



Appeal Decision

Inquiry held on 28 April – 8 May 2009
Site visits made on 7, 8, 21 and 22
May 2009

by **Martin Pike BA MA MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
22 July 2009

Appeal Ref: APP/M0933/A/08/2090274

Land to the east of Crosslands Farm, Old Hutton, Kendal, Cumbria

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by H J Banks & Co Ltd against the decision of South Lakeland District Council.
- The application Ref: SL/2008/0318, dated 29 February 2008, was refused by notice dated 10 November 2008.
- The development proposed is erection of 6 wind turbines, control room, anemometer mast and associated access tracks.

DECISION

1. I allow the appeal, and grant planning permission for the erection of 6 wind turbines, control room, anemometer mast and associated access tracks on land to the east of Crosslands Farm, Old Hutton, Kendal in accordance with the terms of the application, Ref: SL/2008/0318, dated 29 February 2008, and the plans submitted therewith, subject to the conditions set out in the attached schedule.

PROCEDURAL MATTERS

2. The planning application was accompanied by an Environmental Statement (ES) prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, as amended. Following an independent review of the ES by consultants appointed by the Council, supplementary information was submitted to the authority. Further environmental information was submitted as part of the evidence base for the inquiry. In arriving at my decision I have taken all this environmental information into account. I have also considered the comments from consultees and the representations made by other persons about the ES and the likely environmental effects of the proposed development.
3. The proposal is known as the Armistead wind farm. The application drawing showing a typical wind turbine (Figure 4.3) is not drawn to scale; moreover the blades of the turbine are not drawn in proportion to the tower. Nevertheless, the various visual representations of the proposed development in its landscape setting were broadly accepted at the inquiry to depict accurately the scale and proportion of the turbines, and I have based my consideration primarily on these. A few of the indicative wireframe figures in

the appendices to Mrs Horner's evidence for the appellant state that the hub height of the proposed turbines would be 80m and the height to blade tip would be 120m. It was confirmed that this is an error; as stated on the majority of wireframes and other visual representations, the hub height would be 60m and the height to blade tip would be 100m. I have determined the appeal on this basis.

4. The substantial public interest and the involvement of four main parties resulted in there being insufficient time for closing submissions to be delivered verbally on the final sitting day of the inquiry. To avoid a lengthy delay, and with the agreement of all parties, I decided to accept closing submissions in writing provided they could be made available to all interested persons; the Council agreed to make the necessary arrangements. Closing submissions were submitted in accordance with the timetable I established, and I have taken them into account in this decision.
5. After the close of the inquiry I discovered what appeared to be a small but potentially significant error in one of the noise conditions agreed between the appellant and the Council.¹ Following a brief exchange of correspondence, both parties agreed that an error had been made. I have used the correct wording of the condition in this decision.

MAIN ISSUE

6. I consider that the main issue in this appeal is whether, having regard to national, regional and local planning policies, the benefits of providing renewable energy would be outweighed by any harmful or adverse impacts on:
 - (a) the character and appearance of the surrounding area;
 - (b) the living conditions of neighbouring occupiers; or
 - (c) users of the bridleway that passes through the site.

REASONS

Planning policy

National planning policy

7. Planning Policy Statement (PPS) 22: *Renewable Energy* sets out the national planning policy most relevant to this appeal. Published in 2004, it restates the 2003 Energy White Paper targets of 10% of UK electricity generation from renewable energy sources by 2010 and 20% by 2020. PPS22 states that renewable energy developments should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic and social impacts can be addressed satisfactorily. Regional and local planning policies should promote and encourage, rather than restrict, the development of renewable energy resources, and the wider environmental and economic benefits should be given significant weight in determining individual proposals.

¹ The agreed text of noise condition 2 erroneously includes "not" as the penultimate word of the second sentence, which differs from the otherwise identical wording of the second sentence of noise condition 1.

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8. Regional Spatial Strategies (RSS) should include a target for renewable energy capacity in the region, expressed as installed capacity (in megawatts (MW)), disaggregated into sub-regional targets and indicating the broad contribution from different technologies where appropriate. RSS should include criteria based policies which can be used to identify broad areas at regional/sub-regional level where particular types of renewable energy may be considered appropriate. Criteria based policies to reflect local circumstances should be set out in local development documents.
 9. PPS22 recognises that, of all renewable technologies, wind turbines are likely to have the greatest visual and landscape effects. Developments should be assessed using objective descriptive material and analysis wherever possible. The impact of turbines on the landscape will vary according to their size and number and the type of landscape involved; such impacts may be temporary if conditions are attached to planning permissions requiring future decommissioning. Account should also be taken of the cumulative impact of wind generation projects in particular areas. In nationally recognised designations such as National Parks and Areas of Outstanding Natural Beauty (AONBs), PPS22 indicates that renewable energy projects should only be permitted where the objectives of the designation will not be compromised by the development, and where any significant adverse effects on the qualities of the area are outweighed by the environmental, social and economic benefits.
 10. The urgency of the need for action to address climate change is highlighted in the December 2007 supplement to PPS1: *Planning and Climate Change* (PCC). Planning is identified as having a key role in helping to secure enduring progress against the UK's emissions targets, amongst other matters. Regional targets for renewable energy generation in RSS should fully reflect the opportunities in the region and, where appropriate in the light of delivery, should periodically be revised upwards. In managing performance, strategic targets and trajectories should be used as a strategic tool for shaping policies and contributing to annual monitoring and reporting; they should not be applied directly to individual planning applications.
 11. PCC urges local planning authorities to provide a framework that encourages and promotes renewable and low-carbon energy. In particular, applicants for such development should not be required to demonstrate the overall need for renewable energy, nor should the energy justification for a proposed development in a particular location be questioned. Planning authorities should consider identifying suitable areas for renewable and low-carbon energy sources where this would help secure the development of such sources.
 12. PPS7: *Sustainable Development in Rural Areas* seeks to protect and, where possible, enhance the quality and character of the wider countryside. Greater priority should be given to restraint of potentially damaging development in areas statutorily designated for their landscape qualities. National Parks and AONBs are confirmed as having the highest status of protection in relation to landscape and scenic beauty. Outside such areas, whilst it is acknowledged that there are areas of landscape that are particularly highly valued locally, PPS7 advises that criteria-based policies should normally provide sufficient protection without the need for rigid local designations. It further advises
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that the sensitive exploitation of renewable energy sources should be provided for in the countryside in accordance with the policies in PPS22.

Development plan

13. The development plan comprises the North West of England Plan - Regional Spatial Strategy to 2021 (NWRSS), the policies of the Cumbria and Lake District Joint Structure Plan 2001-2016 (JSP) that have not been replaced by the NWRSS, and the 'saved' policies of the South Lakeland Local Plan (SLLP). The main policies relevant to this appeal are identified below.
14. The NWRSS was published in September 2008 and establishes a set of overarching spatial principles to which other plans and individual development proposals should adhere. These include the promotion of environmental quality by, amongst other matters, respecting the character and distinctiveness of landscapes (policy DP7), and the reduction of carbon dioxide emissions by, for example, increasing renewable energy capacity (policy DP9). Policy EM1 seeks an integrated approach to the protection and enhancement of the region's environmental assets; amongst other matters it gives priority to conserving and enhancing areas of landscape importance, from international to local level. Policy EM1 (A) indicates that the protection and enhancement of features that contribute to the character of landscapes should be informed by detailed landscape character assessments and the special qualities associated with national landscape designations.
15. NWRSS policy EM17 specifically promotes renewable energy sources, seeking (in line with PPS22) at least 10% of the electricity supplied within the region to come from such sources by 2010, rising to 15% by 2015 and 20% by 2020. The accompanying tables give an indicative target capacity of 600MW from on-shore wind farms/ clusters for the region by 2010, of which 210MW is anticipated to be provided in Cumbria. Policy EM17 states that significant weight should be given to the wider environmental, community and economic benefits of proposed renewable energy schemes to contribute towards these target capacities and to mitigate the causes of climate change. It lists wide-ranging criteria which should be taken into account when assessing renewable energy proposals, including the effects on local amenity, visual impact, nationally designated sites and nature conservation.
16. The JSP was adopted in April 2006 and includes two relevant saved policies. Policy E37 seeks development which is compatible with the distinctive characteristics and features of Cumbria's landscape types and sub-types. Proposals should be assessed in relation to a range of criteria including locally distinctive features, visual intrusion, scale, openness and tranquillity, public access and community value of the landscape. Policy R44 states that outside the Lake District National Park and AONBs, proposals for renewable energy should be favourably considered if there is no significant adverse effect on landscape character (either individually or cumulatively) or on local amenity, subject to all practicable measures being taken to reduce any adverse impact. Significant weight should be given to the environmental, economic and energy benefits of such proposals.
17. The SLLP was adopted, with Alterations, in March 2006. Policy C25 states that renewable energy proposals will be favourably considered where the

energy generation and other benefits outweigh the environmental impact and the proposals are consistent with established best practice. Wind energy is specifically addressed by policy C26, which lists 8 criteria to be satisfied. These include the energy generation and other benefits outweighing any significant adverse impact on (i) landscape character and appearance and (ii) residential amenity; there being no significant adverse impact on nationally important landscape designations or their settings; and the cumulative effect of the proposal with other existing or proposed schemes not having a significant adverse effect on the character and appearance of the area. Policy L10 seeks to protect rights of way from any development that would adversely affect their character.

Supplementary planning document

18. The Cumbria Joint Wind Energy Supplementary Planning Document (SPD) has been developed jointly by Cumbrian local planning authorities to support the implementation of renewable energy policies in local development documents and to provide consistent guidance for wind energy development across the county (outside the National Parks). It was adopted by South Lakeland District Council (SLDC) in December 2007, though it does not constitute policy. It provides general guidance on addressing the environmental, social and economic effects of wind energy proposals, and technical guidance on landscape capacity and landscape and visual effects. The findings of the SPD which are most relevant to this appeal are addressed in subsequent sections.

Benefits of renewable energy provision

19. In December 2008 the total installed capacity of onshore wind energy sites in Cumbria was 69.5MW, with a further 26.1MW permitted but not yet operational. When these latter sites come on stream, the installed capacity in Cumbria will represent about 46% of the NWRSS target of 210MW by 2010. Although proposals currently at the planning and appeal stages (including Armistead) would more than double this capacity, the proportion of these schemes that will ultimately be built is impossible to predict. Moreover, there is no realistic prospect of them being built by 2010. Overall, there is likely to be a significant shortfall in the provision of onshore wind in Cumbria when assessed against the 2010 target.
20. Each of the 6 wind turbines proposed at Armistead would have a generating capacity of up to 2.5MW, giving a total installed capacity of up to 15MW. The appeal proposal would therefore make an appreciable contribution towards reducing the shortfall against the NWRSS targets.² I acknowledge that the NWRSS targets are indicative and should not be used in a deterministic manner – indeed, policy EM17 implies as much by stating that meeting the targets is not a reason to refuse otherwise acceptable renewable energy proposals. But in this particular case, with installed onshore wind capacity a long way short of the target, I think it is all the more appropriate to apply the ‘significant weight’ that policy EM17 states should be given to the contribution that the proposal would make towards the target capacity.

² Armistead is unlikely to come on stream in time to contribute towards the 2010 target, so it would contribute instead towards the 2015 target for Cumbria of 247.5MW from onshore wind.

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21. Based on the statement at paragraph 16 of PCC that “strategic targets..... should not be applied directly to individual planning applications”, the Council argues that the contribution that the proposal would make to regional targets adds nothing to the positive weight to be afforded to the provision of renewable energy *per se*. However, the context is important: the statement in PCC occurs within a section on managing the performance of the RSS, with the next sentence seeking early revision of the RSS if there is a consistent under-performance against planned outcomes. Paragraph 13 of PCC requires targets to fully reflect opportunities in the region and, where appropriate in the light of delivery, to be periodically revised upwards. Thus the overall tenor of PCC is strongly supportive of measures which contribute to the Government’s Climate Change Programme, with sanctions (in the form of urgent revision to RSS policies) in cases of under-performance. Against this background, and in circumstances where there is a clear under-performance, I think it is relevant to have regard to the current position in relation to the attainment of the relevant RSS target, at least in general terms.
22. In reaching this conclusion the timing of the NWRSS is pertinent. It was published almost a year after PCC and, from references to PCC within it, clearly takes its provisions on board. Policy EM17 states that significant weight should be given to “the wider environmental, community and economic benefits of proposals for renewable energy schemes to..... contribute towards the capacities set out in tables....” (*my underlining*). The fact that the previous sentence relates to ‘plans and strategies’ does not set the context, as the Council submits, for in my view the two sentences deal with different parts of the process – the first with plan-making, the second with proposed schemes. The guidance published alongside PPS1: *The Planning System: General Principles* requires each RSS to reflect and build on policies at national level. Thus, to the extent that there may be a policy conflict, the later NWRSS can reasonably be regarded as the regional interpretation of national policy.
23. A further point is that the 210MW of installed capacity is not an over-arching strategic target for renewable energy across the region, but a specific Cumbria target for onshore wind. I note that there was considerable debate about the appropriateness of including tables with such a detailed breakdown at the Examination in Public (EIP) into the draft NWRSS. Despite acknowledging that the targets are imperfect and will change, the Panel felt they should be retained as a valuable way of indicating how the desired supply of renewable energy might be achieved. Whilst the Countryside Protection Consortium of South Lakes (CPCSL) made similar arguments at this inquiry as were raised at the EIP about what is regarded as a disproportionate burden on Cumbria in terms of on-shore wind capacity, there is no new evidence (as might arise from recent capacity studies or monitoring, for example) that the 210MW target has been found to be inappropriate.
24. Finally on this matter, it is important to recognise that the NWRSS is part of the development plan. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons I have outlined, if a policy conflict does exist I do not believe that
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the PCC paragraph 16 statement is a material consideration which outweighs the later policy of the NWRSS.

25. CPCSL raised various matters which question the efficacy of wind power and the contribution it makes to reducing carbon dioxide emissions. There is some force to the criticism of the appellant's focus in the ES on the use of the now discredited 0.86t/MWh carbon dioxide savings over the life of the scheme. Although this is identified as the maximum figure within a range, I consider that a more up-to-date reflection of the savings would have been given had the 0.43t/MWh 'grid-average mix' figure been used, as is now adopted by the British Wind Energy Association. To the extent that it is pertinent to this decision, I base my consideration of carbon dioxide savings on this lower figure. However, in using this figure (or the even lower figure that is emerging of 0.37t/MWh), it must be appreciated that PPS22 and the NWRSS specifically require targets to be expressed in megawatts of installed capacity. Thus, in relation to the planning policies on which this decision is based, the appropriate unit of assessment has been used. Furthermore, one of the key principles in PPS22 is that even small-scale projects (which this is not) provide a valuable contribution to overall outputs of renewable energy and should not be rejected simply because of their small size.
26. I note the range of technical issues raised by CPCSL and others, including the intermittency problem and the need for back-up capacity, but these arguments are well rehearsed and have been known to policy makers for some time. Despite CPCSL's carefully positioned evidence which seeks to couch wider climate change concerns in terms of the balance to be struck between the benefits of this wind energy proposal and its adverse landscape and other impacts, much of this evidence is but a thinly-veiled criticism of the Government's energy policy. A planning inquiry into a specific renewable energy proposal is not the appropriate forum for such a debate: as PCC makes clear, the energy justification for the development should not be questioned. Accordingly I attach little weight to these matters.

Wider benefits

27. Some benefits of the proposal are not related to energy considerations. The owners of the land on which the wind turbines would be built are mostly hill farmers who see the development as an important means of supplementing their incomes and helping to secure the viability of their businesses. Of the various options for farm diversification that have been considered, wind energy is regarded as the most appropriate given the physical characteristics of the land. Although such assistance to a small number of farmers cannot be regarded as a major benefit of the scheme, it nonetheless adds some weight to the energy case. Another benefit is the employment and other opportunities arising from the construction process, but as these would be short-lived they can only be given very limited weight.

Conclusion on benefits

28. The Armistead wind farm would generate a significant quantity of electricity from a renewable energy source. It would be supplied in a county which is unlikely to meet the disaggregated regional target for generation from such sources by 2010. Moreover, the Government's energy policy is to double

electricity generation from renewable sources by 2020, with targets not being regarded as ceilings. To help secure these objectives there is consistent and co-ordinated action, through national and local planning policies, to promote and encourage, rather than restrict, the use of renewable energy resources. The Armistead proposal would make an appreciable contribution to these objectives and, subject to consideration of any adverse impacts (as addressed in the following sections), would be wholly compliant with PPS22, NWRSS policy EM17, JSP policy R44 and SLLP policy C25. In accordance with policy EM17, the renewable energy benefits of the proposal should be given significant weight. The debate about the energy justification for the proposal and the likely carbon dioxide savings does not materially diminish this weight.

Character and appearance of surrounding area

Appeal site and surroundings

29. The appeal site and its surroundings are part of a ridge of low, rounded hills between the steep-sided Lune valley to the east and the gentler Kent valley to the west. The land rises from north-west to south-east across the site, though its dissection by the headwaters of a number of streams and the scattered rocky outcrops give it an uneven topography. The route of the public bridleway across the site is the approximate boundary between the small to medium size fields of improved grassland to the north-west and the larger fields of unimproved/ marshy grassland on the higher ground to the south-east. Fields boundaries are defined mainly by stone walls and some wire fences, with the land being used for sheep and cattle grazing. The rough track comprising the western half of the bridleway gives access to a scatter of functional buildings and animal pens, including an explosives store.
30. The area is crossed by a network of minor roads and, with the M6 motorway a short distance to the north-west of the site, it is far from being remote or inaccessible. Low-level noise from the M6 is audible from parts of the site and, together with the line of pylons which traverses the site and the Bleasgate Hill communications mast to the west, the imprint on the rural landscape of infrastructure which serves a much wider area is clearly evident.

Existing assessments of landscape character and capacity

31. Cumbria County Council's Landscape Character Assessment³ includes the area within an 'intermediate moorland and plateau' landscape character type and part of a 'rolling farmland and heath' sub-type. The appeal site is towards the centre of the area covered by this sub-type, which broadly comprises the ridge of low fells between the Kent and Lune valleys. I consider that the site exhibits most of the key characteristics of this sub-type – relatively high farmland with shallow relief ridges and hollows, rolling in appearance with rough poorly drained pasture and semi heathland. I also consider that the landscape is of medium scale – it does not possess the intimacy, complexity and enclosure of a small scale landscape, but neither does it have the homogeneity and openness of a large scale landscape.
32. The Cumbria Wind Energy SPD uses these landscape character types as the basis for its evaluation of the capacity of the county (outside the National

³ Technical Paper 5 of the Cumbria and Lake District Joint Structure Plan 2001-2016

Parks) to accommodate wind energy development. The 'moorland hill and low plateaus' (which includes the appeal site) is identified as having moderate capacity for up to a small group of wind turbines (3-5 turbines, assuming a hub height of 60-75m and height to blade tip of 95-120m). This reflects a moderate overall sensitivity of the landscape arising from its simple moorland form and land cover. Relevant constraints identified in the South Lakeland 'rolling farmland and heath' sub-type include the potential for turbine development to erode a peaceful backwater character, the potential for intrusion on adjacent major valleys and the Yorkshire Dales National Park, and the potential for localised visual confusion with the form and function of masts and pylons. The SPD is a practical example of the approach to the identification of suitable areas for renewable energy sources sought by PCC.

33. The area is part of a former "Landscape of County Importance" (LCI) designation, and though this no longer carries weight in planning terms, the removal of the designation does not stem from any loss of landscape quality. The SPD acknowledges that this designation conferred a moderate/high landscape value, but argues that the simple moorland forms and land cover are unlikely to be significantly compromised by wind energy development. From what I saw on my extensive visits to the locality, the moderate sensitivity of the landscape in the immediate vicinity of the appeal site is also a consequence of the pylons, the motorway and other functional structures which detract from the scenic qualities of this part of the former LCI.

Proposed development - analytical techniques

34. Each main party carried out an assessment of the impact of the development on the landscape, based broadly on the methodology set out in the best practice *Guidelines for Landscape and Visual Impact Assessment*.⁴ Such studies are valuable in providing a systematic and objective approach to assessment and in identifying the individual components of change and their magnitude. However, subjective judgements still have to be made and can be flawed, as the testing of the evidence of Mr Bolt for the Council revealed. Reflecting on the different approaches to classification and weighting, notably the differences between the appellant and CPCSL in terms of the magnitude of change and sensitivity of receptors, I am wary of the potential for the choice of system adopted to have an undue influence on the results. Moreover, it seems to me that Mr Sinclair's 'fine tuning' of the significance rankings sought to ascribe an unnecessary elaboration to an already complex assessment process. Nevertheless, I do accept his point that values below a threshold, because they form part of a continuum of effects, should not be disregarded.
35. Overall I consider Mrs Horner's assessment for the appellant to be the most objective and credible of the three studies that focus on the Armistead site,⁵ subject to a proviso about her finding on a number of occasions that the impact of the turbines would be 'significant' but not 'adverse'. I have some difficulty in understanding how she reached such conclusions having regard to the analysis on which they were based.

⁴ Published in 2002 by the Landscape Institute and Institute of Environmental Management and Assessment

⁵ Excluding the Whirlwind Renewables analysis which focused on the Sillfield site.

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36. Pictorial representations have a more immediate impact and are an invaluable tool if properly prepared and utilised. There was general agreement at the inquiry that all the submitted images provide suitably accurate depictions of the visual impact of the turbines in the landscape. Using the helpful guide of the anemometer mast during my own visual assessments, I share this conclusion. Nevertheless I acknowledge the difficulty that exists in fully conveying the true impact of such structures from relatively small, two-dimensional images, particularly in more distant views. Consequently I took considerable care on my site visits to compare these images with what I observed in the real landscape; with regard to visual matters, I have based my decision primarily on the perception of the impact of the turbines that I gained on my site visits.

Proposed development - visual impact and effect on landscape character

37. Three of the wind turbines would form a group on the more elevated south-eastern part of the site, two would be positioned on hillocks to the north-west, while the sixth would be closest to the bridleway. There would be a difference in ground level between the lowest and the highest of about 50m, and the turbines would be sited some 300m-500m apart. The 100m high turbines would be a matt pale grey colour which is intended to minimise their prominence, particularly when seen against the sky. A 5m wide stone track, about 4km in length, would give access to the site and the individual turbines; crane pads and a control building would also be constructed.
38. The six turbines would give rise to a significant change in the appearance of the immediately surrounding area, that is within about 600m-1km of the cluster. From the nearest section of the B6254 and the minor roads to the east and north, the locations from which most people would obtain close-up views, parts of all six turbines would appear as arresting features on the skyline. By virtue of their height, strong verticality, movement and engineered appearance, the turbines would present a dramatic contrast to the surrounding upland pasture and heath. This contrast would perhaps be most apparent from the open access land to the south of the site. Considered objectively I regard such a change as adverse, for the number of turbines and the undulating nature of the terrain militate against the wind farm being perceived (for example) as a positive, sculptural addition that complements an otherwise featureless landscape. The character of the immediate landscape would also change adversely, for this small area would become a "rolling farmland and heath with wind farm" subset of the landscape.
39. Although the turbines would be highly conspicuous and not in harmony with the surrounding upland pasture, I am satisfied from my visits to the area that the landscape is nonetheless sufficiently robust and of a scale that could assimilate the six structures without being dwarfed by them. Thus the wind farm would not supplant the pre-existing landscape, but co-exist with it. I note CPCSL's argument about the changes that would occur throughout the swept circumference of the turbine blades, but this seems to me to exaggerate the extent of the disturbance to the landscape. I regard the differing heights and organic arrangement of the turbines as a positive factor, for the resulting variations in the appearance of the cluster would resonate with the uneven topography of the immediate locality. The additional impact resulting from the access track and other ancillary development would be

minimal, especially as the track would traverse the lower ground for much of its length and, because of the undulating terrain, would only be visible in short stretches.

40. As to the relationship with the line of pylons, the turbines would be seen behind these structures from the B6254; from some points they would appear similar in height to the pylons, though they would be seen as a discrete group and sufficiently different, in my view, to avoid visual confusion. Indeed, to my mind there is considerable force to the argument that it can be beneficial to site wind turbines in a locality where pylons are already a detractor because it lessens the intrusion into the undisturbed rural landscape elsewhere. Applying the same logic, the proximity of the site to the motorway and the main route across the area (B6254 - albeit not a busy road) means that the impact on the 'peaceful backwater character' of the low fells would be less than in most other parts of the landscape character area.
41. I acknowledge that the number of turbines would exceed (by one) the capacity of the landscape as stated in the Cumbria SPD. The study makes clear, however, that the guide to capacity is only an indication and should not be used in a definitive sense: the capacity of a specific site depends upon its individual characteristics. There is no compelling evidence that the appeal site could only accommodate five turbines rather than the six proposed. Moreover Cumbria County Council, in raising no objections to the proposal, accepted that the site and its surroundings would support six turbines.
42. Within the area between 1km and 2km from the site, the wind farm would remain a significant constituent of the landscape. Although its prominence would lessen with increasing distance, the size and movement of the turbines would attract attention whenever they came into view. The impact would be sufficient to change the character of the landscape throughout much of this zone. The locations from which the turbines would be seen by the greatest number of people are the B6254 and the M6 motorway. For travellers along the B6254, views would be constantly changing as the undulating relief and, to a lesser extent, built structures and trees intervened. From the M6 travelling southwards, the varied terrain would give intermittent views as the site was approached, with most sightings being at a distance beyond 2km; the turbines would be less visible to northbound travellers, though for a brief moment they would be prominent in views to the right.
43. There is relatively little settlement within 2km of the site. I consider later the farms and other properties within about 1km of the turbines. Beyond the immediate vicinity there are a few scattered dwellings and, on the fringe of this zone, the village of Old Hutton. Most outlying dwellings would have only partial views of the wind farm, and it would not be prominent from much of Old Hutton because the village is on lower ground. Thus within the 1km to 2km zone, despite their substantial height and elevated location, the turbines would not be highly conspicuous in views from most residential receptors.
44. Further from the site the benefit of local variations in relief would be less effective. Consequently there are a number of key locations in the wider area from which clear views would be obtained of the turbines on top of the ridge of low fells, notably from the west (Low Park/ Endmoor and The Helm) and the north (Killington motorway services). I acknowledge that these key

locations are not the only places from which more distant views would be obtained; instead, they are representative of views that would be gained sporadically over the wider area. It is also important to bear in mind that these more distant views would be subject to quite significant variation as a result of changes in weather conditions and the position of the sun.

45. From Low Park (about 4km from the site) I observed that the turbines would appear in two groups on the eastern skyline, one group partially behind the Bleasgate Hill mast. Whilst they would be prominent, they would intrude into a relatively small stretch of the long ridge that comprises the low fells. Thus there would be a moderate adverse impact on visual amenity, in my view. Low Park is within a different landscape character area, but the turbines would be at sufficient distance not to have a significant effect on the overall landscape character. From The Helm (some 5km distant) the turbines would mostly be seen against the backdrop of Middleton Fell and Barbon Low Fell, with just the tips of some turbine blades breaking the skyline. Given the extensive views in all directions from this point, the degree to which the wind farm would detract from the enjoyment of this popular recreational resource is limited, in my view. As at Low Park, there would be no appreciable diminution in the integrity of more than one landscape character type.
46. From Killington services (about 4km away) the turbines would be prominent on the skyline above the southern end of the lake. However, clear views can only be obtained from the southern end of the restaurant and the outside viewing areas; it is unlikely that the wind farm would be seen from the car park and most of the facilities within the building. Consequently I believe that many visitors to the service area would not be aware of the wind farm. Moreover, as the most attractive views from the services are to the north-east and east, over the lake towards the higher fells, I consider that the development would not detract significantly from the overall experience of those who choose to break their journey in this scenic location. In terms of landscape character, the turbines would form a composed (albeit widely spaced) group to one side of the line of pylons and the communications mast, and would not significantly change the overall character.
47. The computer-generated zones of theoretical visibility suggest that at least parts of the development would be visible more than 30km away. From areas of Sedbergh, Kirkby Lonsdale and Kendal, which are up to 10km away, I observed that even when the turbines could be seen on the skyline, they would be a very small element of the overall view and would not be highly noticeable. At greater distances the impact would be less still, such that there would be very limited effect on views from even the most sensitive locations (for example, AONBs, listed buildings and National Trust properties). For the same reasons, the character of more distant landscape character areas would not be materially affected.

Effect on National Parks and potential extensions

48. The appeal site is within a tract of land that lies between the Lake District National Park (approximately 9-10km to the west) and the Yorkshire Dales National Park (about 5km to the north-east and 7.5km to the east). The Lake District National Park Authority (NPA) does not object to the proposal. It indicates that the wind farm would be visible from elevated viewpoints within

the National Park from which views of either the Lambrigg or Caton Moor wind farms are also obtained. Because (given the distance) the magnitude of the development would be low, it considers that it would not be overbearing or unacceptably detrimental to the amenity and immediate setting of the National Park. Having observed the site from Scout Scar, the nearest viewpoint within the Lake District National Park, I concur with this opinion.

49. The Yorkshire Dales NPA argues that the wind farm would detract significantly from the recreational experience of walkers on Middleton Fell, whose ridge forms the western boundary of the National Park. I saw that views of the appeal site from this ridge are intermittent, at times obscured by high ground to the west. From points where views are obtained, such as Calf Top, the turbines would be clearly visible about 7.5km away, set against the distant backdrop of the higher fells of the Lake District National Park. The 360° panorama includes spectacular views down into Barbondale to the east, and I acknowledge that this is a highly scenic and tranquil location from which few man-made features are visible. Nonetheless the wind farm would be a small component of the overall view, and I believe that the development would not unduly diminish the grandeur of the natural landscape.
50. To my mind the development would have a greater impact on the small part of the Yorkshire Dales National Park on the eastern side of the Lune valley near Sedbergh, mainly because from this lower ground the turbines would be closer and visible on the skyline. In similar fashion to views from the west of the site, the turbines would be prominent on top of the ridge of low fells but they would occupy only a short section of that long ridge. In my view, notwithstanding the greater sensitivity of this protected landscape, the development would not detract significantly from the setting of the Yorkshire Dales National Park.
51. The Yorkshire Dales NPA and many objectors are also concerned that the development would prejudice a much-cherished potential extension to this National Park westwards across the Lune valley. A report in 2005 by Alison Farmer Associates (AFA) for the Countryside Agency reviewed land between the two National Parks and (insofar as is relevant to this appeal) divided it into three categories: land to be excluded from the area of search for possible National Park extension, land to be included within the area of search, and land to be included within the area of search but requiring particular scrutiny. The appeal site is within the 'exclude' category. Middleton Fell and the eastern fringe of the Lune valley is within the 'include' category. The broad swathe of the Lune valley in between, extending very close to the eastern boundary of the appeal site, is in the category 'include but requiring particular scrutiny'.
52. Natural England recently announced its intention to progress work on the next stage of the review of National Park designations in the North West. It is not possible to predict the outcome of this review, however, nor does it follow that the presence of a wind farm nearby would prevent designation. The impact of the Armistead proposal on the nearby area identified by AFA as most suitable for designation, the Middleton Fell area, would be broadly similar to its impact on the existing National Park near Sedbergh. Given my conclusion that the wind farm would not detract significantly from the setting of this part of the National Park, there is no reason to suppose that, if built, it

would prejudice the extension of the National Park across this area. I draw support for this view from the fact that the existing wind farm at Lambrigg is a similar distance from the present National Park boundary as Armistead would be from the boundary of the potential Middleton Fell extension.

53. The wind farm would be much closer to, and consequently would have greater impact on, land in the 'requiring particular scrutiny' category. However, the prospects of land in this category being included in an extended National Park must be less than for the unqualified areas of search. Moreover, the fact that AFA included land close to Lambrigg in this same search category suggests that proximity to wind farms does not preclude designation. In any event, the turbines would not be visible from most of the Lune valley because of its steeply sloping western side. I note CPCSL's attempts to draw parallels with the conclusions of the Inspectors in the Whinash and Hoff Moor cases, but a significant difference is that those sites are within, not outside, land recommended by AFA for inclusion in the areas of search.
54. It is pertinent that, when considering the application, English Nature sought additional information to enable the potential impact on the National Park areas of search to be assessed, but did not object to the proposal once this information was supplied. PPS22 states that buffer zones should not be created around nationally designated areas which prevent the development of renewable energy projects, though it indicates that the impact of projects close to the boundaries of designated areas will be a material consideration. Taking all these factors into account, I consider that the development would not have a significant impact on the setting of the existing National Parks. I also believe that the possible extension of the Yorkshire Dales National Park boundary adds little weight to the case against the proposal.

Cumulative impacts

55. The existing Lambrigg wind farm is some 7km to the north of the site and Caton Moor is about 25km to the south. The considerable distance between these installations means that there are relatively few locations where both could be seen, along with the Armistead proposal, in the same panorama. From one such location, Middleton Fell, each installation would be viewed as a discrete group in an expansive landscape, separated by a substantial and undulating tract of countryside. Moreover, Caton Moor is such a small feature that it is not easily discernible. Lambrigg and the proposed development would be visible at closer range from more accessible viewpoints such as The Helm, but the gap between them and the differences in land cover are sufficient to dispel any impression of a landscape dominated by wind farms.
56. Turning to the serial views gained from moving through the area, all three installations would be visible from the M6 motorway. Lambrigg and the Armistead proposal would appear one after the other in relatively quick succession, particularly when travelling southwards, but they would not be in the same view. Furthermore, they would be on different sides of the motorway, in appreciably different landscape settings and separated by topography; as a result they would not be perceived as a dominant feature in the landscape. The long gap to Caton Moor ensures that this would be seen as an entirely separate wind energy development. Sequential views from

other routes across the area would be intermittent and fleeting, with long sections when neither wind farm is visible. Overall, I consider that there would be no significant adverse cumulative effects arising from existing wind energy installations and the proposed development.

57. In September 2008, shortly before the Armistead application was determined, an application was submitted to South Lakeland DC for three 110m high wind turbines on land at Sillfield, about 2km to the south-west of this proposal. At the time that Armistead was refused planning permission, the Council took the view that it would be unreasonable to assess one proposal against another which was yet to be determined. The applicant, Sillfield Wind Cluster Ltd (SWCL), subsequently lodged an appeal against the non-determination of the Sillfield application; this is to be heard at a separate inquiry later this year.
58. The Council did not address the potential cumulative impact of the Armistead and Sillfield proposals at this inquiry (though, as SWCL pointed out, it could have done so). While the other parties did consider the cumulative effects, it was a subsidiary element of CPCSL's case and not the main focus of the appellant's case. As would be expected, SWCL's evidence concentrated on the Sillfield proposal itself, albeit with the cumulative effects to the fore.
59. The submitted evidence indicates that there would be some additional impact on the character of the landscape and on visual amenity if both the Armistead and Sillfield proposals were built, though there are different views as to the significance of these effects. Importantly, however, none of the parties that analysed the cumulative effects argued that Sillfield is a manifestly preferable scheme, on its own, in landscape or visual terms. Nor does the limited evidence lead me to that conclusion – although Sillfield proposes a smaller number of turbines, they would be taller and, particularly in views from the west, more exposed in the nearby landscape. This means that there is no obvious reason for preferring Sillfield over Armistead in the event that the cumulative impact of both schemes was found to be unacceptable. Given that Armistead is twice the size of Sillfield in terms of its contribution to renewable energy supply (up to 15MW compared with 7.5MW), it follows that Armistead would be the preferred scheme if it was decided that the landscape could not accommodate both. Indeed, this might well be sufficient reason to favour Armistead even if it was decided that Sillfield would have slightly fewer adverse effects in landscape and visual terms.
60. In circumstances where there is no clear preference for the alternative scheme, it is not necessary for me to reach a conclusion on the cumulative impact of the Armistead and Sillfield proposals. I can decide the Armistead appeal on its individual merits and leave the issue of cumulative impact to the forthcoming inquiry. Moreover, this avoids a potential pitfall of having to reach a conclusion on cumulative effects without being in possession of the full facts. For example, I am not fully aware of the consultation responses or the views of local people on the Sillfield proposal, and I only have brief details of the Council's case. The complete information will, quite properly, be before the Inspector who holds the Sillfield inquiry, and is necessary to enable the evidence to be thoroughly tested and a sound decision reached.

Character and appearance - conclusion

61. The appeal site is within the 'rolling farmland and heath' landscape character area of South Lakeland and displays many typical features of that type. The Cumbria Wind Energy SPD identifies this character area as having moderate capacity for a small group of wind turbines. Because of their height, movement and man-made appearance, the six turbines proposed would cause a significant adverse change in the appearance of the immediate locality (up to about 1km) and in the character of the surrounding landscape. Nevertheless, the landscape has a robustness and scale that is capable of assimilating the development without being overpowered. Significant visual and landscape effects would continue to be experienced up to 2km from the turbines, though views would be constantly changing due to the undulating nature of the terrain.
62. In the wider landscape, beyond 2km or so, the wind farm would be prominent when wholly or partly visible on the skyline on top of the ridge of low fells. This would occur from scattered locations throughout the area, but in most instances the turbines would intrude into a relatively small stretch of the ridge. The effect on visual amenity would be moderate, and there would be no appreciable change in landscape character. At greater distances still, the turbines would become an increasingly small component of the overall views and the effect on visual amenity and landscape character would be limited. Nevertheless, because of its significant impact on the immediately surrounding area, the proposal is contrary to the development plan policies which seek to maintain and enhance the character of the countryside, including NWRSS policy DP7 and JSP policy E37.
63. There would be no significant impact on the setting of the nearby National Parks, and whilst a possible extension to the Yorkshire Dales National Park would, at its maximum extent, come very close to the site, any threat to that potential designation adds little weight to the case against the proposal. There is sufficient distance and variation in land cover between the site and the existing wind farms at Lambrigg and Caton Moor to ensure that no significant cumulative effects would arise from the development. While there is greater potential for cumulative effects between Armistead and the more recent Sillfield proposal, that matter will be considered in due course at the inquiry into the latter appeal.

Living conditions of neighbours*Visual impact*

64. In terms of residential amenity, the main concern of the Council and those living close to the site is the visual impact of such large, moving structures in close proximity to dwellings. Two properties would be most directly affected, Gilsmere Nook and East Ridding. The farmhouse at Gilsmere Nook has a main outlook that would face the array of turbines on higher ground to the south-west, with the closest turbine being just over 600m away. However, as I saw on my visit, the outlook from the house in this direction is largely shielded by a shelter belt of mature larch trees along the road. Despite the gap in tree cover caused by the access track, any sight of the nearest turbine (T5) and the more distant turbine (T4) behind it would be filtered by the trees, even in

winter, and would not be highly prominent. The depth of the shelter belt means that visibility of the other turbines from the house or from the garden would be limited.

65. I acknowledge that the turbines would come fully into view on the skyline as the occupiers of Gilsmere Nook approach the public highway along the access track. The turbines would also be highly prominent when working in the fields that abut the application site, for the nearest turbine to the farm holding (T3) would be a dominant structure about 120m from the field boundary. I accept that such proximity would diminish the quality of the work experience for the occupiers of Gilsmere Nook. However, I believe it is appropriate to draw a distinction between the work environment and that around the home, where a higher threshold of amenity should apply. Because the turbines would not be highly conspicuous from within and immediately adjacent to the dwelling, I do not believe that the development would give rise to an unacceptable loss of amenity for the residents of Gilsmere Nook.
66. East Ridding also lies just over 600m from the nearest turbine (T6) and some 45m below it. The line of electricity pylons traverses fields to the west of the property. This single storey dwelling has its main outlook to the north and east, with the attached garage at the rear restricting views from the bungalow towards the site. From what I saw on my visit, turbine T6 would be prominent beyond the knoll immediately behind the property, with the hub of turbine T5 visible to the left of the knoll and the blade tips of the more distant turbines just breaking the skyline. With limited visibility from within the dwelling, the occupiers of East Ridding would not generally be aware of the presence of the turbines when inside their bungalow. Given the open nature of the terrain, turbines T6 and T5 would be obtrusive from the garden at the rear of the dwelling and on the approach to the property, resulting in an appreciable loss of visual amenity. However, I believe that the view of two turbines and glimpses of others within a relatively narrow sector of vision would not be so dominant or oppressive as to be unacceptable.
67. Other nearby properties would be less affected by the development. Hood Ridding Farm would be about 800m from the nearest turbine (T6), but views from the farmhouse and farmyard would be completely obscured in summer by a belt of trees to the east of the complex. Whilst filtered views of turbine T6 through the trees might be obtained in winter months, it would be seen in conjunction with the much closer (and thereby visibly taller) electricity pylon. The other turbines, whilst potentially visible above the skyline at a greater distance, are unlikely to be seen due to the presence of farm buildings and the tree screen. Consequently the impact on this property would be limited.
68. There is a line of properties to the south of the site that would obtain views of parts of the westernmost turbines T1, T2 and T3. The nearest, High Fell House, would be some 900m from turbine T1 and about 45m below it. I saw on my visit that the hub and most of the blades of turbine T1 would be visible from this dwelling, albeit at a slight angle; the tips of the other two turbines are likely to clip the skyline. Similar views would be obtained from the garden of High Fell House. Whilst there would be some loss of visual amenity as a result of the development, I consider that the presence of these turbines in a limited arc of vision would not cause undue harm to the occupiers of this property. Middle Fell House would have similar views, though being a further

200m distant from this group of turbines, the impact would be less. The three dwellings grouped around Low Fell House would be about 1.6km from turbine T1 and most have their principal outlooks in other directions. Whilst turbine T1 and perhaps the blade tips of T2 and T3 would be visible on the skyline from some dwellings and from their gardens, the distance is such that they would not be a major component of the view. Consequently any loss of amenity would not be significant, in my view.

69. The occupiers of the scatter of properties close to the B6254 would have sight of the wind turbines to varying degrees at distances of between 1-1.5km. Many are landowners with an interest in the proposal who therefore view the turbines in a favourable light. Others, including the occupiers of Barkin House some 1.4km from the nearest turbine, would see the upper parts of turbines on the skyline, in some cases shielded from their houses by other buildings. Whilst the development would represent an appreciable change to their outlook and cause some loss of visual amenity, at this distance the development would be a relatively small component of the wider landscape and would not cause undue harm to their living conditions.

Noise

70. Some residents who live close to the site fear that the development would cause a substantial increase in noise. I heard evidence at the inquiry of noise problems at existing wind farms in other parts of Cumbria and further away and I accept that, in certain instances, noise can be a source of significant disturbance. In this case the Council does not believe that noise would be problematic, based on the study in the ES which found that predicted noise levels at surrounding residential properties would generally be below existing background levels. Nevertheless, because predicting noise from wind farms is a far from exact science, a condition is proposed which sets out maximum daytime and night-time noise levels at these nearby properties.
71. I note CPCSL's concerns about the measurement of background noise levels, wind shear and the impact when winds are from the east. Their technical evidence was limited, however, and as it was not given by a noise expert, it could not be fully tested at the inquiry. The Council is satisfied that the ES noise assessment followed the correct procedures, as set out in the ETSU-R-97 guidance, and I attach greater weight to its conclusion. Moreover the particular circumstances of this case – relatively high background noise levels because of the proximity of the M6 motorway, a wind shear coefficient which is below that assumed by the turbine manufacturer, and the turbine on which calculations are based being one of the more noisy models – tend to reinforce rather than undermine the findings of the noise study. Consequently, I consider that the turbines are unlikely to cause unacceptable noise at nearby dwellings. Nevertheless, I accept the need for a noise limits condition on a precautionary basis.

Shadow flicker and electrical signal interference

72. The ES identified the potential for shadow flicker to occur at two dwellings, Gilsmere Nook and East Ridding, for maximum periods of 25 hours and 17 hours per annum respectively. In practice the likelihood of shadow flicker occurring will be reduced by meteorological conditions and intervening

structures. Whilst shadow flicker can be a source of nuisance, its effects are relatively easy to mitigate, not least by shutting down the relevant turbines during periods when it could occur. I believe that shadow flicker is a matter which can appropriately be addressed by a condition which requires a protocol to be in place prior to the operation of the wind turbines.

73. In response to concerns from some nearby residents that television reception or broadband computer links could be adversely affected by the turbines, a condition is proposed which would require the implementation of a scheme of mitigation. I agree that such a condition is necessary; in my view it requires a baseline study to be undertaken before the development commences so that it is possible to subsequently determine whether or not any signal impairment is attributable to the operation of the turbines.

Living conditions - conclusion

74. There would be limited visibility of the wind farm from inside Gilsmere Nook and East Ridding, the two nearest properties; although the turbines would appear obtrusive from parts of the curtilages of these dwellings, the overall impact would not be so harmful as to be unacceptable. There would be some loss of amenity for the occupiers of other, more distant properties, but the effects would not be significant. There is no compelling evidence that noise or shadow flicker would be a serious problem in this case but, given the difficulties of prediction, conditions would be imposed to mitigate any adverse effects that might arise. Overall, although the impacts on residential amenity are close to the margin of acceptability, I conclude that the development would not conflict with the relevant parts of JSP policy R44 and SLLP policy C26.

Users of bridleway

75. The Council and many local residents believe that the development would have an unacceptable impact on the peace and quiet of the bridleway that passes through the site, thereby undermining the enjoyment experienced by users of the route. The bridleway is approximately 2.3km long and runs between the B6254 and the unclassified road to the east; away from these roads it passes through an area of undulating ground with changing vistas but limited long distance views. The two nearest turbines would be about 110m and 180m from the bridleway, and all six turbines would be visible on both sides of the route.
76. The bridleway does not appear to be a particularly important link in the wider network, for it does not connect settlements or give access to specific recreational facilities. Furthermore, whilst it is the most convenient and usable link between the B6254 and the unclassified roads to the east, alternative routes do exist. Evidence about the intensity of its use was limited, though it is not a highly popular route, as the absence of a clearly identifiable path along the eastern stretch of the route testifies. It seems to be a route that is used intermittently by local people and occasionally by visitors to the area.
77. There is no doubt that the turbines would dominate views for a significant stretch of the bridleway, profoundly changing the nature of the recreational experience. Indeed the greatest impact of the development would be felt by

bridleway users, albeit for a relatively short period of time as they move along the route. I acknowledge that some people would regard the turbines as a major intrusion into the quiet rural ambience of the bridleway, substantially diminishing their enjoyment of the route. Others are likely to be more tolerant of the structures, their perceptions about the benefits of wind energy overriding any concerns about the impact on their recreational excursion. Based on experience at similar installations elsewhere, there may be a third group of people who are attracted to the bridleway by the very presence of the turbines. Thus the dramatic change in the nature of the recreational experience for users of the bridleway may not universally be viewed as harmful.

78. The British Horse Society is concerned about the safety of riders using the bridleway as a result of the potential for horses to be startled by the proximity of the turbines and, as a result, to bolt. It points out that the separation distance between the bridleway and the nearest turbine would be substantially below its advisory distance of three times the turbine height. Whilst this is so, I note that there is no statutory requirement for such a margin. Furthermore, the Companion Guide to PPS22 indicates that, in many instances the "topple distance" (ie 100m in this case) is regarded as appropriate separation from a public right of way. At Armistead the presence of turbines would be clearly apparent to horses as they approached the cluster along the bridleway, so it is unlikely that they would be taken by surprise. Moreover, if a horse did show signs of distress, it would be possible to turn round and use an alternative route not far away. Having regard also to the relatively low use of the bridleway by horses and riders, I consider that the development would not pose an undue risk to equestrian users of the route.
79. Overall I conclude that the number of people for whom the enjoyment of the bridleway would be seriously harmed by the development is likely to be relatively small. In addition, alternative routes are available for such people which would provide appreciably greater separation from the turbines, albeit such routes are longer and less convenient. Thus, whilst there would be some loss of recreational amenity as a result of the development, it would be limited. To the extent that there may be a conflict with SLLP policy L10, the degree of conflict would be small.

Other matters

80. A wide range of other concerns were raised by local people and groups opposed to the development. Many of these matters were investigated in the Environmental Statement and, where necessary, I am satisfied that appropriate mitigation would be achieved through planning conditions. I have taken all these representations into account in reaching my decision.
81. One matter is the impact of the development, particularly during the construction phase, on hydrology and the streams that flow to the Burns Beck Moss Site of Special Scientific Interest. This was also a concern of Natural England. Subject to the use of 50m buffer zones around Burns Beck and its tributaries and measures set out in the Outline Habitat Management Plan (OHMP), Natural England does not object to the proposal. On the evidence before the inquiry, I see no reason to disagree with this conclusion. Concerns

about the effects on private water supplies would also be addressed through implementation of the OHMP.

82. There are claims that the Kendall Low Fells are an important low-key outdoor leisure resource and that tourism within the area would suffer if the wind farm was built. Based on my earlier finding that the significant impacts of the development would be limited to a relatively small local area, I do not believe that an appreciable number of visitors to most parts of the Low Fells would decide not to come (or not to return) because of the presence of the wind farm. There might be a few who would be dissuaded from staying in guest accommodation in the immediate locality, and as noted in the section above, others might choose not to use the bridleway through the site. But there is no evidence that the numbers thus affected would be substantial, and in my view the effect on the local tourism economy would not be significant.
83. Some nearby residents are worried about a possible loss of property value as a result of the development. Whilst I sympathise with such concerns, it is the case that many planning decisions have some effect on property values. Government advice in *The Planning System: General Principles* states that the planning system does not extend to protecting the private interests of one person against the activities of another. The material question is not whether owners of nearby property might suffer financial or other loss, but whether the development would unacceptably affect amenities and the existing use of land that ought to be protected in the public interest. In this case I have concluded that the loss of visual and residential amenity does not fall below the threshold of acceptability. Consequently I do not believe that there is a wider public interest that merits protection.

BALANCE OF CONSIDERATIONS

84. As indicated at the outset, the decision in this case turns on the balanced judgement that has to be made between the benefits of renewable energy production and the adverse effects on the landscape and people in the surrounding locality.
85. The benefits of the proposal are simply stated but must not be underestimated. The most important factors are a considerable quantity of electricity from a renewable energy source, and an appreciable contribution to a regional (and county) renewable energy target that, in the short term at least, is unlikely to be met. The Government has made abundantly clear the urgency of the need to address the challenge of climate change. The Armistead wind farm has the potential to be one of the many individual building blocks required to meet that challenge and to help secure the wider environmental, social and economic benefits that flow from the Government's sustainable development strategy.
86. Of course, this does not mean that the environmental, social and other safeguards which are central to the planning system should be abandoned. In this case I have found that the wind farm would give rise to significant adverse landscape and visual effects within a relatively small area (up to 2km from the site). The visual impact on the occupiers of the two nearest properties would also be significant, but as the turbines would mainly be visible from outside rather than inside the dwellings, the effect would be

limited. The effect on the recreational experience of users of the bridleway and local roads would depend on individual perceptions, but any loss of amenity is unlikely to be significant. Thus overall, whilst some significant adverse effects would exist, they would be quite limited in extent.

87. PPS22 explicitly recognises that, of all renewable technologies, wind turbines are likely to have the greatest visual and landscape effects. Wind energy can only be harnessed where wind speeds are high, which generally means exposed and/or elevated locations. In Cumbria the opportunities for such provision are severely constrained by the high proportion of land designated for its nationally important landscapes. The proposed wind farm would not materially affect such landscapes, and I give little weight to the possible threat to potential extensions. Although the low fells around the appeal site have some landscape value, they are identified in the Cumbria study as having potential for a small wind farm. I believe that the site itself has a robustness and scale which would enable it to assimilate the turbines, despite their prominence. Furthermore, the site is located in a part of the low fells where the presence of major infrastructure is already apparent.
88. Taking all these factors into account, I conclude that the balance weighs in favour of the proposal. Setting this in the context of the development plan, I consider that the proposal accords with the 'balanced' policies most relevant to the issues in this case, such as NWRSS policy EM17 and SLLP policy C25. I appreciate that the development would be contrary to the policies which seek to protect and enhance the character of the countryside and rights of way, but that has to be set against the significant weight to be attributed to engaging with the policies which promote renewable energy schemes. When assessed against the plans in the round, I believe there is overall compliance.

CONDITIONS

89. I have considered the conditions suggested by the main parties in the light of the discussion at the inquiry and the advice in Circular 11/95: *The use of conditions in planning permissions*. Apart from the matter of micro-siting, which I discuss below, the conditions and their wording were agreed during the discussion and are included in this decision, subject to minor amendments necessary to ensure compliance with the Circular or desirable in the interests of clarity and brevity.
90. The need for the conditions relating to noise, shadow flicker and electrical signal interference has already been discussed. I agree that the other conditions are necessary for the reasons given by the Council. In broad terms these reasons relate to the need to minimise the landscape and visual impact of the development; the need to protect the wildlife, ecology, hydrology and archaeology of the locality; the need to protect the amenity of nearby residents; and the need to safeguard highway safety and users of the bridleway. The decommissioning conditions are necessary to ensure that the site is restored to its former use at the end of the 25 year operational lifespan of the wind farm.
91. I consider that there is justification for some flexibility in micro-siting to allow for difficult ground conditions at the precise locations shown for the turbines on the submitted plans. However, because of the undulating nature

of the terrain and the potential for unforeseen impacts on a range of matters addressed in the ES, I believe that the 50m tolerance sought by the appellant is too extensive. In my view a tolerance of 25m would be appropriate in this case, subject to two provisos intended to minimise the impact of the development on the most sensitive receptors. Firstly, the turbines closest to residential properties (T5 and T6) should be no nearer to those properties than shown, and secondly, turbine T4 should be no closer to the bridleway than shown.

CONCLUSION

92. For the reasons given above I conclude that the appeal should be allowed.

Martin Pike

INSPECTOR

DOCUMENTS SUBMITTED AT THE INQUIRY

(this list excludes all proofs, statements and Core Documents submitted prior to opening of inquiry)

- 1 List of Core Documents
- 2 Opening statement for H J Banks & Co Ltd
- 3 Opening statement for South Lakeland District Council (SLDC)
- 4 Opening statement for Countryside Protection Consortium of South Lakes (CPCSL)
- 5 Opening statement for Sillfield Wind Cluster Ltd
- 6 Additional proof of evidence of Dr Hall – Noise in nearby properties
- 7 Table of comparisons between Mrs Horner’s and Mr Sinclair’s visual impacts
- 8 Map of farm holdings adjacent to appeal site
- 9 Letter of 17.12.08 from Natural England to SLDC relating to Sillfield
- 10 Extract from Acoustics Bulletin, March/April 2009: *Prediction and assessment of wind turbine noise*
- 11 Statement of Miss Meakin relating to noise
- 12 Draft noise conditions from SLDC
- 13 Appeal decision for 6 wind turbines at Kiln Pit Hill, Northumberland: APP/R2928/A/08/2075105
- 14 Draft conditions from appellant
- 15 Third party letters of objection submitted by Tim Farron MP
- 16 Parliamentary Questions and correspondence on renewable energy from Tim Farron MP
- 17 Revised proof of evidence of Mr Bolt for SLDC
- 18 Statement of Lord Inglewood
- 19 Documents relating to National Parks Boundary Review submitted by Dr Hall for CPCSL
- 20 Revised draft conditions (most agreed between appellant and SLDC)
- 21 Amended extract of Mr Hinchcliffe’s proof for CPCSL
- 22 Natural England press release 4.5.09: *National Parks – bigger and better?*
- 23 Letter of 3.4.09 from Lake District NPA
- 24 Examples of modern architecture and engineering (H J Banks document)
- 25 Lists of locations for site visits and plans
- 26 Statement of Miss Birkby, Radiation Free Lakeland
- 27 Statement of Mrs Sanders, South Lakeland Friends of the Earth
- 28 Statement of Mrs Thomas
- 29 Statement of Mr Khan, South Lakes Action on Climate Change
- 30 Statement of Mr Rowley, Transition South Lakes
- 31 Statement of Mrs Meek
- 32 Statement of Mrs Gardner
- 33 Statement of Miss Meakin
- 34 Statement of Ms Naish
- 35 Statement of Dr Charlton
- 36 Statement of Mr Gibson
- 37 Statement and drawings of Mr Sugden
- 38 Statement of Sir Christopher Audland
- 39 Boundary of Alison Farmer ‘area 19 category E’ land
- 40 Map showing locations of Whinash/ Hoff Moor proposals and Lambrigg site
- 41 Note and Minutes of Countryside Agency Board Meeting 5.5.05
- 42 Extracts from Regional Spatial Strategy for the North West
- 43 List of spot heights of turbines

- 44 Revised draft conditions with reasons
- 45 Lorry routes to/from Holmescales quarry
- 46 Further notes from Miss Meakin
- 47 Letter dated 8.5.09 from occupier of 2 Mountain View, Kendal
- 48 Closing submissions for Sillfield Wind Cluster Ltd
- 49 Closing submissions for CPCSL
- 50 Closing submissions for SLDC
- 51 Closing submissions for H J Banks & Co Ltd
- 52 Post inquiry correspondence relating to wording of noise conditions

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The wind turbines hereby permitted shall be located in the positions shown on the approved plans or within a tolerance of 25m from the base of the approved tower positions, subject to:
 - (i) turbine T5 being located no closer to Gilsmere Nook than shown on the plans;
 - (ii) turbine T6 being located no closer to East Ridding than shown on the plans;
 - (iii) turbine T4 being located no closer to the bridleway than shown on the plans.Details of any such variation from the approved positions shall be submitted to and approved in writing by the local planning authority prior to the erection of any of the turbines.
- 3) The erection of the wind turbines shall not commence until the final specification and design of the turbines has been submitted to and approved in writing by the local planning authority. The specification shall include details of the matt pale grey colour of the turbines. Thereafter the turbines shall be erected in accordance with the agreed specification. No symbols or lettering shall be displayed on any of the turbines without the prior written approval of the local planning authority.
- 4) All of the wind turbine blades shall rotate in the same direction.
- 5) No lights shall be attached to the wind turbines other than those that might be required by law.
- 6) No development shall commence until the detailed design and external appearance of the control building, including details of facing materials to be used, have been submitted to and approved in writing by the local planning authority. The control building shall be constructed in accordance with the approved details.
- 7) All electrical cabling between the individual wind turbines and the on-site connection building shall be located underground unless otherwise agreed in writing with the local planning authority prior to installation. Thereafter the excavated ground shall be reinstated to its former condition within 6 months of the commissioning of the wind farm.
- 8) If any wind turbine generator(s) hereby permitted ceases to operate for a continuous period of 6 months then, unless otherwise agreed in writing by the local planning authority, a scheme for the decommissioning and removal of the wind turbine generator(s) and any other ancillary equipment and structures relating solely to that generator(s), shall be submitted to and agreed in writing by the local planning authority within 6 months of the end of the cessation period. The scheme shall be implemented within 12 months of the date of its agreement by the local planning authority.

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- 9) The developer shall notify the local planning authority in writing of the date of the commissioning of the wind farm (all six turbines commissioned) or the expiry of a period of two years from the commissioning of the first turbine, whichever is the sooner. The permitted operational period for the wind turbines hereby approved shall be 25 years from this date. Within one month of the end of this period, decommissioning of the turbines shall commence and this decommissioning process shall be completed within a maximum period of 12 months from the expiry of the operational period. The decommissioning process shall include the removal of all wind turbines, ancillary equipment and buildings from the site and the restoration of the land, all in accordance with a decommissioning scheme previously submitted to and approved in writing by the local planning authority.
- 10) Prior to the commencement of any works, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. This shall include details relating to:
- the prevention of silt-laden run-off;
 - the treatment of sediment-laden water;
 - site lighting;
 - the location of contractors compounds and the parking and storage of related vehicles and machinery;
 - fuel, oil and chemical storage;
 - surface water drainage;
 - the protection of private water supplies (including water supplies to the three Low Fell properties not identified in the Environmental Statement);
 - the means of construction of any watercourse crossings;
 - staff facilities and drainage;
 - the prevention of mud and debris being tracked onto the B6254;
 - dust management;
 - works to the public highway;
 - details of the re-instatement of the ground, post-construction.

Development shall be carried out in compliance with the approved Construction Method Statement, unless otherwise approved in advance in writing by the local planning authority.

The reinstatement of the site shall take place within 12 months of the development becoming operational, unless otherwise previously agreed in writing with the local planning authority. This shall include the removal of all buildings, compounds and equipment associated with the construction period.

- 11) Prior to the commencement of any works, details of all borrow pits including details of the working methods, hours of operation, plant specification and remit of the borrow pits shall be submitted to and approved in writing by the local planning authority. No material shall be extracted from the site at any time other than in accordance with the approved details.
- 12) In relation to the construction of the development hereby permitted, no operations shall take place outside the hours of 0700 to 1800 Monday to
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Saturday with no workings on Sundays or Bank Holidays with the exception of the turbine erection period in which the operation hours shall be extended to allow site working hours of 0700 to 2300 Monday to Sunday and Bank Holidays.

- 13) Prior to the commencement of the development hereby permitted, details of the access point to the B6254, including visibility splays, shall be submitted to and approved in writing by the local planning authority. No vehicular access to the site may be taken other than by this approved access point.
- 14) Prior to the commencement of the development hereby permitted, a Traffic Management Plan shall be submitted to and approved in writing by the local planning authority. The Traffic Management Plan shall include details of all roadways (temporary or otherwise), and appropriate signage, to be used for the conveyance of construction materials, plant and equipment and shall include appropriate measures for the minimisation of noise from the site by construction vehicles. The Traffic Management Plan shall also include a road condition survey of the roadways to be used for the conveyance of construction materials, both pre and post construction. The development shall be carried out in accordance with the approved Traffic Management Plan unless otherwise approved in writing by the local planning authority.
- 15) No construction work shall take place which would disturb the surface of the bridleway within the site until a scheme to ensure the safety of users of the bridleway (by appropriate signs, temporary diversions or temporary closure) has been submitted to and approved in writing by the local planning authority and implemented fully in accordance with the approved details.
- 16) No development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 17) Prior to the commencement of the development hereby permitted, a detailed Habitat Management Plan shall be submitted to and approved in writing by the local planning authority.

The Habitat Management Plan shall commit the developer to a series of measurable actions/outcomes and a timescale for their completion/achievement. All actions of the Habitat Management Plan shall be commenced within 12 months of the commissioning of the wind farm or within 24 months of the commissioning of the first turbine, whichever is the sooner and subsequent progress on implementation of the plan shall be in accordance with the Habitat Management Plan as approved.

The Habitat Management Plan will have a broad objective incorporating:

- Habitat protection/enhancement;
- Habitat creation;
- Protection of hydrological status of the survey area (as defined in the Outline Habitat Management Plan dated October 2008) during construction and operation of the wind farm; and
- Integration of proposed habitat enhancement measures with agri-environment schemes.

- 18) The developer at their own expense shall appoint an Environmental Clerk of Works to oversee all environmental requirements during the construction phase, as set out within the Construction Method Statement. In addition the developer and appointed Environmental Clerk of Works shall be responsible for the implementation of the management and monitoring activities detailed within the Habitat Management Plan.
- 19) Prior to the operation of the wind turbines hereby permitted, a shadow flicker mitigation protocol shall be submitted to and approved in writing by the local planning authority. Thereafter the operation of the turbines shall take place in accordance with the approved mitigation protocol where appropriate unless otherwise agreed in writing by the local planning authority.
- 20) Prior to the commencement of the development hereby permitted, a baseline television and radio broadband reception study in an area to be agreed with the local planning authority shall be undertaken by a qualified television engineer and submitted to the local planning authority. A scheme of works necessary to mitigate any adverse effects to domestic television or radio broadband signals in the agreed area caused by the development shall also be submitted to and approved in writing by the local planning authority. Any claim by any person for domestic television picture loss/interference or radio broadband signal loss/interference at their household within 12 months of the final commissioning of the wind turbines, shall be investigated by a qualified television engineer and the results submitted to the local planning authority. Should any impairment to the television or broadband reception be determined by the qualified engineer as attributable to the wind turbines on the basis of the baseline reception study, such impairment shall be mitigated in accordance with the mitigation scheme within 3 months of results of the investigation being submitted to the local planning authority.
- 21) The Wind Turbine Noise Level shall not exceed the following levels (measured as dB $L_{A90,10min}$) specified in the table below at each noise sensitive location and specified wind speed during the Day Time periods of 0700 to 2300. For any noise sensitive property not specified in the table, the noise levels for the nearest geographical location shall apply.

Property	Wind speed (m/s) measured at 10m height									
	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0
East Ridding	49	49	49	49	49	49	49	49	49	49
Hood Ridding	49	49	49	49	49	49	49	49	49	49
Gilsmere Nook	44	45	48	51	54	57	61	65	65	65
Crossland Cottage	45	45	46	47	48	50	52	55	55	55
Audlands Park	41	41	41	42	44	44	44	44	44	44
Middle Fell	35	36	37	38	40	42	45	50	50	50
High Fell	35	37	41	44	49	53	57	61	61	61
Barkin House	42	43	44	46	47	50	52	55	55	55

- 22) The Wind Turbine Noise Level shall not exceed the following levels (measured as dB $L_{A90,10min}$) specified in the table below at each noise sensitive location and specified wind speed during the Night Time periods of 2300 to 0700. For any noise sensitive property not specified in the table, the noise levels for the nearest geographical location shall apply.

Property	Wind speed (m/s) measured at 10m height									
	3.0	4.0	5.0	6.0	7.0	8.0	9.0	10.0	11.0	12.0
East Ridding	47	47	47	47	47	47	47	47	47	47
Hood Ridding	47	47	47	47	47	47	47	47	47	47
Gilsmere Nook	43	44	47	50	54	57	61	65	70	70
Crossland Cottage	43	43	43	44	45	46	47	48	49	49
Audlands Park	43	43	43	43	43	43	43	43	43	43
Middle Fell	43	43	43	43	43	43	45	46	47	47
High Fell	43	43	43	45	49	53	57	61	65	65
Barkin House	43	43	43	45	47	49	51	53	56	56

- 23) No tonal correction has been applied to the Wind Turbine Noise Level as the final wind turbine has not been selected. Should there be a tonal element which would attribute a penalty when assessed in accordance with the guidance given in ETSU-R-97 pages 80-81, a penalty of 5dB shall be added to the turbine noise emissions. Any tonal correction shall be submitted to and agreed in writing with the local planning authority prior to construction commencing.
- 24) At the reasonable request of the Council following a complaint to the Council relating to noise emissions from wind turbines, the operator shall measure at its expense the level of noise emissions from the wind turbines (inclusive of existing background noise) using an L_{A90} index over a minimum of 20 periods each of 10 minutes duration. At least 10 of the periods of measurement shall be made at wind speeds between a wind speed specified by the Council and a wind speed of no more than 2 metres per second above that specified by the Council. At least 10 measurements shall be made at wind speeds between the wind speed specified by the Council and a wind speed not less than 2 metres per second below that specified by the Council. Measurements of noise emissions shall be made in consecutive 10-minute periods provided that they fall within the wind speed range defined in this clause. The measurement methodology shall be agreed with the local planning authority and the results shall be submitted to the Council in a specified time period agreed in writing with the local planning authority.
- 25) Wind speed and direction data shall be measured at a height of 10m throughout the duration of the operation of the wind turbines and provided to the local planning authority at its request to enable the Council to check compliance.