

# COMMITTEE REPORT

---

## APPLICATION DETAILS

---

<b>APPLICATION NO:</b>	DM/15/02063/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of turbine no. 2 a 46.3m tip height turbine with associated access and sub-station (one of two turbines sought under two planning applications)
<b>NAME OF APPLICANT:</b>	Mr M Thompson
<b>ADDRESS:</b>	Pundergill, Rutherford Lane, Brignall, Barnard Castle
<b>ELECTORAL DIVISION:</b>	Barnard Castle West
<b>CASE OFFICER:</b>	Henry Jones, Senior Planning Officer <a href="mailto:Henry.jones@durham.gov.uk">Henry.jones@durham.gov.uk</a> , 03000 263960

---

## DESCRIPTION OF THE SITE AND PROPOSALS

---

### The Site

1. The application site comprises agricultural land that lies approximately 180m to the south of the A66 and 200m to the west of Rutherford Lane. The watercourse of Punder Gill runs roughly east west to the south of the site. A large copse of trees stands immediately to the west of the site.
2. The nearest residential properties outwith the applicants control are situated approximately 215m to the north east at North Bitts, 520m to the east at Dent House Farm, 395m to the west at South Flats Farm and 565m to the south at Timplon Hill Farm. Dent House farmhouse and its adjacent outbuilding is a grade II listed building. The nearest Public Right of Way (PROW) is No.5 Brignall which commences/terminates on the eastern side of Rutherford Lane 220m south east of the application site.
3. The south eastern extent of the North Pennines AONB lies approximately 2.1km to the south of the site, whilst the site itself is designated as an Area of High Landscape value in the Teasdale Local Plan. The nearest site of Special Scientific Interest (SSSI) lies approximately 1.5km to the west of the site.

### The Proposal

4. Planning permission is sought for the erection of a single 250kW wind turbine of some 46.3m in height to its tip. The turbine would have a monopole mast of some 30m in height with a two blade rotor. In addition to the turbine itself, there would be the creation of an access track directly off Rutherford Lane for delivery, erection and engineering works, a concrete hard standing area, and the erection of a substation immediately to the north of the turbine.
5. A second turbine of the same specification is also the subject of a separate planning application and would be located some 220m to the south of the turbine subject of

this report. The turbines would share a grid connection and as such there would be an underground trench running between the proposed turbines.

6. The application is reported to County Planning Committee at the request of Councillor Richard Bell on the grounds of significant visual intrusion into open countryside.

---

## **PLANNING HISTORY**

---

7. There have been no previous planning applications for wind turbine developments in this location.

---

## **PLANNING POLICY**

---

### **NATIONAL POLICY:**

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
9. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
10. One of the twelve core principles of the NPPF (paragraph 17) supports “the transition to a low carbon future in a changing climate..... and encourages the use of renewable resources (for example, by the development of renewable energy).” The NPPF also states in paragraph 98 that “when determining planning applications, local planning authorities should:
  - Not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small scale projects provide a valuable contribution to cutting greenhouse gas emissions...
  - Approve the application (unless material considerations indicate otherwise) if its impacts are (or can be) made acceptable.”
11. *NPPF Part 1 – Building a Strong, Competitive Economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
12. *NPPF Part 3 – Supporting a Prosperous Rural Economy.* States that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, plans should: support the sustainable growth and

expansion of all types of business and enterprise in rural areas, promote the development and diversification of agricultural and other land-based rural businesses; support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside.

13. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
14. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
15. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.
16. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
17. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes including Areas of Outstanding Natural Beauty, recognising the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
18. It is stated that development on land within or outside an SSSI likely to have an adverse effect on an SSSI (either individually or in combination with other developments) should not normally be permitted. Protection to other European sites is given (SPAs and SACs). It is stated that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.
19. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

20. Accompanying the NPPF the Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This provides planning guidance on a wide range of matters including of most relevance to this application a dedicated section on renewable and low carbon energy.

<http://planningguidance.planningportal.gov.uk/>

#### **LOCAL PLAN POLICY:**

Teesdale Local Plan (adopted 2002) (TLP)

21. *Policy GD1– General Development Criteria* – permits development that (inter alia) is in keeping with the character and appearance of the area, and would not unreasonably harm the rural landscape of the area.
22. *Policy ENV1 – Protection Of The Countryside* – allows development in the countryside for the purposes of agriculture, rural diversification projects, forestry, nature conservation, tourism, recreation, local infrastructure needs and an existing countryside use where there is a need on the site and where it conforms with other policies in the plan provided that it does not unreasonably harm the landscape and wildlife resources of the area.
23. *Policy ENV2 – Development Within Or Adjacent To The North Pennines AONB* – only permits development capable of protecting the landscape quality and natural beauty of the designated area.
24. *Policy ENV3 – Development Within Or adjacent To An Area Of High Landscape Value* – allows development only where it does not detract from such an area's special character and pays special attention to the landscape qualities of the area.
25. *Policy ENV4 – Historic Parks And Gardens* – seeks to protect the historic character and appearance of historic parks and gardens as designated by English Heritage and within these areas only new development proposals that are compatible with existing uses already within the area and specific following criteria will be granted planning permission.
26. *Policy ENV5 – Development Within or Adjacent to Nature Conservation Sites* – proposals which may affect a nature conservation site of international importance, will be subject to the most rigorous examination. Proposals not connected to and related to the management of the site will not be permitted if they have significant effects on the site, unless there is no alternative solution and there are imperative reasons of overriding public interest for the proposal. Approved development will be subject to planning conditions and obligations to secure mitigation or compensatory measures, including those necessary to ensure that the overall coherence of Natura 2000 is protected.
27. *Policy ENV6 – Safeguarding of Sites of Special Scientific Interest and National* – Proposals for development in or likely to affect SSSIs (including national nature reserves) will be subject to special scrutiny. Where such development may have an adverse effect on the SSSI, directly or indirectly, it will not be permitted unless the reasons for the development, including the lack of alternative solutions to that being proposed, clearly outweigh the nature conservation value of the site itself and the national policy to safeguard the national network of such sites. Where such

development does proceed, it may be subject to planning conditions and obligations to secure mitigation or compensatory measures.

28. *Policy ENV7 – Development affecting Local Nature Conservation Sites* – Development proposals, which are liable to damage the nature conservation value of sites, notified to the district council as being of local nature conservation importance will not be approved unless: the case for development clearly outweighs the need to safeguard the intrinsic value of the site, and the resulting damage is kept to a minimum through careful design, siting and compensatory measures.
29. *Policy ENV8 – Safeguarding Plant and Animal Species Protected by Law* – does not permit development which would harm any animal or plant species afforded special protection by law.
30. *Policy ENV12 – Protection of Agricultural Land* – states that development of the best and most versatile agricultural land will not be permitted unless opportunities have been assessed for accommodating development need on previously developed sites, on land within the boundaries of existing developed areas, and on poorer quality farmland.
31. *Policy ENV14 – Protection of Water Quality* – states development will not be permitted which would unacceptably prejudice the quality of surface or ground water.
32. *Policy ENV15 – Development Affecting Flood Risk* – state development (including the intensification of existing development or land raising) which may be at an unacceptable risk of flooding or may increase the risk of flooding elsewhere will not be permitted. All applications for development in flood risk areas and/or where the development would result in an increased risk of flooding elsewhere will be accompanied by a flood risk assessment.
33. *Policy ENV16 – Development Affecting Rivers Or Streams and Their Corridors* – states that the Council will resist development, which would have a significant detrimental impact on natural features and wildlife habitats of rivers and streams or their corridors.
34. *Policy BENV3 – Development Adversely Affecting the Character of a Listed Building* – precludes development that would adversely affect the character of a listed building or its setting.
35. *Policy BENV11 – Archaeological Interest Sites* – requires a field evaluation to be submitted prior to determination for a development that may affect a known or potential site of archaeological interest. Development which would unacceptably harm the setting or physical remains of sites of national importance, whether scheduled or not, will not be approved. Developments affecting sites of regional or local importance will only be approved where the applicant has secured a scheme of works which will in the first instance preserve archaeological remains in situ or where this is not possible by excavation and record.
36. *Policy C5B – Wind Farms outside the AONB* – permits wind farms of two or more turbines outside the AONB if a number of criteria are met. These being: a) there would not be unacceptable harm to the amenity of nearby residential occupiers by reason of noise emission, visual dominance, shadow flicker or reflected light; and b) the development, including servicing roads, any buildings and all transmission lines between the development and point of connection to the grid would not unacceptably harm the character and appearance of the area; and c) the development would not unacceptably harm the landscape of the area, nor unreasonably damage the

landscape setting of adjacent land falling within the North Pennines AONB and/or Yorkshire Dales National Park; and d) the topography of the site has been taken into account for the locality; and e) there would not be unacceptable harm to wildlife; and f) there would not be unacceptable harm to an area of archaeological importance; and g) the turbines would not cause unreasonable harm to the performance of military radar or hazard to military low flying operations. The Policy requires that proposals should include provisions that the turbines are painted in a suitable colour, that any associated buildings are constructed in materials appropriate to the locality, and that any transmission lines between individual turbines and any associated transformer building are located underground. Proposals should conform to Policies GD1, ENV5, ENV6, ENV7, ENV8, and BENV11.

37. *Policy C6 – Other Forms of Renewable Energy* – states that single turbine proposals will be permitted provided they do not unacceptably harm the character and appearance of the area, the amenity of occupants of nearby residential property, the ecology of the area, areas of archaeological importance and the performance of military radar or military low flying operations. Proposals should conform to Policies GD1, ENV5, ENV6, ENV7, ENV8, and BENV11.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:*  
<http://www.durham.gov.uk/article/3271/Teesdale-Local-Plan>  
(Teesdale District Local Plan)

#### **EMERGING POLICY:**

38. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

---

## **CONSULTATION AND PUBLICITY RESPONSES**

---

#### **STATUTORY RESPONSES:**

39. *Bowes Parish Council* – Raise objections. The harmful impacts of the development outweigh the limited renewable energy benefits. The harmful impacts are explained as being the impact upon the landscape and the dangerous distraction to motorists. Concerns are expressed that a precedent may be set. Concerns are expressed regarding the adequacy of the landscape and visual impact assessment within the application and consider that the application includes a number of discrepancies and inaccuracies and the application should be refused on these grounds. The application fails to recognise that the site is located within an Area of High Landscape Value or that the turbine would be visible from the Area of Outstanding Natural Beauty (AONB). The Reference is also made to a refused application for a turbine at nearby Hulands Quarry and that circumstances have not changed.

40. *Rokeby, Brignall and Eggleston Abbey Parish Council* – raise objections. The development will be intolerable to neighbouring occupiers and cause a devastating impact upon the landscape. The proposal is described as bizarre.
41. *Highway Authority* – raises no objections to the application subject to a condition requiring the submission of details of a swept path analysis for delivery vehicles entering the site at the junction with the C166 Rutherford lane.
42. *Highways England* – raise no objections subject to the imposition of planning conditions that no vehicular movements associated with the construction or development of the site require special permission as abnormal loads and that access is taken from Rutherford Lane not the A66(T).
43. *Natural England* – raise no objections. It is advised that the proposal is unlikely to affect any statutorily protected nature conservation sites. Advice should be sought from the North Pennines AONB Partnership in relation to impact on protected landscapes. Standing advice is referred to in respect of protected species.
44. *NATS* – raise no objections. It is advised that the proposal does not conflict with their safeguarding criteria.
45. *Ministry of Deference* – raise no objections. In the event of an approval a condition is requested that the date construction starts and ends; the maximum height of construction equipment and; the latitude and longitude of the turbine are provided.
46. *Drainage and Coastal Protection* – raise no objections in principle. Advice is provided in relation to surface water run-off from the access track onto adjoining land or the highway and in relation to the impacts upon the adjacent watercourse if works to it are necessary.
47. *Durham Tees Valley Airport* – raise no objections in relation to aerodrome safeguarding.

#### **INTERNAL CONSULTEE RESPONSES:**

48. *North Pennines AONB* – raise objections. Although the site is outside of the AONB boundary they consider that the proposal would have a material impact on the designated landscape. They consider that the proposed turbine sits in a relatively open landscape where it would be prominent and would clearly interrupt views from sites within and around the AONB, such that in more distant views from within the AONB the turbine is likely to be a dominant feature in the landscape.
49. *Landscape* – raise objections. The landscape and visual effects of the proposals, both together and individually, would be unacceptable and in clear conflict with landscape related policies. Correctly presented visualisations from more appropriate agreed viewpoints, and a fuller analysis of the effects, would only make this more apparent. It is confirmed that the site lies within a designated Area of High Landscape Value (AHLV) and the turbine would be visible from the AONB. The turbine would a potentially appear visually dominant and overbearing impact at the nearest residential receptors.
50. *Design and Conservation* – raise objections. The application submissions with regards to heritage assets are considered inadequate and fail to meet necessary standards for such an application. Notwithstanding this the views of Landscape are concurred with in that the visual impacts of the development will be wholly negative.

51. *Ecology* – raise no objections. Mitigation measures with respects to water voles and bats should be conditioned in the event of an approval. Some displacement of bird species would occur. There is some lack of detail with regards to collision risk data in respect to birds.
52. *Spatial Policy* – advise that whilst the NPPF is supportive of renewable energy development, new guidance is clear that community support needs to be proven and even single turbines should be located within areas identified in Local Plans or Neighbourhood Plans. Significant weight should be given to saved local policy, PPG and new Government Policy set out in the Written Ministerial Statement.
53. *Access and Public Rights of Way* – raise no objections. The nearest PROW (Public Footpath No. 5, Brignal) should remain unaffected by the proposal.
54. *Archaeology* – raise no objections. Although the A66 is on the line of a Roman road, there is no evidence at present to suggest any roadside occupation at the proposed turbine site, and as such, no archaeological investigation is required.
55. *Environment, Health and Consumer Protection (Noise)* – raise objections. Additional report assessment including raw noise data is requested. It is considered that the sound level meters were not located in the most representative of locations. Additional information is required before a full and reasoned response could be issued.
56. *Environment, Health and Consumer Protection (Contaminated Land)* – no objections are raised and no condition are required to be imposed.
57. *Sustainability* – have no comments to make.

#### **PUBLIC RESPONSES:**

58. The application was advertised within the press, on site and letters were sent to neighbouring properties. A total of 43 letters of representation have been received 41 raising objection to the development, 1 raising support with 1 request from the local Councillor that the application be heard at Committee. The matters raised are summarised below.

#### Principle of the development

- The development is a commercial wind farm with all energy directed into the National Grid
- Applicants have an intention to construct further turbines and this proposal would create a precedent
- Wind turbines are inefficient
- There are economic “distortions” with regards to wind development
- County Durham has enough wind turbines

#### Visual and Landscape Impact

- The proposal would be dominant in the landscape and conspicuous
- Harm to the beautiful countryside of the area
- The two-bladed design exacerbates the harmful impact
- Harm to the “priceless” and unspoilt Teesdale landscape
- Harm to the AONB



## Residential Amenity

- Harm to amenity and health in general
- Dominant, oppressive and overbearing impacts
- Harmful noise impact and noise assessment undertaken is inadequate
- Harmful impacts of shadow flicker

## Ecology

- Impact on nature conservation and wildlife
- Concern with regards to impact on nearby Sites of Special Scientific Interest including Kilmond Scar, Brignall Banks and Mill Wood
- Birds may be killed and displaced

## Heritage

- Harm to the Barningham Moor Neolithic site
- Harm to Bowes Museum
- Harm to Eggleston Abbey
- Harm to Barnard Castle Conservation Area
- Harm to the castle at Barnard Castle
- Impacts upon the listed Bowfield Cottage have not been considered

## Highway Safety

- The turbine will be distracting to motorists

## Other Issues

- Impact on property values
- Harmful impacts will affect tourism in the area including harmful impact upon holiday cottage business
- Impacts upon Ancient Woodland
- The application is not supported by an Environmental Statement (ES) having regards to the Environmental Impact Assessment (EIA) Regulations
- Should planning permission be approved then conditions should be attached which restrict the power output to 250kw and which prevent future wind turbine development
- Reference is made to appeal decisions and case law which are considered relevant and support refusal of the proposal

59. *Open Spaces Society and Ramblers Association* - raise objections. It is considered that the high landscape value of the location is inappropriate for industrial turbines, which would be damaging to local residents and tourists. The likely distraction to motorists and the inaccuracy of submitted information is highlighted including visualisation submissions. Reference is made to the wind turbine proposal at Hulands Farm which was dismissed at appeal.

60. *Campaign to Protect Rural England (CPRE)* – raise objections. The proposed turbine would be sited close to the AONB and as a result the AONB guidelines in respect to wind turbine development are considered relevant. Views to and from the AONB would be detrimentally affected. Concerns are raised with regards to the potential impact of the turbines upon residential amenity. Concerns are expressed with regards to the lack of clarity within the application as to whether a 250kw or 500kw turbine is proposed and the difference that this would make in respects to

noise impact. The turbine would be visible from Bowes Museum and potentially Eggleston Abbey and the castle at Barnard Castle. The pre-application consultation process undertaken by the applicant is criticised. The site is not identified within a Local Plan as being suitable for wind development. Appeal decisions in respect to public consultation requirements and interpretation of sites identified as being suitable for wind development are cited.

61. *South Teesdale Action Group (STAG)* – raise objections. Objections are raised with regards to both the application process and impacts of the development. The adequacy of the applicants mandatory pre-application consultation requirements are challenged on the basis of the following; that the pre-application consultation presented a proposal for two turbines yet two separate planning applications each for a single turbine have been submitted; the owner of the Timpton Hall Barn was not notified; a website has not been kept up to date and contains information contrary to application submissions; the applicants statement that press publicity has occurred has been overplayed; best practice guidance has not been followed. Evidence to support the point that the pre-application public consultation process has been inadequate in the form of Council and Planning Inspectorate documentation is provided.
62. A host of inaccuracies and discrepancies are considered to be contained within the application; distances detailed to neighbouring property; the power output of the turbines; ecological surveying is considered inadequate and inaccurately refers to alternative development proposals; reports are marked for the use of only one applicant but are being referenced in both applications; heritage assessment is inadequate; photomontage locations are incorrect; noise assessment reports are inadequate, contain missing data and the data was collected at incorrect locations; the application states that the land is not within a designated Area of High Landscape Value and this is incorrect; some documentation states that the turbine is proposed to be white and in others grey; the submitted Landscape and Visual Impact Assessment is inaccurate in respects to its presentation of cumulative impact; the application inaccurately describes the turbine as “small scale”; the bird report inaccurately states the height of the turbine; the documentation is confusing in respects to how many turbines are being applied for; the application does not take account of Timpton Hill Barn which received planning permission for residential occupation; submissions with regards to shadow flicker are inadequate - North Bitts may receive shadow flicker impact and the assertion that the occupants are financially involved therefore removing the issue is disputed, South Flatts garden could be affected.
63. Reference is made to consultation responses on the application which highlight the considered inadequacy of some of the application documentation. It is considered that the application constitutes EIA development and that the application should be accompanied by an ES. The supportive comments received from the National Farmers Union are generic and not specific to the proposal.
64. Harm on the grounds of landscape and visual impact is cited including in regards to the AHLV and AONB. The development would be visible from the Yorkshire Dales National Park. Harm to residential amenity is raised with the turbines dominant in relation to the nearest properties. Examples of appeal decisions where the application for wind turbine development has failed to address impacts identified by local communities are cited. Ecological concerns are raised with particular concern raised with regards to potential impacts upon a variety of bird species and potential links between birds passing the site and Special Protection Area(s). The applicant cannot implement the submitted ecological management plan as their holding does not encompass all of the land. With regards to bats Punder Gill farmhouse and

buildings have been classed as medium to high risk and yet the submissions state that access has been denied for surveying purposes. Noise impacts will be unacceptable to those living nearby and impacts would increase should the power output of the turbines increase. No economic benefits of the development exist. Reference is made to the proposals' considered conflict with national and local planning guidance including the Local Plan and NPPF.

65. *The Bowes Museum* – raise objections. Considerable concern with regards to the impact of the turbine upon the setting of the Grade I listed building and pre-eminent views of and from the site currently enjoyed.
66. *National Farmers Union* – support the development considering it important the application is approved to enable the farm business to continue to develop and remain profitable so as to maintain the social fabric of the countryside and make an important contribution to the rural economy.
67. *Durham Bird Club* – raise objections. Whilst it is accepted that the area does not have any specific wildlife designations it clearly contains a significant number of birds some of which are in decline and are target species for protection. The submitted documentation does not assess the potential for displacement. Particular concern is raised with respects to curlews.
68. *Cllr Richard Bell* – requests that the application be heard at planning committee.

#### **APPLICANTS STATEMENT:**

69. The proposed turbines have been the subject of careful planning and a continuous process of re-design, development and consultation over a period of 5 years.
70. The aim has been to produce a scheme that optimises renewable energy generation but which is sympathetic and respects the surrounding landscape.
71. Initially, the scheme proposed to erect 5 turbines on the site and consultation was held with various agencies and specialists to examine landscape, visual, ecological, historical and amenity impacts. A meeting was held on site with local councillors and officers to view a temporary mast and to assess visual impact. Discussions also took place with local residents, business people and the press.
72. After our initial feasibility the scale of the project was reduced down to 3 turbines and following further studies and consultation down to 2.
73. The proposed site lies next to the busy A66 in a pleasant landscape but one that has no national designation that makes it special or gives it greater protection. The AONB and Yorkshire Dales National Park lie some distance away and impacts here are deemed to be low or negligible. The Landscape and Visual Impact Assessment carried by 3dvs as part of the applicant's due diligence confirms this and also states there will be no impact on Egglestone Abbey or Barnard Castle Conservation Area.
74. It is the applicant's view that although the turbines will be visible, particularly at near distance, the overall impact upon character and appearance is no more than moderate. The turbines will be coloured grey and provide an acceptable contrast with the background landscape and help to assimilate them into the wider view. The blades will rotate at a very slow rpm and are less likely to attract the eye than faster rotating smaller machines.

75. Concerns were initially raised by the AONB officers regarding potential views from certain parts of the protected landscape but following an accompanied site visit and the production of further photomontages he accepted impacts were limited.
76. Although there have been a number of objections to the proposal only one objector lives within 0.5km of the nearest turbine and 7 within 2km. This represents only a tiny fraction of the people living locally, many of whom have expressed support for the scheme verbally.
77. The applicant is not an electricity generating company or an institutional investor from outside the district. They are ordinary local people whose family have lived in the area for generations and who are trying to develop a business to support themselves and help maintain and develop the farm. Indeed, the two applicants (two sons) inherited the farm when their father died and although both pursued alternative careers they now wish to return to their farming roots.
78. The proposed scheme will bring benefits to the area, generating renewable electricity, reducing greenhouse gas emissions and helping to address the effects of climate change as well as bring investment to the area and as well as work for local contractors.
79. We feel the concerns raised by residents have been satisfactorily addressed.

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

80. Having regard to the requirements of section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material considerations including representations received it is considered that the main planning issues in this instance relate to the principle of development, landscape and visual impact, impact on heritage assets, residential amenity, impacts on ecology and nature conservation, aviation and radar issues, highway safety, TV and other communication interference, pre-application consultation requirements and degree of community support. Other matters are also considered.

### Principle of Development

81. TLP Policy ENV1 seeks to protect the countryside allowing for development in the countryside for the purposes of an existing countryside use provided that it does not unreasonably harm the landscape and wildlife resources of the area. Renewable energy development is not cited as an example of development that is acceptable in the countryside in principle. The proposed development would be contrary to TLP Policy ENV1. TLP Policy ENV1 is restrictive and the approach is not fully in compliance with the NPPF and therefore limited weight is attributed to this Policy.
82. The TLP in Policy C5B contains a specific saved policy providing guidance on wind farm development outside of the AONB. The Policy specifically relates to proposals for two or more wind turbines and it may be argued that the Policy does not apply to an application for a single turbine. However, the cumulative impact of this proposal and that sought under the tandem application DM/02064/FPA must be considered and together, the two applications propose a total of two wind turbines. As a result it is considered that the Policy C5B remains relevant. The Policy sets out specific criteria relating to matters such as residential amenity, landscape impact and ecological impact which must be met and these matters are considered within this report.

83. TLP Policy C6 relates to other forms of renewable energy development including proposals for single wind turbines (as this planning application proposes). Similarly this policy accepts such development in principle provided that unacceptable harm with regards to a range of material planning considerations does not result.
84. The thrust of guidance within TLP Policies C5B and C6 is generally aligned with the content of the NPPF in regards to renewable energy development. Both policies do, however, cross reference to Policy BENV11 (in relation to archaeological interest sites) which is considered only partially consistent with the NPPF and this is therefore considered to reduce their degree of consistency slightly. In addition PPG guidance references the Written Ministerial Statement 18<sup>th</sup> June 2015 (WMS) and advises that when considering applications for wind energy development LPAs should only grant planning permission if;
  - the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and
  - following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing
85. Neither TLP Policies C5B nor C6 are consistent with this element of the PPG advice. Neither TLP Policies C5B nor C6 identify areas suitable for wind energy development. Elsewhere in the PPG guidance, renewable energy development is supported in principle considering that planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable.
86. One of the twelve core principles of the NPPF (paragraph 17) supports “the transition to a low carbon future in a changing climate..... and encourage the use of renewable resources (for example by the development of renewable energy).”
87. The NPPF also advises at paragraph 98 that when determining planning applications, local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and that applications should be approved (unless material considerations indicate otherwise) if its impacts are or can be made acceptable.
88. It is noted that public opposition to the development includes objection to matters surrounding the need, merit and efficiency of wind energy development. The NPPF advises that applicants need not demonstrate an overall need for renewable energy and there are no renewable energy production ceilings for the north-east. The PPG advises that considering the energy contribution to be made by a proposal can be given weight in decision making particularly when a decision is finely balanced. The Design and Access Statement which accompanies the application states that the electricity generated from the turbine is proposed to feed into the National Grid and help meet the Government’s renewable energy targets and obligations. The proposal would make a relatively small but nevertheless a valuable contribution to these targets and obligations.
89. There is national support to the principle of on-shore wind energy development, being compliant with Part 10 of the NPPF. However, the acceptability of the scheme in terms of TLP Policies C5B and C6 rests with the assessment of the detailed issues and impacts, discussed in the following paragraphs of this report. The guidance provided within the WMS and PPG in regards to whether the development site is in an area identified as suitable for wind energy development and whether the planning impacts identified by affected local communities have been fully addressed

and therefore the proposal has their backing are material considerations to inform on the decision.

## Landscape and visual impacts

90. The application is accompanied by a landscape and visual impact assessment (LVIA). The LVIA is accompanied by zones of theoretical visibility (ZTVs) to define the zone within which the turbine could be visible and a selection of viewpoints/visualisations to aid in the assessment of the effects of the development. Additional viewpoints/visualisations have been provided during the course of the application. In conclusion the submitted LVIA considers that landscape impact would be minimal across the landscape as a whole with notable impacts on the landscape character being restricted to 1 – 2km and visual effects within the area are described as not being significant.
91. The visual and landscape impacts of the development are amongst the most significant areas of concern raised in public responses to the application.
92. The NPPF advises at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in National Parks and Areas of Outstanding Natural Beauty (AONBs) which have the highest status of protection in relation to landscape and scenic beauty.
93. The Yorkshire Dales National Park lies to the south at a distance of approximately 6.6km from the proposed turbine. The ZTVs including cumulative ZTVs indicate that turbine would be visible only on the very fringes of the National Park. Landscape officers do not raise objections with regards to the impact of the development upon the National Park. Both the Yorkshire Dale National Park Authority and Richmondshire District Council have been consulted on the application and no comments have been received. Given the distances between the National Park boundary and the proposed turbine and the evidence contained with the submitted ZTVs it is considered that no harmful landscape and visual impacts upon the Yorkshire Dales National Park would occur.
94. Alongside the National Park the AONB merits the highest level of landscape protection. The AONB is closer to the proposed siting of the turbine, approximately 2.1km to the south at the closest point.
95. Landscape officers confirm that the development would be visible from within the AONB as suggested by the ZTV submissions. LVIA visualisations submitted with the application present an example of where the turbine would be visible from within the AONB. AONB officers have raised objections to the development considering that the proposal would be prominent and would clearly interrupt views from sites within and around the AONB.
96. It is therefore concluded that adverse effects on the purposes and special qualities of the AONB due to the prominence and intrusion of the turbine in views both from within and indeed towards the AONB would occur thereby detracting from its wildness and remoteness.
97. The application site lies within a designated Area of High Landscape Value and reflects the sensitivity and valued nature of the landscape. The NPPF highlights at paragraph 109 the need to protect and enhance valued landscapes.
98. The two bladed design of the turbine is considered to compound the landscape and visual effects of the development as it can produce an unbalanced visual effect when

rotating, and can seem to appear and disappear if the rotor is partly obscured, which draws greater attention from the viewer.

99. The content of the application documentation in regards to landscape and visual impact has received criticism within both public responses to the application and indeed from Landscape officers whom have stated of visualisations submitted within the application that they have not been produced to follow the standards contained within the Scottish Natural Heritage guidance “Visual Representation of Windfarms”, version 2.1, December 2014. The consequence of this is that the visualisations inaccurately reduce the landscape and visual effects of the turbines. Landscape officers highlight that there is ambiguity in the colour finish of the turbine and state that a RAL or BS 4800 colour should be agreed. A grey rather than white colour finish is more acceptable and ultimately a condition could resolve this in the event of any approval.
100. Overall Landscape officers consider that the visual effect of the proposed turbine and cumulative impact with the proposed turbine 1 (DM/15/02064/FPA) would be unacceptable with a strongly negative effect in terms of both landscape character and visual impact.
101. In conclusion officers consider that harmful visual and landscape effects would occur as a result of the proposed turbine and its cumulative impact with the proposed turbine 1. Harm would result to both the locally valued AHLV and also upon the AONB. The proposal is therefore considered contrary to the content of TLP Policies GD1, ENV2, ENV3, C5B and C6. These Local Plan policies are all considered to have significant resonance with the NPPF and can be attributed weight in the decision making process. The landscape and visual harm caused by the development is also considered contrary to paragraphs 109 (Part 11) of the NPPF. Paragraph 98 (Part 10) of the NPPF advises that renewable energy developments should be approved if impacts are or can be made acceptable.

#### Impacts upon Heritage Assets

102. The application is accompanied by an Environmental Assessment document and this contains a section in respects to heritage. This involved a desk top search of heritage assets within 1km of the site with some additional reference to heritage assets beyond this search area. The nearest designated heritage assets to the application site are Bowfield Cottage (Grade II listed), Cross Lanes Farmhouse and adjacent outbuilding (Grade II listed), milestone 100m west of junction at B6277 (Grade II listed), Green Cottage (Grade II) listed, Boldron Farmhouse and attached barn to east (Grade II listed) and Denthouse Farmhouse and adjacent outbuilding (Grade II listed). The assessment considers that overall there would be no adverse effects upon heritage assets. The visualisations submitted with the application include some visualisations from heritage assets in the form of a view from within the grounds of the Bowes Museum and at Egglestone Abbey.
103. Design and Conservation have raised objections to the application considering that the application submissions with regards to heritage assets are inadequate. The applicant in the knowledge of the objections submitted a response and considered that the submissions were adequate to inform on the decision.
104. NPPF (paragraph 128) requires that applicants describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. Officers consider that the level of detail within the application does not adequately

describe the significance of heritage assets that may be affected. The heritage section to the Environmental Assessment fails to highlight all designated heritage assets within the 1km search area detailed with Bowfield Cottage not identified.

105. The detailed search area of 1km undertaken to support the application is considered inadequate to fully inform on the impact on the significance of heritage assets in the area. As a result it is considered that the application conflicts with the advice contained within paragraph 128 of the NPPF.
106. Paragraph 129 of the NPPF states that LPAs should identify and assess the particular significance of any heritage asset that may be affected by a proposal. Notwithstanding the inadequacies contained within the submitted heritage assessment there is clear potential for harm to the setting of heritage assets as a result of the proposal. The application does include a visualisation taken from within the curtilage of the Bowes Museum and shows how the turbine would appear in views out to the south. The Bowes Museum is Grade I listed whilst its wider gardens are Grade II listed. Separately listed features and structures in the immediate vicinity including the terrace walls, steps and heraldic beasts (Grade I), two war memorials (both Grade II), entrance gates and lodges (Grade II\*), basin (Grade II), bowling club building (Grade II) and sections of boundary wall and north piers and gates (Grade II listed). The Bowes Museum and associated garden and features are located approximately 2.6km to the north of the proposed turbine.
107. The absence of detailed assessment within the application of the impact upon the significance of these assets hinders the precise analysis upon them. However, it is certainly considered that the presence of a turbine to the south when viewed from the immediate surrounds and likely within the Grade I listed museum itself and from within the Grade II listed gardens would cause a degree of harm upon the setting and thereby significance of the assets. A visualisation accompanies the application and shows the visibility of the turbine from curtilage of The Bowes Museum. The degree of harm is considered less than substantial having regards having regards to paras 132-134 of the NPPF.
108. The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
109. Potentially other listed buildings and designated heritage assets could be affected by the development and again the absence of detailed assessment within the application hinders precise analysis. Denthouse Farmhouse and adjacent outbuilding (Grade II listed) are located approximately 520m east of the turbine. At such proximity a degree of harm upon the setting of this grouping is considered to result, again this would be less than substantial harm. Again a visualisation from the vicinity of the farmhouse shows the proximity and prominence of the turbine.
110. Due to the harm to the setting of the Bowes Museum, associated gardens and the Denthouse farmhouse grouping the application is in conflict with TLP Policies ENV4 and BENV3. Policy ENV4 is considered fully consistent with the NPPF and Policy BENV3 partially consistent and both can be attributed weight in the decision making process. The NPPF at paragraph 134 advises that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The conclusion addresses this balance.



111. Public responses to the application reference concern with regards to the impacts of the development upon other designated heritage assets with Egglestone Abbey, Barnard Castle Conservation Area and Castle specifically referenced. The application includes a visualisation from Eggleston Abbey (Grade I listed and Scheduled Monument) which indicates that the turbine would not be visible. No such visualisations are provided from the Castle at Barnard Castle (Grade I listed and Scheduled Monument) or Barnard Castle Conservation Area though the submitted ZTVs demonstrate potential intervisibility. Similarly there are a significant number of other designated assets within relative close proximity to the site including a significant concentration within the Barnard Castle area. Again the absence of detailed assessment within the application of the impact upon the significance of these assets hinders the precise analysis upon them and is reason to raise objection to the development.
112. Public concerns are raised with regards to the potential impacts of the development upon the nearby Barningham Moor Neolithic site. However, Archaeology raise no objections with regards to any potential impact in this regard and furthermore state that although the A66 is on the line of a Roman road, there is no evidence at present to suggest any roadside occupation at the proposed turbine site, and as such, no archaeological investigation is required. No objections to the development are therefore raised with regards to matters of archaeological having regards to the content of TLP Policy BENV11 and Part 11 of the NPPF. TLP Policy BENV11 is considered partially consistent with the NPPF and can be attributed weight in the decision making process.

## Residential Amenity

### *Potential for Overbearing Impact/Visual Dominance*

113. The evidence of past appeal decisions suggests that turbines are likely to be overbearing at distances closer than four times the turbine height and unlikely to be overbearing at distances of greater than seven times their height. At distance ranges in between, the acceptability of their impact is influenced by site-specific factors.
114. Seven times the tip height of the proposed turbine is 324.1m. Pundergill Farmhouse is located within 4 times the tip height of the turbine, approximately 175m to the north. The property is financially involved in the development, however. Furthermore to the immediate rear of the farmhouse dense landscaping would filter views of the turbine from the rear of the property and no objections are raised.
115. North Bitts farmhouse is located approximately 215m to the north. The main, front elevation of the farmhouse faces south and the turbine would be located in a south-easterly direction. The turbine would be cited within five times the tip height of the turbine. At such a distance it is considered that the turbine would create a dominating and overbearing impact with unacceptable harm caused to the occupiers of the property. The submitted Environmental Assessment states that the owners of North Bitts are not financially involved. However, other documentation states that the owners are financially involved and the applicant has, to clarify the matter, since stated that the owners of North Bitts are part of the family of the applicant and would be financially involved. On the basis of the confirmations of the applicant objections are not therefore raised to the impacts upon the occupiers of North Bitts. No letter of objection has been received from North Bitts.
116. Tipton Hill farmhouse is located approximately 565m south of the siting of the proposed turbine. The main, front elevation of the property would face towards the proposed siting of the turbine. However, with the distance to the turbine at almost

twelve times the tip height it is considered that no unacceptably overbearing or visually dominant impacts would occur.

117. A barn located to the north-east of Timplon Hill farmhouse gained planning permission for residential occupation in 2013. The barn is located 420m south of the proposed turbine and therefore just over nine times the tip height from the turbine. Individually it is considered the turbine at such a distance would not cause an unacceptably dominant or overbearing impact. If the barn was residentially occupied it would contribute, however, to the harm caused by turbine 1 (DM/15/02064/FPA) which would be cited in closer proximity. However, the barn conversion has not been implemented and remains clearly last used for agricultural purposes. The planning permission does remain extant, however, until November 2016. However, as the conversion still requires implementation there is no current occupier upon whom harm could occur and as result it is considered planning permission should not be withheld on the basis of this impact.
118. Denthouse farmhouse is located approximately 520m to the east. The property is orientated so that main front and rear elevations face north and south and so are not orientated towards the turbine. In addition farm buildings are located immediately adjacent to the farmhouse and would screen views from within the dwellings towards the development. No objections are raised with regards to the potential for unacceptably dominant or overbearing impacts to occur upon occupiers of the property.
119. South Flatts Farm is located approximately 395m to the west. The property is orientated so that the main front and rear elevations face north and south and the turbine would be set on an angle to the east reducing the potential for the turbine to appear visually dominant from the main elevations. It is acknowledged that areas of residential curtilage would be closer and would have views more significantly impacted upon. However, overall, taking into consideration the distances involved and orientation of the property to the turbine no unacceptably dominant or overbearing impact would occur upon the occupiers of the property.

#### *Noise*

120. The NPPF at paragraph 123 requires that local planning authorities consider the impact of noise relating to new development giving rise to health and amenity issues for adjacent residents.
121. The PPG recommends the use of 'The Assessment and Rating of Noise from Wind Farms' (ETSU-R-97). It describes a framework for the measurement of wind farm noise and gives indicative noise levels calculated to offer a reasonable degree of protection to wind farm neighbours. Among other things, this document states that noise from wind farms should be limited to 5dB (A) above background noise for both day and night-time periods. The now cancelled PPS24, former national planning guidance in relation to noise, advised that a change of 3dB (A) is the minimum perceptible to the human ear under normal conditions. Thus it is not intended that there should be no perceptible noise at the nearest properties, rather the 5dB (A) limit is designed to strike a balance between the impact of noise from turbines and the need to ensure satisfactory living conditions for those individuals who might be exposed to it. The ETSU guidance also recommends that both day and night time lower fixed limits can be increased to 45dB(A) where the occupier of the affected property has some financial involvement in the wind farm.
122. The application is accompanied by a noise assessment report. This identifies the nearest noise sensitive receptors as being Punder Gill (financially involved) and the

non-associated properties of North Bitts Farm, Dent House Farm, Timplon Hill Farm and South Flats Farm. The applicant has since confirmed that North Bitts Farm is a financially involved property. The report considers that the predicted noise levels at the nearest noise sensitive receptors would be acceptable, causing no unacceptable loss of amenity and that the advice contained within ETSU-R-97 would be complied with.

123. Environment, Health and Consumer Protection raise objections, however. Environment, Health and Consumer Protection do not state that the turbine would necessarily cause unacceptable noise impacts, however, the level of detail contained within the application documentation is unacceptable in that it does not provide adequate information to fully inform an assessment. Additional report assessment including raw noise data is considered necessary and has not been provided. In addition the concern is raised that the sound level meters were not located in the most representative of locations to inform the noise assessment.
124. As a result objections to the development are raised. TLP Policies C5B, C6 and GD1 all seek to resist development which would result in unacceptable harm to the amenity of nearby residential occupiers whilst paragraph 109 of the NPPF advises that existing development should not be put at unacceptable risk of being adversely affected by noise pollution. A fully informed assessment as to the likelihood of this to occur cannot be undertaken on the basis of the submissions made.

#### Shadow Flicker/Reflected Light

125. Shadow flicker can occur within 130 degrees either side of north and the effect is unlikely to be significant in distances greater than 10 rotor diameters. There is some conflict in the submissions in regards to the rotor diameter of the turbine. The Environmental Assessment states that the rotor diameter is 32.6m whilst the shadow flicker report states 33.2m. The higher figure would result in a ten rotor diameter distance of 332m. The Environmental Assessment accompanying the application states that North Bitts could potentially be affected by shadow flicker. The further specific shadow flicker assessment relates to both turbine 2 subject to this application and turbine 1 subject to DM/15/02064/FPA. The assessment states that overall North Bitts Farm, Punder Gill Farm and a property identified as Gallows Hill could be affected by the two turbines. Diagrams contained within the report identify that turbine 2 could affect all three properties. The property identified at Gallows Hill is actually understood by officers to be a non-residentially occupied agricultural building. North Bitts could potentially be affected by shadow flicker between November to February with between 67 and 72 minutes impact per day. Punder Gill could potentially be affected by shadow flicker from October through to March with between 33-140 minutes impact per day. Such a period of time is calculated on a theoretical worst case scenario basis with the rotor blades rotating for 365 days per year, the sun shining in a clear sky every day of the year and that there is no tree cover that may prevent windows being affected. The applicant has since confirmed that North Bitts is a financially involved property. Punder Gill is also financially involved with the development and as a result objection is not raised.
126. Furthermore mitigation measures can be devised to control shadow flicker occurring if it arises, examples include through the provision of screening measures or alternatively through controls to switch the turbine off in periods where shadow flicker can occur.

## Impacts on Ecology/Nature Conservation

127. The application is supported by a number of reports in respects to ecology and nature conservation issues, namely; extended phase 1 survey; badger survey, water vole and otter survey, bat survey, bird survey and newt survey. These reports and survey work which informed them are of considerable age with the reports being dated from between February 2011 and April 2012. Furthermore reference is also made to differing wind turbine schemes to that now proposed under the applications for turbines 1 and 2. As a result the application is also accompanied by Ecological Impact Assessment report dated July 2015 the purpose of which was to undertake a review of the previous ecological assessments having regards to the development turbines 1 and 2 now proposed. The evidence of further protected species surveys dating from 2014 was also presented.
128. The submitted Ecological Impact Assessment identifies the presence of any statutory and non-statutory sites of ecological interest within a 2km radius of the site and any statutory sites only within a 10km radius. The nearest statutory designated sites are Kilmond Scar Site of Special Scientific Interest (SSSI) (approximately 1.5km to the west) and Brignall Banks SSSI (approximately 2.2km to the south). Thorsgill Wood is a non-statutory designated Local Wildlife Site and is located approximately 1.5km to the north.
129. The impacts of the development upon ecology and nature conservation assets are amongst the most significant and detailed of the public objections and concerns raised with regards to the development.
130. Natural England raise no objections. It is advised that the proposal is unlikely to affect any statutory protected nature conservation sites.
131. Ecology officers have submitted several comments in regards to the application, in part in response to specific concerns to emerge from the public consultation exercise. Ecology officers principal focus has been with regards to the potential impacts upon water voles, bats and breeding birds. In conclusion Ecology officers raise no objections to the application. Mitigation measures with respects to water voles and bats should be conditioned in the event of an approval. It is stated that some displacement of bird species would occur and there is some lack of detail with regards to collision risk data in respect to birds. However, despite this on balance it is considered that the impact upon protected species and statutory and non-statutory designated sites would be acceptable.
132. It is considered that the development would not adversely affect any European Protected Species (EPS) with no requirement to consider whether an EPS licence would granted having regards to Regulation 9(3) of The Habitat Regulations.
133. As a result officers raise no objections to the development with the proposals considered compliant with relevant TLP Policies GD1, ENV6, ENV7, ENV8 and ENV16 and part 11 of the NPPF. TLP Policies GD1, ENV6, ENV7, ENV8 and ENV16 are considered consistent with the NPPF and can be attributed weight in the decision making process.

## Aviation and Radar Issues

134. Durham Tees Valley Airport have raised no objections in relation to aerodrome safeguarding. Newcastle Airport is located in excess of 30km from the site and is therefore not a statutory consultee.

135. NATS (National Air Traffic Service) have raised no objections. It is advised that the proposal does not conflict with their safeguarding criteria.
136. The MOD (Ministry of Defence) raises no objections. In the event of an approval a condition is requested that the date construction starts and ends; the maximum height of construction equipment and; the latitude and longitude of the turbine are provided.
137. Officers raise no objections to the development on the grounds of aviation safeguarding having regards to TLP Policies C5B and C6 and Part 10 of the NPPF.

#### Highway Safety

138. Vehicular access is necessary initially as part of the construction phase of the development and thereafter for routine maintenance purposes and ultimately decommissioning. Access would be gained via Rutherford Lane and over a 189m section of field to the precise siting of the turbine.
139. The submitted Design and Access Statement states that the turbine itself would be delivered on a HGV trailer with a maximum of 12 vehicle movements associated with the plant required during the construction phase, 2 movements for the turbine delivery, and 48 movements over an 8 week period associated with the electrical and ground works.
140. The Highway Authority has raised no objections to the application subject to a condition requiring the submission of details of a swept path analysis for delivery vehicles entering the site at the junction with the C166 Rutherford Lane. The Highway Authority raise no objections or concerns with regards to the proposed turbine creating any distraction hazard for motorists, a matter which has been raised within the responses to the public consultation exercise.
141. Highways England raise no objections with regards to potential impact upon the A66 subject to the imposition of planning conditions that no vehicular movements associated with the construction or development of the site require special permission as abnormal loads and that direct access to the site is taken from Rutherford Lane not the A66(T). The applicant has confirmed that adherence to the Highway Authority requirements is acceptable and can be complied with.
142. No objections are raised to the development on the grounds of highway safety with the development compliant with TLP Policy GD1 and Part 4 of the NPPF.

#### TV and other Communication Interference

143. Wind turbines have the potential to disrupt telecommunication links and cause interference to television reception. This risk is increased with larger wind turbines and multiple turbines. Reflection and diffraction of radio waves can occur causing a detrimental impact upon signals. Mitigation measures can be devised should the development pose issues in this regard and a condition requiring the investigation and implementation of such mitigation measures can be added to any approval.

#### Pre-Application Consultation Requirements

144. Responses to the consultation exercise on the application raise significant concerns in regards to the adequacy of the applicants pre-application public consultation exercises.

145. There is a legal requirement to carry out pre-application consultation with the local community for planning applications for wind turbine development involving more than 2 turbines or where the hub height of any turbine exceeds 15 metres as identified in Article 3 of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015. The requirements that must be fulfilled are set out in Sections 61W and 61X of the Town and Country Planning Act 1990 and Article 4 of the Town and Country Planning (Development Management Procedure) (England) (Order) 2015. In summary a prospective applicant must;
- Publicise the proposal in such a way as the applicant reasonably considers is likely to bring it to the attention of a majority of the people who live at, or otherwise occupy, premises in the vicinity of the land;
  - Set out how persons may contact them regarding the proposal. The applicant must give sufficient information about the proposed timetable to ensure that people wishing to comment on the proposed development may do so in good time;
  - If they decide to go ahead with making an application for planning permission, have regard to any responses received when finalising the application to be submitted;
  - When submitting their application explain how the local community has been consulted, what comments have been received, and how account has been taken of those comments.
146. The application is accompanied by details of the pre-application consultation exercise undertaken and this includes copies of letters issued informing on the proposal; press article; copy of a site notice erected in the area; copies of responses received; and a community consultation statement which outlines the pre-application processes undertaken, assessment of the responses received and impact upon the final development proposals.
147. On the basis of the evidence submitted it is considered that the pre-application consultation exercise undertaken meets the legislative requirements.

#### Degree of Community Support

148. The WMS made 18th June 2015 set out new considerations to be applied to wind energy development. The PPG has also been updated to reflect the content of the WMS. The guidance includes advice that with regards to this application local planning authorities can find the proposal acceptable if, following consultation, they are satisfied it has addressed the planning impacts identified by affected local communities and therefore has their backing. The PPG advises that whether the proposal has the backing of the affected local community is a planning judgement for the local authority. No definition of what constitutes the affected local communities is provided.
149. Based upon the responses received on the application considerably more letters of objection (44) have been received than letters of support (1). The objections received include those from Parish Councils and local community groups and non-statutory bodies who have commented on the application. The single letter of support comes from the National Farmers Union rather than the local community as such.
150. It is considered that not all objections raised within responses to the application have been adequately addressed within the application submission. Objections and concerns raised in regards to landscape and visual impact, adequacy of the submissions in regards to heritage impact and the potential impact upon heritage

assets at the Bowes Museum and the adequacy of the assessment of the noise impacts of the development are reflective of objections raised by officers within this report.

151. There is no definition of what constitutes the “affected local communities” within the guidance contained within the PPG and WMS. However, based purely upon the comments received and numbers of comments received representations are clearly opposed to the development.

#### Other Issues

152. Responses to the public consultation on the application raise concerns that approval of the application could set a precedent. However, each application is considered on its own merits and any grant of planning permission does not prejudice the assessment of any future proposals on their own merits.
153. Responses to the public consultation exercise include comments that the application constitutes Environmental Impact Assessment (EIA) development (having regards to the EIA Regulations) and that the application should be accompanied by an Environmental Statement (ES). In 2010 the Council did issue a positive screening opinion in respect of a proposal for three wind turbines stating that the development would constitute EIA development. However, since this time further screening opinion has been undertaken in relation to a revised proposal totalling two turbines. A negative screening opinion was issued with the development considered to not constitute EIA development.
154. Public concerns are raised with regards to potential harm to ancient woodland. The closest areas of designated ancient woodland are at Mill Wood approximately 1.5 km south of the development at the nearest point. No impacts would result to the ancient woodland.
155. Public concerns raise the concern of the potential impact of the development upon property values, however, this is not a material planning consideration.
156. Public concern is expressed with regards to potentially harmful impacts upon tourism. In some regards there is resonance with the concerns already detailed in the report in terms of the harmful landscape impacts upon the area and AONB and also upon the Bowes Museum which are visitor attractions. Officers do not raise objections in more general terms, however, to the impact of the development upon tourism.
157. Public concern is raised with what the power output of the turbines is as there is some ambiguity as to whether the turbine is a 250Kw or 500Kw turbine. The applicant has confirmed that the turbine is to be a 250Kw output but that if in the future feed in tariffs permit consideration could be given to upgrade output to 500Kw. In the event of an approval a condition could ensure that the output is set at 250Kw so as to permit a review of any implications to any variation of this.
158. Public reference is made to reports which are marked for the use of only one applicant but are being referenced in both applications (turbines 1 and 2). Ultimately this is considered a matter separate from material planning considerations to be agreed between the parties.
159. Loss of agricultural land would result from the development. It is not known if the land or any parcel of it constitutes best and most versatile agricultural land though the application documentation states that it is not of higher quality. The NPPF at

Paragraph 112 requires account to be taken of the economic or other value of the best and most versatile land. Where significant development is proposed, poorer quality agricultural land should be used rather than higher quality. In addition where significant loss of agricultural land would be demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality. TLP Policy ENV12 provides similar advice and is considered consistent with the NPPF. In this instance even if the land did constitute best and most versatile land the amount of land which would be built upon is relatively small and it is considered that any amount of loss would not constitute the significant loss to which the NPPF refers.

160. Drainage and Coastal Protection raise no objections in principle to the development. It is advised that the access track and turbine area is designed so as to ensure that surface water does not run-off onto neighbouring land or the highway. In the event of any approval a condition could be utilised to agree final design in this regard. Development works would also be in close proximity to the Punder Gill watercourse and it is advised that a formal application to Drainage and Coastal Protection may be necessary to agree these works. An informative could be added to any planning permission to this end. No objections to the development are therefore raised in relation to drainage or matters of flood risk with the development considered compliant with TLP Policies GDP1, ENV15 and ENV16 and Part 10 of the NPPF. TLP Policy ENV15 is considered consistent with the NPPF and can be attributed weight in the decision making process.
161. Access and Public Rights of Way raise no objections. The nearest PROW (Public Footpath No. 5, Brignal) should remain unaffected by the proposal.
162. Environment, Health and Consumer Protection raise no objections with regards to matters of contaminated land.

---

## **CONCLUSION**

---

163. It is concluded that the development would result in unacceptably adverse landscape and visual impacts. These harmful impacts are located within a designated Area of High Landscape Value and within the landscape setting of the designated Area of Outstanding Natural Beauty.
164. The level of detail submitted with the application is insufficient to fully assess potential impacts upon the significance of heritage assets potentially impacted upon by the development. Notwithstanding this it is considered clear that some harm to heritage assets would occur with less than substantial harm considered to occur upon the setting and therefore significance of the Grade II listed Dent House Farmhouse with adjacent outbuilding, Grade I listed Bowes Museum and Grade II listed Bowes Museum Park and Garden of Special Historic Interest. Where such harm occurs the NPPF advises at paragraph 134 that this harm should be weighed against the public benefits of the proposal.
165. The application documents highlight the economic benefits of the development. Key aspects to these benefits are; the contribution to the generation of electricity to provide a secure and renewable electricity supply for the national grid and improve capacity locally; help reduce carbon emissions and reduce the carbon footprint; help meet the Government's renewable energy targets; support the rural economy; and provide employment opportunities.



166. Whilst acknowledging these benefits it is considered that they would not outweigh the harm caused to the designated heritage assets or indeed override the degree of landscape and visual harm.
167. Insufficient submissions to fully assess the potential noise impacts of the development have been made and it cannot be judged that the development would not result in such unacceptably harmful impacts upon the residential amenity of the nearest noise sensitive receptors.
168. In addition PPG guidance and the WMS of the 18<sup>th</sup> June 2015 advises that when considering applications for wind energy development LPAs should only grant planning permission if;
- the development site is in an area identified as suitable for wind energy development in a Local or Neighbourhood Plan; and
  - following consultation, it can be demonstrated that the planning impacts identified by affected local communities have been fully addressed and therefore the proposal has their backing
169. The application site is not within an area identified as being suitable for wind energy development and based upon the outcomes of the public consultation on the application the planning impacts identified by affected local communities have not been fully addressed nor the proposal received their backing. This adds further and significant weight to the conclusions that planning permission should be withheld.

---

## **RECOMMENDATION**

---

That the application be **REFUSED** for the following reasons;

1. The Local Planning Authority considers that the proposed wind turbine as a result of its siting, scale, appearance and potential for cumulative impact would have an adverse landscape and visual impact. Unacceptable harm to the Area of High Landscape Value and the landscape setting and natural beauty of the Area of Outstanding Natural Beauty would result. The development is therefore contrary to criteria and guidance set out in Policies GD1, ENV2, ENV3, C5B and C6 of the Teesdale Local Plan and paragraph 109 of Part 11 of the NPPF.
2. The Local Planning Authority considers that the level of detail submitted with the application is insufficient to fully assess potential impacts upon the significance of heritage assets potentially impacted upon by the development, contrary to the guidance contained in paragraph 128 of the NPPF. Notwithstanding this potential for other harm to heritage assets, it is considered that the proposed wind turbine, individually and as a result of potential cumulative impact would harm the setting and therefore significance of the Grade II listed Dent House Farmhouse (with adjacent outbuilding), Grade I listed Bowes Museum (with steps and railings attached) and Grade II listed Bowes Museum Park and Garden of Special Historic Interest with such harm not being outweighed by public benefits. The development is therefore contrary to Policies ENV4 and BENV3 of the Teesdale Local Plan and advice contained within Part 12 of the NPPF.
3. The Local Planning Authority considers that the level of detail submitted with the application is insufficient to fully assess the potential noise impacts of the turbine individually and cumulatively. Policies GD1, C5B and C6 of the Teesdale Local Plan require that developments result in no unacceptable harm to residential amenity including through noise impact whilst paragraph 109 (Part 11) of the NPPF advises that existing development should not be put at unacceptable risk of being adversely

affected by noise pollution. In the absence of such adequate assessment it cannot be judged that the development would not result in such unacceptably harmful impacts.

---

## **STATEMENT OF PROACTIVE ENGAGEMENT**

---

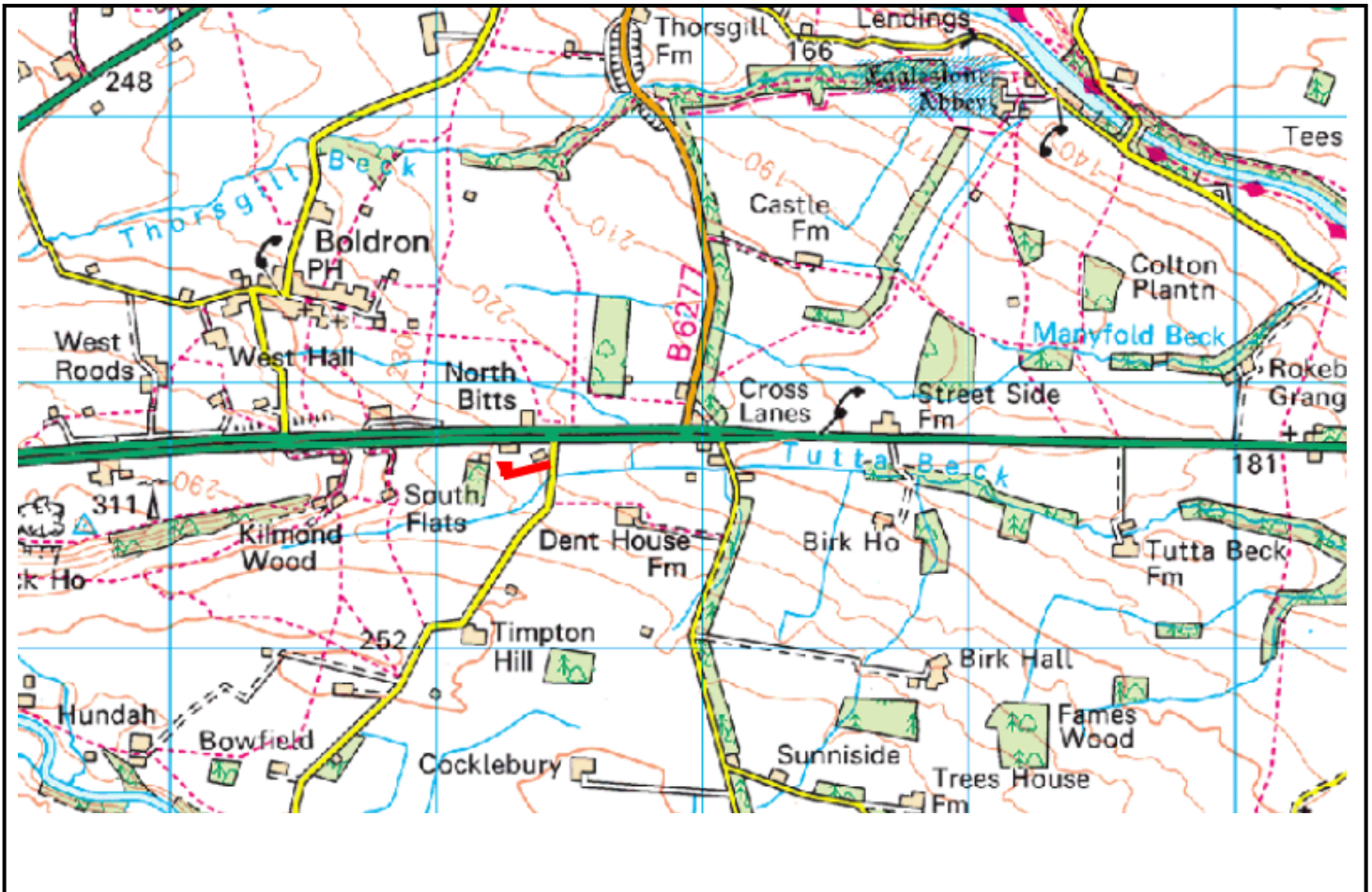
The Local Planning Authority in arriving at its recommendation to refuse this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

---

## **BACKGROUND PAPERS**

---

- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance
- Teesdale Local Plan
- Statutory, internal and public consultation responses



**Planning Services**

DM/15/02063/FPA

Erection of turbine no. 2 a 46.3m tip height turbine with associated access and sub-station (one of two turbines sought under two planning applications)

Mr M Thompson

This map is based upon Ordnance Survey material with the permission Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.  
 Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.  
 Durham County Council Licence No. 100022202 2005

**Date**  
 September 2016

**Scale**  
 Not to scale