

Item No. 11

APPLICATION NUMBER CB/14/04463/VOC
LOCATION Double Arches Quarry, Eastern Way, Heath And Reach, Leighton Buzzard, LU7 9LF
PROPOSAL Table 1 and Table 2 of existing Condition 10 of application reference 13/02037/FULL to be amended to add derived noise limits for Mileway House, Checkley Wood Bungalow and Sandhouse Cottages.
PARISH Heath & Reach
WARD Heath & Reach
WARD COUNCILLORS Cllr Versallion
CASE OFFICER Abel Bunu
DATE REGISTERED 14 November 2014
EXPIRY DATE 13 February 2015
APPLICANT AWE Renewables Ltd
AGENT Engena Limited
REASON FOR COMMITTEE TO DETERMINE Major application which is a departure from the Development Plan

RECOMMENDED DECISION Variation of Condition - Recommended for approval

Recommendation

That Planning Permission be **GRANTED** subject to the following:

RECOMMENDED CONDITIONS

- 1 The maximum height of the turbine hereby permitted, when measured from the turbine base to the blade tip in the vertical position, shall be no greater than 149 metres.

Reason: For the avoidance of doubt and in the interest of visual amenity.
(Policy BE8 S.B.L.P.R & NPPF section 7)

- 2 The details of the installed wind turbine relating to the make, model, design, power rating, sound power levels and tonal assessment shall not be changed without the prior express permission of the Local Planning Authority.

Reason: To protect the amenities of the neighbouring residential properties.
(Policy BE8 S.B.L.P.R & NPPF section 7)

- 3 The approved details of the external appearance and colour finishes of the wind turbine shall be permanently retained as such and no alterations shall be carried out without the prior written approval of the Local Planning

Authority.

Reason: To protect the visual amenities of the area.
(Policy BE8 S.B.L.P.R & NPPF section 7)

- 4 The development shall be operated in accordance with the approved scheme of foul drainage and no variation shall be carried out without the prior written consent of the Local Planning Authority.

Reason: To ensure appropriate drainage.
(Policy BE8 S.B.L.P.R)

- 5 The development shall only be carried out in accordance with the approved scheme of ecological mitigation which includes :
- i) Details of the management programme controlling the habitats and vegetation in the immediate vicinity of the turbine;
 - ii) The position of 20 Schwegler 1FF bat boxes to be agreed in consultation with the Bedfordshire Bat Group;
 - iii) A scheme of post-implementation monitoring to be agreed with Natural England;
 - iv) Techniques such as Anabat recording at turbine height, bat transects on site and corpse searches, as well as monitoring bird strike mortality.

Reason: To ensure that biodiversity interests are protected.
(Policy BE8 S.B.L.P.R and section 11, NPPF)

- 6 Within 21 days from receipt of a written request of the Local Planning Authority, following a complaint to it alleging noise disturbance at a dwelling which relates to amplitude modulation, the wind farm operator shall, at its expense, employ a consultant approved by the Local Planning Authority, to assess whether there is greater than expected amplitude modulation from the wind farm at the complainant's property. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Local Planning Authority made under this condition, the wind farm operator shall provide the information logged in accordance with this condition to the Local Planning Authority in the format set out in Guidance Note 1(e).
- i) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with this condition, the wind farm operator shall submit to the Local Planning Authority for written approval the proposed measurement location identified. Measurements to assess compliance with the noise limit of condition 2 shall be undertaken at the measurement location or locations approved in writing by the Local Planning Authority.
 - ii) Prior to the submission of the independent consultant's assessment of the level of amplitude modulation in accordance with the requirements of this condition, the wind farm operator shall submit to the Local Planning Authority for written approval a proposed assessment protocol setting out the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and

- times of day) to determine the assessment of the amplitude modulation.
- iii) The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, or are identified as causing greater than expected amplitude modulation, having regard to the written request of the Local Planning Authority, and such other conditions as the independent consultant considers likely to result in a breach of the noise limits. The assessment of the noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Local Planning Authority.
 - iv) The wind farm operator shall provide to the Local Planning Authority the independent consultant's assessment of greater than expected amplitude modulation within 2 months of the date of the written request of the Local Planning Authority unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the amplitude modulation noise immissions.
 - v) The wind farm operator shall continuously log power production, nacelle wind speed, nacelle wind direction and nacelle orientation at the wind turbine all in accordance with Guidance Note 1(d). 10m height wind speeds averaged over 10 minute periods shall be measured at a location approved by the local planning authority for comparison with noise levels, for the duration of the noise level compliance check survey. Rainfall shall also be measured during any measurement regime at a location approved by the local authority in writing. These data obtained shall be retained for the life of the planning permission. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.
 - vi) Once the Local Planning Authority has received the independent consultant's noise assessment required by this condition, including all noise measurements and audio recordings, where the Local Planning Authority is satisfied of an established breach of condition 2, upon notification by the Local Planning Authority in writing to the wind farm operator of the said breach, the wind farm operator shall within 14 days propose a scheme for the approval of the Local Planning Authority. The scheme shall be designed to mitigate the breach and to prevent its future recurrence. This scheme shall specify the timescales for implementation. The scheme shall be implemented as approved by the Local Planning Authority and according to the timescales within it. The scheme as implemented shall be retained thereafter unless otherwise agreed by the Local Planning Authority.

Reason: To ensure that the amenities of neighbouring occupiers are not prejudiced by excessive noise.

(Policy BE8 S.B.L.P.R and section 7, NPPF)

- 7 Mitigation measures to alleviate the interference to telecommunication links caused by the wind turbine shall be implemented during the operational period of the turbine following investigation through consultation with the appropriate telecommunication providers and the affected properties.

Reason: To ensure that the impact of the turbine on telecommunications links is adequately mitigated.

(Policy BE8 S.B.L.P.R and section 5, NPPF)

- 8 During the operational life of the wind turbine on site, any reported shadow flicker effects shall be investigated and resolved within a reasonable period of time agreed in writing with the Local Planning Authority.

Reason: To ensure shadow flicker is adequately mitigated.

(Policy BE8 S.B.L.P.R and section 7, NPPF)

- 9 The planning permission is for a period from the date of the installation until the date occurring 25 years after the date of Commissioning of the Development. Written confirmation of the date of commissioning of the development shall be provided to the Local Planning Authority no later than 1 calendar month after that event.

Reason: In the interests of visual amenity and landscape protection.

(Policy BE8 S.B.L.P.R and section 7, NPPF)

- 10 The rating level of noise immissions from the wind turbine, (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes, shall not exceed 35dB LA90 at any dwelling except those identified in the table below for any relevant 10m height 10 minute mean above ground level measured integer wind speed between 1-10m/s. In the case of the six dwellings identified in the tables attached to this condition, the rating level of noise immissions from the wind turbine, (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes, shall not exceed the decibel value identified for the relevant integer 10m measured wind speed set out in the tables and:

A. Prior to the First Export Date the wind farm operator shall submit to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.

B. Within 21 days from receipt of a written request of the Local Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Local Planning Authority, to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to.

Within 14 days of receipt of the written request of the Local Planning

- Authority made under this paragraph (B), the wind farm operator shall provide the information logged in accordance with paragraph (G) to the Local Planning Authority in the format set out in Guidance Note 1(e).
- C. Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements to assess compliance with the noise limit of this condition shall be undertaken at the measurement location approved in writing by the Local Planning Authority.
- D. Prior to the submission of the independent consultant's assessment of the rating level of noise immissions in accordance with paragraph (E), the wind farm operator shall submit to the Local Planning Authority for written approval a proposed assessment protocol setting out the following:
- i. the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions; and
 - ii. a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (B), and such others as the independent consultant considers likely to result in a breach of the noise limits. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Local Planning Authority.
- E. The wind farm operator shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority made under paragraph (B) unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise immissions.
- F. Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to paragraph 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (E) above unless the time limit has been extended in writing by the Local Planning Authority.
- G. The wind farm operator shall continuously log power production, nacelle

Sandhouse Cottages	46.4	46.4	46.4	47.5	48.8	49.8	49.8	49.8	49.8	49.8	49.8	49.8	49.8
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Table 2 - Between 23:00 and 07:00 - Noise level dB LA90, 10-minute

Location	Measured wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods												
	1	2	3	4	5	6	7	8	9	10	11	12	
The dwellings identified as H14-H19, Overend Green as specified in the Double Arches Wind Turbine Environmental Statement Volume 1: Main text July 2010 paragraph 7.3.3 National Grid Ref H14-H17 = 493263 228805 H18 = 493357 228735 H19 = 493365 228682	43	43	43	43	43	43	43	44	45	47	49	50	52
Mileway House	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Checkley Wood Bungalow	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Sandhouse Cottages	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0

Reason: To ensure that the amenities of neighbouring occupiers are not prejudiced by excessive noise.
(Policy BE8 S.B.L.P.R and section 7, NPPF)

- 11 Not later than 3 months from the date that the planning permission hereby granted expires, or if the turbine ceases to operate for a continuous period of 6 months then, unless otherwise agreed in writing with the Local Planning Authority, it shall be dismantled and removed from the site and the land reinstated to its former condition.

Reason: To ensure that the turbine is removed at the end of its operational life and to safeguard the character of the locality.
(Policy BE8 S.B.L.P.R and section 7, NPPF)

- 12 All electrical cabling on site shall be buried underground unless otherwise approved in writing by the Local Planning Authority.

Reason: For the avoidance of doubt and in the interests of visual amenity.
(Policy BE8 S.B.L.P.R and section 7, NPPF)

- 13 Piling or any other foundations designs using penetrative methods shall not

be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to ground water. The development shall be carried out in accordance with the approved details.

Reason: To protect and prevent the pollution of controlled waters (particularly the underlying principal aquifer and EU Water Framework Directive drinking water protected area) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF; paragraphs 109, 120, 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection (GP3:2012) position statements A4 to A6, D1 to D4 and N7.

- 14 No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approved details.

Reason: To protect and prevent the pollution of controlled waters (particularly the underlying principal aquifer and EU Water Framework Directive drinking water protected area) from potential pollutants associated with current and previous land uses in line with National Planning Policy Framework (NPPF; paragraphs 109, 120, 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection (GP3:2012) position statements A4 to A6, D1 to D4 and N7.

- 15 The turbine shall be fitted with 25 candela omni-directional red lighting at the highest practicable point and this shall be retained for the lifetime of the turbine.

Reason: In the interests of air safety.
(Policy BE8 S.B.L.P.R and section 5, NPPF)

- 16 The development hereby permitted shall not be carried out except in complete accordance with the details contained in the Background Noise Measurements and Derivation of Noise Limits Report HM:2865/R01 dated 08 October 2014 and on the submitted plans, numbers 3100.013; Technical Information contained within Environmental Statement dated July 2010 Volumes 1-4 (inclusive) and Transport Assessment dated July 2010 submitted with application reference CB/10/03034/FULL.

Reason: For the avoidance of doubt.

INFORMATIVE NOTES TO APPLICANT

1. In accordance with Article 35 (1) of the Town and Country Planning

(Development Management Procedure) (England) Order 2015, the reason for any condition above relates to the Policies as referred to in the South Bedfordshire Local Plan Review (SBLPR) and the National Planning Policy Framework (NPPF).

2. This permission relates only to that required under the Town & Country Planning Acts and does not include any consent or approval under any other enactment or under the Building Regulations. Any other consent or approval which is necessary must be obtained from the appropriate authority.

Statement required by the Town and Country Planning (Development Management Procedure) (England) Order 2015 - Part 5, Article 35

The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Council has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

NOTES

- (1) In advance of the consideration of the application the Committee were advised of additional consultation responses submitted by the applicant.
- (2) In advance of the consideration the Committee received representations made under the Public Participation scheme.