplistic and prescriptive. Matters of intent and (inter)visibility may well be relevant in determining setting,

but that does not preclude other considerations. Determination of the setting in any given instance will be a matter of fact and degree informed where appropriate by expert input.

## **The Applications**

5. There are before this Inquiry applications (1) for consent under section 36 of the Electricity Act 1989 (“the 1989 Act”); and (2) for a direction under section 90(2) of the Town and Country Planning Act 1990 (“the 1990 Act”) that planning permission shall be deemed to be granted in the terms sought in the relevant application (“the planning direction”).
  
6. The proposed wind farm would comprise 21 turbines each with an installed capacity of up to 3MW, giving an overall installed capacity of up to 63MW. The turbine will comprise a tubular steel tower, a nacelle, and a three-blade rotor, having a height to blade tip of up to 125m. The proposed development includes new access tracks and site accesses and a borrow-pit.
  
7. The application for consent was accompanied by an Environmental Statement (‘ES’)<sup>1</sup>, in accordance with the relevant EIA Regulations. SWFL later has provided further information pursuant to Regulation 13 and, most recently, some supplementary environmental information, on a voluntary basis, for the purposes of reviewing and updating the information provided

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<sup>1</sup> CD 2

in the ES<sup>2</sup>. Whilst it is not appropriate in opening to revisit the merits of the Secretaries of State's decision not to postpone the inquiry, SWFL has been materially prejudiced in the preparation of its case both by the decision itself and the length of time it took for the decision to be taken and promulgated. The continuing nature of that prejudice was illustrated by the unusual requirement to call a 'special procedure meeting' immediately prior to Christmas. These matters have also had a downstream effect in delaying the distribution of proofs and documents, which has further prejudiced case preparation.

### **Electricity Act 1989**

8. Under the 1989 Act a licence holder is required in formulating any relevant proposals (including the construction of a generating station of more than 10 megawatts)<sup>3</sup> to:
  - a. Have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting buildings and other objects of architectural, historic or archaeological interest; and

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<sup>2</sup> CDs 3 & 7

<sup>3</sup> Schedule 9 para 1(1)

- b. Do what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.
  
9. The Secretary of State, on an application such as this is required<sup>4</sup> to have regard to the desirability of the matters in sub-paragraph (a) above and to the extent to which any licence holder has complied with its duty under sub-paragraph (b) above.

### **Objectors and Supporters**

10. The main and substantive objections, broadly summarised, fall into categories, namely impact on landscape and visual impact, tourism, some aspects of cultural heritage and aviation objections, all relating to primary radar effects, from NERL, Newcastle International Airport and the MoD. In so far as concerns the Steadings proposal, various other matters have been referred to, in correspondence/representations from third parties, including ecology and various suggested impacts on the amenities of those who live in the immediate and surrounding area. In so far as it is convenient to do so, those objections, and the case of SWFL, will be addressed by reference to the Secretaries of State's matters.

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<sup>4</sup> Schedule 9 para 1(2)

11. As is so often the way, the scheme has generated a number of representations, including letters of support. In so far as the various objections reflect a desire to protect private interests, *The Planning System: General Principles* (which falls to be read in the context of PPS 1<sup>5</sup>) advises<sup>6</sup>:

*The planning system does not exist to protect the private interests of one person against the activities of another ... The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.*

12. Where there are strong feelings, it is often the case that objections are expressed with some vigour and in robust terms. Again, no criticism attaches to this and it is a strength of the inquiry system that it allows a vigorous public expression of views. However, the views expressed must be relevant and must relate to those considerations which are material to the decision to be made by the Secretary of State. If they are to carry weight, they must go beyond mere assertion or invective, and adduce relevant, cogent, and appropriately informed evidence to support the view advanced.

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<sup>5</sup> CD 70

<sup>6</sup> CD 69 at paragraph 29

13. Additionally, there is a requirement of fairness which protects promoters of a scheme and objectors alike. This fairness requires, for example, that objectors avoid mere abuse of or accusations against the promoter, and concentrate on the issues, which the Inspector has been appointed to report upon, and which the Secretary of State must consider.

14. Inevitably, public inquiries tend to concentrate on grappling with matters raised by objectors; those members of the public who are neutral and are not moved to object, and indeed those who support the proposed development, can all too easily be forgotten. Whilst the forum of an inquiry to allow objections to be aired is welcome, the clamour of such objections must not be allowed to obscure the views of others. It is of note, for instance, that TC's own report of the Steadings proposal to members records some 50 objections against 55 letters of support<sup>7</sup>

15. I now turn to the matters identified by the Secretaries of State.

**Matter (a)** the extent to which the proposed development(s) would be in accordance the relevant development plan(s) for the area(s);

**Matter (b)** the extent to which the proposed development(s) would be consistent with the objectives of Government policy on energy as set out in

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<sup>7</sup> TDC/1/3 Appendix 1 paras 5.23 and 5.23.2

Planning Policy Statement 22: *Renewable Energy*, with particular regard to the Government's commitment to generate 10% of UK electricity from renewable sources by 2010; the wider social, economic and environmental benefits of the development; and the extent to which any adverse impact has been minimised through careful consideration of location, scale, design and other measures;

**Matter (c)** the extent to which the proposed development(s) would be consistent with the Government's policy on energy set out in the Energy White Paper "*Meeting the Energy Challenge*" (Cm 7124 May 2007);

16. For present purpose, it is convenient to take the prevailing policy matrix as a whole. I therefore deliberately take matters (a)-(c) together. The relevant policy inter-relates with various domestic and international legal obligations and cascades down from international through European, national and regional to the local level. Irrespective of whether or not section 38(6) of the Planning and Compensation Act 2004 ("the 2004 Act") has any application here (as to which see below), it is important to recognize that the prevailing policy and legal matrix provides a global, European and national response to a global problem. In such circumstances, the development plan, though potentially important, can only reflect a subordinate link in that overall chain. It is a link, moreover, which can only properly be forged after - and by taking account of and giving effect to – the higher legal and policy tiers. At best, the development plan can only hope to be up-to-date with and to reflect accurately those higher tiers. It falls to be construed, in so far as

possible, to accord with those higher tiers. In so far as it fails in that, the higher tiers represent most material considerations indicating otherwise.

17. Mr Provan sets out the approach to climate change and the various legal and policy responses thereto at all levels. It is important to recognize that what is here proposed derives overwhelming support from the policy cascade, and legislative provisions such as the European Directive on renewable energy<sup>8</sup>. Schemes such as this come forward expressly to meet national and international requirements in relation to the percentage of electricity derived from renewables.

18. It is not appropriate to anticipate the evidence to any great extent here but I make the following headline points:

- a. The following statement to the House of Commons by the Minister for Energy provides, an example of Governmental concern as long ago as 2004 about meeting the 2010 renewables target.

*The Prime Minister made it clear that climate change is the world's greatest environmental challenge. Burning fossil fuels produces greenhouse gases and carbon emissions, which can raise the earth's temperature. That could lead to changes in temperature patterns, which could mean an increase in droughts, which affect crop yields,*

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<sup>8</sup> CD 126

*tornadoes, flooding and the extinction of some vulnerable species of wildlife. Energy demand in the UK and across the world is rising, while the availability of fossil fuels is expected to decline in the long term. The issues are serious, and all Governments must respond to them with long-term solutions. We must develop sustainable, secure and diverse supplies of energy for the future. The UK has set targets to reduce carbon emissions by 60% by 2050. There is no single means of delivering the target. Better energy efficiency is crucial but insufficient in itself. Green energy – renewable generation – has a key role to play. It can contribute towards secure energy supplies, create new investment and bring new jobs. The UK has set a demanding target for 10% of our electricity generation to be supplied from renewable energy by 2010. In 1997, renewables contributed 0.7% of our electricity. That has been tripled .., but there is still a long way to go to hit our target of 10%. To achieve that target we need to make use of all renewable sources. We expect 7 or 8% of the 10% generation to come from wind energy. Other technologies will be hard pushed to produce the rest. The suggestion that other energy sources can hit the target by themselves is plain fantasy Today, renewable electricity, mainly from wind farms, supplies enough electricity to light up Manchester. In theory, up to 2 million homes could be lit from wind power. But the plain fact is that without a substantial increase in onshore wind developments, the 10% target is unachievable ... [Any] proposal to give a local veto on all wind farm developments is simply not credible to anyone who is serious about our renewables targets. We are not focussed on onshore wind farms to the exclusion of other energy sources – the UK has a vast potential renewable source, and we want to take forward a wide range of renewable technologies – but wind energy currently offers the best, most cost effective and the only truly serious potential for expansion in the short to medium term.*

As 2010 gets closer, the need, and the implications of not meeting the target, become yet more acute.

- b. The Government's latest Energy White Paper<sup>9</sup> is clearly of central relevance in identifying the key policy strands here. It states, amongst other things:

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<sup>9</sup> CD 102 May 2007 – Box 5.3.3

*New renewable projects may not always appear to convey any particular local benefit, but they provide crucial national benefits. Individual renewable projects are part of a growing proportion of low-carbon generation that provides benefits shared by all communities both through reduced emissions and more diverse supplies of energy, which helps the reliability of our supplies. This factor is a material consideration to which all participants in the planning system should give significant weight when considering renewable proposals. These wider benefits are not always immediately visible to the specific locality in which the project is sited. However, the benefits to society and the wider economy as a whole are significant and this must be reflected in the weight given to these considerations by decision makers in reaching their decisions.*

The quoted extract refers not only to the climate change benefits of renewables but also to the advantages in terms of security of supply. As regards the economic implications and costs of climate change, the Stern Report is of particular importance.

- c. Policies M4 and M5 of the Joint Structure Plan identify criteria for judging the Steadings proposal and incorporate various "areas of least constraint" for "medium scale" wind development; these include, importantly for present purposes, the Knowesgate area. The emerging RSS was subject to EiP in 2006 and in May 2007 the Secretary of State published proposed changes to the Draft Revision submitted by the North-East Assembly. On any analysis, this document attracts significant weight. It too, like the JSP, contains areas of least constraint

and confirms the spread of "medium scale" as 20-25 turbines. Steadings is favourably placed.

- d. Policy 40 of the emerging RSS identifies, the specified renewable energy targets are minima. This accords with PPS 22<sup>10</sup>, where the prescribed target figures are expressed as the minimum amount of installed capacity to be achieved. PPS 22 also confirms (1) that targets should be reviewed upwards (if met, and subject to the stated criteria) and (2) that the fact of a target having been reached should not be used in itself as a reason for refusing consent for a given scheme.

- e. As explained by Mr Provan, the region is not performing well in terms of meeting even the 2010 minimum target for the provision of energy from renewable sources. There is a clear and urgent need within the region even before one starts to look further afield.

19. On any fair and rational basis, there is here the very clearest imperative behind allowing this project to proceed unless one of the matters raised by way of objection is so significant as wholly to nullify that strong presumption. Additionally, in weighing those matters of objection it is not appropriate merely to ask whether any adverse effect on, for instance, the existing landscape, is so significant as to dictate refusal. It must be

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<sup>10</sup> PPS 22 para 3

recognised that renewables are being brought forward in order to counter adverse changes which are already occurring. Neither the landscape, nor the ecology as we presently know it, is to be taken as a constant or a given.

20. The RSPB has stated<sup>11</sup>:

*... climate change is already affecting the distribution and abundance of British birds and other wildlife and will have an even greater impact in the future if we do not take steps to limit warming. The true extent of unchecked climate change on British wildlife is still unknown.*

***What are the options for limiting climate change?***

*The RSPB, with many other organisations, believes it is necessary to limit the average global temperature rise to 2 degrees C at most, so that people will still have practical options for conserving biodiversity and maintaining a liveable environment for ourselves. To achieve this goal, global greenhouse gas emissions must fall substantially – to 60% of their current levels by 2050.*

*The RSPB strongly supports the UK Government's initial targets to put the country on track to meet these challenges through energy efficiency, lowering energy demand, and adopting renewable technologies. The UK aims to switch 15% of the UK's electricity supply to renewable resources by 2015. The Scottish Executive is reaching even higher, setting Scotland the goal of 40% of electricity supply from renewables by 2020. The UK has also set a target to cut carbon emissions by 20% by 2012. Fulfilling these targets, and the longer term reductions required by mid-century is essential and will require resolve on the part of government, businesses, communities and individuals.*

These are important matters. The question is not about maintaining the status quo and comparing the existing situation with and without the windfarm. The question is rather about whether this proposal should come forward to assist in achieving the sort of objective to which the RSPB quotation speaks. The present site and its surroundings (including the ecology) are every bit as subject to the deterioration identified in that quotation as are other places.

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<sup>11</sup> Climate change and Birds RSPB 2004

21. Here there is (virtual) unanimity as to the need for urgent pursuit of the renewables route as set out at international, European and national level. Nor can there be any serious question but that onshore wind must play the most important part. Thus the precautionary principle in the present case operates to bringing forward projects such as this; it does not operate to frustrate such development and expressly recognizes that the judgment is one of appropriate balance, not a requirement for absolute certainty.
22. This proposal fully accords with international policy and requirements. At national level it entirely accords with, and is essential for the fulfilment of, the government's policy on energy as set out in the Energy White Paper<sup>12</sup> (Matter c) and PPS22 (Planning Policy Statement 22: Renewable Energy) (Matter b)<sup>13</sup>.
23. A proper reading of the (emerging) regional guidance, which must be interpreted so as to accord with the aims embodied in Energy White Paper, supports a windfarm of this capacity, in this region, and in this type of location, where the wind resource is available to be harnessed.
24. The proposed development would make a significant contribution to the targets in the government's renewables targets. It would be inconsistent with the prevailing international and national policy matrix to reject this proposed wind farm development.

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<sup>12</sup> CD 102  
<sup>13</sup> CD 74

25. Section 38(6) of the 2004 Act provides:

*If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.*

26. Any decision here in respect of section 36 of the 1989 Act clearly falls outwith the terms of the section 38(6), since the relevant decision is one under the 1989 Act. In so far as concerns any decision on whether planning permission should be deemed to be granted (under section 90(2)), there is no express statutory provision requiring regard to be had to the Development Plan so as to engage section 38(6) for the purposes of that decision. I refer to Mr Provan's evidence where he sets out the approach in his proof<sup>14</sup>. Of course, the development plan remains a material consideration and, in the result, the approach to be adopted is likely to be little different whether section 38(6) is engaged or not. In any event, Mr Provan's appraisal identifies that, even were section 38(6) engaged, the resulting conclusion is no different.

27. It is also important to bear in mind that the concept of accord with the development plan does not require compliance with each and every policy thereof. Almost any proposal can reveal 'tensions' between various policies. The courts have confirmed that, in the context of the old section 54A of the Town and Country Planning Act 1990 (and, by parity of logic, one presumes, section 38(6) of the 2004 Act), it is necessary to read the development plan as

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<sup>14</sup> SP proof SWFL 1.2 at paras 2.13 to 2.18

a whole and to determine whether the proposal accords with what may be termed the dominant theme or policy so revealed. Where such dominant theme/policy accord exists, then there is accord with the development plan.

28. The position of SWFL at this inquiry, in particular in the form of the evidence of Mr Provan, is that in so far as relevant, and on a fair and objective reading, the dominant policy matrix at national, regional and local level is wholly supportive of the proposal. In particular, by reference to Matter (a), this scheme accords with the dominant theme of the development plan, and, importantly, with the very recent submission of the emerging RSS as promulgated by the Secretary of State in May 2007. It should be noted that the dominant development plan theme for present purposes is the appropriate promotion of renewable energy resource. Even were there here any material failure to accord with development plan policy, the other material considerations (including the higher policy and legal matrix) militate decisively in favour of consent here issuing.

**Matter (d)** the justification for the site(s), and what other sites were considered and why they were discounted;

29. Three, preliminary points arise: first; this Matter is worded to eschew the term ‘alternative(s)’; second, it is must be construed in such a way as to be consistent with both prevailing law and prevailing (national) policy; third, it is TC who apparently raise the issue of ‘alternatives’, albeit the point is not taken in the reasons for objection endorsed by members.
30. As regards the legal position, the position is tolerably clear. SWFL now has the benefit of hearing how TC put the matter in terms of outline legal submissions. I may respond in greater detail in due course but, for present purposes, I append to this Opening an extract from Vol 2 of the Planning Encyclopedia which helpfully encapsulates the general approach in law. Amongst other points one immediately notes that, even ignoring the other criteria in the *GLC* and *Edwards* cases, the promotion of renewables does not fall into the category of development where only one permission (or a very limited number of permissions) fall potentially to be granted. The geographical (ie global) extent of the problem and the unconstrained nature of the demand preclude this criterion being met. In any event, even assuming the law were wholly as TC wishes it were, there would at most be a requirement to consider "alternatives", if any. The law cannot conjure up alternatives where none exists or where, as a matter of logic, Proposal A cannot be seen as an alternative to Proposal B.
31. As regards (inter)national policy, the position is equally clear. As noted, the need, in terms of provision of renewables, is unconstrained. By that I mean that targets are subject to upward review when met and the fact that a target

has been met is not of itself to be taken as a ground of refusal. This is not a case where, for instance, one is considering competing proposals for provision of one MSA for a given length of trunk road. Additionally, PPS 22 identifies that renewable energy resources can only be developed where the resource exists and where economically feasible and that a sequential approach should not be used<sup>15</sup>. As a matter of simple logic, therefore, no one site or proposal can logically be regarded as an ‘alternative’ to another. Either a given scheme can, on its own merits, come forward acceptably to contribute to the quantum of renewable provision or not. In the present case the site selection process conducted by SWFL provides a robust endorsement of the chosen site. Indeed, even if the concept of alternatives were relevant (contrary to fact, guidance and law), the site selection process conducted demonstrates that there is no, relevant, sequentially preferable site.

32. The recent White Paper puts the point beyond doubt when it confirms that<sup>16</sup>:

*Recognising the particular difficulties faced by renewables in securing planning consent, the Government is also underlining that applicants will no longer have to demonstrate .. the need for their particular proposal to be site in a particular location*

TC does not, to date, argue that this aspect of policy, or any other, is unlawful or wrong.

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<sup>15</sup> PPS 22 para 16

<sup>16</sup> CD 102 para 5.3.67

33. I mention two other matters as regards the bogus assertions apparently advanced about ‘alternatives’:
- a. The requirement under the relevant EIA regulations to include an outline of the main alternatives studied by the applicant and an indication of the main reasons for the choice. Such a requirement only bites in so far as there has been consideration of alternatives, which in turn depends upon there being ‘alternatives’ in the given situation.
  - b. There is here no relevant European site and the requirements of the Habitats Regulations are not engaged. In any event, the same points apply.
34. The Steadings evidence provides a robust demonstration of the site selection process. In any event, the wording of this Matter in using the word "justification" must, if it is to accord with Government policy, be taken to confirm a requirement simply to consider whether the site chosen is acceptable.

**Matter (e)** the visual impact of the proposed development(s), in particular the impact upon the Northumberland National Park and the North Pennines Area of Outstanding Natural Beauty;

35. It would be unhelpful in opening to cite at any length from the available evidence before this Inquiry on this Matter. It suffices to make the following points.

- a. It is important to recognize that the environment, including the landscape, is already subject to the deleterious effects of climate change. This is of relevance in two respects. First, in assessing the landscape baseline, it is important to recognize that this is already and will remain subject to continuing change. Second, no one seriously suggests that building the Steadings proposal will, of itself, solve global warming. But that is not the point. The provision of renewable-energy generation is predicated upon the cumulation of many schemes. The implications of this are expressly recognized in national policy; for example, PPS 22 requires that ... *the wider environmental ... benefits of all proposals for renewable energy projects, whatever their scale, are material considerations that should be given significant weight in determining whether proposals should be granted [consent] (emphasis added)*<sup>17</sup>.
- b. Public perceptions of wind turbines vary from person to person and display a marked polarity. There are those, including some planning inspectors, who consider them to be attractive features and as revealing, through their functional design, an element of kinetic sculpture. Mr Cullingford in one of his decision letters<sup>18</sup> said *My own personal view is that the scale and size of these turbines might well render the structures themselves majestic. And, of course, they would appear as icons for a policy that is crucial to pursue on international*

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<sup>17</sup> CD 74 para 1(iv)

<sup>18</sup> CD 130 (d)

*as well as national grounds.* At the other extreme, some people find them visually objectionable, though the extensive corpus of existing research reveals that anticipation here is often worse than actuality; surveys of local residents after the construction of wind farms reveal a shift in favour of turbines, or towards a more neutral and less hostile stance. PPS 22 rightly identifies the role for professional judgement in this area<sup>19</sup>. But, equally, the professional's role includes assessing impacts on 'visual receptors' ie primarily human beings with a pair of eyes. It is not appropriate in those circumstances for the professional to ignore the considerable corpus of existing research on public attitudes. It would be simplistic and inappropriate merely to categorize the projected effects as adverse or beneficial in circumstances where the available evidence indicates there is likely to be a spread of opinions, often highly polarized.

- c. PPS 22 recognizes that, of all renewable technologies, wind turbines are likely to have the greatest visual and landscape effects<sup>20</sup>. It also, pragmatically, speaks of minimizing these effects, rather than removing or avoiding them<sup>21</sup>. These are big structures and one is not going to blink and miss them. But the national policy is clear. Even if the impacts are properly to be viewed as adverse, that of itself is not a sufficient reason for refusal. I stress this because a number of decisions on wind proposals, particularly in England and Wales, in recent years

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<sup>19</sup> PPS 22 para 19

<sup>20</sup> PPS 22 para 20

<sup>21</sup> PPS 22 para 19

cannot be reconciled with a reasonable or justifiable application of prevailing policy.

- d. The site here is not subject to landscape designation and would have no material effect upon any nationally designated landscape area. At first blush therefore it is an appropriate area for this type of development.
- e. The fact that the turbines will be visible is not a reason for refusal. Whilst the countryside warrants protection for its own sake, nothing here would adversely affect the overall integrity of any landscape designation or the countryside generally.
- f. The scheme if built would have a finite life. At the end of that life it would be decommissioned, thus removing that which according to some would have an adverse effect, namely the turbines. It is not necessary to argue the semantics of whether this type of proposal can properly be described as ‘temporary’ – though that is the word which PPS 22 uses<sup>22</sup>. On any analysis, the development here is reversible.

36. On the above basis, it follows that, in so far as concerns landscape and visual impact, this proposal cannot be regarded as unacceptable, even assuming one ignores its reversibility and also takes a materially adverse view of its impact. That conclusion is reinforced when one balances the level and nature of the likely impact on the landscape against the Government’s stated policy that

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<sup>22</sup> para 20

renewable energy developments are essential, and are likely to be materially restricted as to location by the need to be in an area where there is sufficient wind resource.

**Matter (f) noise generated by the proposed development(s);**

37. TC has not objected to the proposals on this ground. If and in so far as concerns are still expressed by others, the proposal remains acceptable in terms of construction, operation and decommissioning.
38. Government guidance in PPS22 is clear: windfarm noise is to be assessed and rated using the ETSU-R-97 report<sup>23</sup>. That advice has been followed and applied by SWFL.

**Matter (g) the impact of the proposed development(s) on aviation interests;**

39. The CAA's guidelines concerning wind farms (CAP764)<sup>24</sup> require that a balance be maintained between the aviation and wind power generation interests. It is to be expected that aviation interests will not simply sterilise development in the environs of an airport. It is further to be expected that ATC systems, including radar, will include appropriate and reasonable flexibility to accommodate changes in the baseline environment.

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<sup>23</sup> CD NRL/084a, paragraph 22

<sup>24</sup> CD 299

40. Work done on behalf of SWFL shows that measures are here available to ensure that there will be no unacceptable aviation impact.
41. We recognize that the aviation aspect raises a number of technically complex matters. SWFL is continuing to seek to agree and resolve as much as possible in advance of the aviation topic. SWFL has prepared and circulated an Aviation Report (still in draft pending receipt of certain outstanding information).

**Matter (h)** the impact of the proposed development(s) on the historic environment, including Hadrian's Wall World Heritage Site and any other Scheduled Ancient Monuments in the vicinity of the development(s);

42. Again, it is not helpful to anticipate the evidence to be called. The primary assertion against the Steadings proposal relates to the Grade II\* listed Church of St Aidan. There are various other suggestions in respect of impact on, for instance, the Great Bavington Conservation Area. At present SWFL has some difficulty in identifying what point some of the statutory bodies are taking and whether the view expressed by the relevant witness is a personal one or that of the instructing body as well.

**Matter (i)** whether any permission granted for the proposed development(s) should be subject to any conditions and, if so, the form these should take;

43. This remains a matter of continuing discussion.

**Matter (j)** any other matters that the Inspector considers relevant;

44. Neither Natural England nor other relevant regulatory body raises any ecological or ornithological objection to the Seadings proposal, whether alone or in combination. Nor does the RSPB. There can here be no ecological or ornithological justification to refuse the project. Nor can there be any sustainable basis for the late tourism objection mounted by TC.

### **Conclusion**

45. This is a carefully, and sensitively, designed scheme which will make a material contribution to the government's renewable energy targets for the sub-region, the region and the country as a whole, whilst respecting its surroundings. SWFL commends it to the Inquiry, and to the Secretary of State.

Francis Taylor Building

Temple

15<sup>th</sup> January 2008

**ANDREW NEWCOMBE**