



# Appeal Decision

Inquiry held on 16-23 October 2009

Site visits made on 23, 27, 28 October 2009 and 13 January 2010

by **Robin Brooks BA (Hons) MRTPI**

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

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**Decision date:**  
**29 January 2010**

## **Appeal Ref: APP/M0933/A/09/2099304 Sillfield, Gatebeck, Kendal, Cumbria LA8 0HS**

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Sillfield Wind Cluster Ltd against the decision of South Lakeland District Council.
- The application Ref SL/2008/0900, is dated 8 September 2008.
- The development proposed is erection of three wind turbine generators and associated infrastructure.

### **DECISION**

1. I dismiss the appeal and refuse planning permission.

### **PROCEDURAL MATTERS**

2. The Inquiry sat on eight days between 16 and 23 October. I carried out accompanied visits to the site on 23 October and to nearby properties on 28 October. I also made extensive unaccompanied visits in the surrounding area on 27 and 28 October 2009 and 13 January 2010 including to the various viewpoints referred to and illustrated at the Inquiry.
3. There was insufficient time allotted to the Inquiry for closing submissions to be made verbally on the last sitting day. To avoid a lengthy delay in reconvening, and with the agreement of the parties, I accepted those submissions in writing. These were provided in accordance with a timetable I set out, and with assurances from the Council that they would be published on their website.
4. The application was accompanied by an Environmental Statement (ES) (CD79) prepared under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (EIA). Further environmental information was submitted in evidence to the Inquiry. The standing of the ES as a whole has not been challenged and I have taken it into account in determining the appeal, together with responses from consultees and views expressed by others.
5. On 26 March 2009, after the appeal against non-determination of the planning application had been submitted, the Council resolved that, had it been in a position to do so, it would have refused planning permission on the grounds (in summary) of unacceptable harm to the character and appearance of the landscape; unacceptable cumulative visual and landscape effects in conjunction with the wind energy proposal at Old Hutton; harm to the living

conditions of neighbouring residents; and adverse effects on the peace and quiet of nearby rights of way.

## **LOCAL POLICY CONTEXT AND MAIN ISSUES**

6. Relevant policies are to be found in the North West of England Plan; Regional Spatial Strategy to 2021 (RSS), the Cumbria and Lake District Joint Structure Plan 2001-2016 (SP) and the South Lakeland Local Plan 2006 and Alterations (LP).
7. RSS Policy DP 7 seeks to protect environmental quality by, among other means, respecting the character and distinctiveness of places and landscapes; ensuring that development respects its setting; and maintaining the tranquillity of open countryside and rural areas. Policy EM 1(A) states that planning proposals should identify, protect and maintain distinctive features that contribute to landscape character in the Region. This approach is to be informed by, and recognise, the importance of landscape character assessments undertaken by local planning authorities and the special qualities of nationally designated areas, including the Lake District and Yorkshire Dales National Parks. Policy EM 17 seeks to promote and encourage use of renewable energy resources that will contribute to meeting at least 10% of the Region's electricity by 2010, and thereafter at least 15% by 2015 and 20% by 2020. A range of criteria is set out for judging proposals, including effects on local amenity and visual impact in relation to the character and sensitivity of the surrounding landscape. Requirements for minimising landscape impact should not be so stringent as to effectively preclude certain types of renewable energy other than in the most exceptional circumstances such as within national designations.
8. SP Policy E37 takes a similar approach to landscape character as the RSS. Development is to be compatible with the distinctive characteristics and features of the County's landscape types and sub types. Proposals will be assessed against a number of issues, including locally distinctive natural features, visual impact, scale in relation to the landscape and openness, remoteness and tranquillity. Policy R44 states that proposals for renewable energy will be favourably considered if there is no significant adverse effect on landscape character, either individually or cumulatively with other such infrastructure, or on local amenity and the local economy; and provided that the proposal takes all practicable measures to reduce adverse impact on landscape and the environment. The environmental, economic and renewable energy benefits of such proposals should be given significant weight.
9. LP Policy C25 encourages proposals for renewable energy generation in general where the energy generation and other benefits outweigh any identified environmental impact. Policy C26 sets out a number of criteria for assessing wind energy proposals in particular. Energy generation and other benefits should outweigh any significant harm to the character and appearance of the landscape and the amenity of nearby properties; there should be no significant adverse impact on nationally important landscape designations; and the cumulative effect of the proposal, with existing permitted or proposed wind energy schemes, should not have a significant adverse impact on the character and appearance of the area. Policy C31 states that assessment of new proposals for renewable energy developments should take account of

cumulative impact with other similar projects permitted in the same area. Policy L10 protects rights of way from development that would adversely affect their character.

10. Bearing in mind the aims of the above policies, and as set out at the Inquiry, I consider that there are five main issues in the appeal, namely:
- (i) the effects of the proposal upon the character and appearance of the surrounding landscape;
  - (ii) the cumulative impact of the proposal upon the character and appearance of the surrounding landscape, taken together with other similar developments, both existing and proposed and, in particular, that at Old Hutton<sup>1</sup>;
  - (iii) the effects of the proposal upon the living conditions of local residents, particularly in terms of visual impact, noise and shadow flicker;
  - (iv) the effects of the proposal upon enjoyment of the countryside by members of the public, including those using local rights of way; and whether approval would have any significant adverse effects on the contribution made by tourism and recreation to the local economy; and
  - (v) the contribution that the proposal would make to achieving regional and national targets for renewable energy generation, bearing in mind extant and emerging national planning policy; and the extent to which any such contribution should be weighed against any adverse impacts in terms of the other issues.

## **REASONS**

### ***First Issue: Effects on the character and appearance of the landscape***

#### *Existing landscape character*

11. Cumbria County Council's landscape character assessment<sup>2</sup> includes the site just within the western boundary of Sub-Type 9b, Rolling Farmland and Heath, of Type 9, Intermediate Moorland and Plateau. Type 9 embraces medium to large scale open landscapes with wide horizons. The defining characteristics of the 9b sub-classification are evident on and around the appeal site, namely shallow relief ridges and hollows, medium sized pasture fields, boundary trees, marshy hollows and stream valleys and a network of minor roads serving scattered hamlets and farms. Towards the west, and broadly speaking beyond the M6 motorway, is the landscape of Sub-Type 7B, Drumlin Field, of Type 7, Drumlins, characterised by lower, rolling and rounded hills, with becks between them, small broadleaved woodlands and hedged fields.
12. Northwards, roughly beyond Killington Lake, and crossed east-west by the A684 and north-south by the M6, is landscape of Type 11, Upland Fringes, characterised by rolling low fells, hilly plateau and moorland with a prevailing sense of peace. Sub-Types 11A, Foothills and 11B, Low Fells reflect differing

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<sup>1</sup> Referred to throughout the Inquiry and in this letter as the Armistead proposal.

<sup>2</sup> Cumbria and Lake District Joint Structure Plan 2001-2016: Technical Paper 5; 2003 (CD34)

heights of the landform and differences in the "grain" of the landscape and farming patterns.

13. The Cumbria Joint Wind Energy Supplementary Planning Document (SPD), 2007 (CD9) assesses the capacity of different landscape areas to accommodate wind energy development. As it has been formally adopted by the Council following public consultation with both developers and conservation groups, and has developed in some depth the positive approach to identifying suitable areas for harnessing renewable energy sources recommended in national guidance, it should carry a good deal of weight.
14. The SPD assesses the Moorland Hills and Low Plateaus, broadly contiguous with the Rolling Farmland and Heath referred to above, as a landscape with moderate capacity to accommodate turbine development, reflecting the overall moderate sensitivity of a medium to large scale landscape; an appropriate scale of development would be up to small groups of 3-5 turbines. Key constraints include potential to erode peaceful backwaters; and to intrude on major valleys and the coastal strip, the setting of important towns and recreation routes and prospects to and from fells of national value.
15. The Drumlin landscape is deemed to have a moderate to high sensitivity meaning a low to moderate capacity to accommodate single turbines or small cluster size developments. Turbine development would be likely to intimidate the small scale nature of the hills and ridges both in terms of the size of developments and the scale of individual turbines. Among other issues are absence of similar manmade features, potential erosion of rural qualities valued for recreation and localised intrusion on open prospects from hills and valley rims.
16. The SPD makes clear that its assessment of capacity is indicative and that whether or not a particular proposal is acceptable will be determined by a full landscape and visual impact assessment and consideration of cumulative effects. Because of the wide ranging visual influence of large turbines it will be necessary to consider not only effects on the landscape type within which the proposal would be sited but also the capacity of neighbouring landscapes. The document also includes guidance on the relationship between distance and likely appearance of turbines, in the form of a series of "distance bands" within which perception of turbines would range from their being a dominant focus (up to 2.4 kms) to being inconspicuous, minor elements in the landscape (18-30 kms).

#### *Landscape Character and Visual Impact Assessment*

17. The assessment in the ES is based on well known and respected guidance<sup>3</sup>, and ranks significance of landscape and visual impact by reference to four levels of magnitude of change (from negligible through slight and moderate to substantial) against three levels of landscape and visual sensitivity (low, medium and high). Effects judged major or major/moderate are considered

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<sup>3</sup> Guidelines for Landscape and Visual Assessment: Landscape Institute and Institute of Environmental Management and Assessment; 2002 (CD39)  
Landscape Character Assessment: Guidance for England and Scotland: The Countryside Agency and Scottish Natural Heritage; 2002 (CD38)

equivalent to likely significant effects on the environment as referred to in the EIA Regulations.

18. This approach was criticized by both the Council and the Countryside Protection Consortium of South Lakes (the Consortium) as insufficiently sensitive, and tending to underestimate levels of impact below those of the very highest magnitude. However, neither of the approaches taken by these parties contributed a great deal of further substance. The Council's approach drew heavily on that taken in the SPD, in particular using as a basis the guidance therein on the effects of distance on perception of wind energy developments. However, these "distance bands", though helpful in giving broad guidance on the likely prominence of turbines in an open landscape, do not translate directly into analysis of impact; and the evidence of the Council's landscape witness went little further than an essentially subjective and somewhat repetitive critique of the ES in general and of its viewpoints in particular. The Consortium's approach, which sought to assess impact on a broader continuum of levels of magnitude, is easier to understand but tends to underline the point that the outcome of all such assessments is inherently sensitive to the assumptions on which they are based and to the way in which any matrices of impact are calibrated.
19. There is a limit to how far any such assessments can go in seeking to put landscape and visual impact into a rational structure. Ultimately they are tools to assist in judgement, as was fairly accepted on all sides at the Inquiry, and I have used all three in that spirit.
20. The Council's landscape witness criticized, at least implicitly, the Appellant's photographic montages and wireframes as underestimating the nature and extent of the proposal's landscape impact. However, he accepted that their approach was a legitimate one and did not deny that it was made in accordance with established best practice; and the Appellant's representative fairly accepted that visualisations and wireframes were not a substitute for on-site assessment. Subject to their acknowledged limitations I regard all the photographs, wireframes and photo-montages, taken together, as a reasonable indication of visual impact. I have used them as a field guide, wherever possible calibrating the appearance of the turbines as shown, and their given dimensions, against actual features in the landscape. I also accept that the Appellant's viewpoints are principally intended to be representative of places from which visual impact can be judged and are not in themselves determinative of impact on landscape character, though they can help inform assessment of that impact. I have sought to use them in that spirit, together with my own assessments of visual and landscape character effects, made travelling around the area.
21. The ES predicts that, within about 3.5 kms of the site, the Sillfield proposal would bring change ranging from substantial to moderate degree that would generally translate into major to major/moderate effects on both landscape character and visual amenity, which would be significant in EIA terms. The Council's assessment is that such significant impacts would extend up to around 6 kms away but, as already noted, the methodology employed was not evidently robust. My own assessment is that the ES is about right but that there would be some significant effects within a radius of up to about 5 kms and it is on that area I concentrate, an area mainly of Rolling Farmland and

Heath (9B) and Drumlin Field (7B) landscape, in roughly equal proportion, with small elements of several other landscape types at the periphery.

22. Within 1 km or so of the site the turbines would dominate the landscape and fundamentally change its character to one of "rolling farmland and heath with wind turbines", in the words of the ES. Such is their height and verticality and the movement of their blades that it could not be otherwise and their visual dominance would be clearly evident from the B6254 and from on and around the minor roads that run westwards from it (*ES 1, 2 and 3*)<sup>4</sup>. Seen from the east they would overwhelm the near skyline, whether seen on its own (*ES 2*) or against the backcloth of the distant low fells of the Lake District; from some vantage points the effect would be increased by the juxtaposition of Turbines 1 and 3 (*ES 3*). From the south, including from the minor road from Sillfield, the three turbines would sit uncomfortably within a group of small scale but attractive, rounded and pasture covered hills, which I regard as the sort of situation the SPD refers to when it comments on the potential difficulties of integrating turbine development in parts of the Moorland Hills and Low Plateaus where land cover patterns are more varied and offer less scope for visual linkage. In addition, the area immediately around the site is in many respects transitional between the Rolling Farmland and Heath and Drumlin Field character areas, as generally agreed at the Inquiry, and is a smaller scale, softer and more enclosed landscape than the bulk of the former characterisation to the east and which includes Armistead; with correspondingly less capacity to accommodate wind farm development. At close range there is no doubt that both visual impact and effects on landscape character would be strongly adverse.
23. A number of points can be made in mitigation, and were so made at the Inquiry. Wind turbine development will inevitably have a major impact wherever it is located; and this is not a landscape that enjoys any special level of protection and may not be, in the words of the Appellant's landscape witness, unique or rare. The SPD judges the landscape as of moderate sensitivity overall and of correspondingly moderate capacity to absorb turbines; and the three turbines proposed are well within the 3-5 guideline. The M6 motorway runs only some 600 m west of the site and there are high and low voltage electricity lines to the east and a radio mast on Bleasegale Hill to the north; and in their response to the planning application Natural England commented that the area was not "remote, unspoilt or particularly tranquil" and described the pylons and mast as obtrusive. The Inspector who allowed the Armistead appeal considered the landscape around the site to be sufficiently robust to accommodate wind turbines without being dwarfed by them and saw merit in locating wind turbines where pylons were already a detractor in the landscape.
24. There are in my view equally strong, or stronger counter-arguments. Whilst the landscape around Sillfield is not within any national designation, and lacks the drama of either the Lake District or Yorkshire Dales, it is not without its own quiet charm, especially when seen as part of an extensive panorama extending westwards to the Lake District fells and Morecambe Bay. As already noted, albeit within the same character area as the Armistead site, it also

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<sup>4</sup> *ES* denotes viewpoints and associated wireframes and montages in the Environmental Statement; *APP* those in the Appellant's evidence for the Inquiry; and *CONS* those submitted by the Consortium.

seems to me to have a good deal in common with the more sensitive Drumlin landscape to the west, with its lower capacity to absorb wind energy development. In any case the SPD itself says that it is intended to provide only an indication of the relative capacity of different landscapes and should not be used to determine the acceptability or otherwise of a particular proposal on any given site.

25. Although a short section of the M6 is visible from the minor road from Gatebeck towards Crosslands Farm, and a further section is seen from Sillfield through trees in the winter, the motorway is generally well concealed by landform and woodland and is not a strong detractor in landscape terms. Also, although in some views vehicles are seen moving through the landscape, such movement is very different in scale and in nature from the insistent turning of turbine blades some 40 m long, 70m above ground level. Certainly traffic on those sections of the motorway where it can be seen, generally well below the skyline, does not attract the eye in the manner that the proposed three turbines would. Similarly, whereas the electricity lines and mast certainly detract from the character and value of the landscape to some extent, they are relatively lightweight in appearance compared with the proposed wind turbines, and significantly smaller in scale. To my mind they would not figure in views of the turbines in the same way as my colleague suggested would be the case at Armistead. The overhead lines in particular are in large part on the opposite side of the B6254 from the turbines and thus would be seen from the road in a different frame of reference, whereas the Armistead turbines would be seen behind the pylons. Neither the pylon lines nor the presence of the motorway would serve to ameliorate the harm that the Sillfield proposal would cause to the character of the landscape, or in terms of visual dominance, to the extent that they might at the other site.
26. Moving eastwards from the site the visual impact of the turbines would be quite quickly reduced by intervening landform such that there would no significant or widespread views from the Rolling Farmland and Heath landscape in this direction or from the western slopes of the Lune Valley, as illustrated by the maps of Zone of Theoretical Visibility (ZTV). Also, this area is lightly populated and is not particularly well endowed with public rights of way, so that residential and recreational receptors would be relatively few in number; and local screening by landform, trees and hedges could well reduce visual impact significantly below that suggested by the ZTVs. Thus the proposed turbines would not appear unduly prominent or seriously harmful to landscape character in this direction beyond a kilometre or so of the site.
27. To the west and north west the situation would be a good deal more problematical in that the generally lower lying ground in these directions would mean that the turbines would frequently be seen in elevated positions, on or close to the skyline. Thus from around Old Hutton, at a distance of about 3 kms, they would be dominant on a generally uncluttered skyline; and although both the Bleasegale mast and the M6 can be seen, neither is unduly intrusive, the former being essentially a "point" feature and the latter largely concealed within cutting (*ES 5 and CONS B*). In addition to this visual dominance the scale, height and movement of the turbines would be directly at odds with, and harmful to, the character of the enclosed, hedged fields of the foreground Drumlin Field landscape.

28. From within most of Endmoor village, some 2.5 kms distant, local screening by landform, vegetation and buildings would effectively conceal all but limited, partial or oblique views of the turbines and the overall visual and character impacts would be correspondingly limited, as they would along significant stretches of the A65(T) for similar reasons. However, from north of Endmoor and around Low Park, the turbines would appear massive on the skyline above the rounded hills, woods and enclosed fields of the foreground landscape, with the same harm to its character as noted for Old Hutton, above (*ES 4, APP 24 and CONS A*). Again, although the radio mast can be seen, and the M6 is visible, at least in places, neither impinges on the attractive, pastoral character of the landscape east of the A65(T) to the extent or degree of harm that the turbines would. Also, although views of the turbines from some dwellings in Low Park would be screened by buildings, and by hedges and trees along Low Park Lane, there would be many places locally where this would not be so, including on popular rights of way. I am in no doubt that the area would become a significantly less attractive place to live as a consequence of the development.
29. From the top of The Helm, about 4.5 kms away, the Sillfield turbines (*ES 7 and CONS D*) would be prominent on, or very close to, the skyline; and although that skyline is clearly within the Rolling Farmland and Heath landscape area it is the more domestic and enclosed Drumlin Field landscape, with its pasture fields, scattered woods and farms, that makes up the greater part of the view towards the south east. Although views from the hill top extend through 360°, and the turbines would only occupy a small part of the panorama, it is to the east and south east that the landscape appears most pastoral and least developed, in contrast to much more urbanized views to the north west over Oxenholme and Kendal. This would tend to exacerbate their adverse impact on the landscape by reason of their size and motion, just as the lack of any appreciable topographic background would emphasize their visual prominence on the skyline. This latter point differentiates them from the proposed Armistead turbines that my colleague judged would be seen mostly against the backdrop of Middleton Fell and Barbon Low Fell, with just the tips of some blades breaking the skyline. Although pylon lines and the Bleasegale mast are visible on the skyline, as are sections of the M6 motorway in the middle distance, none of them are the assertive presence in the landscape that the proposed turbines would be; and the movement of vehicles discernible on the motorway is muted compared with that of turbine blades in an otherwise generally tranquil landscape. I believe that the appeal proposal would detract significantly from enjoyment of this popular local viewpoint for a good number of people.
30. Beyond 5 kms or so the visual and landscape character impacts of the Sillfield turbines alone would generally be limited. From viewpoints to the north they would be seen as a limited group, or almost as a "point" feature, in expansive views of the Rolling Farmland and Heath landscape in which they would occupy only a limited part of the open horizon (*ES 8 and 9*). This would also largely be the case in views from the west in which they would also be not infrequently seen against a backcloth of higher hills and in situations where urban development in the middle distance would itself appear quite intrusive (*ES 11, 14 and 17*); or where the tranquillity of the scene is already significantly reduced by road noise (*APP 22*). There would in my opinion be no significant

effect upon the setting of Sizergh Castle, or the enjoyment that visitors derive from the building and its grounds (*ES 10*). Here there would only be a distant view of the turbines through a narrow gap in a belt of trees that encloses the park to the east and this is not a situation where either the setting of the building, or visitor's experience, relies to any great extent on a relationship with a wider landscape.

31. In views from the south beyond 5 kms the turbines would appear against a background of higher ground or as features of limited extent in a distant landscape very different in character from that in the foreground and middle distance (*ES 18-20 and APP 21<sup>5</sup>*). From viewpoints to the east, within the Yorkshire Dales National Park and along its western boundary, the Sillfield turbines would intrude into panoramic and long distance views westwards towards the Lake District fells, views which are strikingly free of large scale man made features (*ES 12 and 16*). However, at distances of upwards of 9 kms, and from higher ground where walkers on rights of way and access land would be most likely to see them, they would appear as features of limited extent, often seen against higher ground to the west and with correspondingly limited impact on the expansive landscapes within which they would lie. Accordingly I do not share the National Park Authority's concerns about the adverse impact of the Sillfield scheme alone. It would not in my opinion unacceptably affect either the setting of the National Park, its inherent landscape qualities or the experience of the majority of its recreational users.
32. To sum up under the first main issue, by reason of their height, movement and distinctive appearance the proposed turbines would have a significant adverse visual effect on the surrounding area within a kilometre or so of the site and a corresponding adverse impact on the character and appearance of the Rolling Farmland and Heath landscape. Although these effects would diminish rapidly to the east, they would not to the west and north west and the proposal would cause significant harm through visual intrusion and adverse impact on the character and appearance of the Drumlin Field landscape up to a distance of around 5 kms away. Such harm would in my view significantly exceed that attributable to the Armistead scheme, which would be less prominent in viewpoints to the west. This, together with the other differences from Armistead that I have referred to, including in landscape character and relationship with electricity lines, differentiate Sillfield from the permitted scheme. And although that permission is an important material consideration, it is in my view going too far to say that it gives in-principle support to the Sillfield scheme, or signals acceptance of the principle of commercial-scale wind energy in the local area, as the Appellant argues. Each proposal must still be considered on its individual merits.
33. The visual and landscape character harm I have identified would not be universal within the 5 km radius, nor experienced to the same degree throughout, as is evidenced by the ZTV maps; and I have borne in mind that the viewpoints in the ES and in evidence, though selected as representative, may in some respects show a worst case. The turbines would for example be screened by local landform, trees, hedges and buildings in places, including along stretches of the A65(T); and elsewhere their impact on the viewer would be tempered by the evident presence in the landscape of other sources of

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<sup>5</sup> Also photomontage in Appendix 9 to Mr Sinclair's evidence for the Consortium.

disturbance such as sections of the M6 motorway close at hand (*ES 6*). However, overall I consider that the visual impact and effects on landscape character would be such that the proposal would clearly be contrary to development plan policies that seek to safeguard the character and appearance of the countryside, notably RSS Policies DP 7 and EM 1(A); and SP Policy E37.

***Second Issue: Cumulative impact on the character and appearance of the landscape together with other similar developments***

34. The Council did not argue that the Sillfield proposal would have a cumulative impact on landscape character when seen together with the existing wind farms at Lambrigg to the north or Caton Moor to the south and on all the evidence, including what I saw on my site visits, I see no reason to disagree with that stance. Both developments are a considerable distance away, some 8 kms and 22 kms respectively, such that the Sillfield scheme would often not be seen in the same frame of reference as the existing installations or would appear as a discrete entity in the landscape. It could not be said to be contributing in any real sense to creating a landscape dominated by wind farms in association with either or both of these existing sites. Accordingly I concentrate under this issue on the cumulative impact of Sillfield together with the Armistead proposal, the nearest turbine of which would be some 1.8 kms north east of the appeal site.
35. The appeal decision granting planning permission for the Armistead scheme is the subject of a High Court challenge, made on 1<sup>st</sup> September 2009, relating to a number of matters, including alleged failure to have proper regard to wind speed data or lack of it; deficiencies in noise conditions; and failure to take proper account of public safety, impact on amenity around dwellings, and limitations of tree screening. However, beyond the last two points the challenge does not substantively dispute the Inspector's reasoning on effects on landscape character or on visual impact. Unless and until his decision is quashed it remains a material and important consideration. Also, whilst I do not, and cannot, predict the outcome of the challenge, on all the evidence I consider that if the challenge to the Armistead decision were not upheld there is a very real possibility that that scheme would be implemented. Either way the cumulative impact landscape and visual impact of the two schemes together must be considered. Nor, in my judgement is the threshold for acceptability of such cumulative effects somehow lowered because, as argued by the Appellant, the Armistead scheme, once implemented, would become part of the landscape "baseline".
36. The Cumbria Joint Wind Energy SPD advises that the cumulative effect of wind energy schemes is likely to assume increasing importance as more such schemes come forward in the County in general and areas like the South Cumbria Low Fells in particular. Skyline clutter and effects on the sense of remoteness and unspoiled nature of the uplands and the setting of, and views from, adjacent national parks are landscape impact issues to be considered. In terms of visual impact, locating schemes close together may mean that they are seen in combination from some viewpoints, the combined visual effect being greater than that for each development alone. However, in order to meet government targets for renewable energy, multiple schemes may need to be accepted as a defining characteristic in some of the County's landscapes.

37. The nub of the Appellant's stance on cumulative impact, as expressed both in the ES and in evidence to the Inquiry, is that addition of the Sillfield turbines to a landscape in which the Armistead scheme was already present would not result in significant cumulative visual and landscape character effects beyond those that would arise from Sillfield alone. Put another way, adding Sillfield would reinforce already potentially significant impacts without substantially increasing the extent of those effects or elevating them to a higher order of magnitude or significance.
38. In my view this assessment only holds true for a limited number of viewpoints, mainly close to the two sites. Thus, at close quarters, seen from the B6254 and other local roads (*ES 2 and 3*), the two schemes would be seen as clearly separate entities lying in quite different fields of view; and although the cumulative visual impact of the two schemes would be significantly greater than that of each individual development, this would not necessarily be so in term of impact on landscape character, simply because one scheme alone would bring about the fundamental change in that character and the other would in essence restate or reinforce that change. This would also essentially be the case for viewpoints to the east within the Rolling Farmland and Heath landscape where the impact of Sillfield would be limited for reasons set out under the first main issue, above. However, from my own visits around the area it is clear that from many viewpoints to the west and north west the Sillfield and Armistead schemes together would have significantly greater visual and landscape impacts than either scheme on its own; and that these impacts would extend further from the site, beyond the 5 km radius I have referred to above, and in other directions so that changes in more distant views I have judged as not significant for Sillfield alone would become so for both schemes together.
39. Thus from lower ground to the west, around Endmoor (*ES 4*), the two schemes together would be seen extending along a substantial section of the skyline, essentially as a single large wind farm though with an ambiguous and disturbing visual relationship between the apparently "larger" Sillfield turbines and the "smaller" machines at Armistead in the background. This would amount to a major cumulative visual impact and a profound and adverse change in the character of the Drumlin Field landscape in the foreground and middle distance with the height and motion of the turbines dominating the enclosed field pattern. Seen from around Low Park (*APP 24 and CONS A*) the relationship between the two schemes would be slightly different and it would not be readily apparent whether they were a single development, albeit haphazard in plan, or two schemes poorly related to each other. However, the visual and landscape character harm would be the same, caused by the extension of turbines along the horizon, the awkward relationship between them and their scale relative to the foreground landscape. Although the Appellant's landscape witness argued at the Inquiry that any lack of balance within the group as a whole was attributable to the Armistead scheme rather than to the relationship between that scheme and Sillfield, this makes no practical difference to the adverse cumulative outcome.
40. From certain viewpoints to the west and within 5 kms or so, cumulative impact would be lower because the two developments would be more obviously separate (*ES 5 and CONS B*). However, where a single scheme might

reasonably be accepted as a "point" feature in the landscape, two within the same frame of view, and with the Sillfield turbines markedly more prominent than those at Armistead, would give the impression of visual dominance on the skyline, jarring with the character of the pastoral foreground landscape. From the top of The Helm (*APP 7 and CONS D*) the two schemes would again be seen as quite separate but the different number of turbines in each would make for an awkward visual relationship between them, as would the disposition of the Sillfield turbines, with one perceived as quite distant from the other two. Together with the extension of turbine development along the horizon, and the prominence of the Sillfield scheme against the sky (in contrast to Armistead), there is no doubt that cumulative visual and landscape character impacts would be significant and adverse; and likely to be perceived as such by many walking on the hill. Similar effects would be apparent from the north (*ES 9*) where although the number of receptors might be lower, and Armistead would be the dominant element in the view, Sillfield would represent a significant extension of quasi industrial development in an open, pastoral landscape.

41. Under the preceding issue I have noted that from some more distant vantage points, such as Killington Services on the M6, Sillfield alone would have only limited impacts. However, the cumulative effect with Armistead would be of developments unequal in size, unbalanced in relationship one to another, and extending over a good deal of the open horizon (*APP 25 and CONS C*). The harm to landscape character so caused has to be seen in the context of the pylon line and Bleasgale mast, both of which are prominent on the skyline; and it would only be evident from certain parts of the service area, albeit that those area are well used by the travelling public. Nor perhaps can such travellers, stopping briefly for utilitarian purposes, be reasonably regarded as as sensitive to landscape change as those on active recreation in the countryside. Nevertheless, the cumulative impact would be evident from many other vantage points round about, including on the A684, and would be both significant and adverse.
42. From more distant viewpoints to the south and east (*ES 12 and APP 12, 16, 21 and 22*) the cumulative impact of both Sillfield and Armistead would be significant to a greater or lesser extent in the extension of industrial-style development across the distant landscape; the impact would be greatest where the Sillfield turbines would be seen forward of those at Armistead, and thus larger, but would be lower in viewpoints from which all the turbines would be seen against a background of higher hills. From viewpoints within or close to the Yorkshire Dales National Park I believe that the cumulative visual and landscape impacts would detract from the sense of tranquillity, and general absence of intrusive man-made development, that characterise the Park.
43. To sum up under the second main issue, the cumulative visual and landscape character impacts of the permitted Armistead scheme and the Sillfield proposal together would exacerbate those attributable to each individual scheme and would extend the area over which those impacts would be perceived as significant. As with the effects from Sillfield alone, I acknowledge that such impacts would be neither uniformly apparent nor of equal magnitude throughout the surrounding area. Nevertheless they add to the adverse effects I have identified under the first main issue and likewise would run counter to the aims of RSS Policies DP 7 and EM 1(A) and SP Policy E37.

### ***Third Issue: Effects on residents' living conditions***

#### *Visual Impact*

44. The ES states that although the proposal may have significant effects on properties "in the private context", the overall change in visual amenity would not be unacceptable at most dwellings, given their distance from the proposed turbines and the generally restricted nature of views. However, the reference to "private" is potentially misleading. It is a generally held planning principle that there is no "right to a view" that would protect private views from development that would adversely affect them. However, the public interest may legitimately come into play where a proposal would have such a severe adverse impact on the outlook from a property that it would make it a significantly less attractive place to live, and for future as well as current occupiers. Safeguarding living conditions can then become a legitimate and material planning consideration (though also one to be weighed against other such considerations, a point to which I return later). Nor is the scale of harm to living conditions necessarily directly related in some utilitarian way to the number of properties concerned so that if relatively few properties are affected it can be concluded that the harm is acceptable. The degree of harm in individual cases is important and again this becomes a matter to be weighed in the balance of pros and cons of the proposal.
45. At the Inquiry the Appellant's analysis of visual impact upon residents focussed on properties within 2 kms of the Sillfield site (as did that in the ES though in a less detailed way). I consider this fair as beyond that range the turbines might be prominent in the landscape but it is unlikely that they could reasonably be perceived from dwellings as dominant and intrusive; there would be a change to the view but no direct, serious harm to living conditions.
46. From properties west of the M6, in and around Gatebeck, views of the turbines would be generally partial and limited, and often screened by landform and trees, the latter for at least a good part of the year. A good number of the dwellings are set well down, and into, the hillside, their principal elevations face away from the appeal site or they have only minor windows facing towards it. I consider the Appellant's assessment of impact on these properties as moderate or major/moderate to be reasonable and that there would be no unacceptable effects on living conditions here.
47. East of the motorway, properties within a 2 km radius but furthest from the site, notably Hood Ridding Farm, Barkin House and Coxbank Farm, would be relatively lightly affected because of distance, orientation of properties and local screening. Barkin House, for example, specifically referred to at the Inquiry, faces principally towards the south-west rather than directly towards the site, and is fronted by a belt of large, mature trees that would provide a good deal of screening, even in the winter. However, both this property and Hood Riddings Farm could experience some cumulative impact from the Sillfield and Riddings schemes together that, with turbines seen in different directions, could be intimidating.

48. Closer to the site visual impact would be both more dramatic and severe. Seen from Crosslands Farm (686 m away<sup>6</sup>), Crosslands Cottage (770 m) and Low Audlands (715 m) and Audlands Park (805 m), the three turbines would be intrusive in the open landscape and dominant at close range. I accept that residents working the land may be more sanguine about the effects of the turbines than others, and this may temper the perceived impact on the farms; and I do not give great weight to the significant impact on Far Audlands (780 m) where the occupants have a proprietary interest in the appeal site. Views from the houses at Crosslands Farm would also be screened in part by barns. However, I believe that the visual impact on Crosslands Cottage, the principal elevation of which directly faces the appeal site, would significantly detract from living conditions there.
49. Sillfield<sup>7</sup> is a group of some 6 properties west of the appeal site, on lower ground, and the nature and extent of visual impact on each depends very much on precise location and orientation. Sillfield Farm (746 m), Stoneycroft (708 m), Blencathra (692m) and Primrose Bank (744 m) would each be screened from direct view to a greater or lesser extent by buildings, hedges or trees but Brooklands (670 m) and Hind Cottage (686 m), both of which are on higher ground on the east side of the group, would be much more affected. The three turbines would be seen in whole or part from Brookland's east facing windows and also from its garden and adjacent paddock which wrap around the east side of the house (*ES 1 and APP 26*). In my view the appearance and height of the turbines at close quarters and on elevated ground, and the motion of the blades, would be intrusive and intimidating and would markedly detract from enjoyment of both the house and its open space. The impact on Hind Cottage would be similar, with turbines clearly in view from east-facing lounge and dining room windows and from an external deck. Whilst both properties also have windows on other elevations, those facing east are important and cannot be discounted as giving an outlook which is only incidental. The suggestion that adverse visual impact might be mitigated by local tree planting is unlikely to be effective, at least in the foreseeable future, given the elevated site and scale of the turbines.
50. The intimidating effect of the turbines would in my opinion be particularly evident from the gardens of both these properties but it would also be felt around Sillfield as a whole and particularly by residents passing to and from their properties or relaxing in gardens. As the hamlet is at present generally peaceful, despite its proximity to the motorway to the west, the scale and movement of the turbines would be particularly disturbing. The motorway is largely screened from view and only makes its presence felt in low background noise whereas the turbines would be a close, insistent and severe visual intrusion.
51. Fair View and West View stand in isolation on high ground some 629<sup>8</sup> m south east of the site, from where the turbines would be in full view across lower ground in the middle distance. Although the property owner accepted that the view was panoramic, and the Appellant argued that the turbines would only

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<sup>6</sup> All measurements are taken from the Statement of Common Ground (SCG) (Doc. B). Where there are differences between the measurements derived by different means I use the higher figure.

<sup>7</sup> Or Sill Field as it is shown on OS maps.

<sup>8</sup> The Council say that the intervening distance is 600 m but the difference is not significant.

feature in part of that view, it is an important part and they would inevitably attract attention through their size and blade movement. The latter would be particularly disturbing in that one turbine would appear effectively “stacked” behind another (*APP 23*). In my opinion, whilst screening from hedges and parts of the buildings would largely conceal the turbines from view from the static caravans behind the houses, they would be insufficient to prevent them from appearing dominant and overbearing when seen from both the dwellings and their immediate surroundings, in a way that would inevitably cause significant harm to living conditions.

### *Noise*

52. The noise assessment in the ES is based on measurements at 4 representative locations and with levels for other locations interpolated. It predicts that at all residential locations noise would be within ETSU<sup>9</sup> limits, namely 5dB above background noise, or 43 dB at night and 35-40 dB during the day, whichever is the greater, all  $L_{A90, 10 \text{ mins}}$ . At most times and wind speeds there would be a significant margin between limit and predicted noise level.
53. The Consortium criticized the ES assessment on the grounds that reliance on ETSU limits meant that background noise measurements had to be taken accurately and that this had not been the case; at three of the four receptors recorded levels did not properly reflect background levels because they had been distorted by wind noise and noise from extraneous sources. They also took issue with wind speed measurements from a 10 m high anemometry mast alone on the grounds that these failed to take account of wind shear, whereby turbines that were significantly higher might generate more noise than predicted due to the increased wind speed at increased height. In their view wind speed at hub height could only be assessed with any accuracy by taking measurements on a tall mast, as advocated in a recent Acoustics Bulletin article<sup>10</sup>. Further criticisms were that measurements were not taken in representative conditions of wind direction; that the wind speed data contained inconsistencies; and that no assessment had been made of the risk of amplitude modulation (AM), a particularly marked fluctuation in aerodynamic noise, and which might arise through turbulence caused by woodland or insufficient spacing of the turbines.
54. At the Inquiry the Appellant’s acoustics witness provided a detailed explanation of the way in which background noise measurements were made, which was not convincingly challenged by the Consortium and which satisfies me that the locations chosen were representative of the surrounding noise environment, and of other local receptors. I consider that if there were any imperfections they were not of such magnitude as to significantly affect the results, or the conclusions drawn from those results. An updating of the noise assessment in the light of the methodology recommended in the Acoustics Bulletin article predicts lower noise levels at most receptors than in the ES; and in the handful of cases where there is an increase it is minimal and the figures are still below the 35 dB ETSU minimum limit. In short, assessed by both the ES and the revised approach predicted noise levels at local dwellings would be

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<sup>9</sup> The Assessment and Rating of Noise from Wind Farms; Energy Technology Support Unit (ETSU) for the DTI; September 1996 (CD63)

<sup>10</sup> Prediction and assessment of wind turbine noise: Agreement about relevant factors for noise assessment from wind energy projects; Bowdler et al; Acoustics Bulletin Vol. 34, No. 2; March / April 2009 (CD74)

comfortably within ETSU limits. The Consortium's attitude to the Appellant's revised assessment appears somewhat carping in that having introduced the Acoustics Bulletin article, and sought to rely upon it in some respects, they then questioned its validity when employed by the Appellant. I am satisfied that the Appellant's evidence presents a reasonable picture of the current noise environment in the round.

55. Using data from the Armistead anemometer mast, which despite the Consortium's criticisms appears to me to be a reasonable proxy for the appeal site, being close at hand and on similar topography, the Appellant's acoustics witness has assessed the likelihood of wind shear at the latter and concludes that it would not affect the noise predictions; and that conclusion has not been convincingly challenged. Nor is it likely that the stable atmospheric conditions in which wind shear might most likely be found will occur with any frequency in the hilly terrain around the appeal site. In my view it can be safely concluded that there would be no significant risk at that site of wind shear exacerbating the predicted effects of turbine noise.
56. Although the Appellant's witness accepted that there were some omissions and inconsistencies in the wind and noise data, these were explained and compensated for and do not appear to me to be of a nature and magnitude that would appreciably affect the outcomes. In particular, errors in wind direction data obtained locally were corrected, and comparisons with data from the Lorton Meteorological Station, as made by the Consortium, are of limited relevance given that Lorton is over 50 kms away and in a very different kind of location, both topographically and meteorologically. On all the evidence I do not consider that the corrections made to the data can be fairly characterised as arbitrary and unproven adjustments, in the Consortium's words.
57. Whilst a good deal of Inquiry time was spent on discussion of AM, and the extent to which it might be addressed by a condition, the Appellant's evidence, not seriously challenged by the Consortium, was that neither the disposition of the turbines, excessive wind shear or the topography of the Sillfield site were likely to mean that it would be a serious problem here. Statistically the incidence of AM at wind farms is low and the Government have seen no reason to change advice in Planning Policy Statement (PPS) 22, Renewable Energy, on using the ETSU methodology in response to research upon it, notably the Salford report<sup>11</sup>.
58. Although Consortium witnesses spoke of their experience of noise from wind farms elsewhere, I have no detailed information on which to judge how comparable those sites are with Sillfield or any evidence from this source to suggest that similar problems might arise there. Overall I conclude that there no good reason to suppose that they would. The fact that the Council, after consideration by their environmental health team, have not objected to the appeal proposal on noise grounds gives added weight to my conclusion that there would be no unacceptable additional noise or disturbance to local residents. If the proposal was otherwise acceptable any residual concerns could be addressed by conditions specifying maximum noise levels at the nearest properties together with procedures for investigating complaints.

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<sup>11</sup> Research into Aerodynamic Modulation of Wind Turbine Noise: Final report; Moorhouse et al; University of Salford; July 2007 (CD72).

*Shadow flicker*

59. Shadow flicker, the effect of the sun shining behind the rotating turbine blades and creating an intermittent shadow, only occurs inside buildings where there is a narrow window opening and, broadly speaking, where certain meteorological, seasonal and geographical conditions prevail. It also only occurs within a distance equivalent to ten rotor diameters of a turbine, in this case 800 m. On the basis of an assessment of the ten properties within this distance the ES predicts that four would be exposed to short periods of weak shadow flicker though these would amount in total to only a few hours per year. Even though this was a desk stop study, the very modest incidence predicted does not suggest a potential problem of any severity and, in any case, shadow flicker is capable of being mitigated by fairly simple measures, measures which could be covered by a suggested condition. The ES also indicates that under some conditions reflection of sunlight from turbine blades can cause flashing but that this can be largely overcome by matt or semi matt surface finishes. As with noise, above, the Consortium's evidence on shadow flicker and flashing from blades at wind farms elsewhere is specific to those sites and does not in itself indicate that such problems would be experienced at Sillfield.
60. I conclude on the third issue that neighbouring residents would not suffer unacceptable disturbance from noise or shadow flicker but that the living conditions in some five dwellings would be severely harmed by the visual impact of the turbines and that an equivalent number of properties would be adversely affected though to a lesser extent, all contrary to the aims of SP Policy R44 and LP Policy C26. The fact that there is a campsite at Knabb's Ridge near Harrogate where turbines are apparently some 400 m away, apparently without a great deal of adverse comment from those staying at the site, as referred to at the Inquiry, does not seem to me to be particularly significant. Not only was the evidence very limited but what may be perceived and tolerated over a short space of time by a visitor may well be very different from what is reasonably acceptable to a permanent resident. Nor does the Appellant's argument that wind turbines of the scale proposed could probably not be accommodated anywhere without some potential effects on residential dwellings carry any great weight; it is the degree and extent of the impacts that is important.

***Fourth Issue: Impact on recreation and tourism***

61. The Appellant accepts, both in the ES and in evidence, that the proposed wind turbines would have a potentially significant effect upon local rights of way, namely the public footpath to the north west from Sillfield to near Crosslands Farm and the bridleway to the east from Far Audlands to Low Audlands. Indeed, at separation distances down to around 100 m in the former case, and 620 m for the latter, this could scarcely be otherwise<sup>12</sup>. The turbines would dominate views from the footpath along its entire length and, although further from the bridleway, would be little less intrusive in the open pastoral landscape seen from there.

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<sup>12</sup> Using the Appellant's figures in the SCG for the turbines closest to the respective rights of way. Although the Council's figures are slightly lower for the bridleway, the differences are not significant in terms of visual impact.

62. Members of the Consortium testified to the use made of these rights of way and they clearly provide attractive opportunities for local recreation. However, although both are signposted and waymarked, neither shows evidence of intensive use nor links directly to other paths such that they would be obvious components of longer distance walking or riding routes. Also, the pattern of rights of way to the east of the motorway is notably more sparse and discontinuous than that to the west such that the area immediately around the appeal site seems to me unlikely to attract walkers and riders from any great distance or in large numbers. Whilst this is not to denigrate the function of the rights of way, it suggests that their value is essentially limited and local, a conclusion also reached on the nearby bridleway east of the B6254 road by my colleague at the Armistead inquiry.
63. I have no doubt that although some users of the closest rights of way might feel essentially neutral towards the turbines, or might see them as a feature of interest, others would feel them to be intrusive and even intimidating such that their enjoyment of the routes and of the surrounding countryside would be markedly reduced. However, for those walking or riding beyond the immediate environs they would only impinge directly on a relatively small section of longer routes. Also, and importantly, the number of people whose enjoyment of the countryside as seen from local rights of way might be seriously harmed would be relatively small, the same conclusion as was reached in the Armistead case. The situation would in my view be essentially the same for other groups of people recreating in the surrounding area and referred to by the Consortium, such as those fishing or attending the Bendrigg Lodge outdoor centre. Some such people might well find that wind turbines would detract from their enjoyment but a good number would be likely to be focussed on the activities in hand and be essentially neutral towards the development.
64. The Council do not argue that there would be significant impacts on rights of way further afield; and, whilst walkers and riders on footpaths and bridleways within the 5 kms or so where I consider landscape and visual impacts would be severe would experience those impacts, I see no need to single them out for separate analysis. Because of intervening distance, and the screening effects of local landform, vegetation, and settlement, there would be no adverse effects on national trails and regional trails and national cycle routes over and above the general impacts I have identified under the first and second main issues.
65. Although the Consortium argued that the appeal proposal would harm the local tourist industry, it is difficult to establish clearly the scale and significance of that industry and to quantify possible effects upon it. The estimate of over 15 m visitors to Cumbria in 2007 and revenues from tourism in that year of £513 m and £1.14 billion for South Lakeland and the County respectively<sup>13</sup> are impressive by any standards; and figures on bed spaces further testify to the major role that the former plays in the tourist economy of the latter. However, there is clear no way of singling out what part the Kendal Low Fells play in this picture. I note above the apparent modest use of the rights of way closest to the site; and the limited evidence available suggests that the majority of users of these and other local paths are likely to be local residents rather than visitors coming from any great distance. Also, the surrounding area, though

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<sup>13</sup> Cumbria Tourism: Tourism Volume and Value 200; Research Department, Cumbria Tourism.

attractive in its own right, is unlikely to itself attract tourists on anything like the scale of the more dramatic landscapes of either the Yorkshire Dales to the east or the Lake District to the west. It seems to me reasonable to assume therefore that most visitors staying locally will be either passing through, or will be ranging widely over attractions beyond the immediate area.

66. On the Consortium's evidence there is certainly a significant amount of visitor accommodation in the area, including serviced and self-catering accommodation, and caravan and lodge sites. However, there are no obvious sizeable concentrations of such accommodation close to the appeal site so that in most cases the effects of the wind turbines on holiday accommodation would be likely to be diffuse and muted by distance. Even the caravan business closest to the site, at West View, would, as I have already noted, be screened from direct view of the turbines and evidence on the likely harm to that business is essentially speculation. And if there was such harm it would need to be weighed in the overall balance but would not necessarily presage a significant adverse effect on the local tourist trade in general.
67. Caravans and lodge sites nearby, in and around Endmoor and Gatebeck, appear to be well screened by landform and planting. Accordingly, and in the light of what I say above the likely transient nature of tourists here, the appeal proposal, either alone or in conjunction with Armistead, would be unlikely to feature strongly in most visitors' overall impressions of the area. I suspect that whatever their perceptions of wind farms the Sillfield scheme would not in itself be a strong disincentive either to visit or re-visit the area. This seems to be borne out by what I was told about the outcome of a survey of caravan and lodge site owners, namely that there was a pretty even split between respondents who feared an adverse effect on their businesses and those who believed there would be no effects. Also, whereas I assess under the second issue that the Sillfield and Armistead schemes together would have a serious adverse effect on landscape character seen from Killington Services on the M6, I think it a step too far to say that the sight of turbines from the motorway would so colour the perception of the Kendal Low Fells, Cumbria or the National Parks as areas to visit that it would have a significant adverse effect on the local tourist economy.
68. Nor do the Consortium's quotes from various studies and surveys make a clear case that wind farms harm tourism. Statements that "x % of visitors would be deterred or would not return" or "y% had negative feelings towards wind farms" detached from their context, do not carry weight. What I have seen of these various studies suggests that adverse effects are generally not proven and at worst are likely to be marginal. There certainly appears to be no consensus to support the Consortium's conclusion that all surveys show that visitors will be discouraged from an area (at least in any significant numbers) if wind farms are constructed. Nor does their evidence on the alleged adverse effects of the Knabs Ridge, Harrogate turbines on a nearby caravan site bear the weight placed upon it. On the limited evidence available it is simply not possible to say that loss of trade at the site is attributable solely or even largely to the arrival of the turbines; there could well be many other forces at work.
69. Similarly, there is no concrete evidence to suggest that other businesses in the area would suffer significant loss of turnover if the Sillfield scheme went ahead. I accept that the surrounding environment could play a greater role in the

decision to visit establishments such as the farm shop at Sillfield Farm than it might in the case of the high street, and that a significant proportion of customers come from outside the immediate area. However, it seems to me that a good more information would be needed on the reasons why those patrons were attracted before it could be predicted with any confidence that tourist footfall would be significantly affected.

70. I conclude on the fourth main issue that the proposal would harm the experience of the countryside enjoyed by at least some users of nearby rights of way, contrary to the aims of LP Policy L10, though the number of people so affected would be likely to be small. There is no compelling evidence that the proposal would have any significant adverse effects on the contribution made by tourism and recreation to the local economy.

***Fifth Issue: Contribution to renewable energy generation***

71. It is not necessary to rehearse in detail the importance that national policy attaches to encouraging renewable energy generation; it is made abundantly clear in PPS22 and is reiterated and reinforced in a succession of further statements of policy made thereafter and referred to by the Appellant, including the Renewable Energy Statement of Need (2005) (CD21), the White Paper, Meeting the Energy Challenge (2007) (CD23), the Supplement to PPS1 on Planning and Climate Change (2007) and the UK Renewable Energy Strategy (2009) (CD26). The scale and urgency of the challenges of addressing the causes of climate change and developing renewable energy on a necessary scale are made manifest in all these documents.
72. Briefly, the benefits of renewable energy proposals, including those to the wider society and economy beyond the immediate area affected, are to be given significant weight in the planning process; the pace of development must be increased dramatically if national energy targets are to be met; regional targets should be reviewed regularly and revised upward if met; and renewable energy development should be capable of being accommodated throughout England provided that environmental and other impacts can be addressed satisfactorily. The Council do not dispute any of this and accept that the Sillfield proposal would make a valuable contribution to meeting regional and national targets for renewable energy generation.
73. Regional renewable energy generation targets in the RSS are for some 1,234 MW of electricity by 2010, 1,932 MW by 2015 and 2,693 MW by 2020. The corresponding sub-regional targets for Cumbria, and for the contribution from on-shore wind generation (in brackets) are 237 (210) MW by 2010; 285 (248) MW by 2015; and 292 (248) MW by 2020. The latest available information<sup>14</sup> is that total installed renewables capacity for the Region is some 545 MW, equivalent to about 44% of the 2010 target. For Cumbria there is a total of 120 MW of generation capacity for wind farms either installed or permitted, equivalent to some 57% of the wind power target for the County in 2010. If all further proposals in the planning system, namely undetermined applications and proposals at appeal, are added the total amounts to some 91% of the County target. It is not possible to say what proportion of these schemes will

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<sup>14</sup> Energy Trends, September 2009; Department of Energy and Climate Change. Figures current at December 2008.

reach fruition and in any case there is no prospect of them being built by 2010. Generation of electricity from wind is an established technology and there is no cogent evidence that hydro electric schemes in Cumbria, as referred to at the Inquiry, will make a significant contribution to renewables targets within the foreseeable future. It is evident that there will be a significant shortfall of capacity against the 2010 County wind energy target, the same conclusion as my colleague reached on the Armistead appeal.

74. I also share my colleague's view that in the light of that shortfall the renewable energy benefits of the Sillfield proposal should be given the significant weight advised in both RSS Policy EM 17 and SP Policy R44. Also, although both these policies are positive in emphasis, the former is arguably more so in that it expresses environmental impacts as matters to be "taken into account" rather than explicitly balanced against benefits; a point possibly significant given that it post-dates both publication of the PPS Supplement on Planning and Climate Change and adoption of the Structure Plan. Arguments as to the degree of weight to be given to targets as the relevant dates approach are not of central importance in the light of PPS22 advice that targets should be minima and should be reviewed and revised upward if met. It is clear that the Government regards striving towards such targets as a continuing imperative and that capacity installed at whatever time will contribute to national and regional objectives of generating more electricity from renewable sources as part of a more sustainable energy policy. The inevitable failure to meet the 2010 County target does not mean that that target will fall away; rather Sillfield would contribute to the shortfall en route to the 2015 target.
75. The Consortium argued against the proposal on a number of grounds related to the precise nature and causes of climate change, the contribution that wind power can make to averting such change, its inherent efficiency, the scale of carbon dioxide savings, intermittency, the need for base load capacity; and concerns apparently expressed by the County Council about the capacity of the County to accept further wind power schemes. However, these are in large part criticisms of Government energy policy that range beyond my remit of determining the appeal in the light of current planning policies. They do not significantly shift the balance between the wind energy benefits of the appeal proposal and its landscape impacts. Also, although the County Council are reported to have challenged the targets in the RSS, and the terms of Policy EM 17, the RSS is as it is, approved and part of the development plan. Nor has any evidence been submitted that the County Council's concerns over targets and landscape capacity have been expressed in any policy form that might bear examination alongside what the RSS, the Structure Plan and the SPD say on these matters. Criticisms of the allegedly undemocratic way in which RSS is prepared, and of the Government's approach to climate change, are matters for the political arena rather than a planning appeal. None of these arguments bear directly on the determining issues in this case.
76. The Sillfield proposal would contribute up to 7.5 MW of installed capacity. I conclude on the fifth and final issue that it would make a tangible contribution to regional and national targets for renewable energy generation, bearing in mind national planning policy. It would thus accord with the positive thrust of RSS Policy EM 17, SP Policy R44 and LP Policy C25, provided that, so far as the last two Policies are concerned, adverse impacts were judged acceptable.

### **Other matters**

77. A good deal of support for the proposal has been expressed, both in writing and at the Inquiry, by members of the public and local organisations concerned, among other things, about climate change and potential pitfalls of undue dependence on nuclear power. Others see the development as helping secure the viability of local farms and benefiting businesses during the construction period. Many welcome the sight of wind turbines as an indication of tangible efforts to tackle global warming and as attractive machines in their own right; and attention is drawn to public attitude surveys expressing support for development of wind power. I have taken all these matters into account in making my decision and fully accept the urgency of tackling climate change, as is emphasised in national planning policy. However, that same policy acknowledges that for renewable energy developments to be acceptable environmental impacts must be addressed satisfactorily. Looked at in the round, environmental impacts can certainly be construed to include the effects of climate change (a point I return to in the final section of this letter, below) but they also include effects on landscape character and local resident's living conditions, and which I regard as main issues.
78. The Consortium raised a wide range of additional matters in opposition to the proposal, including the historical significance of the surrounding landscape; the Government's ratification of the European Landscape Convention; the Europa Nostra Declaration of the Impact of Wind Power on the Countryside; and the effect of the appeal proposal on bats. Whilst I accept that the local area is well known as a cradle of the Quaker movement, it seems to me that George Fox's ministry, and that of his local followers, was by its very nature peripatetic; and that there is little or nothing in the local landscape that speaks of a direct connection with it such as would add significant weight in the analysis of landscape impacts. Similarly, the European dimension adds nothing of substance to the national planning context within which the appeal has to be decided. I am satisfied on all the relevant evidence on bats, including the supplementary statement submitted by the Appellant at the Inquiry, that the survey work undertaken was appropriate to the proposal in its nature and scale and that the results were sufficiently robust to establish that there would be no unacceptable effects on bat roosting sites, flight lines or foraging routes, nor a high risk of bats colliding with the turbines. The absence of objections from Natural England and the Cumbria Wildlife Trust adds further weight to my conclusion that effects on bats is not something that weighs against the appeal proposal.

### **Policy Considerations, Balancing and Overall Conclusions**

79. The development plan comprises the Regional Spatial Strategy, the Cumbria and Lake District Joint Structure Plan and the South Lakeland Local Plan. Some of the relevant policies therein are essentially "protecting" policies and others are "balancing" policies in which the importance of protecting existing assets must be expressly weighed against the benefits that would accrue from the proposal. In addition, material considerations that might lead to a decision other than in accordance with the development plan must be assessed.
80. Policies DP 7 and EM 1(A) of the RSS, and Policy E37 of the Structure Plan are "protecting" policies, concerned with safeguarding landscape character, and I

conclude under the first and second main issues that both on its own, and in combination with the Armistead scheme, the Sillfield proposal would conflict with the aims of these policies. Policy L10 of the Local Plan is also a “protecting” policy, that seeks to protect rights of way from development that would affect their character, and I conclude under the fourth main issue that the appeal proposal would be at odds with it though the number of people who would be directly and adversely affected would be small.

81. I turn now to the assessment of the appeal proposal against “balancing” policies, namely Policy EM 17 of the RSS, Policy R44 of the Structure Plan and Policies C25 and C26 of the Local Plan. All are, albeit with some differences in emphasis, positive towards the development of renewable energy subject to certain criteria relating to potentially adverse impacts. I do not specifically consider Local Plan Policy C31 further as this does no more than to require cumulative impacts of renewable energy projects to be taken into account, a process that has been done at all stages in the progress of the appeal proposal.
82. I conclude under the fifth main issue that the Sillfield scheme would make a tangible contribution to targets for renewable energy generation, including those set out in the RSS and would accord with the thrust of Policy EM 17. Given the terms of that Policy, and the whole tenor of Government policy, this is something that carries substantial weight in its favour. However, the encouraging policy stance towards renewable energy development in PPS22 and elsewhere is not unqualified. Advice that such development should be capable of being accommodated throughout England is predicated on environmental and other impacts being satisfactorily addressed; and exploitation of the various sources is to be subject to appropriate environmental safeguards.
83. Nor do I accept the Appellants various arguments that the imperative to increase renewable energy generation capacity is such that only the most severe or widespread environmental impacts are capable of outweighing it; or that proposals such as that at Sillfield, affecting land with no designations of national or regional value, should not be refused because of local landscape impacts; or for reasons other than the most compelling purpose, pitched at the level of a national rather than local interest. PPS22 does not depart from the principle that planning proposals should be assessed on their individual merits and there is no indication in statements of policy since that visual and landscape effects are to carry less weight than hitherto. Thus whilst one of the most recent such statements, the UK Renewable Energy Strategy published in July 2009, states that the planning system must be speeded up and made more predictable in the way that it deals with proposals for renewables, it includes the caveats that we must also continue to protect our environment and natural heritage and respond to the legitimate concerns of local communities<sup>15</sup>.
84. In my analysis of landscape impacts I have noted the quiet charm of the local countryside and, whilst it carries no formal designations, this does not mean that it should be implicitly downgraded. I can appreciate the force of the argument that in a county like Cumbria where a good deal of the countryside is formally protected, or subject to other constraints such as military training and

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<sup>15</sup> The UK Renewable Energy Strategy; July 2009 (CD26); para. 3.6 of Executive Summary

air traffic control, there is merit in directing wind turbine schemes to areas not so restricted. Indeed, the Wind Energy CPD itself acknowledges that in order to meet Government targets for renewable energy development, and tackle climate change, multiple schemes may need to be accepted as a defining characteristic in some of Cumbria's landscapes. However, none of this detracts from the need to consider all proposals on their merits (including cumulative effects) as the SPD itself makes clear. And in the background PPS4, Planning for Sustainable Economic Growth, advises the protection of the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes and for the benefit of all; and although PPS7, Sustainable Development in Rural Areas, states that greater priority should be given to restraining potentially damaging development in areas designated for their landscape qualities, this does not somehow downgrade the status of the rest.

85. During the Inquiry the Council sought from Natural England an update on the work that that agency is undertaking to determine whether any land between the Lake District and Yorkshire Dales National Parks should be added to those designations or designated as an Area of Outstanding Natural Beauty. To date a report commissioned by the then Countryside Agency and published in March 2005<sup>16</sup> recommends that the bulk of Kendal Low Fells (including the Sillfield site) be excluded from further consideration but that land broadly extending eastwards from the western slopes of the Lune Valley be considered worthy of inclusion in the Yorkshire Dales National Park. This work is now to be reassessed as a basis for public consultation with a view to any resulting designation orders being made in late 2010 or 2011. Given the very limited information currently available on the exercise, and that its outcome is obviously unknown, I have regarded it as essentially neutral so far as this appeal is concerned, not adding anything substantive to the landscape analysis over and above what I have assessed would be Sillfield's effects on more distant areas to the east, in and close to the Yorkshire Dales National Park.
86. I do not give weight to the argument in the ES, repeated by the Appellant's landscape witness at the Inquiry, that the proposal would not result in significant effects on either the Rolling Farmland and Heath or Drumlin Field landscape character areas **as a whole** (my emphasis). This does not seem to me to be a particularly helpful test to apply to a landscape of any complexity as it does not reflect how that landscape is perceived by someone moving through it who will be affected by what they see within their field of view at any particular time, rather than what lies within a much larger area off landscape beyond their view. Taking as an example the view of the Sillfield proposal from Low Park, it is the juxtaposition of the two landscape character areas, with the turbines on the skyline just within the Rolling Farmland and Heath but perceived in the context of the Drumlin Field landscape in the foreground, that is important rather than essentially theoretical judgements about impacts on the wider reaches of either character area.
87. I accept that the very direct effects that climate change itself would cause to our cherished landscapes need to be taken into account alongside more traditional approaches to landscape conservation that focus essentially on safeguarding appearance. I therefore acknowledge that Natural England's

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<sup>16</sup> Recommended Area of Search for Land Worthy of Designation in the North West of England; Alison Farmer Associates or the Countryside agency; March 2005 (CD51)

- view, advanced by the Appellant, that society may need to be more open about landscape change, and be prepared to consider the services and benefits that landscapes can provide, as well their appearance, is relevant<sup>17</sup>. However, apart from the rather obvious point that the report in which it is found is in draft, it is also a document that is very much strategic in emphasis and philosophical in tone, and does not change current Government planning policy, specifically on the balance to be struck between energy and landscape conservation issues.
88. LP Policy C25 states that proposals for renewable energy development will be favourably considered where their benefits “outweigh any identified environmental impact” but SP Policy R44 and LP Policy C26 set out the test more precisely in terms of there being “no significant adverse impact” on, inter alia, the character and appearance of the landscape and the amenity of residential properties<sup>18</sup>. The judgement as to the balance between benefits and adverse landscape impact for the Sillfield proposal alone is in some respects a fine one, notably in terms of the severity of that impact in the area immediately around the turbines, within the Rolling Farmland and Heath Landscape though I consider that the adverse effects on the Drumlin Field landscape tips that balance towards unacceptability (issue (i)). The adverse cumulative impact with the Armistead scheme would be severe and in my view a compelling objection (issue (ii)).
89. The harm to the living conditions of local residents through the turbines dominating the outlook from nearby properties is also a compelling objection to the appeal proposal, whether it is assessed on its own or in combination with Armistead (issue (iii)). Given the severity of the harm to individual properties, the fact that relatively few dwellings are affected is not in itself significant. The adverse effect on users of local rights of way adds some small weight to the balance of arguments against but is not determinative in itself (issue (iv)). The contribution to achieving regional and national targets for renewable energy generation, bearing in mind extant and emerging national planning policy does not outweigh these adverse impacts, taken together (issue (v)). The proposal thus conflicts with the aims of SP Policy R44 and LP Policies C25, C26 and L10 and the harm it would cause would exceed the significant weight that RSS Policy EM 17 attaches to the wider environmental, community and economic benefits of proposals for renewable energy schemes. The conflict with Policies DP 7 and EM 1(A) of the RSS, and Policy E37 of the Structure Plan, already noted, also militates against it. The overall balance, both in terms of the policy context, and the merits of the scheme, comes down against it.
90. I have considered whether there are any material considerations that would indicate that a decision should be made other than in accordance with the development plan but I have concluded that there are not. In particular, although a number of statements of Government policy concerning renewable energy and planning post date adoption of the Structure Plan and Local Plan, the terms of RSS Policy EM 17, published in September 2008, amply reflect the tenor of those statements. I have also taken into account ways in which the adverse impacts of the turbines might be reduced, both actively, by applying a drab surface finish; and passively, in that they would be seen in varying

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<sup>17</sup> Future landscapes; Draft policy for consultation; Natural England, 2009 (CD58); p 2

<sup>18</sup> In the terms of LP Policy C26. SP Policy R44 is expressed in similar terms, namely landscape character and local amenity.

weather conditions and periods of poor visibility. Similarly I have noted aspects of the proposal that have raised no serious objections, such as the access tracks and control building, and proposed arrangements for road access during construction. I have also borne in mind the fact that planning permission is sought for a period of 25 years. However, as such a time period is roughly a third of an average lifetime I have some difficulty in regarding it as "temporary" in any real sense. If the turbines would cause significant harm to landscape character, as I believe is the case here, that harm would not be made more acceptable by the prospect of their ultimate removal.

91. Neither these, nor any of the other matters raised, bring me to different conclusions on the main issues or on the appeal as a whole. For all the above reasons I consider that the appeal should be dismissed.

*Robin Brooks*

**INSPECTOR**

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David Brierley	Resident of Dalton in Furness
Ronald Williams	Resident of Bothal, Wigton
Sir Christopher Audland KCMG DL	Resident of Milnthorpe
Lord Reay	Local resident
Tim Farron MP	MP, Westmoreland and Lonsdale
Gareth McKeever	Conservative Party Prospective Parliamentary Candidate, Westmoreland and Lonsdale
Anne Bainbridge	Local resident
Nighean Mann	Local resident
Barbara McQuarrie	Local resident
Robert Robertson	Local resident
Martin Weeks	Local resident
Jane Merritt	Local resident

**INTERESTED PERSONS:**

Noel Charlton	Local resident
Elsbeth Horsman	Local resident
Marianne Birkby	Radiation Free Lakeland
Angela Walker	L & W Wilson (Endmoor) Ltd
Rosie Naish	Local resident
Margaret Sanders	South Lakeland Friends of the Earth
Dr Sonny Khan	South Lakes Action on Climate Change
Kate Sykes	Local resident
Graham Galbraith	Local resident and farmer
Stephen Robinson	Local resident and farmer

## **DOCUMENTS**

### **Council Documents** *(all prefixed LPA)*

- 1 List of appearances
- 2 Opening statement
- 3 Note on preparation of, and consultations upon, Cumbria Joint Wind Energy SPD
- 4 Copy of email from David Vose, Natural England, dated 21 October 2009 relating to National Park boundary review
- 5 Closing submissions

### **Appellant's Documents** *(all prefixed SWC)*

- 1 Opening submissions
- 2 Errata list for Mr Reid's proof of evidence
- 3 Copy of letter from Mr Denny to Mr Mellor dated 23 September 2009
- 4 Briefing note; energy policy update
- 5 Plan showing locations and AOD levels of anemometer masts, Sillfield and Armistead
- 6 Distribution plot of wind direction at Sillfield anemometer mast, 15 October 2008
- 7 Extract from ukcampsite.co.uk
- 8 Response by ECUS environmental consultancy to Mrs Mann's evidence on bats
- 9 Copies of emails between Mr McQuarrie and Mr Surman
- 10 Draft suggested noise conditions, background notes and comments on Consortium's suggestions
- 11 Closing submissions

### **Consortium's Documents** *(all prefixed CONS)*

- 1 Opening comments
- 2 Parkinson's Disease Society information sheet; Anxiety and Parkinson's
- 3 Natural England press release dated 4 May 2009; National Parks – bigger and better?
- 4 Extracts from UK Energy Policy: The Small Business Perspective & The Impact on the Rural Economy; Small Business Council, February 2006
- 5 Map showing existing and proposed wind farms in SE Lakes and the M6 corridor
- 6 Declaration on the Impact of Wind-Power on the Countryside; Europa Nostra, 14 June 2008
- 7 Clarification note on Mr Hinchliffe's proof
- 8 Consortium's suggested noise condition and background information
- 9 Rebuttal evidence of Dr Lee Hoare: Noise Issues at Neighbouring Properties

10 Closing submissions

**Other Documents**

- A Inquiry attendance sheets
- B Statement of Common Ground and agreed erratum
- C List of Core Documents
- D Schedule of suggested conditions, broadly agreed between Council and Appellant; and noise guidance notes
- E Suggested itinerary and viewpoints for Inspector
- F Statement of objection from Yorkshire Dales National Park Authority
- G Letter of support from Dan Grierson
- H Statement of support by Noel Charlton
- I Statement of support by Elspeth Horsman
- J Statement of support by Marianne Birkby, Radiation Free Lakeland
- K Statement of support by Angela Walker, L & W Wilson (Endmoor) Ltd
- L Statement of support by Rosie Naish
- M Statement of support by Margaret Sanders, South Lakeland Friends of the earth
- N Report of seminar with Prof. David Mackay, Chief Scientist to Department of Energy and Climate Change, submitted by Margaret Sanders
- O Statement of support by Dr Sonny Khan, South Lakes Action on Climate Change
- P Statement of support by Kate Sykes
- Q Statement of support by Graham Galbraith
- R Statement of support by Stephen Robinson
- S Statement of objection by Nighean Mann in relation to bats