

PLANNING APPLICATION REPORT

Case Officer: James Clements

Ward: Drewsteigton

Application No: 00054/2015

Agent/Applicant:

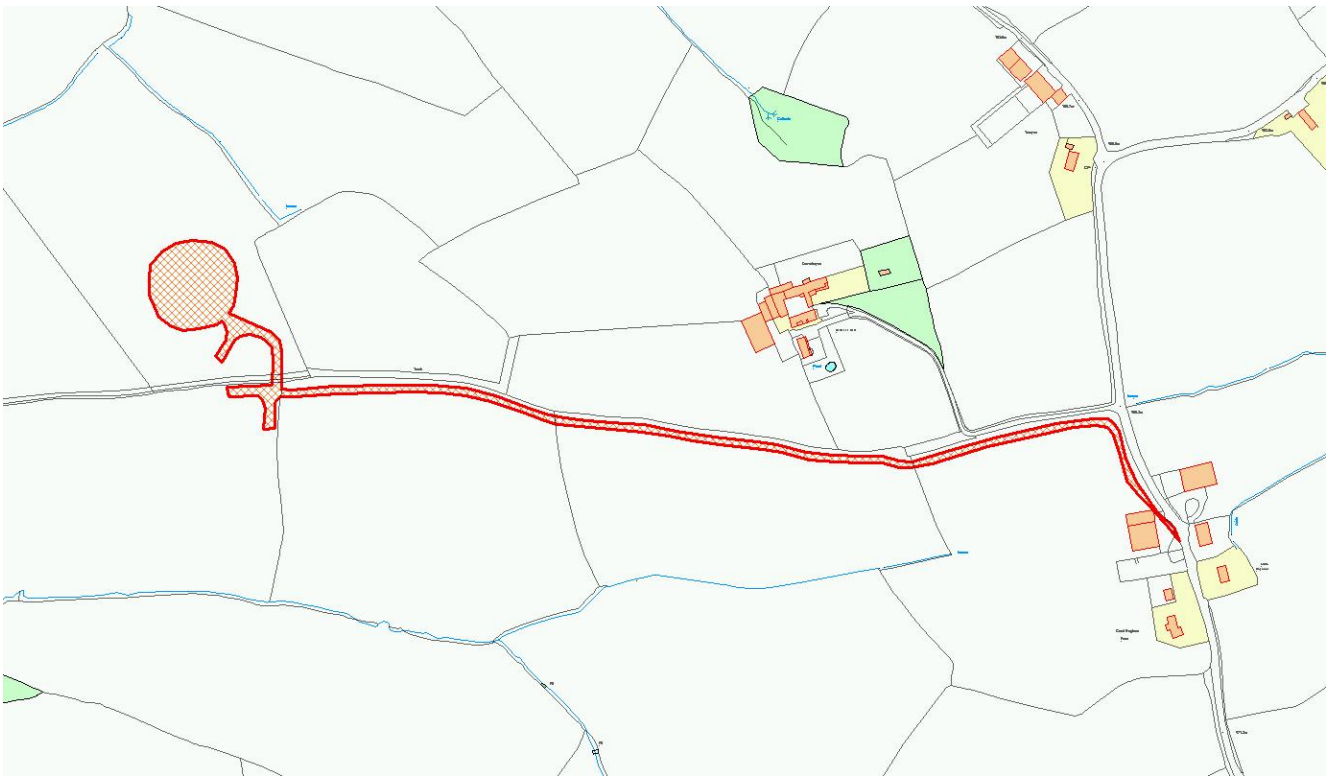
Aardvark EM Ltd
FAO Nick Leaney
Higher Ford
Wiveliscombe
Taunton
Somerset
TA4 2RL

Applicant:

Powerhawk Limited
North Beer Farm
Spreyton
Devon
EX17 5AP

Site Address: Land At NGR SX698988, Spreyton, Devon

Development: Erection of a single wind turbine with a hub height of 40m and maximum blade tip height of 67m, formation of new vehicular access track and associated infrastructure. The application is accompanied by an Environmental Statement.



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Ordnance Survey 100023302

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Reason item is being put before Committee:- called to Committee by Ward Councillor Ridgers:

'Fully support the objections listed by Spreyton Parish Council. My particular objections include:

*Siting – the size of the turbine, will have considerable negative visual impact on a broad landscape and direct impact on a dozen properties under 1000km in distance. Three properties lie within 510 yards of the site , therefore serious affecting residential amenity under Policy OP46 point 11.15 from the local plan calculations (Using the formula approved in the local plan where $D=350 + ((H-25)*5)$ therefore $560 = 350 + (67-25)*5$) This is extended to 8 properties if the Allerdale BC guidance is taken.*

Amplitude modulation – no assessment in the report was provided for this wind turbine or the cumulative effects of the Denbrook and Cocktree turbines.

Landscape – This turbine create industrialisation (even greater when the cumulative effect of the Denbrook turbines are added) to of this area of great landscape value as identified in the West Devon local plan. The turbine will significantly effect and be detrimental to the predominantly rural landscape view northward from Dartmoor National Park.

Proliferation – the siting of the turbine creates further industrialisation of a rural area and one of outstanding natural beauty when the cumulative effects of the existing Cock tree and Denbrook turbines are considered.

Local Community views – the Parish Council (elected representatives of the local community) have unanimously opposed this proposal and weight and consideration must be given to local opinion. One WDBC's 4 key priorities is Community Life: Enable communities to be able to shape and influence what happens in their area, lead healthy and active lifestyles and access local services.

Clearly residents and their elected representatives must be able to shape and influence the plans for this area. Overwhelmingly they chose to oppose this development'.

Recommendation: Approval

Conditions:

1. Standard time limit 3 years
2. In accordance with drawings
3. Compliance with noise limits
4. If inoperable to be removed within 6 months
5. Remove after 25 years
6. Landscaping scheme adjacent to the boundary with Downhayes
7. Colour scheme
8. Shadow flicker shut off system
9. Compliance with traffic/construction management plan
10. Sample of surface material for access track
11. Protection of nesting birds/dormice
12. To be in accordance with submitted ecological report
13. Archaeological recording brief

Key issues for consideration:

The main issues for consideration include the principle of development, pre-application consultation process, impact upon landscape character, visual and cumulative impact; impact upon amenity of nearby residents with regard to visual impact, noise/amplitude modulation & shadow flicker; heritage; highway safety, site access & construction of access track and ecology.

Site Description:

The proposed turbine would be located approximately 1.8km to the north of Spreyton, 3.5km to the south west of Bow and 4.5km to the south east of North Tawton, approximately 5.3km to the north of the DNP boundary. The site is located approximately 500m to the north of Ham Farm and 510m to the west of Downhayes, in a pasture 140m Above Ordnance Datum (AOD) located on the boundary between a 1F Farmed Lowland Moorland and a 1D Inland Undulating Uplands Landscape Character Type (LCT).

The field is north-west-facing and slopes from approximately 149m AOD in the south-east corner to 125m AOD on the northern boundary. The River Yeo is approximately 370m to the west of the proposal site.

The Proposal:

Planning permission is sought for the erection of a wind turbine with a hub height of 40m and maximum tip height of 67m, formation of a vehicular access track and associated infrastructure.

The applicant's Planning Policy Statement describes this scheme as addressing the reasons for refusal of an earlier unsuccessful planning application for a single wind turbine at North Beer (03085/2012). This planning application was refused by the Council on 4th December 2012 for reasons of siting and size, detrimental effects upon the setting of, views from and the enjoyment of, nearby listed properties, loss of local tranquillity and diminution of landscape character particularly cumulative impact regarding views from Dartmoor National Park. These adverse effects were considered too great to be outweighed by the renewable energy benefits of the turbine. The refusal was upheld on appeal with the inspector concurring that the proposal was contrary to planning policies SP1, SP3 and SP18 (WDBC Core Strategy Development Plan), and NE10 and BE3 (WDBC local Plan). The principal reason for upholding the Council's decision was the major harm to the significance of the grade II listed Stockhayes and impact upon the living conditions to occupiers of the property.

To address these issues, the applicant has considered alternative sites within the locality and within their ownership and is proposing to relocate the turbine 1.15km to the north of the original site and reduce the scale of its turbine height and blade tip height by 10m from 50 & 77m respectively to 40 & 67m.

The proposed access would be from Coxmoor Lane to the north of Great Begbeer Farm. The access track would be a 4m wide gravel track overlaid on recycled aggregate. The track would run from a field gate just to the north of Great Begbeer Farm and would follow existing field boundaries to a point on the southern boundary of the south field. The track would then cross the field to the turbine site. The overall length of the access track would be approximately 900m.

A 2.5m high inverter/substation building with a footprint of roughly 6m by 4m would be constructed next to the turbine tower. Construction activities would include the creation of a temporary compound, the laying of temporary access tracks, the excavation and construction of an area of hard standing to install the turbine, substation works, and cable trenching and laying.

Consultations:

- Landscape Officer – That the scale, movement and location of the proposed turbine will have some significance on the quality of the local landscape notably on the enjoyment of stretches of local footpath. The presence of the turbine is also likely to adversely affect the enjoyment of the rear garden of the property Downhayes where the presence of an existing length of deciduous native hedgerow is critical in providing visual screening. There will undoubtedly be cumulative impact particularly in relation to the Den Brook development where at times the turbine will appear to fall within the visual envelope of this scheme and at other times as an outlier. There will be a degree of loss of local tranquillity and diminution of landscape character and the impact upon Downhayes makes this a finely balanced proposal.
- County Archaeologist –The submitted desk based assessment indicates that there is no known above or below ground archaeology that will be affected by the development. However, it suggests that there may be some potential for new discoveries. I would therefore recommend an archaeological monitoring brief on the strip for the access track and turbine footprint. This can be secured through a standard archaeological recording condition. The visual impact assessment suggests that there will be no significant impact on the setting of Scheduled monuments.
- Environmental Health Section - no objection subject to conditions.
- MOD – no response received.
- Ecologist – No objections.
- Highway Authority – No objection. The construction traffic management plan deals with the route of the proposed equipment to the site and the route is adequate for purpose. The existing access is to be modified to allow access over a separately constructed haul route , this is also adequate for the proposed use and is provided with suitable loading and turning facilities. The Construction Management Plan is adequate for purpose.
- Spreyton Parish Council:-

‘Spreyton Parish Council objects to this new planning application on the grounds that the applicant’s case fails to demonstrate on balance that the harm expected from this relocated turbine will be sufficiently less than in its previous location, when weighed against the considerably reduced green energy benefit of this turbine (see section 5).

NB. At this point it should be noted that the applicant’s PPS omits any discussion of adverse impacts and thereby side-steps balancing the harm with the described benefit. Spreyton Parish Council therefore urges WDBC to refuse this planning application on the grounds that on balance the harm will (still) exceed the benefit. In reaching its decision, Spreyton Parish Council would like to bring the following justifications to the attention of WDBC:

1. Community Opinion

Opinion in Spreyton Parish remains overwhelmingly opposed to this revised planning application for the reasons given below in sections 2-5. All members of the public

attending the most recent Parish Council Meeting held 21st January 2015, were united in their concerns over scale, noise, visual impact, cumulative aspects (with Den Brook) and the precedent for industrialising the parish. The Parish Councillors subsequently voted unanimously to object to this planning application, consistent with the council's previous unanimous vote on the earlier application No. 03085/2012.

The applicant has seen fit to misrepresent the outcome of their limited community consultation, consisting of a mailshot of 38 selected properties up to 1.0km radius of the proposed site. The applicant's Planning Policy Statement (3.5) says "several feedback forms have been received at the date of submission highlighting issues of concern and support for the proposal". The PPS goes on to further say that "The principal points of concern related to the scale of the proposed turbine and adverse visual effects on the landscape".

The above interpretation is contrary to the illustrated table of feedback forms in the applicant's Community Involvement paper showing all the residents who completed the form to be against the planning proposal, and giving impact on residential amenity (visual and noise) and cumulative impact with Den Brook wind farm amongst their principal concerns (vital issues apparently overlooked in the PPS summary).

It is hoped WDBC will give due consideration to the 'voice of the people' of Spreyton Parish and its surroundings, as witnessed by the representations appearing on the WDBC planning portal, in the spirit of the Government's 2011 Localism Act and accompanying Ministerial Statement, e.g. "Planning works best when communities themselves have the opportunity to influence the decisions that affect their lives" "Some local communities have genuine concerns that when it comes to wind farms insufficient weight is being given to environmental considerations like landscape, heritage and local amenity"

Furthermore, in line with WDBC Core Strategy Policy SP1, "account is also to be taken of the needs of all individuals in the community to promote health, safety and social wellbeing and improve quality of life indicators".

2. Unacceptable Farm Diversification

The Parish Council therefore retains the view that this type of farm development exceeds the planning criteria for acceptable farm diversification, on account of its relative scale and alien nature in the pastoral rural landscape character of our parish, and the impact it would have on the setting and amenity of many residential and historic properties in the parish ref. planning policies ED17, ED21, NE10, SP1, SP3 and SP17.

3. Impact on Residential Amenity and Heritage assets

3.1 Visual

Adverse visual impact on nearby residential amenity and the setting of heritage assets was a major concern and deciding factor in the refused previous planning application (03085/2012), and it is hard to see how the change of location and hub height of the turbine alleviates these concerns. Indeed, the positioning of a same size blade sweep on a shorter hub could intensify the visual impact on nearby properties. Additionally, moving the turbine to the edge of the approved Den Brook wind farm will cause some residents to have cumulative visual impacts on their residential amenity.

In the current proposal, several residential properties again lie within 1km of the proposed location of the new turbine, including: Ham Farm (500m), Downhayes and Cawsand Barn (510m), Combe Moor Cottage and Combe Bungalow (600m), Newlands Farm – two dwellings (675m), Treeyeo (730m), Great Begbeer and Little Begbeer (850m), Coxmoor and Coxmoor Farmhouse (920m) and Puddicombe Park (930m). NB. Distances are taken from the applicant's Landscape and Visual Report (LVR).

The LVR admits the turbine will likely be particularly prominent in views from Ham Farm, Combe Moor Cottage and Bungalow, Downhayes (incl. Cawsand Barn), Treeyeo, and Great Begbeer Farm. Combe Bungalow in particular, is said to have open views of the turbine and Great Begbeer would have clear views of the turbine hub and blade. Ham Farm, Downhayes and Cawsand Barn, at ca.500m distance from the turbine, are comparable to the properties Stockhay (417m) and Weeke Farm (490m) in the previous planning application, when the Inspector, Mr Dudley, decided on appeal for the worst case scenario Stockhay that "the turbine would be substantially unpleasant, overwhelming and oppressive for the occupiers" and "would become an unattractive place to live". There must therefore be a considerable probability that such an adverse ruling would be applied to one or more of the above properties with close views of the turbine in the current proposal.

The applicant's LVR concludes there will be significant visual impacts on properties as far as 1.5km from the turbine, with properties up to 1.0km showing high magnitude effects of moderate/major to major significance, and properties between 1.0-1.5km having medium to high magnitude effects of moderate/major significance

Even in its reduced scale, the turbine will be visible in all or part by some 45 properties within a 2.0km radius of its location, as well as additional properties beyond this area (ref. Environmental Statement).

3.2 Heritage

It is also questionable whether heritage assets will be any less harmed by this relocated turbine, especially given the considerable importance and weight awarded to protecting heritage assets in the case law that underpins planning decisions.

The applicant's Historic Visual impact Assessment (HVIA) concludes that the presence of a "new, modern and visually intrusive vertical element" in the "fairly open and undulating landscape" would impinge in some way on at least 20 heritage assets.

The following Grade II and Grade II listed buildings within 1.0-2.5km of the proposed turbine are all assessed to have moderate impacts:*

Coombe Farmhouse II (1.0km), Hendicott Farmhouse II* (1.6km), Stockhay II (1.4km), Heath Farmhouse II (1.6km), Crooke Farmhouse II (2.5km), Spreyton (church area) and St Michael's Church II (2.1km)*

3.3 Noise

Turbine noise, particularly at night, is another major concern of parish residents, especially given the number of properties in close proximity to the proposed turbine.

The Wind Turbine Noise Assessment (WTNA) submitted by the applicant is out of date in its approach and relevant case history in that it omits latest recognition that excessive amplitude modulation (EAM) is a widely accepted issue for investigation and regulation. The report thus has no information on EAM for this turbine. Furthermore, the reference to Statutory Nuisance Legislation is unsuitable for resolving cases of EAM.

The applicant's noise report is therefore incomplete by current standards and its findings should be made open to peer review before any decision on noise impact is taken on this planning application. This is especially relevant to the assessment of cumulative noise impact of the proposed turbine with the closely neighbouring Den Brook wind farm, where the need to have adequate protection and controls for EAM stands as a necessary condition of its approval.

Spreyton Parish Council also takes note of a comprehensive representation on the noise issues of this proposal provided to WDBC by Mr Mike Hulme (submitted 2 Feb 2015).

4 Impact on Landscape

The relocated site of this turbine remains in the Culm National Character Area, with local importance as part of the High Taw Farmland. Under the terminology of the adopted previous Local Plan Review, the landscape around Spreyton is regarded as an Area of Great Landscape Value (AGLV).

Using the Devon Landscape Character Areas used in WDBC's Core Strategy Development Plan, the turbine site would be in the West Devon and Tamar Valley Area of Outstanding Natural Beauty (AONB).

Spreyton Parish is also linked inextricably to Dartmoor as one of the many spurs which project from Dartmoor.

The applicant is seeking planning permission for a turbine of reduced hub height (10m reduction) on the grounds it will be categorised as of 'medium size', and together with its lower site elevation (140m versus 200 AOD), will be perceived to have less impact on the landscape. NB. The distinction between medium and large turbines does not affect assessment of cumulative landscape effects.

Not surprising, the Landscape and Visual Report (LVR) makes the obvious conclusion that "The proposed 67m to-blade-tip turbine has less extensive landscape and visual effects compared to the previously considered 77m to-blade-tip model".

The LVR with its graphics and photomontages devotes much space to supporting these perhaps anticipated conclusions on the new turbine's extensive landscape and visual effects, whereas the more crucial matter is the turbine's impact on its immediate locality .

In this respect, as it might be expected, a nominal 13% reduction in blade tip height from 77 to 67m, whilst keeping the swept area of the blades the same, has limited effect on reducing local landscape impact. Indeed the LVR considers at close distances, for example within ca. 0.5km, a structure of 67m would be a "defining feature of the local landscape". Up to 1.0km, "the turbine would still be prominent but would be slightly less of a defining feature". Within a radius of 0.5km, the LVR gives landscape character effects of a high magnitude and moderate/ major significance. From 0.5-1.0km, these effects would still be of medium to high magnitude and moderate/major significance.

The LVR is deficient in photomontages illustrating the above crucially important impact on the local landscape housing this structure. There are only two assessment viewpoints (1 and 2) within the 1.0km zone in which the turbine would be the defining landscape feature. These are both situated on minor roads to the south/southwest (VP1) and northwest (VP2) of the turbine.

Additional photomontages should therefore be requested from viewpoints east of the turbine within the 1.0km zone along the much used principal road between Spreyton and Bow used to access the A30 at Whiddon Down and the A3072 at Bow.. These viewpoints should be optimized to show the positioning and inter-relationship of the turbine with neighbouring properties within this zone of landscape e.g. Great Begbeer, Downhayes and Cawsand Barn.

As regards cumulative effects, the applicant's LVR states "There are large areas where the Proposal and Den Brook wind farm would theoretically be visible in combination" and "The turbine could thus be considered to be an extension or outlier of the Den Brook wind farm".

The LVR has no photomontages (only wire frames) of cumulative landscape aspects of the turbine with Den Brook, so the above additional photomontages east of the turbine should also be optimized to include cumulative effects. A photomontage as seen from viewpoint 3 southeast of the turbine, (rather than just the present wireframe) would especially provide a much clearer picture of the cumulative presence of the turbine with Den Brook in the landscape.

Guidance on Separation Distances

Further to guidance in WDBC's Interim Planning Guidance for On Shore Wind Turbines in West Devon (Sept 2013), the Parish Council respectfully requests WDBC consider setting guidance for developers on distances between turbines and residential properties, and between turbines (re cumulative aspects), accepting that this guidance may not hold any formal planning policy or statutory development plan status.

This present development proposing to site a commercial wind turbine at 600m and less from four residential properties would most likely not have gone as far as a planning application, if such guidance was in place.

Many examples exist of inter-distances guidance, for example, the extensive review (May 2013) done by Allerdale Borough Council, leading to their own recommendation of a minimum 800m separation between turbines (over 25m height) and residential properties. Nearer the SW, Torridge District Council has a Wind Energy Policy (May 2010) recommending 600m between turbines and residential properties, and 10km minimum between existing and proposed wind energy schemes (with capacity of 5MW or more).

Such guidance is urgently needed to control the inevitable proliferation of commercial wind turbines around the curtilage of the approved Den Brook wind farm, so that the character of the High Taw Farmland Landscape along the northern edge of Dartmoor National Park is not despoiled and industrialised.

5. Reduced Benefit

Spreyton Parish Council takes note of a well-argued representation from Dr Phillip Bratby (acknowledged by WDBC Planning on 22 Jan 2015), in which he compares the benefit in green energy of this relocated turbine with the previous one (App. No. 03085/2012).

Due to the reduction in hub height, the mean wind speed for the relocated turbine has fallen from 6.9m/s to 5.9m/s, according to the Design and Access Statements (section 5.2) for planning applications 03085/2012 and 00054/2015.

Based on the amount of electricity generated by a wind turbine being proportional to the cube of the wind speed, Dr Bratby calculates the "reasonable estimate" of 1.761 MWh per annum used on appeal by Inspector Dudley in assessing the benefit of the earlier turbine, would drop to 1.101 MWh per annum for the relocated turbine.

Thus the benefit of the turbine in this current planning application (00054/2015) has fallen to 62.5% of the earlier turbine (03085/2012) that was refused on appeal because the harm exceeded the benefit. On this basis, it is contended it is extremely unlikely the harm in this current proposal would correspondingly fall sufficiently to tip the balance in favour of the planning application being accepted.

The Parish Council fully endorses and is pleased to submit the attached Noise Impact Assessment carried out by MAS Environmental and urges WDBC to consider this report's serious criticisms of the AASW assessment that:

- *The predicted noise impact of the North Beer turbine is underestimated*
- *Revised predicted noise levels by MAS Enviro indicate the turbine will breach the ETSU noise limit*
- *Cumulative noise impact has not been appropriately assessed with Den Brook*
- *Revised assessment shows little or no margin between predicted cumulative impact and the cumulative noise limit*
- *Cumulative noise impact and associated loss of respite raises serious concerns regarding harm to residential amenity, especially those properties lying between the North Beer turbine and the Den Brook wind farm*
- *Excessive amplitude modulation (EAM) has been severely misrepresented and totally neglected in AASW's noise impact assessments*
- *Cumulative impact assessment, particularly including EAM, raises unresolved difficulties as yet in deriving enforceable noise conditions and their enforcement (as a necessary condition of planning approval)*

- **Bow Parish Council – Unanimous in its opposition. The turbine's height and scale would have a grossly detrimental effect on the rural pastoral landscape character of the area. It would be an overly dominant alien feature and overbearing effect on nearby homes harming residential amenity. Its juxtaposition with Denbrook would be a profound negative visual impact. Cumulative impact with other consented turbines in the area. Shadow flicker and reflected light, Noise including EAM and cumulative noise are serious concerns. No photomontage from Bow has been provided.**

- **Mid Devon District Council – The turbine would be visible within the surrounding landscape including viewpoints within Mid Devon. The extent of the harm resulting from the proposed development on the visual amenities of the area, landscape quality and overall planning balance should be considered as part of the assessment of the planning application**

- Conservation Officer – no objection. The harm to heritage assets is regarded as being in the ‘less than substantial’ category set out in para 134 of the NPPF. Harm is harm, however, and we must reflect the need under S66 to have ‘special regard to the desirability of preserving the building or its setting’. Based on my knowledge of the area and the information provided, I do not consider that there would be negative impacts on the setting of heritage assets that would be a reason for refusal on heritage grounds when balanced against the positive benefits.
- Historic England – objection. The level of harm is unjustified and that less intrusive and harmful means of generating renewable energy, for instance by solar power, should be considered instead. The proposal significantly underestimates the level of harmful impact that the development would have on the setting and significance of a number of heritage assets. We accept that in relation to the very great harm that the Den Brook wind farm would make, the harm to caused by the proposed turbine would be less than substantial.
- NATS – no objection.
- Natural England – no objection.
- Environment Agency – no objection.
- Dartmoor National Park Authority – having considered the distance from the National Park Boundary and the ZTV plan, I concur with the conclusion in the introduction to the L &VR; that the turbine will have a barely discernible indirect effect on the character of the National Park’s landscape. Dartmoor Park Authority therefore has no comments to make in respect of this application.
- Ecology – no objection. The conclusions within the Survey report are reasonable and based on application of good practice and guidance, and I am satisfied neither further survey or conditions are necessary in this case. This assessment is based on there being no removal of hedgerow/hedgebank – should this change then ecologist supervision or survey are likely to be required with respect to nesting birds and dormice’.

Representations

94 letters of objection have been received raising the following issues:

Size, siting and juxtaposition with the consented Denbrook Scheme would have a profound visual harm to the landscape and would dominate views of surrounding area; Turbine would be a defining feature in the landscape and the effects would be high magnitude and substantial significance; damage to visual amenity of Spreyton; proximity to Dartmoor National Park unacceptable; the small towers and large blades give an unbalanced appearance

Cumulative visual impact with Den Brook (9 x 120m – 1.5km), Great Cocktree (1 x 34m – 3km), Manns Newton Zeal Monochorum (1 x 77m – 6km) and Heywoods Farm, Bondleigh 1 x 79m – 8km).

Too close to nearest residential properties (500m); Ham Farm (500m), Downhayes and Cawsand Barn (510m), Combe Moor Cottage and Combe Bungalow (600m), Newlands Farm – two dwellings (675m), Treeyeo (730m), Great Begbeer and Little Begbeer (850m), Coxmoor and Coxmoor Farmhouse (920m) and Puddicombe Park (930m).

Recreational users will suffer from substantial visual effect of the turbine; Living conditions of nearby residents will be harmed due to problems including noise, shadow flicker and visual

Harm to the historic character of the area and to the setting of heritage assets including the Grade II* Combe Farmhouse and Hillerton Cross scheduled ancient monument.

Investment in the turbine is for personal financial gain. The agent would have us believe that the turbine is being erected for the benefit of the farm business but this is not the case. The application is likely to be from Murex. The proposal should not be seen as farm diversification. The turbine will use a restricted 900kw generator (to 500kw) so that it can enter the FIT. The benefits of the turbine are therefore greatly reduced.

Validity of some of the photomontages taken in 2012.

Negative impact upon sleep patterns of children;

Lack of public consultation;

The noise, enhanced amplitude modulation (EAM) and cumulative noise from Den brook will be harmful; cumulative noise with Den Brook not correctly assessed; revised assessment application lacks credible noise and EAM assessment; guidance on separation distances although not within a planning policy is a material consideration;

The proposed EWT turbine has a large vertical ring generator and over large rotors on a short tower. These blades will draw the eye especially as they will not be synchronised with those of Denbrook and will therefore be discordant.

The applicant has failed to demonstrate how benefits are balanced against harm within their application; the reduced benefits from the dismissed appeal needs to be given appropriate weight in the planning balance;

Overestimation of electricity production. The NOABL database contains uncertainty of at least 10% as calculated over a 1kmsq and does not include local topographical details (statistics gathered between 1975 & 1984). If the climate is changing then the relatively small data may be unreliable. Uncertainty of 10% in wind speed corresponds to an uncertainty of 33% in turbine output. In Decc's words any results should be treated as approximate and should always be followed by on-site measurements to ensure a proper assessment. It should not be considered to be measured data or up to date accurate'. Wind speed at Bickham Moor was found to be 1.1m/s lower. The quoted 1585MWh per annum makes no allowance for curtailment or performance degradation. A realistic figure using EWT's own calculator and DECC figures allowing for curtailment and degradation is 1101MWh. Although the applicant states that the feasibility investigation showed that wind speed was high, the turbine proposed is a class IIIA machine designed for low wind speeds. The applicant has overestimated the benefits of the scheme by nearly 40% which is far below that which the appeal inspector for the application at North Beer considered to be a reasonable benefit.

The quoted wind speed is 5.9m/s but Murex's website states that an average wind speed of 6m/s is required.

The visual, noise and shadow flicker effects of this proposed development on the landscape and community heavily outweigh any benefits making this application a wholly inappropriate.

Relevant Planning History

None relevant

ANALYSIS

Addendum

Written Ministerial Statement

On the 18th June 2015 a written ministerial statement ("the Statement") was made by the Secretary of State for Communities and Local Government (Greg Clark) regarding new considerations to be applied to wind turbine applications:

'I am today setting out new considerations to be applied to proposed wind energy development so that local people have the final say on wind farm applications, fulfilling the commitment made in the Conservative election manifesto.

Subject to the transitional provision set out below, these considerations will take effect from 18 June and should be taken into account in planning decisions. I am also making a limited number of consequential changes to planning guidance.

When determining planning applications for wind energy development involving one or more wind turbines, local planning authorities should only grant planning permission if:

- the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and*
- following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing.*

In applying these new considerations, suitable areas for wind energy development will need to have been allocated clearly in a Local or Neighbourhood Plan. Maps showing the wind resource as favourable to wind turbines, or similar, will not be sufficient. Whether a proposal has the backing of the affected local community is a planning judgement for the local planning authority.

Where a valid planning application for a wind energy development has already been submitted to a local planning authority and the development plan does not identify suitable sites, the following transitional provision applies. In such instances, local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing".

The revised related Planning Practice Guidance

Paragraph: 033 Reference ID: 5-033-150618 states:

“Do local people have the final say on wind farm applications?”

The *Written Ministerial Statement* made on 18 June 2015 is quite clear that when considering applications for wind energy development, local planning authorities should (subject to the transitional arrangement) only grant planning permission if:

- the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and
- following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed **and therefore the proposal has their backing***.

Whether the proposal has the backing of the affected local community is a planning judgement for the local planning authority’.

(*Emphasis added).

The application site

The application site is not in an area identified as suitable for wind energy development in the Development Plan or a Neighbourhood Plan.

Counsels / legal advice

Following the release of the Statement and related planning practice guidance, planning application 0054/2015 was deferred so that the Council could receive the opinion of Queens Counsel to assess the ramifications of the new statement.

Members are also requested to note that although the first paragraph of the Statement set out above states that

“...local people have the final say on wind farm applications...”,

The Solicitor to the Council consider this comment to be confusing, because in the event that a local planning authority refused a wind turbine application solely on the basis of the guidance where the application is acceptable in all other respects, the applicant would then be able to lodge an appeal to the Secretary of State under S78 of the TCPA 1990, and on

such an appeal, the application might be granted, thereby overturning the Council's decision to refuse the application.

Summary of Counsels advice

The existence of the Statement does not automatically “trump” the adopted planning policies of the Council, and it cannot change the National Planning Policy Framework. Its status remains only that of a material consideration, although it is undoubtedly an important material consideration which is capable of rendering unacceptable a scheme which might otherwise meet policy requirements.

The Councils will need to consider in each case, the weight to be given to the Statement having regard to the Development Plan and all other material considerations.

It would not be correct to refuse all wind turbine applications received post the Statement merely because the sites are not identified in the Development Plans, or due to local objections on planning grounds.

The weight to be given to the guidance in the Statement and the PPG in each case is a matter for the Council.

The Statement differs in respect of whether the applications were received prior to or after the issue of the Statement.

As this application was received before the issue of the Statement, and the Councils Development plan does not identify suitable wind turbine sites, the transitional provisions set out in the final paragraph of the Statement apply to this application

Whether the proposal has the backing of the affected local community is a planning judgement for the Council.

Recent High Court decision

Since the advice of Counsel was received, the High Court, on 31 July 2015, gave judgment in the case of *West Berkshire DC & Reading BC v DCLG*, in which it revoked the November 2014 Ministerial planning guidance about the provision of affordable housing on developments involving 10 or fewer dwellings.

In the course of the judgment, the High Court stated at paragraph 139 that:

“The legislation *presumes** that planning applications will be determined in accordance with adopted local plan policies. These are policies which have been formulated by the local authority on the basis of local circumstances, having regard to (but not subject to) national policies, and have then been tested through statutory processes which include Strategic Environmental Assessment and sustainability appraisal, consultation and public participation and independent examination, and which upon adoption have “priority” in the determination of planning applications”.

(*Original emphasis).

The Solicitor to the Council considers that this comment endorses the view of Counsel above that the Committee will need to consider when determining this application, the weight to be given to the Statement, having regard to the Development Plan and all other material considerations.

The planning impacts identified by affected local communities

The planning impacts of this application as identified by affected local communities are set out in the main report, and as set out below, it will be necessary to consider and determine in accordance with the Statement if:

- the planning impacts identified by affected local communities have been fully addressed, and
- therefore the proposal has their backing.
- The view of the Officer is that this application DOES NOT have the community's backing but that the application is acceptable in every other respect. The Officer proposes to depart from the guidance on the basis that the community's concerns have all been addressed in detail and although the absence of community backing is a material consideration it does not outweigh the planning merits of this application.
- As always, the committee must determine the application itself.

How to determine the application

Having regard to Council's Opinion, it is suggested that the process to be followed by the Committee in determining this application is:

1. The starting point must be an assessment of the application against the Council's Development Plan, and the presumption in favour development contained in paragraph 14 of the National Planning Policy Framework.
2. Having done so, the Councils must also take into account any other relevant material considerations (The Statement and the PPG are relevant material considerations to be taken into account by the Councils, as are the Councils' own guidance documents).
3. Having reached a decision after undertaking the processes set out in paragraphs 1 and 2 above, the Committee must then consider if the application has addressed the planning impacts identified by affected local communities and therefore has their backing.
4. Having reached a decision after undertaking the processes set out in paragraphs 3 above, the Committee must then undertake a balancing exercise as whether the outcome

of the Stage 1 and 2 process above, or the outcome of the Stage 3 process above, shall have greater weight so as to grant or refuse the application and record their reasons for any departure,

Principle of Development/Sustainability:

The most relevant policies in relation to the development plan (West Devon Local Plan Review 2005 & Core strategy 2011) are NE10, BE3, SP1, SP3 & SP17.

Policy NE10 (The protection of the wider countryside and other open spaces) states that development within the countryside outside settlement limits or not otherwise in accordance with policies or allocations in the Plan will not be permitted unless it provides an overriding economic or community benefit and cannot be reasonably located within an existing settlement and does not cause unacceptable harm to the distinctive landscape character of the area and the important natural and made features that contribute to that character including views.

Policy BE3 (Development affecting the setting of a listed building) reflects Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. It requires that special regard be paid to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which it possesses. Policy SP18 (the heritage and historical character of West Devon) aims to protect the setting of heritage assets (listed buildings, conservation areas and scheduled ancient monuments).

Policy SP1 (sustainable development) notes that West Devon requires a long term sustainable development strategy for tackling the implications of climate change and future growth in line with global and national policy (60% reduction of CO2 emissions by 2050). It notes that new development should be carried out in a sustainable manner. This includes, amongst others, protection of historic and cultural features, the protection of natural and man made landscapes, the protection and enhancement of the countryside, biodiversity and geodiversity and also to take account of the needs of all individuals and groups within the community to promote health, safety and social well being and improve quality of life indicators.

Core Strategy Policy SP3 (renewable energy) states that:

Proposals for development involving the provision of renewable and/or low carbon technologies, including micro-generation technologies, together with ancillary buildings and additional infrastructure will be supported and encouraged except where the proposal would have unacceptable adverse effects which are not outweighed by the local and wider environmental, economic, social and other considerations of the development.

Permission will only be granted if the developer has satisfactorily addressed the following on an individual case by case basis:

- The use of the most appropriate technology;

- Measures to mitigate any adverse impacts on the amenities of the occupiers of nearby properties during the construction, operational lifespan and decommissioning of the equipment/infrastructure;
- The provision for the protection, preservation, and/or mitigation for any features of strategic, cultural, agricultural, ecological, historic and/or archaeological importance, including landscape character.

Commercial scale renewable energy generation projects will be supported in locations where other policies of the plan can be satisfied. Developments of this type will be subject to a comprehensive assessment which will be based on relevant regional and national guidance/best practice and the individual and unique circumstances of the case. When considering assessments, regard will be given to the wider benefits of providing the energy from renewable sources as well as the potential effects at the local scale.

Core Strategy Policy SP17 notes that on sites outside of an Area of Outstanding Natural Beauty or Dartmoor National Park, particularly on the fringe areas, development will not be permitted that would damage their natural beauty, character and special qualities or prejudice achievement of their designated purposes. The quality, character, diversity and local distinctiveness of the natural and historic environment will be conserved and enhanced.

Emerging 'Our Plan' policy OP48: Renewable and Low Carbon Energy (including heat) To increase the use and production of renewable and low carbon energy to contribute to national targets, development will be supported where: In the case of renewable energy generating technologies:

h. With specific relation to wind turbine proposals, an additional Residential Amenity Assessment has been supplied as part of a planning application where any dwelling used for residential purposes is located within a specified multiple of the blade tip in line with the following formula: $D = 350 + ((H - 25) * 5)$ where H equals the height to tip of the proposed wind turbine and D = Dwelling'.

Pre- application consultation

Concern has been raised by objectors that the pre-application consultation process was inadequate and did not meet the necessary requirements. The proposed turbine exceeds 15m therefore the applicant was required to undertake pre-application consultation in accordance with the requirements set out within Sections 61W and 61X of the Town and Country Planning Act and Article 3 of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015.

The planning practice guidance states that, 'in summary, a prospective applicant for planning permission must:

- publicise the proposal in such a way as the applicant reasonably considers is likely to bring it to the attention of a majority of the people who live at, or otherwise occupy, premises in the vicinity of the land;
- set out how persons may contact them regarding the proposal. The applicant must give sufficient information about the proposed timetable to ensure that people wishing to comment on the proposed development may do so in good time;

- if they decide to go ahead with making an application for planning permission, have regard to any responses received when finalising the application to be submitted;
- when submitting their application explain how the local community has been consulted, what comments have been received, and how account has been taken of those comments.

The pre-application public consultation undertaken by the applicant included a mailshot of residential properties within the vicinity of the application site. The applicant determined that the vicinity of the land would extend to 1km from the proposal site. 38 properties were selected and sent an information pack. The pack included a site location plan, an information with frequently asked questions and a feedback form. The information pack stated that the applicant was compiling surveys and documents prior to submitting an application and that the aim of the public consultation was to assimilate comments and to adjust the design to accommodate issues raised. The consultation process gave over three months for residents to respond. Received comments and the applicant's responses have been collated in table form and included with the statement of community involvement. The applicant's responses indicate that the received comments have been taken into account. It should also be noted that the issues raised in the consultation process have also been addressed within the planning application submission.

The Council has draft community consultation guidance, which has not been adopted, entitled: 'On Shore Wind Turbines in West Devon Interim Planning Guidance for Prospective Developers'. Although the applicant's community consultation is not in complete adherence with the draft guidance, it is considered that the consultation was proportionate to the proposed development.

It is considered that the pre-application consultation process undertaken is sufficient to satisfy the requirements of Article 3 of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015 and Sections 61W and 61X of the Town and Country Planning Act 1990.

Landscape and Visual Impact:

A landscape and visual report (L&VR) has been submitted with the application which includes photo-visualisations and wireframes from a number of representative viewpoints to demonstrate the resulting landscape and visual impact of the proposal. The L&VR is based on established practice guidelines and the extent of the exercise is considered to be adequate.

The application site is set on the boundary between landscape 1D Inland Undulating Uplands and IF Farmed lowland Moorland. In summary the key characteristics are;

1D Inland Undulating Uplands

Gently rolling upland with streams

Mainly pastoral cultivation, in a small to medium sub-regular pattern on slopes, with some arable cultivation on flatter areas.

Wide low hedgebanks with few hedgerow Oaks; Pine, Holly and Beech are distinctive

Little woodland

Network of sinuous minor roads

Sparse settlement pattern

High and open, with extensive views where hedgebanks permit

IF Farmed lowland Moorland

Flat to gently rolling moorland plateau

Mainly pastoral cultivation with prominent conifer plantations

Notably regular field patterns with areas of enclosed moorland heath and scrub

Open and exposed

Sparse settlement pattern of hamlets and isolated farms

Sparse highway network of narrow straight lanes

Hedgebanks with low hedges and a few roadside oaks and copses

Broadly speaking the character of the area is a rural pastoral landscape of lowland character, with medium sized fields with fields predominantly surrounded by banked hedgerows. In some places, hedgerows are reinforced with stock fencing. Some hedgebanks have been removed and boundaries are marked by post-and-wire fences. Woodland is mainly present as small irregular blocks in lower-lying areas with oak being the predominant species. Oak trees are a distinctive feature of the lower-lying farmed moorland pastures and around the application site, and are present in large numbers as mature hedgerow trees and as individual or small groups of trees within pastures.

The surrounding landscape has few built or landmark features in the surrounding landscape. Some farms such as Ham Farm, North Beer and Downhayes are partly surrounded by large, modern farm buildings but these are not especially prominent. The surrounding road network is predominately made up of relatively small minor roads with hedgebanking. There are two public rights of way which are closely related to the proposal site: Spreyton Footpath 3 (600m to the south west) and Itton Moor Lane (informal footpath – 800m to north).

Views northwards terminate at rising ground between North Tawton and Bow approximately 4km distance from the proposal site. Views to the north contain some open areas of land and some areas of woodland, trees and farms. To the south of the site, Dartmoor is not a feature that can be viewed due to the rising landform, which runs from the south-west to north-east.

There are several lengths of public rights of way from where the proposal would be visible. Firstly, as footpath 3 descends north-facing slopes to Combe Farm from heath, there would be views north/north-east to the Proposal (between 1.25 and 1.5km distance) over an approximate 0.25km length of path. Secondly, on the northern section of Itton Moor Lane between Justment Cross and Coxmoor, where hedgerows are sufficiently low, the proposal would be prominent in views at distances of between 0.8 and 1km. The L&VR identifies that the proposal would have a moderate/major effect upon these footpaths.

The Landscape and visual Report (L & VR) dated December 2014 from Landscape Visual states on page 24 that the effect and significance on Landscape Character Types 1D and 1F would be:-

High magnitude and moderate/major significance to 0.5km

Medium to high magnitude and moderate/major significance to 1km

Medium magnitude and moderate significance to 2km

With regard to key photomontages, the Landscape Officer has stated:

- ‘1. *Coombe Farm/North Beer Farm; 706m distant- taken where a footpath exits onto a minor lane; moderately significant; turbine appears as a discordant feature in an unspoilt rural landscape*

2. *Justment Cross 793m distant- significant; despite being viewed above large scale farm buildings the turbine appears as a discordant feature in an unspoilt rural landscape*
3. *Week Farm 1.246km distant- moderately significant; turbine seen against unspoilt rural landscape without breaking the skyline. The Den Brook turbines would figure heavily in this view*
6. *A3124 Oaklands Farm; 2.8km distant; low significance; turbine small in the landscape at this distance*
7. *Bow Playing Fields 3.6km- low significance but within the view towards Dartmoor for many of the village properties.*
8. *Nichols Nymet Moor Cross 3.9km- low significance; turbine seen against unspoilt rural landscape without breaking the skyline. The Den Brook turbines would figure heavily in this view*
9. *North Tawton 3.97km- low significance; turbine seen against unspoilt rural landscape, just breaking the skyline. The Den Brook turbines would figure heavily in this view.*

Of all the above viewpoints it is the closest points that is the primary concern of the Landscape Officer. Viewpoints 1 and 2 show that the turbine will undoubtedly have an impact upon the landscape quality of the footpaths at these points. Locally around the application site there is a strong character of mature oaks on hedges, which gives height within the landscape of approximately 20-25m. In some instances the presence of these hedgerow trees do help to reduce the visual impact of the proposed turbine.

The L&VR appraises the cumulative effects of the turbine by considering all Cumulative Assessment Schemes (CASs) within 10km and 20km of the proposal. By far the most significant of these is the Den Brook Wind Farm located 2.2 to 2.9km distant and comprising nine 120m turbines. The L&VR states that:

'As a new landscape feature, the Proposal would be consistent with the features in the prevailing landscape. The turbine could thus be considered to be an extension or outlier of the Den Brook wind farm, albeit one which has to be considered as having potentially significant effects through a slight extension of the area characterised by wind energy development.'

Cumulative landscape character effects would reduce in distance from the Proposal and Den Brook wind farm. Within approximately 1km of the proposal and 2km from Den Brook, cumulative effects would be of a medium to high magnitude and moderate to moderate/major significance, and decreasing to medium magnitude and moderate significance and lower beyond 1km from the Proposal and 2km from Den Brook. There is an overlap in areas in which significant effects for either project as an individual scheme would arise. Cumulative landscape character effects would therefore be locally significant, with the Proposal contributing to this effect to a degree'.

'The consented Den Brook wind farm reduces the susceptibility of the landscape to wind farm development.... As a new landscape feature, the proposed turbine would be consistent with the features in the surrounding landscape. The cumulative effect with Den Brook wind farm is further reduced by the smaller scale of the proposal. The Proposal is a 67m-to-blade-tip EWT Turbine, which is much smaller than Den Brook's consented 120m-maximum-height-to-blade-tip turbines. This means that the Proposal would add a new scale of wind turbine to the Den Brook Farmed Lowland Moorland or Inland Undulating Uplands with wind turbines

landscape sub-type. The area affected by cumulative effects would be similar to that affected by the dominant individual scheme, Den Brook wind farm. Cumulative effects brought about by the Proposal would further contribute to wind energy development pressures on the surrounding landscape, but the proportion would be slight compared to the consented baseline'.

Landscape conclusions

Due to the rising landform to the north, east and west the ZTV (zone of theoretical visibility) plans submitted with the application indicate that impact of the turbine would be mitigated from wider views in the landscape.

At a distance exceeding 2km to the south the turbine is unlikely to be visible and thereafter would predominately only be visible in distant views from Dartmoor. The separation distances would ensure that the turbine would have a barely discernible indirect effect on the character of the National Park's landscape.

The closely related rising land to the east of the proposal site would mitigate the impact of the turbine with open views of the turbine hub diminishing within 1-1.5km. To the west of the proposal site and the River Yeo, the ZTV indicates that there is an area of theoretical visibility of approximately 2.5km until this terminates with the higher ground; although there is the potential for views from some areas of higher ground towards Okehampton.

To the north of the proposal site, the ZTV indicates that the turbine could be viewed from land to the east of North Tawton, to Bow & the north of Bow and parts of Zeal Monochorum. Viewed from the north the turbine would be seen in the context, and as a smaller element, of the Den Brook wind farm, which would significantly reduce its impact from northerly views.

The turbine would be visible from some areas within the National Park. However, at this distance, views towards the application site would be of a very wide open and varied landscape. A number of turbines would be visible but neither together nor individually would they change the character of the surrounding countryside or be so clustered that they would dominate.

The Landscape Officer has stated that, 'the scale, movement and location of the proposed turbine will have some significance on the quality of the local landscape notably on the enjoyment of stretches of local footpath... There will undoubtedly be cumulative impact particularly in relation to the Den Brook development where at times the turbine will appear to fall within the visual envelope of this scheme and at other times as an outlier. There will be a degree of loss of local tranquillity and diminution of landscape character... [which] makes this a finely balanced proposal'.

In close proximity to the proposal site the turbine would appear as a dominant and imposing feature and would be prominent from many views within 3km of the proposal site. While not changing the character of the landscape it would cause visual intrusion, although not over a wide area, which is limited by topography and vegetation.

There would be some views, particularly from the south west where the turbine could be viewed cumulatively with Den Brook. However, these would be at some distance and would not cause significant harm to the landscape. There would also be intervisibility between Hayrish, Great Cocktree and Heywoods Farm turbines (amongst others) and the proposal.

However, because of their distance and intervening landscape the various wind farms would be seen as unconnected features and would not be perceived to have a cumulative impact in combination with the proposed turbine, and taken together the turbines would not change the overall rural character of the area. Due to the size and number of wind turbines, Den Brook is likely to be the most noticeable feature in the landscape.

Although the turbine would cause some visual harm it is considered, taking account of the local topography, vegetation and Den Brook, that its impact would not be significant or unduly harmful. Given the limited impact the proposal would have on the character of the area, it is unlikely to have a material impact on tourism.

Noise:

Concerns have been raised by objectors regarding the predicted noise levels produced by the turbine, the amplitude modulation effects of this specific model with 40m hub height and 67m tip height and the cumulative noise levels when combined with the Den Brook wind turbine development. The Parish Council independently commissioned and submitted a noise report following misgivings regarding the applicant's submitted report.

Paragraph 015 of the PPG identifies that 'the assessment and rating of noise from wind farms' (ETSUR- 97) should be used by local planning authorities when assessing and rating noise from wind energy developments. Good practice guidance on noise assessments of wind farms has been prepared by the Institute Of Acoustics. The Department of Energy and Climate Change (DECC) accept that it represents current industry good practice and endorses it as a supplement to ETSU-R-97.

This application has been assessed by Environmental Health who have not objected and consider that the applicant has followed the guidance published by the Institute of Acoustics. Initially Environmental Health asked that the cumulative impact was re-assessed due to the close proximity of Den Brook. The resubmitted noise assessment reports confirm that the proposed turbine will not exceed limits of 33 dB LA90 at Ham Farm and 34 dB La90 at Downhayes, this means that the applicant turbine level is 10 dB below the limit of the Den Brook approval. Environmental Health have stated that at 10 dB below the Den Brook level there will no discernible cumulative noise increase.

The condition recommended by Environmental Health will protect neighbouring properties from excessive noise from the turbine. The 35 dB is below world health organisation night noise levels of less than 40 dB(A) of annual average (night) outside of bedrooms which will prevent adverse health effects from night noise. 35 dB can be compared to a quiet library or living room environment. The condition stipulates that the noise is measured outside of the dwelling so there will be a further reduction in noise indoors as the dwelling will insulate the noise.

The Department for Energy & Climate Change (DECC) have recently commissioned a working group to research further into the causes, occurrence and control of Amplitude Modulation, however there is currently no agreed methodology or planning condition which is appropriate for a single turbine. Environmental Health are confident however that the proposed conditions will ensure that they are in a position to deal with any problem that might. Statutory nuisance/antisocial behaviour provisions may also be used if the turbine creates a complaint but is compliant with this planning condition.

Shadow Flicker:

National policy (National Policy Statement EN-3) states that there is unlikely to be a significant impact from shadow flicker at distances greater than ten rotor diameters from a turbine. In this instance this would be 540 metres. There are four properties that could potentially be affected: Downhayes, Cawsands Barn, Combe Bungalow and Ham Farm. The analysis from computer modelling demonstrate that Ham Farm is the only property that could be affected and the results show that in the worst case scenario the maximum potential effects total 35.8 hours over 80 days. The applicant has therefore proposed a shadow flicker shut off system that would be subject to a planning condition. This is a commonly used and suitable solution to the identified issue and a condition is recommended in this report.

Residential Amenity with regard to visual amenity:

A number of residential properties are within 1km of the proposal site. The nearest properties include: North Begbeer Farm (1km), Great Begbeer Farm and Little Begbeer Farm (850m), Treeyeo (725m), Newlands Farm (650m), Combe Bungalow and Combe Moor (600m), Downhayes/Cawsand Barn & Ham farm (500m).

The proposed turbine is likely to be prominent in views from the above properties with the turbine being most noticeable from Ham Farm and Combe Bungalow (on the eastern side of Combe Moor Lane). Views from the dwellings to the east are likely to be of the hub and blades only due to the landform. Views from the northern edge of Spreyton would be mainly screened by the topography and intervening landscape screening. There are unlikely to be views of the turbine from the centre of the village. Below is an assessment of residential properties within 1km of the site. It is considered that residential properties with a separation distance greater than 1km from the proposal site are unlikely to have their amenity unduly harmed.

Ham Farm is approximately 500m to the north of the turbine on slightly lower ground. The L&VR indicates high magnitude of effects of moderate/major to major significance. The farmhouse is orientated with a south easterly aspect. The views from the ground floor would be screened by the nearby barns and mature trees. It is probable, however, that there would be views of the proposal from outside areas near the house or from upper storey windows.

Downhayes and Cawsand Barn are the second and third closest properties to the proposal site some 510m from the proposal. L&VR indicates a medium to high magnitude of effects of moderate/major to major significance. The properties are orientated north-south so that the habitable rooms would not look towards the wind turbine. The properties are however sited on land above the proposal site and the rotor head and blades would be partly visible from the rear garden to Downhayes. Officers raised concern that there could be an overbearing visual impact upon Downhayes and requested the applicant submit a photomontage from the rear garden. The submitted photo demonstrated that the turbine would be largely obscured by an existing hedge on the boundary with the adjoining field. The applicant has confirmed that the hedge is within their ownership and that they are prepared to accept a condition to protect and improve this hedgeline to ensure that the residential amenity of Downhayes is protected.

Combe Bungalow (L&VR - high magnitude of effects of moderate/major to major significance) is 600m from the proposal site and is located on the eastern side of the highway and is

orientated east-west and therefore there would not be direct views of the turbine from windows. Outside areas would have open views towards the turbine with the full rotor above mature oak trees. At 600m distance and the intervening oak trees the impact on the property would not be significant. Combe Cottage is on the western side of the highway some 640m from the proposal site. It has a similar aspect to Combe Bungalow but is surrounded by mature trees and is unlikely to view the proposal.

Newland Farm is 675m to the north east of the proposal. The L&VR indicates up to low to medium magnitude of effects of moderate significance. The dwellings are located on higher ground to the east which would partially screen views to the proposal site. There are trees and hedgerows close to the dwellings that would add some further screening. The proposal is unlikely to be prominent in views from the property.

The dwellings at Treeyeo/Coxmoor Cross are located approximately 730m to the north west of the proposal. The L&VR indicates up to medium to high magnitude of effects of moderate/major significance. The properties have a north-west/south-easterly aspect adjacent to the road at Coxmoor Cross.. Views of the Proposal are likely to be screened or partly screened by mature trees on field boundaries near the dwellings. There would be no undue harm to the properties.

Great Begbeer Farm and Little Begbeer Farm are located approximately 850m to the east/south east of the proposal site. The landscape and visual report indicates up to medium to high magnitude of effects of moderate/major significance. The ZTV indicates visibility of the hub and blades only, with some nearby areas having only theoretical views of the blade tips, which is due to topography with Great Begbeer being set back slightly from the edge of the rising ground. Views are most likely to arise from outside areas on the western side of the modern bungalow at Great Begbeer Farm, which has a westerly aspect. There are unlikely to be views from Little Begbeer due to the landform.

Great Coxmoor is approximately 920m to the north east of the proposal site. The landscape and visual report indicates very low magnitude of effects of slight significance. The ZTV (Figure 1172/03b) indicates that visibility from the property would be of the hub and blades only. The dwelling is however surrounded by mature trees and views are unlikely to arise.

Puddicombe Park is located approximately 930m to the east of the proposal. The landscape and visual report indicates a very low magnitude of effects with slight significance. The ZTV suggests that only the hub and blade tip could be viewed. It is likely that intervening landscaping and trees adjacent to the south west of the property would screen views of the proposal.

North Beer Farmhouse is located approximately 1km to the south of the proposal site with views towards the site. The L&VR indicates up to medium to high magnitude of effects of moderate/major significance. The proposal site is likely to be seen from upper floor windows and some outside areas (buildings blocking ground floor windows) and would appear as a prominent feature. The distance would however ensure that the impacts on the living conditions of residents would be acceptable.

It is considered that the occupants of the properties within a 1km radius of the site would not experience visual intrusion to the extent that their living conditions would be significantly affected. Although there would be views from some land related to the properties, the harm is not considered to be unduly harmful in accordance with policy SP3 of the core strategy.

The Parish Council make reference to the applicant's previous appeal decision and the impacts upon the residential amenity of Stockhay which the inspector found, "the turbine would be substantially unpleasant, overwhelming and oppressive for the occupiers" and "would become an unattractive place to live" and conclude that there would be a similar impact upon the nearest residential properties. It should be noted that Stockhay was sited 418m from the proposed turbine (which was 10m taller) and directly faced habitable room windows to the property. As discussed above, due to the larger separation distances, orientation of the properties and the presence of hedging/mature trees, the nearest residential properties (Ham Farm and Downhayes/Cawsand Barn) would not have their amenity unduly harmed.

Our Plan – policy OP48 and residential amenity:-

A number of representations have had reference to policy OP48: Renewable and low carbon heating of the draft development strategy (Our Plan) which relates to residential amenity and includes a calculation to assess distances between residential properties and wind turbine, which is dependent on the height of the wind turbine. Policy OP48 states (amongst others):

Policy OP48: Renewable and Low Carbon Energy (including heat) To increase the use and production of renewable and low carbon energy to contribute to national targets, development will be supported where: In the case of renewable energy generating technologies:

h. With specific relation to wind turbine proposals, an additional Residential Amenity Assessment has been supplied as part of a planning application where any dwelling used for residential purposes is located within a specified multiple of the blade tip in line with the following formula: $D = 350 + ((H - 25) * 5)$ where H equals the height to tip of the proposed wind turbine and D = Dwelling'.

Using the calculation, an additional residential amenity assessment would be required for residential properties within 560m of the proposed turbine. Three properties would fall within this distance (Ham Farm, Downhayes and Cawsand Barn). It should be noted that at Our Plan has been through a public consultation process and there have been a limited number of objections to the proposed policy. It is considered therefore that the emerging policy carries some weight although it is very important to note that it is not adopted policy and does not supersede the Local Plan or Core Strategy It should be noted that the policy is not a policy on separation distances that would restrict development rather it is a policy requiring assessment of the impacts upon residential amenity. This policy broadly accords with current planning policy and the NPPF. The information required by this policy has already been submitted within the planning submission.

Reference has also been made by the Parish Council to Allerdale Borough Council's planning policy related to an 800m separation distance. It should be noted that this policy does not restrict development within 800m but similar to Our Plan policy OP48 adds additional safeguards by requiring additional information to be submitted as part of a planning application to ensure that residential amenity is not unduly harmed.

Paragraph 008 of the Planning Practice Guidance outlines that "Local planning authorities should not rule out otherwise acceptable renewable energy developments through inflexible rules on buffer zones or separation distances. Other than when dealing with set back

distances for safety, distance of itself does not necessarily determine whether the impact of a proposal is unacceptable.”

Heritage:

The nearest listed building to the proposal would be Combe Farmhouse (grade II* English Heritage (EH) listed building 1171794) which is just over 1km from the Proposal. Hendicott Farmhouse (grade II*) is 1.5km to the west. There are various grade II farmhouses 1.3 to 1.6km to the south including Week Farmhouse, Stockhay; and Heath.

The nearest Registered Park and Garden (RPG) is Wood House (Grade I, list entry 1000485) which is over 5.1km to the south-west and entirely outside of the ZTV in a low-lying area near the River Taw. Castle Drogo (Grade II*, list entry 1000452) is 8.5 to 9.7km to the south/southeast in an area of the ZTV with very little visibility of the Proposal.

The nearest Scheduled Ancient Monument (SAM) are Two long mortuary enclosures 570m east and 590m ENE of Sandford Barton (list entry 1020072) and Broadnymett Chapel and long barrow.

Historic England have objected to the proposal and have stated that:

‘The English Heritage position is that this proposal significantly underestimates the level of harmful impact that the development would have on the setting and significance of a number heritage assets. This is particularly so in this case to the setting of traditional landscape setting of a number of vernacular farmsteads including several that are highly graded, as well as to the Conservation Area at Bow and to some extent on the (under-listed) church at Spreyton. This setting is part of the significance of these heritage. We accept that in relation to the very great harm that the Den Brook Wind-Farm would make, the harm caused by the proposed 67metre to blade-tip wind turbine would be less than substantial’.

When considering applications that may affect a listed building or its setting, section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special regard to be paid to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The NPPF notes that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The Framework describes the setting of a heritage asset as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

Below is an assessment of Listed Buildings within 2km of the proposal site.

Coombe Farmhouse is the closest listed building approximately 1.1km distance from the proposal site. It is a grade II* listed building and is a former Dartmoor Longhouse dating from the 16th century. The significance of the building relates to its listed status, its history, design, construction and relationship with the surrounding farmland. It is also on a public right of way. The construction is described in detail and is clearly very important in relation to the building’s significance. The Historic Visual Impact Assessment (HVIA) assesses the impact upon the significance of the listed building as negligible. The landscape and visual report indicates that effects up to very low magnitude would arise on this medium to high sensitivity asset,

with the effect being of slight impact upon significance. The dwelling is orientated south east/north west and views are unlikely from the farmhouse or its vicinity due to topography and vegetation. The farmhouse was not conceived or built with a landscape setting that included views to the proposal site and it should be noted that much of the curtilage originally had many more farm buildings which have been demolished. There may be some limited views of the turbine from parts of the residential curtilage but these would not be unduly harmful given the separation distance, topography and intervening landscaping. There would be very little impact on the ability to appreciate the overall significance of the listed building, and in terms of the Framework would be classed as 'less than substantial' harm, with minor impact and limited weight to be attached to it.

Stockhay is a grade II listed 17th century thatched farmhouse with east/north easterly aspect approximately 1.3km to the south of the proposal site. The significance of the building relates to its listed status, its history, design, construction and relationship with the surrounding farmland. The property is on the limit of the bare ground ZTV and it is unlikely that the turbine could be seen. The HVIA assesses the impact upon the significance of the listed building as negative/moderate. The property does not have a designed landscape setting. At most the turbine would have less than substantial/minor harm to the setting of the listed building.

Hendicott Farmhouse is 1.551km from the proposal site and is grade II* 15-16th century farmhouse with south/south westerly aspect. The significance of the building relates to its listed status, its history, design, construction and relationship with the surrounding farmland. The HVIA assesses the impact on significance as negative/moderate. The heritage asset does not have a designed landscape setting. Despite being within the ZTV there is dense tree cover within the property which would screen the turbine from the Listed Building. The aspect and tree cover would ensure that there would be no harm to the setting Hendicott. The property does not have a designed landscape setting. At most the turbine would have less than substantial/minor harm to the setting of the listed building.

Week Farmhouse is a grade II farmhouse approximately 1.58km from the proposal site with a south/south westerly aspect. The significance of the building relates to its listed status, its history, design, construction and relationship with the surrounding farmland. The HVIA assess the impact on the significance of the listed building as negligible. The property is on the edge of the bareground ZTV and is unlikely to be seen although the L&VR notes that turbine tips may be seen. The property does not have a designed landscape setting. At most it is considered that the turbine would have less than substantial/minor harm to the setting of the listed building.

Heath Farmhouse (and associated structures) is a grade II listed building some 1.59km from the proposal site. The significance of the building relates to its listed status, its history, design, construction and relationship with the surrounding farmland. The HVIA identifies a negative minor to negative/moderate. The farmhouse is outside of the ZTV and would not be viewed in conjunction with the turbine.

There are a number of listed buildings within Spreyton Village. The majority of the listed buildings are outside the ZTV and would not be have their setting affected (identified negative minor to negative moderate in the HVIA). The Church of St Michael is listed Grade II and is on the edge of the ZTV with intervening landscaping likely to screen the turbine. The wider setting of the church tower from northerly views could be affected given its location on the ridgeline which gives it some prominence in the landscape. The church tower is however quite short and views from the north, where it could be seen in conjunction with the turbine,

would be difficult to identify given the adjacent mature trees. The harm to the setting of St Michael is considered to be less than substantial/minor.

The Old Vicarage is grade II built circa 1840 located to the north of the Church of St Michael. The property has a northerly aspect facing the proposal site and theoretically could view the whole hub of the turbine. There are mature trees in the garden which are likely to mitigate any glimpsed views. The separation distance would also mitigate impacts on the setting. The HVIA assesses the impact on significance as negative minor to negative moderate.

The Barton is a grade II* dwelling to the west of St. Michael's church. The HVIA assesses the impact on significance as negligible. The main part of the building faces south but due to mature trees in the garden and farm buildings to the north it is unlikely to have extensive views of the turbine. The harm to the setting of the listed building is considered to be less than substantial/minor.

There are a number of other listed buildings more than 2km from the proposals which could have their settings affected. These include Lower Sessland, Westacott Barton and Broadnymett Chapel. Both Broadnymett Chapel and Westacott Barton (both II*) are to the north of the proposal site and would view the turbine through Den Brook wind farm. Seen in the context of Den Brook, also taking into account the separation distances, the harm to the significance of the setting of the listed buildings would be less than substantial harm/minor. The HVIA assesses the impact on significance as negative minor for Broadnymett Chapel and negligible for Westacott Barton.

Lower Sessland is a Grade II* Listed Devon Longhouse with south westerly aspect located 2.4km to the west of the site. The HVIA assesses the impact on significance as negative minor to negative moderate. The orientation of the property, the large modern barns to the east of the farmhouse and the separation distances would ensure that the harm to the significance of the setting of the listed buildings would be less than substantial harm/minor

There are conservation areas at Bow (approximately 3km) and Zeal Monachorum (approximately 6km), which are within the zone of theoretical visibility. The nearest Scheduled Ancient Monuments (SAM) are located at land east of Sandford Barton (two mortuary enclosures) and Broadnymett (Chapel and long barrow) located approximately 2.5km to the north of the proposal site. The turbine would be a significant distance from these heritage assets that, taking into account that the overall character of the countryside would be unchanged, the limited impact of the turbine on appearance at this distance would have no material impact on the setting and significance of the conservation areas or the SAMs. The ZTV indicates that the turbine is unlikely to be seen from North Tawton Conservation Area.

Given the 5.1km distance to the Grade I Wood House and its Registered Park and Garden, which is entirely outside of the ZTV, and the 8.5 to 9.7km distance to Castle Drogo (Grade II*) is 8.5 to 9.7km, in an area of the ZTV with very little visibility of the proposal, it is considered that the impact on the significance of these heritage assets would be negligible.

It has been identified that a number of heritage assets would have less than substantial harm to their significance. However, even where 'less than substantial' harm is identified, Section 66(1) requires considerable importance and weight to be given to the desirability of preserving the setting of a listed building when carrying out the balancing exercise. As will be discussed in the planning balance (below) the less than substantial harm, taking into consideration Section 66(1) and the considerable weight afforded to the desirability of

preserving the setting of Listed Buildings, would be minor/negligible and that this harm should be balanced against the public benefits of the proposal.

In the light of the above it is considered that the development satisfies the requirements of policies CS SP18 and LP BE3 and BE7. It should be noted that the Borough Senior Conservation Officer has no objections to the proposal.

Ecology:

The Ecologist has no objections and has stated:

'The submitted Extended Phase One Habitat Survey (Spalding Associates) describes the field in which the proposed turbine is to be sited, and also most of the land through which the access track will pass as improved grassland used for livestock grazing. The field is surrounded by Devon Hedgebanks, the northwestern hedgebank supporting trees within the hedgebank.

The Survey concludes that:

- *The proposed turbine would not impact on bird species/populations sensitive to wind turbines (noting criteria of Natural England Guidance TIN069)*
- *The proposed turbine would not impact on bat species*
 - o *as there are no local records of high risk bat species*
 - o *no roosting features on or nearby (i.e. within 200m of the site)*
 - o *low quality foraging/commuting habitat for bats*
 - o *the turbine is sited so that blade tip meets a 50m standoff from linear habitat feature (as advised by Natural England Guidance TIN051)*
- *The proposed turbine will not impact on protected species using hedgerows (nesting birds and dormice) as there is no proposal to remove hedgerows or hedgebanks*

The conclusions within the Survey report are reasonable and based on application of good practice and guidance, and I am satisfied neither further survey or conditions are necessary in this case. This assessment is based on there being no removal of hedgerow/hedgebank – should this change then ecologist supervision or survey are likely to be required with respect to nesting birds and dormice'.

Highways/Access:

The County Highway Officer has no objections to the proposal and has stated that, 'the construction traffic management plan deals with the route of the proposed equipment to the site and the route is adequate for purpose. The existing access is to be modified to allow access over a separately constructed haul route, this is also adequate for the proposed use and is provided with suitable loading and turning facilities. The Construction Management Plan is adequate for purpose'.

The turbine would be located over 500m from the nearest highway therefore there are no concerns with regard to topple distances.

In conclusion, there are no highway issues raised in relation to this scheme.

Other Matters:

Concerns have been raised by objectors with regard to wind speed calculations using NOABL (Numerical Objective Analysis Boundary Layer) and therefore estimated energy production. In response the applicant has stated, 'The National Policy Statement for Renewable Energy Infrastructure (EN-3), identifies that there are no requirements in policy for on-site data to be collected and it is for the 'decision of the individual applicants as to whether this is necessary.' The application has not undertaken on-site monitoring of wind and provided calculations based on NOABL data base to provide indicative wind speeds to demonstrate the commercial viability of the proposal. The EWT product information for the specification of the turbine was provided to the council and outlines the manufacturer's power curve in relation to the wind speed which was used to calculate the approximate energy output of the scheme along with using the 'capacity factor' to calculate outputs of the scheme. Paragraph 021 of the Planning Practice Guidance states that 'The simplest way of expressing the energy capture at a site is by use of the 'capacity factor'. This though will vary with location and even by turbine in an individual wind farm. This can be useful information in considering the energy contribution to be made by a proposal, particularly when a decision is finely balanced.' Whilst it is accepted that the capacity factor of a particular turbine or overall project can provide useful information, this is only part of the application and cannot be considered or assessed in isolation'.

Concern has also been raised by objectors that the proposal is for the use of a restricted 900kw generator downgraded to 500kw to meet the Feed-in-tariff. In response the applicant has stated, 'The choice of turbine is wholly a commercial decision of the applicant and developer. In this case the EWT Direct Wind 54, OFGEM accredited model rated 500kW has been selected as the most appropriate model for the site as it enables the application to meet the ETSU-R-97 criteria at the nearest non-financially involved properties, therefore not conflicting with policies within the NPPF or Local Development Plan. The applicant is Powerhawk (a simple check at Companies House would establish that Power Hawk Limited is wholly owned by the Hawkins family who own and farm North Beer Farm), the proposal will enable diversification of the farm and to future proof the business for the next generation. This was recognised in the applicant's previous scheme dismissed at appeal where the Inspector stated that the turbine "would provide benefit to the farmer in terms of farm diversification and the income to the farm provided from use of the land". The Local Planning Authority are satisfied in this regard.

Representations received as part of the consultation process have raised concerns regarding the negative impact upon sleep patterns of children. This subjective view is not reflected in any current policy or guidance. ETSU-R-97 indicates that for the protection of sleep of occupants within buildings an external free-field level of 43 dB LA90 is appropriate when background noise levels are low. When background noise levels are sufficiently high, then the noise limits are set to the prevailing background + 5 dB. The noise assessment demonstrates that this proposal is compliant with this criteria.

Conclusion:

The Planning Practice Guidance (PPG) states that increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new

renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.

The PPG clarifies that all communities have a responsibility to help increase the use and supply of green energy, but that does not mean that the need for renewable energy automatically overrides environmental protections and the planning concerns of local communities. The NPPF notes that when determining planning applications for renewable energy it should not be required for applicants to demonstrate the overall need for renewable or low carbon energy.

The design life of the proposed turbine is 25 years and based on 500KWp installed capacity is estimated to generate (based on the manufacturers power curve) of approximately 1,585MWH of energy per annum, based on an average wind speed of 5.9m/s. This equates to the average annual energy use of approximately 238 homes based upon the British average household consumption. The carbon offset of the project is estimated to be 505tCO₂ per annum over the lifetime of the turbine when compared with electricity from fossil fuel sources. While there is some disagreement about the exact amount of energy produced, this is considered to be a reasonable estimate and substantial weight is therefore given to the likely benefits of the proposed turbine, in terms of renewable energy and low carbon technologies. The turbine would also have a small economic benefit in terms of employment associated with its construction and would provide benefit to the farmer in terms of farm diversification and the income to the farm provided from use of the land.

The applicant is proposing that the local community receives a direct annual payment of £3000 per annum to be used for community projects within the Parish. This community benefit is offered outside of the planning process and is not a planning consideration in the determination of this application.

Policy SP3 indicates that permission will only be granted if the developer has satisfactorily addressed a number of matters, including “the use of the most appropriate technology”, which has been raised as an issue by Historic England. The precise meaning of the policy is open to interpretation. Although some objectors have sought to argue that a solar farm would be a preferable alternative, there is no evidence to suggest that this would be a more appropriate technological solution. Indeed, given the rising topography of the land, the siting of a solar farm may not be efficacious. Policy SP3 refers to the West Devon Renewable Energy Potential Study, which highlights the benefits of local generation of renewable energy and concludes that wind power represents by far the biggest renewable potential in the Borough.

As discussed above, the development would have some adverse effects with regard to visual intrusion but that this would not be significant and would not constitute harm to landscape character. The development would not harm the special qualities of the Dartmoor National Park or conflict with the statutory purposes of its designation. Accordingly, the proposal would comply with landscape protection policy SP17. In addition, with appropriate condition, the proposal would not unduly harm residential amenity or ecology. The proposal would not harm the setting of nearby heritage assets including Bow and Zeal Monochorum Conservation Areas and nearby Scheduled Ancient Monuments. Whilst conscious of the statutory requirement to have particular regard to any harm that would be caused by a development to the setting of a listed building, it is considered in this case that there would be less than substantial harm/minor harm to the settings of the designated heritage assets. Taking into consideration Section 66(1) and the considerable weight afforded to the desirability of

preserving the setting of Listed Buildings, the harm should be balanced against the public benefits of the proposal.

The proposal would bring positive benefits in terms of the delivery of electricity from a low carbon renewable source and a contribution towards reducing greenhouse gas emissions. It is concluded that the public benefits outweigh the less than substantial harm to heritage assets and the visual impact of the turbine. Having regard to the balance of considerations in this case, it is concluded that the proposal complies with development plan policies.

Planning Policy

This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and, where relevant, with Sections 66 and 72 of the Town and Country Planning Act 1990 (Listed Buildings and Conservation Areas).

Planning Policy

NPPF

- 3. Supporting a prosperous rural economy
- 11. Conserving and enhancing the natural environment
- 12. Conserving and enhancing the historic environment
- 10. Meeting the challenge of climate change, flooding and coastal change

PPG

Para. 14 - Particular planning considerations that relate to wind turbines
National Policy Statement EN3

West Devon Borough Council Core Strategy 2011

- SP1 – Sustainable Development
- SP3 – Renewable Energy
- SP11 – Rural Regeneration
- SP17 – Landscape Character
- SP18 – The Heritage and Historical Character of West Devon
- SP19 – Biodiversity

West Devon Borough Council Local Plan Review 2005(as amended 2011)

- NE10 – Protection of the Countryside and Other Open Spaces
- BE3 – Listed Buildings
- ED17 – Farm Diversification
- T9 – The Highway Network

West Devon Renewable Energy Potential Study
On Shore Wind Turbines in West Devon Interim Planning Guidance for Prospective Developers (draft)

Considerations under Human Rights Act 1998 and Equalities Act 2010

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

DELETE THIS SECTION IF A COMMITTEE REPORT

The above report has been checked and the plan numbers are correct in M3 and the officers report. As Senior Officer I hereby clear this report and the decision can now be issued.

Name and signature:

Date: