

Minute

Planning Committee

Wednesday, 2 September 2020, 09:30.

Microsoft Teams.



Present

Councillors Robin W Crichton, John A R Scott, Alexander G Cowie, Norman R Craigie, David Dawson, Barbara Foulkes, Stephen Sankey, Owen Tierney and Duncan A Tullock.

Clerk

- Angela Kingston, Committees Officer.

In Attendance

- Gavin Barr, Executive Director of Development and Infrastructure.
- Roddy Mackay, Head of Planning, Development and Regulatory Services.
- Jamie Macvie, Planning Manager (Development Management).
- Susan Shearer, Planning Manager (Development and Marine Planning).
- Georgette Herd, Solicitor.
- Donald Wilson, Roads Authority Officer.

Observing

- David Hartley, Communications Team Leader.

Not Present

- Councillor Magnus O Thomson.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Councillor Robin W Crichton.

1. Suspension of Standing Orders

The Committee **suspended Standing Order 8.11** to enable members to participate in the meeting from a remote location, as a party had the right to be heard in person or through a representative and the decision to be made was as a result of a quasi-judicial or regulatory hearings process, such as a planning application or an appeal.

2. Form of Voting

The Committee resolved that, should a vote be required in respect of the planning applications to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll or recorded vote.

3. Planning Application 20/048/PP

Proposed Demolition of Former Bus Station and Change of Use of Land to Parking at Great Western Road, Kirkwall

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

3.1. That letters of objection relating to the application for planning permission in respect of the proposal for the demolition of the former bus station and the change of use of land to parking at Great Western Road, Kirkwall, had been received from the following:

- Agnieszka and Maja Borys, 6 Sommerville Square, Kirkwall.
- Brian Watt, 5 Sommerville Square, Kirkwall.
- Rachel Harris and Jean Malone, 7 Sommerville Square, Kirkwall.
- Angela Way, 8 Sommerville Square, Kirkwall.
- Vince Halleran, 4 Sommerville Square, Kirkwall.

On the motion of Councillor Robin W Crichton, seconded by Councillor Norman R Craigie, the Committee resolved, in terms of delegated powers:

3.2. That planning permission be granted in respect of the proposal for the demolition of the former bus station and the change of use of land to parking at Great Western Road, Kirkwall, subject to the conditions attached as Appendix 1 to this Minute.

4. Planning Application 20/155/PP

Proposed Erection of Two Houses at Eastbrae, Stromness

Stephen Omand, agent for the applicant, Wardhill Homes Limited, was present during consideration of this item.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

4.1. That a letter of objection relating to the application for planning permission in respect of the proposal for the erection of two houses at Eastbrae, Stromness, had been received from A Fiddler, on behalf of C Fotheringham, Enfield, Stromness.

After hearing representations from Stephen Omand, agent for the applicant, Wardhill Homes Limited, on the motion of Councillor Robin W Crichton, seconded by Councillor Norman R Craigie, the Committee:

Resolved, in terms of delegated powers:

4.2. That planning permission be granted in respect of the proposal for the erection of two houses at Eastbrae, Stromness, subject to the conditions attached as Appendix 2 to this Minute.

5. Planning Application 20/199/VR

Proposed Variation of Condition of 15/454/TPP at Springfields, Berstane Lodge Road, St Ola

Stephen Kemp, applicant, and William Wilson, representing the objectors, were present during consideration of this item.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), the Committee:

Noted:

5.1. That letters of objection relating to the application for planning permission in respect of the proposal for the variation of Condition 02, relating to noise, attached to 15/454/TPP, for the erection of a wind turbine at Springfields, Berstane Lodge Road, St Ola, had been received from the following:

- Robert Horrobin, Zanmoir, Berstane Road, Kirkwall.
- Sandra Johnston, 9 Ingavoe Drive, Kirkwall.
- Gordon Kynoch, 11 Ingavoe Drive, Kirkwall
- David and Gill Newstead, Roundhouse, Berstane Road, Kirkwall.
- Laurence Tait, Morvean, Berstane Road, St Ola.
- Peter Work, Viggie, 10 Ingavoe Drive, Kirkwall.
- William Wilson, Falkland, Berstane Road, Kirkwall.

After hearing representations from William Wilson, representing the objectors, and from Stephen Kemp, applicant, Councillor Robin W Crichton, seconded by Councillor John A R Scott, moved that planning permission be granted in respect of the proposal for the variation of Condition 02, relating to noise, attached to 15/454/TPP, for the erection of a wind turbine at Springfields, Berstane Lodge Road, St Ola, subject to conditions as proposed by officers.

Councillor David Dawson, seconded by Councillor Owen Tierney, moved an amendment that the application for planning permission in respect of the proposal for the variation of Condition 02, relating to noise, attached to 15/454/TPP, for the erection of a wind turbine at Springfields, Berstane Lodge Road, St Ola, be refused as, in their opinion, the proposed development would have an adverse effect on the amenity of neighbouring properties and the variation of Condition 02 would result in a condition which would be difficult to monitor and enforce causing an unacceptable level of risk to public health and safety.

Accordingly, the proposed development was contrary to Policy 1 – Criteria for All Development, part (vi) of the Orkney Local Development Plan 2017.

The result of a recorded vote was as follows:

For the Amendment:

Councillors Alexander G Cowie, David Dawson, Owen Tierney and Duncan A Tullock (4).

For the Motion:

Councillors Norman R Craigie, Robin W Crichton, Barbara Foulkes, Stephen Sankey and John A R Scott (5).

The motion was therefore carried and the Committee thereafter resolved, in terms of delegated powers:

5.2. That planning permission be granted in respect of the proposal for the variation of Condition 02, relating to noise, attached to 15/454/TPP, for the erection of a wind turbine at Springfields, Berstane Lodge Road, St Ola, subject to the conditions attached as Appendix 3 to this Minute.

6. Planning Application 20/018/PIP

Proposed Siting of House for Retiring Farmers at Lower Durrisdale, Jubidee Road, Evie

Raymond Flaws, applicant, and Colin Begley, agent for the applicant, were present during consideration of this item.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), and after hearing representations from Colin Begley, agent for the applicant, Raymond Flaws, Councillor Robin W Crichton, seconded by Councillor John A R Scott, moved that the application for planning permission in principle in respect of the proposal for the siting of a house for retiring farmers at Lower Durrisdale, Jubidee Road, Evie, be refused, for the reasons as proposed by officers.

Councillor Barbara Foulkes, seconded by Councillor David Dawson, moved an amendment that the application for planning permission in principle in respect of the proposal for the siting of a house for retiring farmers at Lower Durrisdale, Jubidee Road, Evie, be approved, subject to conditions, as, in their opinion:

(1) Although the proposed development did not strictly meet all the necessary criteria required to provide a single house to allow for retirement and succession of a farm, in that there was no opportunity to sell or transfer the farm business to a family member, consideration should be given to the exceptional circumstances of the case insofar as the policy did not provide for the particular circumstances and there was a desire to provide a house site for a retiring farmer.

(2) Noting the requirement for the proposed house to be located adjacent to the existing farm steading, it was considered that sufficient justification had been provided for an alternative site on the basis that, as the farm was not being transferred or sold to a family member, there was no longer a connection with the farm business and other opportunities for an alternative housing site location on the farm had been fully investigated and discounted on operational farming grounds.

(3) As the application was for planning in principle, it was considered that a house could be designed of a scale, form and design appropriate to the location and sympathetic to the character of the local area.

And, accordingly, the proposed development complied with the following policies:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development, parts (i) and (ii).
 - Policy 5E – Housing – Single Houses and New Housing Clusters in the Countryside.
 - Policy 9 – Natural Heritage and Landscape.
 - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
 - Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance: Housing in the Countryside.

The result of a recorded vote was as follows:

For the Amendment:

Councillors Alexander G Cowie, Norman R Craigie, David Dawson, Barbara Foulkes, Owen Tierney and Duncan A Tullock (6).

For the Motion:

Councillors Robin W Crichton, Stephen Sankey and John A R Scott (3).

The amendment was therefore carried and the Committee thereafter resolved, in terms of delegated powers:

6.1. That planning permission in principle be granted in respect of the proposal for the siting of a house for retiring farmers at Lower Durrisdale, Jubidee Road, Evie.

6.2. That powers be delegated to the Executive Director of Development and Infrastructure, in consultation with the Chair and Vice Chair of the Planning Committee, to finalise the conditions to be attached to the planning permission in principle, referred to at paragraph 6.1 above, and thereafter issue the permission.

6.3. That the Committee's reasons for granting planning permission in principle against the recommendation of the Executive Director of Development and Infrastructure were that, in the Committee's opinion:

- Although the proposed development did not strictly meet all the necessary criteria required to provide a single house to allow for retirement and succession of a farm, in that there was no opportunity to sell or transfer the farm business to a family member, consideration should be given to the exceptional circumstances of the case insofar as the policy did not provide for the particular circumstances and there was a desire to provide a house site for a retiring farmer.
- Noting the requirement for the proposed house to be located adjacent to the existing farm steading, it was considered that sufficient justification had been provided for an alternative site on the basis that, as the farm was not being transferred or sold to a family member, there was no longer a connection with the farm business and other opportunities for an alternative housing site location on the farm had been fully investigated and discounted on operational farming grounds.
- As the application was for planning in principle, it was considered that a house could be designed of a scale, form and design appropriate to the location and sympathetic to the character of the local area.

And, accordingly, the proposed development complied with the following policies:

- Orkney Local Development Plan 2017:
 - Policy 1 – Criteria for All Development, parts (i) and (ii).
 - Policy 5E – Housing – Single Houses and New Housing Clusters in the Countryside.
 - Policy 9 – Natural Heritage and Landscape.
 - Policy 13 – Flood Risk, SuDS and Waste Water Drainage.
 - Policy 14 – Transport, Travel and Road Network Infrastructure.
- Supplementary Guidance: Housing in the Countryside.

7. Planning Application 20/222/PP

Proposed Erection of Three Houses at Cairston Road, Stromness

Stephen Kemp, representing the applicant, Orkney Builders Limited, and Sam Sweeney, agent for the applicant, were present during consideration of this item.

After consideration of a report by the Executive Director of Development and Infrastructure, copies of which had been circulated, and after hearing a report from the Planning Manager (Development Management), and after hearing representations from Stephen Kemp, representing the applicant, Orkney Builders Limited, Councillor Robin W Crichton moved that the application for planning permission in respect of the proposal for the erection of three houses at Cairston Road, Stromness, be refused, for the reasons as proposed by officers.

On receiving no seconder, his motion fell.

Councillor Barbara Foulkes, seconded by Councillor John A R Scott, moved that the application for planning permission in respect of the proposal for the erection of three houses at Cairston Road, Stromness, be approved, subject to conditions, including a condition to undertake an otter survey to determine the level of otter usage along the Mill Burn and any mitigation measure required to protect the species, as, in their opinion:

(1) A buffer strip could be provided around the Mill Burn, which would be free from development.

(2) By provision of an appropriate buffer, soil and water quality would be protected and the habitat and species around the water course would be safeguarded.

And, accordingly, the proposed development complied with the following policies of the Orkney Local Development Plan 2017:

- Policy 1 – Criteria for All Development.
- Policy 2 – Design.
- Policy 5A – Housing and Settlements.
- Policy 10B – Open Space and Settlements.

Councillor David Dawson, seconded by Councillor Alexander G Cowie, moved an amendment that the application for planning permission in respect of the proposal for the erection of three houses at Cairston Road, Stromness, be deferred to enable members of the Committee to undertake an accompanied site visit.

The result of a recorded vote was as follows:

For the Amendment:

Councillors Alexander G Cowie and David Dawson (2).

For the Motion:

Councillors Norman R Craigie, Robin W Crichton, Barbara Foulkes, Stephen Sankey, John A R Scott, Owen Tierney and Duncan A Tullock (7).

The motion was therefore carried and the Committee thereafter resolved, in terms of delegated powers:

7.1. That planning permission be granted in respect of the proposal for the erection of three houses at Cairston Road, Stromness.

7.2. That powers be delegated to the Executive Director of Development and Infrastructure, in consultation with the Chair and Vice Chair of the Planning Committee, to finalise the conditions to be attached to the planning permission, referred to at paragraph 7.1 above, and thereafter issue the permission.

7.3. That the Committee's reasons for granting planning permission against the recommendation of the Executive Director of Development and Infrastructure were that, in the Committee's opinion:

- A buffer strip could be provided around the Mill Burn, which would be free from development.
- By provision of an appropriate buffer, soil and water quality would be protected and the habitat and species around the water course would be safeguarded.

And, accordingly, the proposed development complied with the following policies of the Orkney Local Development Plan 2017:

- Policy 1 – Criteria for All Development.
- Policy 2 – Design.
- Policy 5A – Housing and Settlements.
- Policy 10B – Open Space and Settlements.

8. Conclusion of Meeting

At 13:10 the Chair declared the meeting concluded.

Signed: Rob Crichton.

Appendix 1.

Proposed Demolition of Former Bus Station and Change of Use of Land to Parking at Great Western Road, Kirkwall (20/048/PP)

Grant subject to the following conditions:

01. Prior to the bus parking being brought into use, the site shall be constructed and completed wholly in accordance with all details included in the 1:100 site plan (reference 1000755 PP 02) hereby approved, including but not limited to all kerbs, bollards, bench, white lining and all 'BUSES ONLY' lining at the proposed and adjacent existing bus bays.

Reason: To ensure the development is completed wholly in accordance with approved details prior to first use.

02. All existing steel framed windows in the south elevation of the building shall be carefully removed as complete units during the demolition. Thereafter, all glazing units shall be retained and stored for potential re-use. The units shall not be removed from the application site until full details of the location and method of storage are submitted to, and agreed in writing by, the Planning Authority, and thereafter the windows shall be stored wholly in accordance with agreed details, unless otherwise agreed, in writing, by the Planning Authority.

Reason: To ensure the protection of an unusual architectural feature of local historic importance.

03. Hours of work during the construction of the development hereby approved, involving the use of machinery and powered tools, or any other operation, for example hammering, that would generate noise audible beyond the boundary of the site, shall be restricted to 07:30 to 18:00 on Mondays to Fridays, 08:00 to 13:00 on Saturdays and not at all on Sundays, Christmas or New Year Public Holidays, unless otherwise agreed, in writing, with the Planning Authority.

Throughout the construction phase of the development there shall be no burning of waste material on site.

Reason: In the interest of residential amenity of the area and in order to reduce any possible nuisance arising to nearby residents during the construction of this development.

Appendix 2.**Proposed Erection of Two Houses at Eastbrae, Stromness
(20/155/PP)****Grant subject to the following conditions:**

01. The dwellings hereby approved shall be finished externally using the following materials and colours:

- Roof – non-profiled tiles in colour black.
- Walls – light cream.
- Rainwater goods – black.
- Doors and windows – dark grey.
- Site boundary – post and wire fencing.

Reason: To protect the landscape setting of the development.

02. Total noise from the Air Source Heat Pump(s) installed shall not exceed NR25 within any residential property outwith the development, where NR25 is the Noise Rating Curve at 25, (noise measurements to be made with a window of any residential property outwith the development open no more than 50mm).

Reason: To protect any nearby residents from excessive noise disturbance from the air source heat pumps.

03. Hours of work during the construction of the development hereby approved, involving the use of machinery and powered tools, or any other operation, for example hammering, that would generate noise audible beyond the boundary of the site, shall be restricted to 07:30 to 18:00 on Mondays to Fridays, 08:00 to 13:00 on Saturdays and not at all on Sundays, Christmas or New Year Public Holidays, unless otherwise agreed, in writing, with the Planning Authority.

Reason: To safeguard the amenity of nearby residents.

04. No development shall commence until a Landscaping and Planting Plan is submitted to, and agreed in writing by, the Planning Authority. This Plan shall include the number, size, density and species of all trees or shrubs, and details of all hard and soft landscaping within the development. Thereafter, and no later than the first winter planting season following first occupation of either house, the development shall be completed wholly in accordance with details included in the approved Landscaping and Planting Plan.

Reason: In the interest of visual amenity and to accord with the aims of the Eastbrae, Stromness Development Brief.

05. The access hereby approved with the public road shall be constructed to the Council's Roads Services standard drawing 'SD-01 Typical Access for Single Development (2-4 houses)', attached to and forming part of this decision notice, including dimensions, road construction, any pipe required and verge or footway. The access shall be constructed and completed wholly in accordance with these details prior to any other works commencing on the development hereby approved, and thereafter shall be retained in accordance with these details throughout the lifetime of the development, unless otherwise agreed, in writing, by the Planning Authority. Any damage caused to the existing road infrastructure during construction of the development shall be repaired prior to first occupation of the development, to the satisfaction of the Planning Authority, in conjunction with Roads Services.

Reason: In the interests of road safety.

06. No development shall commence until full details of the management of surface water within the site are submitted to, and agreed in writing by, the Planning Authority, in conjunction with Roads Services. These details shall include prevention of surface water from the site draining to the public road. Agreed surface water management measures shall be constructed and completed prior to first occupation of the development hereby approved, and thereafter shall be retained in accordance with these details throughout the lifetime of the development, unless otherwise agreed, in writing, by the Planning Authority.

Reason: To ensure the provision of an adequate surface water drainage system and to accord with Policy 13B – Sustainable Drainage Systems of Orkney Local Development Plan 2017.

Appendix 3.**Proposed Variation of Condition of 15/454/TPP at Springfields,
Berstane Lodge Road, St Ola (20/199/VR)****Grant subject to the following conditions:****Colour.**

01. The colour of the wind turbine hereby approved shall be matt grey/metallic for the tower and matt grey (RAL 7000) for the nacelle and blades.

No logos or branding shall be used on the wind turbine.

Reason: To minimise the visual impact of the development and to protect the visual amenity of the area.

Noise.

02. The rating level of noise immissions from the effect of the wind turbine (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

(a) Within 21 days from receipt of a written request from the Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind turbine operator shall, at its expense, employ a consultant approved by the Planning Authority to assess the level of noise immissions from the wind turbine at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

(b) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Planning Authority under paragraph (a), and such others as the independent consultant considers likely to result in a breach of the noise limits.

(c) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind turbine operator shall submit to the Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.

(d) The wind turbine operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority for compliance measurements to be made under paragraph (a), unless the time limit is extended in writing by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

(e) Where a further assessment of the rating level of noise immissions from the wind turbine is required pursuant to Guidance Note 4(c), the wind turbine operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the Planning Authority.

(f) Once the Planning Authority has received the independent consultant's noise assessment required by this condition, including all noise measurements and any audio recordings, where the Planning Authority is satisfied of an established breach of the noise limits set out in the attached tables 1 & 2, upon notification by the Planning Authority in writing to the wind turbine operator of the said breach, the wind turbine operator shall within 21 days propose a scheme for the approval of the Planning Authority. The scheme shall be designed to mitigate the breach and to prevent its future recurrence. This scheme shall specify the timescales for implementation. The scheme shall be implemented as reasonably approved by the Planning Authority and according to the timescales within it. The scheme as implemented shall be retained thereafter unless otherwise agreed with the Planning Authority.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Locations.	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10 minute periods.									
	3	4	5	6	7	8	9	10	11	12
9 Ingavoe Drive Viggie, 10 Ingavoe Drive Zanmoir, Berstane Lodge Road Falkland, Berstane Lodge Road Roundhouse, Berstane Lodge Road	35.0	35.0	36.5	38.3	40.1	42.0	43.8	45.6	47.4	49.3

Locations	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10 minute periods.									
	3	4	5	6	7	8	9	10	11	12
9 Ingavoe Drive Viggie, 10 Ingavoe Drive 11 Ingavoe Drive Zanmoir, Berstane Lodge Road Falkland, Berstane Lodge Road Roundhouse, Berstane Lodge Road	35.0	35.0	36.5	38.3	40.1	42.0	43.8	45.6	47.4	49.3

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10-minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Locations.	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10 minute periods.									
	3	4	5	6	7	8	9	10	11	12
9 Ingavoe Drive Viggie, 10 Ingavoe Drive Zanmoir, Berstane Lodge Road Falkland, Berstane Lodge Road Roundhouse, Berstane Lodge Road	38.0	38.0	38.0	38.0	38.0	40.3	42.8	45.2	47.6	50.1

Location	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10 minute periods.									
	3	4	5	6	7	8	9	10	11	12
9 Ingavoe Drive Viggie, 10 Ingavoe Drive 11 Ingavoe Drive Zanmoir, Berstane Lodge Road Falkland, Berstane Lodge Road Roundhouse, Berstane Lodge Road	38.0	38.0	38.0	38.0	38.0	40.3	42.8	45.2	47.6	50.1

Guidance Notes for Noise Conditions:

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind turbine. The rating level at each integer wind speed is the arithmetic sum of the wind turbine noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSUR-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind s" (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1:

(a) Values of the LA90,10-minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind turbine operator shall submit for the written

approval of the Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The LA90,10-minute measurements should be synchronised with measurements of the 10- minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind.

(d) To enable compliance with the conditions to be evaluated, the wind turbine operator shall continuously log arithmetic mean wind speed and wind direction at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods, unless otherwise agreed in writing with the Planning Authority. The mean wind speed data for the operating turbines shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

(e) Data provided to the Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

Guidance Note 2:

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2.

(b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurements periods set out in Guidance Note 1. In specifying such conditions the Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10-minute noise measurements and corresponding values of the 10- minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind turbine noise level at each integer speed.

Guidance Note 3:

(a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

(b) For each 10-minute interval for which LA90,10-minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(c) For each of the 2-minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2- minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(e) A least squares “best fit” linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure 17 on page 104 of ETSU-R-97 (The Assessment and Rating of noise from Wind s)

Guidance Note 4:

(a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Planning Authority in its written protocol under paragraph (d) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

(c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The wind turbine operator shall ensure that the wind turbine in the development is turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

(e) Repeating the steps in Guidance Note 2, with the wind turbine switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

(f) The wind turbine noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbine running but without the addition of any tonal penalty:

$$L_1 = 10\log[10^{L_2/10} - 10^{L_3/10}]$$

(g) The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note (3) to the derived wind turbine noise L1 at that integer wind speed.

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

Reason: To control noise from the development to protect residential amenity.

Radio/Television Reception.

06. Should any complaints be received in respect of disruption to Radio/TV reception, the developer shall fully investigate these complaints and provide a satisfactory solution within a timescale specified in writing by the Planning Authority, details of which shall be submitted to, and approved in writing by, the Planning Authority. The approved details shall thereafter be implemented in accordance with the terms specified by the Planning Authority and retained throughout the life of the development unless otherwise agreed, in writing, by the Planning Authority.

Reason: To protect the residents of nearby residential properties from unacceptable levels of disruption to Radio/TV reception.

Removal.

07. If the wind turbine hereby approved is not operational and producing energy for a period of one year, then the wind turbine, foundation and any other associated equipment shall be removed and the site restored to its previous condition and use, to the satisfaction of the Planning Authority.

Reason: To protect the visual amenity of the area.