

Ribble Valley Borough Council

Town and Country Planning Act 1990 (As Amended)

**Appeal by Mr Matthew Tidmarsh
against the refusal of
Ribble Valley Borough Council
to grant planning permission for the
Proposed installation of three endurance 50kW Wind Turbines
(46m in overall height i.e. to tip)
on the site of Carr Hall Home & Garden Centre,
Whalley Road, Wilpshire, Blackburn, BB1 9LJ.**

**DoE Reference: APP/T2350/A/13/2193882/NWF
LPA Reference: 3/2012/0539/P
NGR: 370040 432876**

**HEARING STATEMENT
SUBMITTED ON BEHALF OF
THE LOCAL PLANNING AUTHORITY**

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1. INTRODUCTION

1.1 This statement has been produced in order to provide full details in support of the Council's case against the Appeal submitted.

1.2 The Appeal is against the decision of Ribble Valley Borough Council to refuse planning permission for the proposed installation of three endurance 50 kW wind turbines at Carr Hall Home & Garden Centre, Whalley Road, Wilpshire, Lancashire, BB1 9LJ. The proposed turbines will measure 46m in height (to the tip) and will be positioned 85m to 90m apart from each other.

1.3 The Application was considered under delegated powers on the 21st of December 2012, and the proposed application was refused for the following reasons,

1. The site subject to this application is within land designated as Green Belt, and by definition the proposed development of the land for the erection of three wind turbines is considered inappropriate development. The scheme will be harmful to the openness and permanence of the Green Belt, and the applicant has demonstrated no special circumstances that would outweigh the harm caused. For these reasons, approval of this application would be contrary to guidance contained within Policy ENV4 of the Districtwide Local Plan, Policies EM1 and EM17 of the RSS, Key Statement EN1 of the Core Strategy (Regulation 22 Submission Draft) and guidance contained within the NPPF.
2. The proposed turbines will be 29.5 km from, in line of sight to, and will cause unacceptable interference to the Air Traffic Control (ATC) radar at Warton airfield, which will have a detrimental impact on the performance of the MOD ATC and Range Control radars, specifically the desensitisation of radar and the creation of 'false' aircraft returns which air traffic controllers must treat as real. The proposal is therefore considered to be contrary to the requirements of National Planning Policy Framework and Planning for Renewable Energy: A Companion Guide to PPS22 and to all other material considerations.
3. Due to the excessive scale, scale, height and location of the proposed development so close to a number of Public Rights of Way, the approval of these three turbines would impact on the enjoyment of any users of these footpaths. For these reasons, approval of this scheme would be contrary to guidance contained within Policy G1 of the Districtwide Local Plan, Policy DMG1 of the of the Core Strategy (Regulation 22 Submission Draft) and guidance contained within the NPPF.
4. Due to the number of turbines, their excessive scale, scale, height and location, approval of this application would result in a highly visible, incongruous, prominent industrialising ridgeline feature in the immediate and wider rural landscape, and its approval would be to the detriment of the visual amenity of the area. For these reasons approval of this proposal would therefore be contrary to guidance contained within Policies G1, G5, ENV4, ENV24, ENV25 and ENV26 of the Districtwide Local Plan, Policies EM1 and EM17 of the RSS, Policies DMG1, DMG2, DME2 and DME5, and Key Statements DS1, EN1, EN2 and EN3 of the

Core Strategy (Regulation 22 Submission Draft), and guidance contained within the NPPF.

5. The Ecological Appraisal & Bird Survey Report and the Bat and Bird Survey Report are considered to contain insufficient information and/or survey data to enable a full and thorough assessment of the potential impact of the development on European Protected Species, Species of Principal Importance and their habitats. The Bat and Bird Survey has not demonstrated that the proposed development would not result in a breach of The Conservation of Habitats and Species Regulations 2010, and based on the results of the breeding birds surveys, breeding lapwing could potentially be disturbed/displaced by the proposed turbines and Curlew appear to nest within 500m of the site. Curlew and Lapwing are Species of Principal Importance and DEFRA Circular 01/2005 states that UK Biodiversity Action Plan Priority Species (Species of Principal Importance, NERC Act 2006). The proposal is therefore considered contrary to Local Plan Policy ENV7, Policy EM1 of the RSS, Policy DME3 and Key Statement EN4 of the Core Strategy (Regulation 22 Submission Draft), guidance within the NPPF, and guidance contained within The Conservation of Habitats and Species Regulations 2010, the Wildlife and Countryside Act 1981, the NERC Act 2006 and guidance contained within Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System.

- 1.4 Within this Statement of Case these five reasons for refusal will be explained and fully justified in relation to the specific Policies referenced. In respect to the second and fifth reason for refusal, reference has been made to separate statements/guidance supplied by the expert consultees in response to this Appeal being submitted.

2 THE PROPOSED DEVELOPMENT

- 2.1 The proposal sought planning permission for the proposed erection of three endurance 50kw wind turbines on land to the rear (south) of Carr Hall Garden Centre, Whalley Road, Wilpshire. The turbines will be sited approx. 280m south of Carr Hall Garden Centre itself, and the same distance from the residential property Carr Hall.
- 2.2 The turbines will be erected on masts measuring 35.4m in height, with the overall height of each turbine measured at 46m i.e. to blade tip. The proposed turbines will measure 46m in height (to the tip) and will be positioned 85m to 90m apart from each other. The surface finish colour for the turbines and masts is indicated as white on the details submitted. The associated cabling will be laid underneath a temporary access road that will be created beyond the existing access road into the Carr Hall complex.
- 2.3 The turbine will be sited on land that rises southwards away from the nearby highway, and they will be positioned on land 55m higher than Whalley Road itself (195-200 AOD). The land further south of this site rises a further 30m (230m AOD) to an area known as Wilpshire Moor. The turbines will be sited 300m west of the livery buildings of Little Snodworth, Snodworth Road, the nearest residential property to this site.

- 2.4 There are four Public Rights of Way that run close to the site with the nearest being just less than 70m away to the south of the turbine site (see plan within Appendix I).

3. THE APPEAL SITE AND ITS SURROUNDINGS

- 3.1 The site lies within open countryside and within a designated Green Belt (see plan included within Appendix II).
- 3.2 The application site is situated on land with a landscape character type of 'Lowland Fringe Farmland'. This is according to the Ribble Valley Landscape Character Assessment (RVLCA is contained at the back of the Local Plan and the relevant section is supplied within Appendix III).
- 3.3 Lowland Fringe Farmland landscapes range from almost flat river valleys to gentle undulating hills and drumlin fields in the Upper Valleys of the River Ribble. Of particular relevance for this application is that the document highlights that in these areas, outside of the main settlement a typical feature of the lowland fringe is the Country House, surrounded by formal parkland and well managed estate land. It notes that the general estate feel, often engendered by a high proportion of woodland, wild managed hedgerows and boundary walls or fences has a strong influence on the landscape of surrounding areas, raising its general aesthetic quality and appeal.
- 3.4 It also highlights that whilst there is some industrial development in these areas, it has a strong historical association with these areas and are operated on a scale that does not create major visual problems. It notes that these industrial areas have a significant impact upon the local landscape.
- 3.5 Positive landscape elements highlighted within the RVLCA include an absence of urbanisation and open land, with potential landscape detractors highlighted as intrusive, inappropriate and insensitive siting and design of new development, and intrusive industrial activities (especially large scale development).
- 3.6 As stated earlier, the turbine will be sited on land positioned some 55m higher than the nearby Whalley Road (195-200 AOD), and the land south of this site rises a further 30m (230m AOD) to an area known as Wilpshire Moor. The turbines will be sited approximately 300m west of the livery buildings of Little Snodworth, Snodworth Road, the nearest residential property to this site.
- 3.7 There are four Public Rights of Way within the Parish of Wilpshire that run close to the site, and these are numbers 11, 12, 13 and 15. The nearest PROWs are numbers 11 and 12 being just less than 70m away to the south of the turbine site.

4. PLANNING HISTORY

- 4.1 There is no relevant planning history on this particular site.

5. RELEVANT NATIONAL PLANNING POLICY AND GUIDANCE

5.1 At the time the application was considered, the main national document against which the scheme was considered was the National Planning Policy Framework, formally published 27 March 2012. The following paragraphs of that document are considered to be relevant to the case put forward by the Council.

5.2 Paragraph 7 of the NPPF discusses that there are three dimensions to sustainable development namely economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles and in this case, the environmental role is considered important to contribute to protecting and enhancing the natural environment of the borough of Ribbles Valley.

5.3 Paragraph 14 of the NPPF states 'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking.' It advises with regards to decision taking that this means,

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out of date, granting permission unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.(For example, those policies relating to, amongst other things, sites protected under the Birds and Habitats Directive (see paragraph 119 of the NPPF) and/or designated as Green Belt)

5.4 Paragraph 17 of the NPPF discusses the 'Core planning principles' within the document. It notes that within the overarching roles that the planning system ought to play, a set of 12 core land-use planning principles should underpin both plan making and decision taking. Three of these principles are considered important in this instance as they consider that planners should,

- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside;
- contribute to conserving and enhancing the natural environment and reducing pollution. Allocations of land for development should prefer land of lesser environmental value, where consistent with other policies in this Framework, and
- support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy).

5.5 When considering the land on which the three turbines are proposed to be sited on is Green Belt, paragraph 79 of the NPPF notes, 'The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to

prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.'

5.6 Paragraphs 87 to 90 highlight inappropriate development within Green Belt, with paragraph 91 setting out views on renewable energy proposals, namely that 'When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.'

5.7 Paragraph 87 specifically highlights that 'As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances,' with paragraph 88 advising that 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.'

5.8 The protection of Green Belt is further supported by paragraph 109, which notes that 'The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.'

5.9 When considering the schemes impact upon ecology and the natural environment, Paragraph 118 of the NPPF notes that 'When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

5.10 One of the main considerations with this proposal is the schemes impact on protected species, species of principal importance, semi-natural grassland, owls and raptors, and therefore whether any potential impact would significantly and demonstrably outweigh the benefits that the proposed development would bring. However, as the proposals may potentially affected European Protected Species and Species of Principal Importance, paragraph 119 of NPPF, Conserving and enhancing the natural environment, is also a material consideration. It advises that '*The presumption in favour of sustainable development (paragraph 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.*'

6. RELEVANT REGIONAL AND LOCAL PLANNING POLICY AND GUIDANCE

6.1 On 24 April 2013, the Government laid an Order in Parliament to revoke the North West Regional Spatial Strategy (RSS). This came into force on the 20 May 2013, revoking the Regional Strategy in its entirety. When the application subject to this appeal was assessed, the Council considered the scheme against two of the Policies within the RSS, namely Policy EM1 and EM17. Full copies of the Policies can be found within Appendix IV. Whilst no weight can now be attached

to these Policies, as the revocation is in its early infancy, and that large elements of these policies are reflected within the Local Plan Policies and guidance within the NPPF and the PPS22 Companion Guide, at this present time the Council consider the Policy advice still to be worthy of note.

6.2 The Development Plan for the area comprises the Ribble Valley Districtwide Local Plan, which was adopted in June 1998. The relevant policies are all Saved Local Plan Policies, and are considered consistent with the aims of the NPPF. Appendix V includes full copies of these relevant Policies.

6.3 Local Plan Policy G1 is a general Development Control (Management) policy and it advises that all development proposals will be expected to provide a high standard of landscape quality, and that development which does so will be permitted unless it adversely affects the amenities of the surrounding area.

6.4 Local Plan Policy G5 notes that 'Outside the main settlement boundaries and the village boundaries planning consent will only be granted for small scale developments/uses which conform to the policies of this plan.' The Council would argue that the development proposed could not be considered as 'small scale'.

6.5 Local Plan Policy ENV3 recognises that the open countryside is all worthy of conservation and enhancement, and that proposals to conserve, renew and enhance landscape features will be permitted, providing regard has been given for the characteristic landscape features of the area.

6.6 Local Plan Policy ENV4 advises, 'Within the green belt, planning permission will not be given, except in very special circumstances, for the erection of new buildings other than for the purposes of agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and for other uses of land which preserve the openness of the green belt and do not conflict with the purposes of the designation.'

6.7 Local Plan Policy ENV7 states that 'Development proposals which would have an adverse effect on wildlife species protected by law will not be granted planning permission, unless arrangements can be made through planning conditions or agreements to secure the protection of the species.'

6.8 Local Plan Policy ENV24 gives a blanket view of renewable energy proposals, highlighting that 'In view of the general environmental benefits associated with harnessing renewable energy sources, the Borough Council will support the development of renewable energy schemes provided it can be shown that such developments would not cause unacceptable harm to interests of acknowledged importance in the local environment.'

6.9 Local Plan Policy ENV25 notes that in assessing proposals for renewable energy schemes, the Borough Council will have particular regard to the following issues,

- The immediate and wider impact of the proposed development on the landscape;
- The measures that would be taken, during and after construction to minimize the impact of the development on local land use and residential amenity;
- The local and wider benefits the proposal may bring; and
- The fact that certain renewable energy sources can only be harnessed where the resource occurs.

6.10 Finally, Policy ENV26 advises that the Borough Council will approve proposals for wind turbine generators providing, amongst other things,

- The visual impact is justifiable;
- The proposal does not harm any wildlife habitat or area of historical or architectural importance;
- The degree of nuisance caused by noise and shadow flicker to nearby residential amenities, agricultural operations or the function of the countryside is minimal;
- The design, colour and scale of turbines and ancillary structures including access roads must be appropriate to the character of the area;
- Connections to electrical grids and substations must be acceptable in the landscape setting; and
- Adequate restoration and after use must be provided.

6.11 The Council submitted the Core Strategy 2008-2028 Regulation 22 Draft to the Inspectorate on the 28th of September 2012. Following receipt of this document from the Inspectorate, the Council have been using the policies and key statements within this document as material considerations when making decisions on planning applications.

6.12 It is important however to note that the examination of the currently submitted Core Strategy 2008-2028 Regulation 22 Draft document is suspended for a period of six months from the 9th of January 2013. The reasons for this are set out in the correspondence between this Council and the Inspectorate that are sent with this statement under Appendix VI. Despite this fact, these Policies are still considered to be material considerations as they provide a guide on the direction the Council wish to head in terms of development within the borough over the next 20 years, and as such some weight should be attached to them. The key policies and statements can be found within Appendix VII, and the key elements of them are summarised below.

6.13 Policy DMG1 advises as follows. In determining planning applications, all development must (amongst other things),

- Be sympathetic to existing and proposed land uses in terms of its size, intensity and nature as well as scale, massing, style, features and building materials.
- Consider the Environmental implications such as SSIS, County Heritage Sites, Local Nature Reserves, Biodiversity Action Plan (BAP) Habitats and Species, Special Areas of Conservation and Special Protected Areas, Protected Species, Green Corridors and other sites of nature conservation.
- Consider the protection and enhancement of public Rights of Way and Access.
- With regards to possible effects upon the natural environment the Council proposed that the Principles of the mitigation hierarchy be followed. This gives sequential preference to the following:
 - Enhance the environment,
 - Avoid the impact,
 - Minimise the impact,
 - Restore the damage,
 - Compensate for the damage,
 - Offset the damage

- Consider the layout and relationship between buildings. Particular emphasis will be placed on visual appearance and the relationship to surroundings, including impact on landscape character, as well as the effects of development on existing amenities.
- Not adversely affect the amenities of the surrounding area.

6.14 Policy DMG2 advises as follows. Outside the settlement areas, development must meet at least one of the following considerations:

- The development should be essential to the local economy or social well-being of the area,
- The development is needed for the purposes of forestry or agriculture,
- The development is for local needs housing which meets an identified need,
- The development is for small scale tourism or recreational developments appropriate to a rural area,
- The development is for small-scale uses appropriate to a rural area where a local need or benefit can be demonstrated, and
- The development is compatible with the EZ designation.

6.15 It also advises that within the open countryside, development will be required to be in keeping with the character of the landscape and acknowledge the special qualities of the area by virtue of its size, design, use of materials, landscaping and siting.

6.16 Policy DME2 advises that development proposals will be refused which significantly harm important landscape or landscape features including, amongst other things,

- Characteristic herb rich meadows and pastures, and
- Upland Landscapes.

6.17 Policy DME3 advises that development proposals that are likely to adversely affect the following will not be granted planning permission, and that exceptions will only be made where it can clearly be demonstrated that the benefits of a development at a site outweigh both the local and the wider impacts. These include,

- Wildlife species protected by Law,
- SSSIS,
- Priority Habitats or Species identified in the Lancashire Biodiversity Action Plan, and
- Any acknowledged nature conservation value of sites or species.

6.18 It also advises that developers are encouraged to consider incorporating measures to enhance biodiversity where appropriate that will complement priority habitats and species identified in the Lancashire BAP. With regard to sites designated under European Legislation, the Authority will follow the relevant processes as defined within the Habitats Regulations 2010. The Habitats Regulations include provision for development that may cause an adverse effect on integrity to be allowed under exceptional circumstances. These include where there are no alternative solutions, imperative reasons of overriding public interest can be demonstrated and appropriate compensation measures are implemented.

6.19 Policy DME5 advises that the Borough Council will support the development of renewable energy schemes, providing it can be shown that such developments

would not cause unacceptable harm to the local environment or local amenity. In assessing proposals the Borough Council will have regard to the following issues:

- Immediate and wider impact of the proposed development on the landscape, including its visual impact and the cumulative impacts of development,
- Measures taken to minimize the impact of proposals on residential amenity,
- Potential benefits,
- Visual impact of the proposals including design, colour and scale,
- The degree to which nuisance caused by noise and shadow flicker to nearby residential amenities, agricultural operations, recreational areas or the function of the countryside can be minimised,
- Targets for generating energy from renewable resources and reducing carbon emissions,
- The potential impact on biodiversity.

6.20 The delivery of renewable energy contributes to measures in support of climate change adaption and securing sustainable development. It is important that renewable energy is facilitated in a way that protects the quality of the local area yet recognises the need to support climate change adaption. This policy serves to identify where such schemes are likely to be considered acceptable.

6.21 Key Statement DS1 notes that ‘Through this strategy, development opportunities will be created for economic, social and environmental well-being and development for future generations.’

6.22 Key Statement EN1 states that ‘The overall extent of the green belt will be maintained to safeguard the surrounding countryside from inappropriate encroachment. The development of new buildings will be limited to the purposes of agriculture, forestry, essential outdoor sport and recreation, cemeteries and for other uses of land which preserve the openness of the green belt and which do not conflict with the purposes of the designation.’

6.23 Key Statement EN2 advises that ‘As a principle the Council will expect development to be in keeping with the character of the landscape, reflecting local distinctiveness, vernacular style, scale, style, features and building materials.’

6.24 Key Statement EN3 states that ‘All development will be required to demonstrate how it will contribute towards reducing the Borough’s carbon footprint.’

6.25 Key Statement EN4 advises that ‘The Council will seek wherever possible to conserve and enhance the area’s biodiversity and geodiversity and to avoid the fragmentation and isolation of natural habitats and help develop green corridors. Negative impacts on biodiversity through development proposals should be avoided. Development proposals that adversely affect a site of recognised environmental or ecological importance will only be permitted where a developer can demonstrate that the negative effects of a proposed development can be mitigated, or as a last resort, compensated for. It will be the developer’s responsibility to identify and agree an acceptable scheme, accompanied by appropriate survey information, before an application is determined. There should, as a principle, be no net loss of biodiversity.’

6.26 The following Planning Appraisal will further justify the reasons for refusal in line with these National and Local Planning Policies.

7. CASE FOR THE LOCAL PLANNING AUTHORITY

7.1 In this section, the Council's case will be put forward by way of individually assessing and summarising the five reasons for refusal. The Council are aware of the planning balance that must be considered in this case, and this will be discussed within this section.

REASON 1 – Green Belt

7.2 The site subject to this application is within land designated as Green Belt. By definition the proposed development of the land for the erection of three wind turbines is considered inappropriate development. I attach a copy of the Report to the Secretary of State for Communities and Local Government, by S R G Baird BA (Hons) MRTPI on the appeals associated with applications for wind energy development at Crook Hill, Reaps Moss and Todmorden Moor within Appendix VIII. Paragraphs 11.3 – 11.14 (p178 – 180) in particular contain useful information on Green Belt issues.

7.3 Local Plan Policy ENV4 states, 'Within the green belt, planning permission will not be given, except in very special circumstances, for the erection of new buildings other than for the purposes of agriculture, forestry, essential facilities for outdoor sport and recreation, cemeteries and for other uses of land which preserve the openness of the green belt and do not conflict with the purposes of the designation.'

7.4 This Policy is supported in full by paragraphs 79 and 87-91 within the NPPF. Paragraph 79 of the NPPF notes, 'The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.' The site, when viewed from numerous viewpoints within the locality, can only be considered as a typical 'Green Belt' landscape. There is a clear and unbroken sense of openness within this landscape upon leaving the urban confines of Langho heading towards Wilpshire, and vice versa, as the landform rises from Whalley Road towards the ridge of Wilpshire Moor. Aside from the Carr Hall Home & Garden Centre buildings, which sit beneath an existing copse of woodland, the landscape itself is completely open and devoid of any other built form.

7.5 In respect to this reason for refusal, within their Grounds of Appeal (paragraphs 3-5) the Appellant considers that,

- the turbines are not large scale industrial machines,
- despite the ZVI showing some theoretical visibility, the small-scale of the proposal only results in a localised visual presence, and that
- this localized impact would be viewed in the context of Carr Hall Home & Garden Centre and would therefore be a rational extension to existing development within the Green Belt rather than isolated encroachment.

7.6 Whilst the fourth reason for refusal deals more generally with the landscape and visual impact caused by the proposed development, and this will be discussed in

more detail shortly, the following points are considered important in respect to this matter. In the context of the site, the structures proposed ARE considered by the Local Authority to be large-scale industrial machines. As the ZTV within Appendix 2 of the Appellants Landscape and Visual Impact Appraisal highlights, it is likely that the proposed turbines will be visible from a large area to the northeast/north/northwest/west of the site, up to and beyond a distance of 5km.

7.7 Whilst it may be arguable that immediate views of the site, namely from the access to Carr Hall Home & Garden Centre, would identify the turbines in some context with the existing buildings on site, any other views of the site (see VP2 to VP5 of the Appellants LVIA as examples) clearly show the turbines in an isolated context.

7.8 Paragraphs 87 to 90 of the NPPF highlight inappropriate development within Green Belt with paragraph 91 setting out views on renewable energy proposals, namely that 'When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.' This point is also covered within Paragraph 87 of the NPPF as it highlights that 'As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances,' with paragraph 88 advising that 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

7.9 The Appellants 'Very Special Circumstances' are highlighted within paragraphs 6-9 of the Grounds for Appeal, namely their belief that the wider environmental, economic and social benefits of the proposal substantially outweigh the modest level of harm to the openness and permanence of the Green Belt. These include,

- the anticipated (estimate) annual generation of around 600,00kWh of low carbon electricity, an amount suggested that would provide the annual electricity consumption of 181 average UK dwellings over the 30 year period of the turbines,
- the fact that the excess electricity that doesn't power Carr Hall Home & Garden Centre will flow back to the grid, and then the nearby homes,
- potential carbon dioxide emissions reductions, and
- the increased sustainability of the Garden Centre's operations by virtue of the reduction in use of fossil fuel derived electricity and the diesel generators no longer being required on site to meet the shortfall.

7.10 The Council accepts that there may be some level of economic, social or environmental benefits to this scheme based on the proposal seeking to contribute towards the Governments Renewable Energy Directives and tackling climate change, however this must be balanced against the irrevocable harm such a development will have. The Council agree with the Appellant that the proposed turbines will cause harm to the openness and permanence of this location within the Green Belt, and the Council consider that this harm substantially outweighs any benefits alluded to above by virtue of the following.

7.11 Guidance within the Policies previously highlighted note that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. There are clearly a number of specific benefits for the owner of Carr Hall Home & Garden Centre if this scheme is approved, however the wider social and economic benefits beyond this are not clearly quantifiable. In addition, as highlighted by the fifth reason for refusal, as the Appellant has failed to provide sufficient information and/or survey data to enable a full and thorough assessment of the potential impact of the development on European Protected Species, Species of Principal Importance and their habitats, there are clearly no environmental benefits being put forward. On this basis, the Council do not consider that the Appellant has demonstrated that their special circumstances would outweigh the harm caused.

7.12 The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open, as the essential characteristics of Green Belts are their openness and their permanence. Inappropriate development is, by definition, harmful to the Green Belt. In this case by virtue of the nature of the proposal, the development is considered inappropriate.

7.13 Having visited the site a number of times, and with colleagues, to assess the information provided by the Agent, the scheme is not considered to comply with the relevant National and Local Planning Policies in relation to Green Belt development. Whilst not being of any specific or significant local or historic interest, this ridgeline provides a defining boundary of the Green Belt in-between Blackburn and the Ribble Valley. By definition, the proposed development of the land for the erection of three wind turbines is considered inappropriate development, and the scheme is considered harmful to the openness and permanence of the Green Belt.

7.14 The applicant has demonstrated no special circumstances that would substantially outweigh the harm caused, and on this basis, due to the number of turbines, their excessive scale, height and location, it is considered that approval of this application would result in a highly visible, incongruous, prominent industrialising ridgeline feature in the immediate and wider rural landscape (in views of over 5km away in some cases), and its approval would be to the detriment of the visual amenity of the area.

REASON 2 – MOD Safeguarding

7.15 As advised within an e-mail to the Local Planning Authority dated 3rd of June 2013 (attached under Appendix IX), the MOD will provide any further written submissions directly to the Planning Inspectorate.

7.16 Their assessment was been carried out on the basis that there will be 3 turbines, 46 metres in height from ground level to blade tip and located at the grid references as stated in the planning application. The turbines would be 29.5 km from, in line of sight to, and their view was that they would cause unacceptable interference to the ATC radar at Warton.

7.17 This view was taken on the basis that wind turbines have been shown to have detrimental effects on the performance of MOD ATC and Range Control radars. These effects include the desensitisation of radar in the vicinity of the turbines,

and the creation of "false" aircraft returns which air traffic controllers must treat as real. The desensitisation of radar could result in aircraft not being detected by the radar and therefore not presented to air traffic controllers. Controllers use the radar to separate and sequence both military and civilian aircraft, and in busy uncontrolled airspace radar is the only sure way to do this safely.

- 7.18 Maintaining situational awareness of all aircraft movements within the airspace is crucial to achieving a safe and efficient air traffic service, and the integrity of radar data is central to this process. The creation of "false" aircraft displayed on the radar leads to increased workload for both controllers and aircrews, and may have a significant operational impact.

REASON 3 – IMPACT ON USERS OF ADJACENT PROWS

- 7.19 The proposed wind turbines will be sited close to a number of public rights of way that traverse this moorland. The maps within Appendix I and X indicate the location of these turbines in relation to public footpath numbers 9, 11, 13, 13 and 15, with numbers 11 and 12 being just less than 70m away to the south of the site of the turbines, as well as the wider footpath network.

- 7.20 Whilst not being of any specific or significant local or historic interest, this ridgeline provides a clearly defined open and undeveloped landscape boundary of Green Belt in-between Blackburn and the Ribble Valley. The myriad of public footpaths in this area provide links between Blackburn, Wilpshire, Langho, York Village, Great Harwood, Rishton and as far as Whalley, and is a popular location for local residents.

- 7.21 Having walked a number of these rights of way, due to the excessive scale, height and location of the proposed turbines development so close to a number of Public Rights of Way, the approval of these three turbines would significantly impact on the amenity and enjoyment of any users of these footpaths by virtue of their visual dominance within the landscape, the irreversible visual change to the landscape and the likely impact upon the tranquillity of the location, contrary to the relevant National and Local Planning Policies.

- 7.22 Given the lack of reliance that the Council place upon the submitted LVIA and Photomontages, the likely impact upon this location can only really be experienced during a site visit and the Council recommend that the Inspector walk along a number of Public Rights of Way in this location. One particular viewpoint of note is that when travelling northwest along public footpaths 11 or 12, it is my judgement that the turbines and associated movement would be visible against the backdrop of Pendle Hill (12km to the northwest) within the AONB. Pendle Hill is an iconic landform, and the turbines would interrupt the current unspoilt views from the public rights of way in this area.

- 7.23 With specific regard to the impact upon the tranquillity of this location, I refer to the comments made by the Council's Head of Environmental Health in relation to the submitted noise data. The noise produced by the turbines (sound power level) ranges from 87 to 95dB, which represents a level of 30-36dB at the nearest residential property not owned by the applicant. This value will result in the guideline noise levels within BS 8233, and set by the World Health Organisation being met. However these measurements refer to the impact of occupiers of properties over 250m away, and no reference has been made to the impact on users of the PROWs that lie within 70m.

- 7.24 No background noise levels of the proposed area have been measured and it is therefore uncertain what impact these turbines will have, however it is likely that the tranquillity of the location will be adversely affected based on the assumption of the Council's Head of Environmental that nearby residential properties may hear and be adversely affected by the wind turbines depending on the background noise levels in the area.
- 7.25 Within their grounds of appeal, the Appellant refers to an Inspectors decision in relation to two-50kW wind turbines of 46m in the Keighley area of West Yorkshire, more specifically in relation to the Inspectors view on turbines inhibiting the enjoyment of users of PROWs. Whilst it is accepted that some footpath users may find the introduction of wind turbines within the countryside an interesting addition to the field of view, based on the high level of public objection to this particular proposal, which included a significant number of residents who use the footpaths regularly and The Rambler's Association (North East Lancashire Area), a copy of their letter is included in Appendix XI, this reason for refusal is considered sound and sustainable.

REASON 4 – Landscape and Visual Impact

- 7.26 A key consideration in the assessment process is the quality of the information provided by the applicant in support of his application, particularly the photomontages submitted and that in the landscape and visual impact assessment (LVIA). These documents help to demonstrate that likely impacts have been addressed and, crucially, provide local planning authorities with the information they need to make informed judgements on the acceptability of impacts. As advised by Lancashire County Council's Senior Landscape Architect (AONB Officer), there were considered to be a number of weaknesses in the applicant's LVIA (Landscape and Visual Impact Assessment) and whilst a Zone of Theoretical Visibility (ZTV) map was provided (prepared in accordance with good practice guidance such as that contained in *Visual Representation of Windfarms, Good Practice Guidance, 29 March 2006* (Scottish Natural Heritage)), there were still some aspects of the ZTV map which he was not happy with. The principal being:
- a) The ZTV map only covers a study area of just 5km radius. The SNH guidance referred to above recommends in Table 2 a study area radius of 15km for wind turbines up to 50m high. In his opinion the radius of the study area should be at least 10km as 3 turbines are proposed and it is important that highly sensitive and elevated landscapes within the Forest of Bowland AONB are included, and
 - b) Good practice requires the ZTV to show visibility to blade tip and to the hub (nacelle). The applicant has provided ZTV mapping to hub height only which means that a smaller area of theoretical visibility is shown.
- 7.27 The LVIA incorrectly states that the County Council's landscape sensitivity study confirms that the landscape within which the application site is situated is capable of accommodating small to medium scale wind energy development. The landscape sensitivity study provides strategic guidance only on what scale of wind energy development may be appropriate for Lancashire's landscape character areas. The identification of a certain scale of wind energy development for a landscape character area does not mean that scale would be appropriate for all of the area and that landscape and visual impacts would be acceptable. The strategic landscape sensitivity study was never intended to (and ultimately could not anyway) be a substitute for site-specific evaluation and assessment, which

should always be used to determine the actual capacity of a specific area to accommodate a certain scale of wind energy development.

7.28 The photomontages are considered to be unusable as no information has been provided on how to use them and there is no viewpoint location plan. The absence of this and other key information undermines the validity of the photomontages and raises the question whether they have been produced in accordance with good practice. This led both the LCC Officer and the Council to have reservations concerning the accuracy of the proposed wind turbine's height in some of the photomontages, as it is clear that the scale of the wind turbines may be being under represented. Taking VP2 for example, the following is noted:

- Turbine 3 would be situated at approximately 195m AOD. This means that the blade tip height would be 241m. To the south the land rises over Wilpshire Moor to a height of 233m some 8m below the blade tip of turbine 3. Despite this, turbine 3 appears to be below the summit of Wilpshire Moor in VP2.

7.29 With regards to a Landscape Character Assessment of the area, according to the RVLCA (contained within Appendix III) the application site is situated on land considered to be *Lowland Fringe Farmland* landscape character type. This document notes that the Lowland Fringe Farmland landscapes range from almost flat river valleys to gentle undulating hills and drumlin fields in the Upper Valleys of the River Ribble. Of particular relevance for this application is that the document highlights that in these areas, outside of the main settlement a typical feature of the lowland fringe is the Country House, surrounded by formal parkland and well managed estate land. It notes that the general estate feel, often engendered by a high proportion of woodland, wild managed hedgerows and boundary walls or fences has a strong influence on the landscape of surrounding areas, raising its general aesthetic quality and appeal.

7.30 It also highlights that whilst there is some industrial development in these areas, the development has a strong historical association with these areas and that these are operated on a scale that does not create major visual problems. It notes that these industrial areas have a significant impact upon the local landscape.

7.31 Positive landscape elements highlighted within the RVLCA include an absence of urbanisation and open land, with potential landscape detractors highlighted as intrusive, inappropriate and insensitive siting and design of new development, and intrusive industrial activities (especially large scale development).

7.32 The proposed turbines would be sited approx. 280m south of Carr Hall Garden Centre and the property Carr Hall. Whilst their position immediately to the rear of these two buildings provides some semblance of a visual/functional relationship, the proposed wind turbines would be situated on a highly visible, prominent ridge within the Green Belt/open countryside. When travelling along the A666 and A59, the turbines would be an obvious and uncharacteristic structure within the landscape, and would bear no relation to the scale of surrounding landscape features. The turbines would be ridgelines to the south of the site and be seen against the sky.

7.33 Due to the location of the proposed turbines development so close to a number of Public Rights of Way, this would offer close and uninterrupted views of the development. As noted earlier in this statement, this would significantly

impact on the amenity and enjoyment of any users of these footpaths by virtue of their visual dominance within the landscape, the irreversible visual change to the landscape and the likely impact upon the tranquillity of the location, contrary to the relevant National and Local Planning Policies. One particular viewpoint of note is that when travelling northwest along public footpaths 11 or 12 (see maps in Appendix I and X), it is my judgement that the turbines and associated movement would be visible against the backdrop of Pendle Hill (12km to the northwest) within the AONB. Pendle Hill is an iconic landform, and the turbines would interrupt the current unspoilt views from the public rights of way in this area. The map included within Appendix XII indicates the location of Pendle Hill in relation to the site in question.

7.34 It is in my judgement the turbines would be of a height and scale that would be seriously harmful to the unspoilt attractive countryside in which the site lies. Such a development would clearly be at odds with the landscape character of the area, and its approval would be a significant detractor to this location. On this basis, due to the number of turbines, their excessive scale, scale, height and location, the approval of this application would result in a highly visible, incongruous, prominent industrialising ridgeline feature that would be to the significant detriment of the visual amenity of the immediate and wider rural landscape.

7.35 It is recognised by the Council that the proposed wind turbines would not have a significant impact on the setting and character of the Forest of Bowland AONB due to their small scale (ref. Forest of Bowland AONB Renewable Energy Position Statement attached at Appendix XIII), the mitigating effects of distance (5.0km+ between the AONB and the site) and the view filtering by trees and woodlands. However, it is the view of the Council that the turbines would be visible from elevated areas within the AONB but they would appear as a relatively minor feature in a broad view that was characterised by some significant man influenced features such as pylons, major roads, a railway line and the settlements of Whalley, Wilpshire and Billington. However, this does not alter the fact that the scheme will be significantly visible from a large number of closer local and public viewpoints around this location within the Valley, and if approved the turbines will undoubtedly have a considerable visual impact upon the Green Belt itself, and the immediate and wider landscape character and setting. The Council will provide a location map highlighting these viewpoints for the Inspector on the day of the Hearing, prior to the site visit taking place.

REASON 5 – Impact on Ecology and Protected Species

7.36 The Lancashire County Council Officer who provided comments on the application has provided, for clarification, an additional statement to set out the key facts and to expand on matters regarding birds and semi-natural grassland. This statement is included in Appendix XIV.

7.37 At application stage the County's Ecologist requested a number of additional surveys, and the submitted detail was that received within the document entitled 'Bat and Bird (Owls & Raptors) Survey Report October 2012'. The updated bat activity surveys confirmed that bats regularly use the location of the proposed turbines for foraging/commuting, with bat activity recorded during 6 out of 10 of the survey periods (table 4). The surveys also identified that Common Pipistrelle, Soprano Pipistrelle and Noctule use the area of the proposed turbine locations. The Natural England Technical Information Note 051 (TIN051) states that, taking into account various factors including habitat preference and flight behaviour,

Common Pipistrelle and Soprano Pipistrelle are at medium risk of adverse impacts (killing/injury) from turbines and that Noctule are at high risk. As TIN051 states, when assessing adverse impacts of wind turbines on bats there is a need to distinguish between (a) individual casualties and (b) mortality that affects populations.

7.38 The submitted report (October 2012) appears to assess the risk only in terms of risk to bat populations, concluding that the risk to populations of the species recorded is low and therefore no mitigation measures are necessary. However, the provisions of the Habitats Regulations 2010 also make it an offence to deliberately or recklessly kill or injure a bat. This means that precautions must be taken to avoid the killing or injury of bats, which is most unlikely to be permitted under the terms of the licence (taken from the NE Mitigation Guidelines). As individuals of bat species thought to be of medium and high risk of injury/death from turbines use the area of the proposed turbines, it is reasonably likely that installation of turbines in this location would result in injury/death of individual bats.

7.39 The applicant has not demonstrated that there would be no impacts on individual bats and therefore the applicant has not demonstrated that the proposed development would not result in a breach of The Conservation of Habitats and Species Regulations 2010. The NPPF indicates that in order to avoid significant harm consideration should first be given to locating the development on an alternative site with less harmful impacts (Para 118). The applicant has provided no details that they have considered different locations on site where they would be unlikely to result in impacts on bats and would result in less harmful overall ecological impacts. In addition, they have also provided no mitigation measures in order to ensure impacts on individual bats are avoided/unlikely. In order to demonstrate that the proposed turbines would not result in a breach of The Conservation of Habitats and Species Regulations 2010, the Appellant would need to submit such details prior to determination/approval of such an application in order to ensure that Ribble Valley Borough Council can discharge their duty under the Regulations.

7.40 In addition, mitigation measures for bats have the potential to result in other adverse impacts on the biodiversity value of the site, for example if mitigation included loss of the rough semi-natural grassland on the site to make it less suitable for foraging bats, then this would be likely to result in loss of breeding habitat for breeding Meadow Pipit and for Reed Bunting and Skylark (Species of Principal Importance). Therefore, only once the details of mitigation/compensation measures for bats have been provided can the full ecological impacts of the proposals be established. Any losses resulting from mitigation measures for bats should be adequately compensated for.

7.41 The Ecological Appraisal & Bird Survey Report (June 2012) states that based on the results of the breeding birds surveys, breeding lapwing could potentially be disturbed/displaced by the proposed turbines and that Curlew appear to nest within 500/600m of the site. Curlews are thought to be particularly sensitive to wind energy developments both during construction and operation (Pearce-Higgins *et al*, 2009 & 2012). Curlew and Lapwing are Species of Principal Importance and DEFRA Circular 01/2005 states that UK Biodiversity Action Plan Priority Species (Species of Principal Importance, NERC Act 2006) are capable of being a material consideration in the making of planning decisions. The report concludes that the impacts would not be significant and therefore discounts the need to provide any mitigation/compensation for these impacts.

- 7.42 The NPPF states that if significant harm resulting from development cannot be avoided, mitigated or compensated for, then planning permission should be refused (Para. 118). Although the report concludes that impacts would not be significant at the local, regional or national level, no information is provided to justify this statement. The NPPF requires sustainable development and states that in order to achieve this the planning system should contribute to protecting and enhancing our natural environment, including helping to improve biodiversity (Para 7), and that pursuing sustainable development involves moving from a net loss of biodiversity to a net gain (Para 9). One of the core planning principals of the NPPF is that planning should contribute to conserving and enhancing the natural environment (Para 14 & 109).
- 7.43 It therefore seems appropriate that all adverse impacts on the natural environment resulting from the proposals be avoided, mitigated or compensated for, and the County Ecologist therefore recommended that likely impacts on Lapwing and Curlew resulting for the proposed turbines be adequately mitigated/compensated for. It was highlighted that this could be achieved, for example, through appropriate management of land elsewhere to enhance it for breeding waders, at a distance that is buffered from impacts from turbines. If offsite compensation is not achievable, then a commuted sum may be appropriate.
- 7.44 The County Ecologist considers that the details of this mitigation/compensation could be dealt with by planning condition but that it can only be done once the principal of offsetting impacts is demonstrated prior to determination/approval of the application (for example once it is established that the applicant does have control over additional land which would be suitable for enhancement for breeding waders).
- 7.45 The location of the proposed turbines is within rough semi-improved grassland and the proposals would result in some loss of this habitat (through installation of turbine foundations). As acknowledged in the submitted Ecological Appraisal, whilst not of high intrinsic value this habitat is of value to wildlife, for example surveys showed the grassland is used by breeding skylark, reed bunting and meadow pipit, and by foraging bats.
- 7.46 Planning policy indicates that any adverse impacts on the natural environment should be either avoided or adequately mitigated or compensated for (see above), and it has been recommended by the County Ecologist that the losses are compensated for. The statement attached within Appendix XIII highlights the compensation measure suggested. As with breeding waders, the County Ecologist considers that details of this mitigation/compensation could be dealt with by planning condition once the principal of offsetting impacts is demonstrated prior to determination/approval of the application.
- 7.47 In conclusion, the Ecological Appraisal & Bird Survey Report and the Bat and Bird Survey Report were considered to contain insufficient information and/or survey data to enable a full and thorough assessment of the potential impact of the development on European Protected Species, Species of Principal Importance and their habitats. The Bat and Bird Survey has not demonstrated that the proposed development would not result in a breach of The Conservation of Habitats and Species Regulations 2010, and based on the results of the breeding birds surveys, breeding lapwing could potentially be disturbed/displaced by the proposed turbines and Curlew appear to nest within 500m of the site.

7.48 Approval of the application would therefore have been contrary to Local Plan Policy, guidance within the NPPF, and guidance contained within The Conservation of Habitats and Species Regulations 2010, the Wildlife and Countryside Act 1981, the NERC Act 2006 and Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System.

8. CONCLUDING SUMMARY

8.1 For the reasons given within this statement, and those given previously, the Borough Council contend that the grounds for refusing this proposed development are justified.

8.2 The proposal by virtue of the turbines, ancillary structures and the extensive track construction necessary to access a site, would constitute significant encroachment into the countryside, and would conflict with the land use objectives of the Green Belt in safeguarding access to the countryside and recreational opportunities close to urban areas. It would also compromise an attractive area of landscape that contributes to the setting of adjoining settlements and the character of the Wilpshire Moor, and would lead to a consequent loss of visual amenity in the Green Belt.

8.3 The approval of the development proposed would also significantly impact on the amenity and enjoyment of any users of these footpaths by virtue of their visual dominance within the landscape, the irreversible visual change to the landscape and the likely impact upon the tranquillity of the location.

8.4 The Council is firmly of the view that the turbines would be of a height and scale that would be seriously harmful to the unspoilt attractive countryside in which the site lies. Such a development would clearly be at odds with the landscape character of the area, and its approval would be a significant detractor to this location.

8.5 The submitted ecological surveys were considered to contain insufficient information and/or survey data to enable a full and thorough assessment of the potential impact of the development on European Protected Species, Species of Principal Importance and their habitats, and that approval of the application would therefore have been contrary to Local Plan Policy, guidance within the NPPF, and guidance contained within The Conservation of Habitats and Species Regulations 2010, the Wildlife and Countryside Act 1981, the NERC Act 2006 and Circular 06/05: Biodiversity and Geological Conservation.

8.6 The Council accepts that there may be some level of economic, social or environmental benefits to this scheme based on the proposal seeking to contribute towards the Governments Renewable Energy Directives and tackling climate change, however this must be balanced against the irrevocable harm such a development will have. In considering this, the Council's view is that the harm caused to the openness and permanence of this location within the Green Belt, the significant impact on the amenity and enjoyment of any users of the adjacent public rights of way, the irreversible visual change to the landscape, the likely impact upon the tranquillity of the location and the likely ecological impacts of the turbines would substantially outweigh any benefits alluded to above.

8.7 Ultimately, the scheme is not considered to comply with the relevant National and Local Planning Policy Guidance, nor other relevant Acts, guidance or circulars, due to the fact that approval of the proposed turbines would have a detrimental impact on MOD ATC and Range Control radars, they would represent a highly visible, incongruous, prominent industrialising ridgeline feature in the rural landscape to the detriment of the visual amenity of the open countryside, they would impact on the enjoyment of walkers and that by definition would be inappropriate development within the Green Belt. On this basis, it is respectfully requested that the Inspectorate will support the reasons for refusal and dismiss this Appeal accordingly.

9. CONDITIONS THAT THE LOCAL PLANNING AUTHORITY WOULD WISH TO SEE IMPOSED SHOULD THE INSPECTOR BE MINDED TO ALLOW THE APPEAL

9.1 In the event that the Inspector is minded to allow this Appeal, the Council requested that the conditions outlined within Appendix XV be imposed.