Campaign to Protect
Rural England

Making Sense of Planning Decisions for Wind Turbines

A CPRE briefing

August 2010

1. CPRE updated its policy positions on energy and onshore wind turbines last year. They are based on the recognition that climate change caused by greenhouse gas emissions is a major threat to the character and quality of England's countryside, as well as to the global environment. CPRE recognises the need to exploit a range of renewable energy sources, including wind power, to meet greenhouse gas reduction targets. While wind power can contribute to tackling climate change, CPRE believes this should not come at the expense of the beauty, character and tranquillity of rural England. Planning decisions on wind turbine applications need to take into full account the impact of the development on its surroundings and should serve the wider public interest.

2. This briefing is designed to help CPRE campaigners make sense of recent planning decisions for wind turbines so that they can effectively resist proposals that would cause unacceptable damage to the countryside, and support those that do not. This will help focus our representations on relevant issues. Engaging in this way will enhance CPRE's image as a professional organisation with an approach which is consistent across the organisation.

3. This case file of selected planning decisions comes with a heavy disclaimer. Planning applications are dealt with on a case-by-case basis and are determined on their own individual planning merits. Inspector's comments included in this report should therefore not necessarily be treated as precedents to be applied for every application. We also need to give due consideration to cases where national planning policy is being used to support planning applications for wind turbines that are in line with our position. We intend to keep this case file under review and would welcome information about cases not currently included, or additional information about cases which are included, which are considered to be of wider interest. It is also important to state that this case file provides advice for making representations on policy grounds. It is assumed that the relevant Local Planning Authority will have followed a due process in dealing with the application in question. If there are legislative requirements that have not been followed then these should also be raised in your representations.

4. Please note that the case file only covers matters that are considered nationally relevant. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications should be determined in accordance with the relevant development plan unless material considerations indicate otherwise. You should also consider, therefore, relevant and up-to-date policies in regional and local plans before making representations.

5. Finally, if you are objecting to an application and are unsuccessful in your representation, you should still seek appropriate conditions for that permission in order to minimise and mitigate any negative impacts from the development. You might find it useful in the first instance to refer to a Government guidance note of planning conditions that are suitable for Onshore Wind Turbines, prepared in October 2007.

Annex I: A Summary of CPRE's Recommendations

Issue	Summary of Recommendation
Consistency with the Principles of Sustainable Development	Valid representation. However, representations are now largely limited to designated sites of national or international importance following the shift in emphasis in the Government's renewable energy policy.
Consistency with the Government's Renewable Energy Policy	Valid representation. It is important to assess whether the application achieves the planning balance between the promotion of renewable energy and the upholding of environmental safeguards. It is unclear how emerging National Policy Statements for energy will affect decisions in future.
Landscape & Countryside Protection (Nationally Designated Sites)	Valid representation especially for major developments within or close to nationally designated sites. Representations on minor developments will need to be supported by key regional and other local criteria based policies.
Landscape & Countryside Protection (beyond Nationally Designated Sites)	Valid representation but it would be more effective if comments were supported by key regional and other local criteria based policies.
Green Belt	Valid representation although the emerging National Policy Statements on energy might affect interpretations of what might be considered appropriate development.
Biodiversity	Valid representation but increasingly issues are being addressed before the formal planning application is determined.
Heritage	Valid representation. However, representations should be guided either by the broad approach recommended by English Heritage or their specific response to the planning application.
Tranquillity	Valid representation and supported by new guidance issued by Natural England. However, interpretations of CPRE's tranquillity mapping are inconsistent and further work needs to be done to communicate our tranquillity research more effectively and our intrusion maps may carry more weight than our tranquillity maps.
Recreation/Tourism	Valid representation on recreation grounds. However, the impact on tourism is difficult to give credible evidence upon and is not considered a valid representation at this stage.
Decent Home to Live/Living Conditions	The impact on the living conditions in the area may be used as a valid representation. This is distinct from the impact on the view from individual properties which is not considered a valid planning consideration.
Noise	Unclear. Although established practice indicates that noise pollution can be addressed through planning conditions as long as the application complies with the ETSU-R-97 assessment and rating of noise from wind turbines, some recent decisions have highlighted uncertainties relating to ETSU-R-97.

Annex II: Analysis of Planning Decisions for Wind Turbines by Issue

I) Consistency with the Principles of Sustainable Development	
Relevant Government Policy	Planning Policy Statement 1 (PPS1): Delivering Sustainable Development and the Supplement to PPS1 on Planning and Climate Change
Case Examples	Glyndebourne and Whinash (see Annex III for details)
Analysis of the Planning Inspectors' decisions	The Glyndebourne Inquiry set out consistency with PPS1 as one of six terms of reference. The Inspector stated that the development must be consistent with "Government policies in Planning Policy Statement 1 (PPS1): Delivering Sustainable Development, and accompanying guidance The Planning System: General Principles with particular regard to: the achievement of sustainable development and sustainable communities through an integrated approach to social cohesion, protection and enhancement of the environment, prudent use of natural resources and economic development." (page 1) Therefore, this remains a valid basis for making representations on planning applications. However, in this case the Inspector concluded that "Government policy indicates that as a generality, greater weight is to be given to the need for and benefits of renewable energy as against the protection of the landscape, no matter what its designation. Indeed, sustainable development is the core principle underpinning planning." (page 15) The Supplement to PPS1 on Planning and Climate Change (published December 2007), which adds weight to the national policy statement on renewable energy (PPS22) (published August 2004), has shifted the sustainable development agenda significantly and it is now a lot harder to make the representation that planning applications for onshore wind turbines are inconsistent with the principles of Sustainable Development, as set out in PPS1, on the basis of other economic, environmental or social impacts. For example, the Supplement to PPS1 states that "the Government believes that climate change is the greatest long-term challenge facing the world today. Addressing climate change is therefore the Government's principal concern for sustainable development." (p.8)

	As a result, there are a number of environmental impacts that are being crowded out because of the Government's focus on climate change. Landscape and biodiversity are the two most obvious in this instance. In the case of Glyndebourne, it was only because the site was protected by a national designation that the Inspector took a balanced view although he sided in favour of the scheme in his conclusion. He summarised: "as far as the contents of PPS1 are concerned, renewable energy projects by their purpose and nature are considered to be manifestations of sustainable development as applied to the generation of electricity. Even schemes which do not generate substantial outputs can fall under the heading of the prudent use of natural resources, and they can make their own contribution to local economic development. In this case however these benefits also fall to be weighed against the Government's commitment to protecting the character and amenity of the countryside. On balance I have concluded the scheme is consistent with the Government's policies in PPS1 and its accompanying guidance, including the supplement on Planning and Climate Change." (p.47) It is also worth noting what was said at the Whinash Inquiry in 2006 where the Inspector stated that "FELLS, in particular, appeared at the Inquiry to present what it stressed to be *'a critique of'*, as opposed to *'a challenge to'*, Government energy policy. Such matters were referred to by others in evidence, written statements and in the many letters of representation. While I heard a number of well-researched and technically competent presentations, such evidence is but a small part of a much larger on-going national debate about climate change and future energy supplies which is likely to draw on wider consultation and expertise. In this context, although it was amply demonstrated that there are those who do not support current Government policy, I consider that a Public Inquiry into a specific wind farm is not the appropriate forum to air these differences. As such very little weight should be given to what was, effectively, an outright challenge to current Government policy." (page 83) It is worth bearing in mind that this conclusion predated the changes in Government policy since 2007 and that this view will have now hardened.
CPRE's recommended response	Firstly; any issues surrounding the compatibility of the Government's energy policy with the principles of sustainable development will need to be raised and debated through other channels. Secondly; in the case of Glyndebourne, the Inspector clearly recognised the shift in emphasis in national policy in favour of wind turbine development. **It is suggested that only in nationally or internationally designated areas can representations be effectively made on the basis of non-conformity with the principles of sustainable development as set out within PPS1 and as now supported by the Supplement to PPS1.**

II) Consistency with the Government's Renewable Energy Policy	
Relevant Government Policy	Planning Policy Statement 22 (PPS22): Renewable Energy and Planning for Renewable Energy: A Companion Guide to PPS22 Draft National Policy Statement for Energy (EN-1)
Case Examples	Boxworth, Bradwell on Sea, Carsington, Fullabrook Down, Goveton, Grove (Retford), Inner Farm (Edithmead), Kiln Pitt Hill, North Dover (Langdon), Thackson's Well (Long Bennington), Wadlow Farm and Whinash (see Annex III for details)
Analysis of the Planning Inspectors' decisions	The key principles contained within national planning policy for renewable energy clearly point towards a different style of planning at the regional and local level. Policies should promote and encourage rather than restrict the development of renewable energy resources. Planning policies that rule out or place constraints on the development of all, or specific types of, renewable energy technologies should not be included in regional spatial strategies or local development documents without sufficient reasoned justification. Also, the wider environmental and economic benefits of all proposals for renewable energy projects, whatever their scale, are material considerations that should be given significant weight. Criteria based policies should be designed to show what types and size of development would be acceptable in each area (and in line with regional targets), taking into account environmental standards, rather than setting criteria that precludes development. The Inspector undertaking the Whinash Inquiry (which concluded in March 2006) was heavily led by PPS22 where national policy stresses the need for a balanced judgment between the need to promote renewable energy schemes (through regional targets and local criteria based policies (paragraphs 2 to 8 of PPS22)) and the need to provide environmental safeguards (through locational considerations (paragraphs 9 to 17 of PPS22)). In this case the Inspector fell on the side of the latter in refusing the appeal as he determined that the site contributed to the wider landscape of the Lake District National Park which is of national significance. PPS22 has remained unchanged since this inquiry. Locational considerations are considered in issues three and four. However, there are three other matters to consider on the planning balance: the length of the planning permission, the relationship between national targets and local policies, and the role of alternative sites in the decision-making process. a) On the length of the planning permission and the planning balance Critically, it is worth noting that the temporary nature of the planning permission is not a factor to be considered as part of the planning

	balance in support of development. For example, the Inspector determining a site at Boxworth pointed to paragraph 109 of the Department for the Environment Circular 11/95 on the Use of Conditions in Planning Permissions. This states that a temporary permission cannot be granted because of the effect of the development on the amenities of the area. If it is not possible to overcome the effect on amenity then the only course open is to refuse permission. A similar ruling was given on a site at Retford. b) On the relationship between regional targets, local policies and the planning balance For many local authorities the move to a new style of planning policy in line with PPS22 remains a long term aspiration. This raises the question as to how the Inspectorate is using PPS22 in the absence of local criteria based policies. In the case at Whinash, the Inspector had to rely on regional and local development control policies on the one hand and sought to counter-balance these against the regional targets on the other (see pages 92 to 93 of the Inspector's Report). However, the Inspector at the Boxworth inquiry was more dismissive of the role of local development control policies in helping to secure the planning balance. He concluded that: "the development plan policies are of limited value [in securing the planning balance]. For historical reasons no doubt, the relevant plans are characterised by a significant corpus of countryside and amenity protection policies – many of which are rightly enduring, but which pre-date the identification and growth of modern wind energy projects. In paragraphs 25 to 53 of this decision I have sought to consider the evidence I have received, together with the opinions which have been expressed, and with the benefit of my own visits to the site and its surroundings." Similarly, the relevance of individual development plan policies was limited by the Inspector at Wadlow Farm, who wrote that "However the development plan must be read as a whole and compliance with it judged accordingly. In that broader context, the main relevant thrusts of the development plan are to promote sustainable development including renewable energy generation while safeguarding the quality of the local environment. I am of the view that the proposal, taken in the round, goes as far towards meeting those twin objectives as can be reasonably expected of commercial wind turbine development, given considerations which include both proximity to grid connection and to users of electricity." (p111) The Secretary of State agreed, stating that "to the extent that any conflict may arise with particular development plan policies, these are outweighed by the importance of achieving the national policy objectives relating to climate change and energy supply." So with the decline of local development control policies, the Planning Inspectorate is placing greater emphasis on national and regional targets for new onshore wind turbine development when determining applications (and in the Carsington case the Inspector went further by dismissing the Council's view that regional targets relate to forward planning policy and not development control (p.23)). The Inspector for the Goveton site was also quite clear in setting out the implications of this shift in emphasis: "the thrust of Government policy is that developers are not required to demonstrate national or local need for a particular scheme, and that there is no upper limit on the number of schemes that should be allowed to come forward where impacts can be addressed satisfactorily. The implication I draw from this is that any shortfall in meeting targets is a factor to be weighed in the planning balance." (p.17). On top of this, the Inspector in the Kiln Pitt Hill decision emphasised that the regional targets should not be regarded as 'maxima' and reiterates parap 3 of PPS22 that

	the fact that a target has been reached 'should not be used in itself' to refuse permission (p.3) And beyond nationally and internationally designated sites in particular, the balance appears even more skewed in favour of development because while appellants can argue that a scheme should be approved because it contributes to the target, opponents cannot challenge applications if that target is met because targets are to be treated as a minima not a maxima (Secretary of State ruling at Fullabrook Down Down, p.11). The High Court decision in this case also supported the Secretary of State's ruling in stating that "it is difficult to see what possible difference a conclusion that there was a realistic prospect of the national target for 2010 being met could have made to the overall balancing exercise, especially since PPS22 makes it clear that regional targets are not to be regarded as ceilings, and the aspiration is to double the 10 per cent figure to 20 per cent nationally be 2020." (paragraph 12) c) On the role of alternative sites in the decision-making process and the planning balance The revised PPS22 in 2005 removed the requirement of a sequential approach for developers to bring forward the most appropriate site when compared against reasonable alternatives. National and internationally designated sites still enjoy the highest protection, but looking at the case of Whinash, it is unlikely that the structure plan policy that required alternative sites to be considered for development in close proximity to the Lake District National Park would be upheld within the new system. It would be especially interesting to know if the Inspector would have reached the same conclusion in making the decision to refuse the application today given the even stronger emphasis in favour of renewable energy projects at the national level. So the onus is not on the applicant to demonstrate that the site they have chosen secures the best planning balance (as made clear in decisions at Bradwell on Sea (p.3 of the Inspector's Report) and North Dover/Langdon). In the North Dover/Langdon case it was stated that, "renewable energy developments should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic and social impacts can be addressed satisfactorily. There is thus no need to rank sites in any particular order of preference or to fear that the 'best' site might be sacrificed to development of a lesser site or sites…any contribution from North Langdon (even if the site was not found to be the best in the district or County but nonetheless satisfactory), would thus be beneficial not only for quantitative reasons and reasons of sustainability, but also in terms of continuity, diversity and security of supply, and distributional efficiency" (p.7). However, the situation is not necessarily clear cut due to the requirements of Environmental Impact Assessment (EIA) which may apply for some wind turbine developments. A DETR Circular in 1999 gave some guidance on what would require EIA – based on 5 turbines or more and 5mw or more. Development within internationally and nationally designated sites may also require EIA regardless of scale. But the guidance is not meant to be definitive and each case will need to consider significant impacts. And if it does require EIA then consideration of alternatives is part of the regulations – but consideration is often taken quite liberally by the Planning Inspectorate (see

	Goveton (p.16), Carsington (p.21), and Thackson's Well/Long Bennington (p.26)). However, if the development is considered to be a 'major' development in a designated site then it will be subject to the more onerous requirements of paragraph 22 of Planning Policy Statement 7 (see Issue 3 below). d) On the relevance of emerging National Policy Statements While it is too early to be clear precisely how draft National Policy Statements might influence appeal decisions, it is worth noting that the Inspector referred explicitly to the overarching draft NPS for Energy (EN-1) in the recent Bradwell-on-Sea case (p.24) in coming to a decision.
CPRE's recommended response	It will be important for CPRE to ensure that the local criteria based approach secures the planning balance in the long-term. The cumulative impact from development is one critical aspect that needs to be looked at to balance the Government's policy of setting no upper ceiling on wind turbine development. This cannot be established through individual planning applications but through strategic spatial planning policies. **The long-term challenge remains of agreeing suitable criteria based policies at the regional and local level and there is a need to gather and disseminate examples of good practice since PPS22 was introduced in 2004.** CPRE's February 2006 briefing on PPS22 **provides some detailed guidance on this issue. In the absence of up-to-date policies post-PPS22 in many areas it is important to use existing local development control policies to question whether the application achieves the planning balance as required in PPS22; in terms of securing environmental safeguards. It is unclear how emerging National Policy Statements for energy will affect the approach taken by Inspectors. It is also unclear how regional targets will be treated in view of the decision of the Secretary of State in May 2010 to abolish Regional Strategies.**

III) Landscape and Countryside Protection (Nationally Designated Sites and their settings)	
Relevant Government Policy	Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas
Case Examples	Armistead (Old Hutton), Berrier Hill, Bickham Moor, Glyndebourne, Three Moors (Paul's Moor) (see Annex III for details)
Analysis of the Planning Inspector's decisions	The Glyndebourne Inquiry (which concluded in May 2008) sets out consistency with paragraph 1 of PPS7 as one of six terms of reference. PPS7 provides criteria for delivering sustainable development in rural areas and was published in 2004. In concluding against this term of reference, the Inspector for the Glyndebourne Inquiry noted that "PPS7 recognises that all development in rural areas should be sensitive to the character of the countryside and its local distinctiveness. Whilst recognising the potential for the sensitive exploitation of renewable energy sources in accordance with PPS22, great weight needs to be afforded to the conservation of the natural beauty of the landscape. National Parks and AONBs are afforded the highest status of protection in relation to landscape and scenic beauty." (p.18) The significant matter in this case was that the Inspector was able to take a direct steer from a regional policy that has been developed in line with the intentions of paragraph 12 of PPS22 (and in line with paragraph 16 (iv) of PPS7 which seeks to provide for the sensitive exploitation of renewable energy sources). This regional policy sets out criteria for the location and siting of renewable energy developments in highly protected areas such as AONBs and National Parks. Paragraph 22 of PPS7 is also significant as it sets out criteria for dealing with major developments in nationally designated sites. It states that "Major developments should not take place in these designated areas, except in exceptional circumstances. This policy includes major development proposals that raise issues of national significance. Because of the serious impact that major developments may have on these areas of natural beauty, and taking account of the recreational opportunities that they provide, applications for all such developments should be subject to the most rigorous examination. Major development proposals should be demonstrated to be in the public interest before being allowed to proceed. Consideration of such applications should therefore include an assessment of: (i) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy; (ii) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and

	(iii) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated." In the Glyndebourne case it is significant that the definition of small scale was established in regional policy and that because this application did not fall under the definition of major development that it did not have to be subject to the rigorous demands of paragraph 22 of PPS7. Both the Bickham Moor and Three Moors/Paul's Moor decisions considered the effect of the proposed wind turbines on the 'character and appearance of the landscape, and on the setting of the Exmoor National Park'. In summarising this, the Inspector in both instances concluded that there would be 'major and substantial intrusion in places' and, in the case of Three Moors, that 'the setting of Exmoor would also be harmfully affected by the extensive nature of the proposal' (p.12-13), and, in the case of Bickham Moor, that 'the skyline views and movement of blades would, notwithstanding the separation from Exmoor, impinge upon the appreciation of the special qualities of Exmoor to a material degree' (p.10). In the case of Armistead/Old Hutton, however, the Inspector concluded that, while the appeal site was between the Lake District and Yorkshire Dales National Parks (an area currently being examined by Natural England for a possible extension to the National Parks), 'the wind farm would not detract significantly from the setting of this part of the National Park' and that 'there is no reason to suppose that, if built, it would prejudice the extension of the National Park across this area.' (p.13-14) In the case of Berrier Hill the Secretary of State agreed with the Inspector that the proposal would impact on the National Park and that it would conflict with the Lake District National Park Landscape Character Assessment and Guidelines.
CPRE's recommended response	Protection of nationally designated sites remains a significant planning concern and major development applications in these areas should be diverted to alternative sites unless the applicant can demonstrate that they have complied with national policy. It is critical, therefore, to ensure that an appropriate definition of major development is applied in regional policy to ensure that the most sensitive landscapes and their settings are given proper protection. In the case of Glyndebourne, a more effective representation might have been possible if the regional spatial strategy had given a stronger steer in directing development away from the AONB. **In conclusion, it is appropriate to make representations against major onshore wind turbine development in or near nationally and internationally designated sites on landscape grounds.**

IV) Landscape and Countryside Protection (beyond Nationally Designated Sites or their settings)	
Relevant Government Policy	Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas
Case Examples	Berrier Hill, Goveton, Grove (Retford), Guestwick, Inner Farm (Edithmead), North Dover (Langdon), and Sillfield (Gatebeck) (see Annex III for details)
Analysis of the Planning Inspector's decision	There is conflicting evidence on the consideration of landscape impact outside of designated sites in the decision-making process. As the Inspector at the Grove/Retford Inquiry concluded: "the Nottinghamshire guidelines provide a useful description of landscape character, within these areas, but not of value or sensitivity to change. Landscape value judgments involve a degree of subjectivity, particularly here where there are no designations in force. I certainly have no doubt that local residents' value the tranquil and relatively unspoilt nature of the Wooded Farmlands, when compared with more developed areas on the valley floors. Indeed, the occasional views of the Trent valley power stations provide a stark reminder of the contrast." (p.5) A similar subjective judgment was given at Inner Farm/Edithmead where the Inspector concluded that: "whilst the local landscape is not formally protected in any way, and the area of maximum adverse impact is relatively limited in extent, that landscape is in my view of considerable distinctiveness and quality and of a scale and character that would not readily accommodate structures of the scale proposed here." (p.17) However, the Inspector at the Goveton Inquiry took an opposing view: "the appellant stressed the range of personal subjective opinions that people have about wind turbines – some appreciate their aesthetic qualities, others do not. This spectrum of response or 'valency', as it was termed at the Inquiry, does not, however, provide much assistance to me in determining this appeal on its planning merits. Reliance on this would reduce analysis of the proposal to a plebiscite. In accordance with the guidance in PPS22, I have given more weight to the evidence adduced about landscape character and visual impact assessment." (p.2) A similar view was taken at Guestwick where the Inspector concluded that: "in coming to my view I have taken into account the landscape designations of the site and its surroundings, the landscape character assessment of the wider areas and the professional assessments of the visual effects of the turbines, which attempt to include objective criteria as a comparative base." (p.3) Meanwhile, at the North Dover/Langdon Inquiry, the Inspector placed emphasis on national rather than local policy in forming his conclusion stating that: "I find no landscape policy in the statutory or emerging development plan of sufficient weight to militate against the principle of wind turbine development taking place at the North Dover site." (p.8) Instead the Inspector placed greater weight on paragraph 16(i) of PPS7 which is concerned with the sensitive approach to exploitation of renewable energy resources. But again this is in conflict with the decision taken at Guestwick where the policies contained in the Local Plan were given

	significant weight by the Inspector (p.2). The more recent Sillfield/Gatebeck decision is interesting in its judgement that the proposal would cause 'unacceptable harm to the character and appearance of the landscape' and 'unacceptable cumulative visual and landscape effects in conjunction with the wind energy proposal at Old Hutton' (now known as Grove) (p.1) The latter proposal was allowed and, in coming to this conclusion, the Inspector gave a great deal of consideration to potential cumulative effects (p.10-12). He also commented that while the landscape was not within any national designation, 'it is not without its own quiet charm' (p.6) and gave close attention to the landscape character assessment. At Berrier Hill the Secretary of State agreed with the Inspector that the area in which the appeal site lies cannot be considered in isolation from the Northern Fells to the west, and that the creation of a new landscape sub-type would radically alter the landscape character of virtually the whole of landscape sub-type 12c. He also shared the view of the Inspector that the alteration resulting from the installation of the proposed wind farm would have a substantial impact on the character of the receiving landscape.
CPRE's recommended response	At the local tier there remains a challenge for CPRE to develop criteria outside of nationally designated areas that can be used to determine planning applications – especially as the most viable sites tend to be those that have the most sensitive landscapes. A key strategic issue that needs to be addressed is whether the cumulative impact is more significant from a small number of large and concentrated developments or from a larger number of smaller and dispersed developments. CPRE's February 2006 briefing on PPS22 provides some detailed guidance on this issue. Whilst it remains acceptable to have strong policies to steer development away from nationally designated sites, the thrust of PPS22 now requires local policies that are designed to promote and encourage the development of renewable energy resources outside of these areas. We have already discussed the importance of ensuring that the planning balance is upheld in general policy terms in all cases; but this section has looked at how this balance can be upheld when identifying sites from broad areas of development on a map. **In conclusion, it is critical that planning decisions are determined on the basis of landscape character, capacity and sensitivity assessments to ensure that the right balance can be secured between concentrated and dispersed patterns of onshore wind turbine development in all areas at the local level. In the absence of such assessments it will continue to be a difficult task for CPRE to make reasonable representations on planning applications outside of nationally designated sites or their settings on landscape grounds.**

V) Green Belts	

Relevant Government Policy	Planning Policy Guidance 2 (PPG2): Green Belts
Case Examples	Aston Grange Farm, Benington, Darrington, and Mawdesley (see Annex III for details)
Analysis of the Planning Inspectors' decisions	The case at Aston Grange Farm in the Cheshire Green Belt is significant because the Inspector placed great emphasis on the Green Belt designation in rejecting the appeal which shows that renewable energy targets cannot be used as a special circumstance in all cases. This was supported by a decision at Mawdesley where the Inspector stated: "in addition to the limited harm to openness and the role of Green Belts in safeguarding the countryside from further encroachment, paragraph 3.2 of PPG2 makes it clear that inappropriate development is, by definition, harmful to the Green Belt. The same paragraph goes on to say that the onus to explain why planning permission should be granted lies with those wishing to carry out inappropriate development. The paragraph makes it clear that very special circumstances to justify such development will not exist unless the harm by reason of inappropriateness, and all other harm, is clearly outweighed by other considerations." (p.3) But it is worth noting that this contrasts with the view taken by CPRE Hertfordshire in responding to an application at Benington in August 2008. They focused on the content of paragraph 13 of PPS22, which deals with the impact of energy projects on the openness of the Green Belt, and which goes on to say that the wider environmental benefits associated with increased production of energy from renewable resources may justify special circumstances to allow development in the Green Belt. The branch interpreted that paragraph 13 immediately places the onus on third parties to demonstrate that the application does not constitute special circumstances rather than the applicant to demonstrate that it does. Meanwhile, in the Inspector's Report for Aston Grange Farm it is stated that "the erection of a turbine is most accurately described as an engineering operation, and it should thus be considered against the contents of paragraph 3.12 of PPG2. The same applies to the proposed cable works, anemometry mast, and access roads. In contrast, the proposed sub-station would be housed in a building – though clearly a building which would be entirely ancillary to the proposed turbines…Paragraph 3.12 records that engineering operations are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt." (page 2) In this case it was a local policy that gave a strong definition of openness that helped to influence the Inspector's decision. It is worth quoting the Inspector's comments at length: "I turn now to consider whether the project would conflict with the purposes of including land in the Green Belt. The purposes are listed in paragraph 1.5 of PPG2. In view of the significant period between the first designation of the Green Belts and the recent

	development of wind energy, I do not believe the need to regulate the latter could have been taken into account in the identification of the former. Nor in my view should wind turbines be regarded as being representative of specifically urban or specifically rural locations. Indeed, the first key principle of Planning Policy Statement (PPS) 22: *Renewable Energy* is that renewable energy developments should be capable of being accommodated *throughout* England in locations where the technology is viable and environmental, economic and social impacts can be addressed satisfactorily. There was no dispute between the parties that in this case only two of the listed purposes may be applicable – the checking of unrestricted sprawl, and safeguarding the countryside from encroachment. In view of their potential ubiquity, I agree with the appellant that the construction of wind turbines cannot be considered to constitute urban sprawl. The case is less clear however in relation to encroachment. Notwithstanding the passage of time since they were identified, I consider the relevant purpose is sufficiently broadly drawn to include a variety of different types of development. I recognise that this purpose is less robustly expressed than the others – it does not seek 'prevention, preservation or checking'; but merely 'assistance' in safeguarding the countryside from encroachment – but I do not see that this detracts from the geographical extent of its application. 'Encroachment' is defined in the dictionary as a gradual advancement beyond expected or acceptable limits, but, unlike the other purposes, there is no corresponding reference to a near-by town or urban area. Notwithstanding the origin of the Green Belts, I believe this purpose therefore has a wider application, and, although some distance from the inner boundary of the designated area, I see no reason to doubt that the erection of a turbine would constitute the intrusion of development into the countryside. Thus, I have concluded that the turbines would conflict with both of the criteria included in paragraph 3.12, and that the scheme therefore constitutes inappropriate development. Paragraph 3.2 of PPG2 records that inappropriate development is, by definition, harmful to the Green Belt. It continues that there is a presumption against inappropriate development, and that the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application or appeal concerning such development. In my opinion, this approach is reinforced by the contents of paragraph 13 of PPS22. This recognises that, when located in the Green Belt, elements of many renewable energy projects *will* comprise inappropriate development. Apart from the turbines themselves, I consider other elements of the scheme would also constitute inappropriate development within the meaning of PPG2. These comprise: the anemometer mast; the sub-station building; the site tracks; and, though merely for a temporary period, the construction compound and crane pads. I recognise that, in comparison with the turbines, their impact on openness would be limited." (p. 3 to 4) At Benington the Inspector said, "I conclude on the first main issue that the construction of two of the three turbines would, in terms of national policy in PPG2 and LP Policy GBC1, be inappropriate development in the Green Belt and would conflict with one of the purposes of including land in that designation." (p.6)

	The Darrington Inspector said “The appellant points out that a number of wind farms in the Green Belt have been allowed on appeal or have been granted planning permission by the local planning authority. Two particular cases are cited by the appellant: the Scout Moor site near Rochdale, which was allowed on appeal, and the Marr site near Doncaster, which was granted planning permission by the local planning authority. However, there are other cases in the Green Belt which have been rejected. Much was made at the inquiry of the proposed wind farm at Aston Grange near Runcorn, which was dismissed on appeal. What these decisions indicate is that there is no absolute bar on wind farm development in the Green Belt. To my mind, the decision on individual cases turns on the balance between harm by reason of inappropriateness and any other harm on the one hand and the benefits that the wind farm would bring on the other hand. The weighing of harm against benefits is a matter for a case by case assessment.” He then went on to say that “I conclude on this matter that the proposal represents inappropriate development in the Green Belt.” (p.84 & 85)
CPRE’s recommended response	These two recent cases demonstrate that Green Belt designation is still an important consideration in determining planning applications for onshore wind turbines. **In conclusion, the Green Belt designation still carries significant weight in planning decisions. However, branches will need to go to greater lengths to demonstrate that the wind turbines would have a negative impact on the integrity of that designation than they would with other types of development. Having in place a tight and strongly defined local policy on development in the Green Belt is also critical. It is unclear how far emerging National Policy Statements might affect this.**

VI) Biodiversity	

Relevant Government Policy	Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation
Case Examples	Bickham Moor, Glyndebourne, Three Moors (Paul's Moor) (see Annex III for details)
Analysis of the Planning Inspector's decision	The Glyndebourne Inquiry sets out consistency with PPS9 (which was republished in August 2005) as one of six terms of reference. The Inspector considered that the proposed development must have regard to the impact on local flora and fauna and on any designated sites. Therefore, this remains a valid basis for making representations on planning applications. However, while PPS9 was one of the terms of reference at the Glyndebourne Inquiry; in the event, this did not feature as a significant issue to be considered by the Inspector. PPS9 states that planning applications can only be refused on the grounds of biodiversity and geological conservation when negative impacts cannot be prevented (for example through reasonable relocation onto an alternative site), mitigated against, or compensated for. Additional weight should be placed on prevention ahead of compensation for designated and other regional and locally significant sites. PPS22 reiterates PPS9 in saying that sites with nationally recognised designations should only accept renewable energy projects when it can be demonstrated that the objectives of the designation will not be compromised by development and any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by the environmental, social and economic benefits. The Bickham Moor and Three Moors/Paul's Moor decisions both addressed the impact on ecology of the respective wind farm proposals. In both cases, County Wildlife Sites (culm grassland) would have been directly affected, and consideration was given to potential impacts on bat and birds. The decision letters make it clear, however, that following consideration of the evidence these matters can 'carry only limited weight.' It was also noted that management and restoration of the culm grassland was proposed in the Environmental Statements.
CPRE's recommended response	We recognise that there is a need for more cases where PPS9 has been used to support a representation along with the Inspector's interpretation of that representation. One plausible reason why this issue is not more prominent is that those organisations with an interest in protecting sites for biodiversity and geological conservation may not perceive these developments to be a significant threat. For example, the RSPB has released a new policy position that sets out ways to deliver targets whilst preserving nature conservation, and are making plans to build turbines on their nature reserves.

	Through their newly established position, the RSPB recognises that there is greater scope for relocation of inappropriate planning applications through early consultation which can prevent or mitigate impacts on biodiversity. For example, the RSPB is also working on a project in the North West that showing how they seek to influence planning applications through clear guidance on sensitive sites. The RSPB uses the guidance in a proactive sense so that they don't have to be adversarial to planning applications on biodiversity grounds. Such an approach is more difficult for dealing with landscape concerns where there is more of a correlation between the best sites for onshore wind development schemes and the most sensitive landscape areas. **In conclusion, it is clear from the decisions referred to that while it may be more straightforward to establish regional and local criteria for onshore wind turbines that protect important sites of biodiversity than it is for the protection of important sites of landscape value, such considerations need not lead to refusal of applications. It is recommended that CPRE only make representations on this issue if there are significant flaws with an Environmental Statement.**

VII) Heritage	

Relevant Government Policy	Planning Policy Statement 5: Planning for the Historic Environment (Previously: Planning Policy Guidance 15 (PPG15): Planning and the Historic Environment and Planning Policy Guidance 16 (PPG16): Archaeology and Planning)
Case Examples	Berwick-upon-Tweed, Boxworth, Den Brook (North Tawton) Goveton, Guestwick, Kiln Pitt Hill, Thackson's Well (Long Bennington), and Whinash (see Annex III for details)
Analysis of the Planning Inspectors' decisions	The Den Brook/North Tawton Judicial Review Inquiry considered the impact on local historic character and archaeological features from the proposed development. PPG15 and PPG16 were considered, however many local authorities will have in place a specific local policy on the historic environment that is likely to be more relevant and up-to-date. More importantly, particular attention was given to English Heritage and their guidance on Wind Energy and the Historic Environment as published in 2005. The advice contained in this guidance is likely to be the most relevant for local authorities and planning inspector's to consider on this issue. The Inspector, in referring to the guidance by English Heritage notes that they comment "at some length on the need for balance between issues of climate change and the protection of historic artefacts and landscapes and discusses relevant characteristics of wind turbines. It then advances six particular factors to be taken into account in considering the impact of turbines on the setting or visual amenity of historic sites. With regard to the first, it says that turbines might be inappropriate where a historic feature (such as a hilltop monument or fortification, a church spire or a plantation belonging to a designed landscape) is the most visually dominant feature in the surrounding landscape. That is not the case here because the remains are not visually dominant, so the turbines would not compete with them for prominence. For similar reason, I disregard the second criterion relating to scale. The third criterion is particularly germane because it cautions that the siting of wind turbines should respect intervisibility between certain archaeological or historic landscape features that were intended to be seen from other historic sites. However, given the distance involved, I doubt that the remains at Bow were ever intended to be seen from Dartmoor – they would not be readily identifiable with the naked eye – and the general view of Dartmoor in the reverse direction, together with views of Cosdon Hill, Belstone Moor and Yes Tor would remain between and to either side of the individual turbine towers. The fourth criterion concerns designed landscapes (such as historic parkland). This is not relevant here, and there is no suggestion that the fifth, relating to noise and overshadowing, is applicable to the remains either. The sixth criterion relates to unaltered settings of ancient sites which, the guidance suggests, may be a particular issue in certain upland areas. The landscape hereabouts is now primarily agricultural and the location is not an upland one. In the light of all of these findings, I conclude that the historic setting of the monuments at Bow would be suitably preserved." (p.14 -15)

	The Inspector in the Boxworth case also referred to this guidance in assessing the impact of the development on heritage features. He concluded: "it might not be a grand or impressive landscape, but to my eye this scene encapsulates many of the most attractive and harmonious aspects of much of the landscape of rural lowland England. In spite of the distance from the appeal site (about 4kms), I fear the turbines – partly because of their size and number – would completely and adversely dominate this prospect. I note in this respect that paragraph 2.17 of PPG15 observes that a high or bulky building might affect the setting of a listed building some distance away. Although I would not describe the proposed turbines as 'buildings', they would certainly be tall, and their number and proximity would ensure that, from a distance, they would have a substantial collective impact. They would appear above and extending to either side of the church tower until quite close to the village, and I conclude that the development would thus fail to preserve the setting of a Grade I listed building in conflict with the tenor of the advice included in Wind Energy and the Historic Environment." (p.14) A similar strong conclusion was reached in the case at Thackson's Well/Long Bennington were the impact on a Grade I listed building was seen outweigh the benefits of the scheme in its entirety (p.28). The impact on heritage was also a significant factor in the decision at Guestwick where the Inspector incorporated the effect on the setting of listed buildings within his broader landscape impact assessment (p.3). The Inspector concluded that: "because of the strong and increasing need for renewable energy, I have found this to be a finely balanced case. But I have come to the final conclusion that the serious harm to the landscape of this part of Norfolk, and to the settings of some fine listed buildings, outweighs the benefit in terms of sustainable energy production." (p.14) The appellant challenged this decision at appeal and submitted that visual impact is only one part of the setting of a listed building and that the Inspector had not considered the other elements of setting in coming to a decision. This submission was dismissed in the High Court (see paragraphs 17 to 20 and 25 to 28). At Kiln Pitt Hill, the Inspector also considered the impact of the proposed wind turbines on Grade I and Grade II listed buildings on the summit of nearby Greymare Hill. His conclusion was that the development would have a 'significant adverse impact on some views of the listed buildings and their setting' but that the buildings 'could continue to be appreciated in their dominant and isolated hilltop position from many viewpoints' (p. 6-7). The Secretary of State's decision on the three applications around Berwick-upon-Tweed is of interest in respect of heritage matters for two reasons. First, one of the appeals was dismissed in part on grounds of the 'significant adverse impact' the scheme would have on the setting of the Duddo Stone Circle Scheduled Ancient Monument. Second, the decisions 'afforded little weight' to the consultation draft PPS15 concerning Planning for the Historic Environment. On the subject of the status of World Heritage Sites it is worth noting the comments by the Inspector with regard the case at Whinash. He said that "there is a comparable on-going process in relation to the possible designation of the Lake District National Park as a World Heritage Site. Inclusion on the Tentative List is a pointer to the special qualities of the area, but no specific additional controls arise. Similarly, there is no clear conclusion about boundaries and whether the site would form part of its

	immediate or wider setting. Although the turbines could influence future decisions I am not convinced that this is a factor of any significant weight" (p.87).
CPRE's recommended response	It is recommended that consideration is given to the guidance given by English Heritage before making a representation that the development would have a significant and overriding impact on listed buildings, historic settings or archaeological features. As the Government replaced PPG15 and PPG16 in March 2010 with PPS5 and its associated Planning Practice Guide, it is likely that the English Heritage guidance will need to be revised. **In conclusion, any representation on the grounds of harm to the heritage or archaeological value of the site should ideally be made through English Heritage and in reference to their own guidance notes.**

VIII) Tranquillity	
Relevant Government Policy	None (but note new guidance from Natural England)
Case Examples	Bickham Moor, Bradwell on Sea, Fullabrook Down, Goveton, Glyndebourne, Thackson's Well (Long Bennington), Three Moors (Paul's Moor) (see Annex III for details)
CPRE's analysis of the Planning Inspectors' decisions	CPRE, in making its representation at the Glyndebourne inquiry, relied heavily on evidence from our mapping of tranquillity in the area. The Inspector's conclusion of this evidence was confused: "Amongst other matters, structure plan Policy EN3 seeks to promote the quiet enjoyment of the AONB and avoid significant increases in noise. I have taken account in this regard of the evidence submitted at the inquiry in relation to the possible loss of tranquillity. The mapping of tranquillity involves a somewhat elaborate procedure based on the numerical analysis of a public consultation and the subsequent mapping of positive and negative factors to a resolution of 500m squares. However, as is clarified in paragraph 27 of *The Planning System: General Principles,* the volume of local opposition or support for a particular proposal is not in itself a ground for refusing or granting planning permission. The determination of planning applications must be based only on planning considerations – which may or may not coincide with expressions of public opinion. On this basis I did not find the evidence added greatly to my understanding of the main considerations, but I do acknowledge that the likelihood of noise disturbance on the footpaths close to the turbine would conflict with this specific purpose of Policy EN3." (p.42) We believe that in this case that the Inspector was wrong to dismiss the detailed methodology underpinning the tranquillity maps in concluding that it gives only an expression of public opinion and we believe that this still provides a valid ground for representation. However, there are a number of other cases where similar concerns and some misunderstanding of the tranquillity methodology have been expressed by the Planning Inspector (Bradwell on Sea (p.5-7 – although in this case the Inspector's interpretation of the mapping exercise was broadly correct), Fullabrook Down (p.147), Goveton (p.11), Thackson's Well/Long Bennington (p.22)). In the cases of Bickham Moor and Three Moors/Paul's Moor, the Inspector also gave consideration to potential impacts on tranquillity. While showing an understanding of the methodology, he concluded in the former case that 'I consider that, though large and noticeable, the presence of suitably configured turbines swishing through the wind would not, in principle, have such a marked effect on the feeling of tranquillity that it should result in the proposal being rejected for that reason alone.' It is clear that there are lessons to be learnt from these experiences in how we use the tranquillity maps more effectively in future

	and to ensure that these judgments do not set a precedent.
CPRE's recommended response	CPRE needs to reflect on the Inspector's comments in these cases, regardless of whether these were accurate or not in their interpretation of the methodology, in order to make more effective representations in the future. One possible way forward could be to complement our representations with our intrusion maps – as intrusion maps would tend to carry more favour as a planning consideration given that the nature of the planning appeal system is that development is considered acceptable unless proven otherwise. Tranquillity maps would only carry weight in a planning appeal system where the onus is on the applicant to demonstrate the acceptability of development in that location. **In conclusion, further research is needed on the effective communication of our evidence on tranquillity and intrusion. Natural England's new guidance should help and national office intends to issue further advice on this issue in 2010.**

IX) Recreation/Tourism	
Relevant Government Policy	PPS7 Sustainable Development in Rural Areas
Case Examples	Bickham Moor, Carsington, Den Brook (North Tawton), Fullabrook Down, Goveton, Guestwick, Inner Farm (Edithmead), Thackson's Well (Long Bennington), Three Moors (Paul's Moor), and Whinash (see Annex III for details)
Analysis of the Planning Inspectors' decisions	It is worth quoting the Inspector's comments at length in the Whinash case. He noted that "there is evidence that the site and its immediate area are valued for recreation; and recreational use is said to be growing. However, given the findings of the County Council's access study, and my own observations on several occasions, the application site does not appear to be used by significant numbers of people. But I can appreciate that those who do, seek it for its sense of openness, wildness, solitude and the extent of its far reaching panoramic views. To my mind, the order of formal tracks and the intrusion of turbines would destroy that experience, even for those who are generally not averse to wind turbines, and I am in no doubt that some would choose to walk elsewhere." (p.88) He concluded: "although the proposal would have no direct impacts on footpaths, and bridleways, I consider that the impact on recreation is a matter which should weigh heavily against the development." (p.88) In justifying his decision to refuse the application, the Inspector stated "that the adverse impact on the landscape, and its consequential enjoyment for recreation, would be so great that it should be the determining factor leading to my recommendation of refusal." (p.93) But there are other examples where the impact on public rights of way was not considered significant. At Carsington, the Inspector concluded that: "I find it hard to believe that, in general, views would be so disturbing as to unacceptably diminish the aesthetic and recreational experiences of the majority of visitors, including their appreciation of the particular qualities of the national park." (p.19) And at Fullabrook Down the Inspector concluded that: "the official position of the Ramblers' Association is that the development would have a negative impact on the local countryside and the enjoyment of a peaceful country walk. But even were the development to deter the 'traditional walker', it would be equally likely, in my view, to attract other groups, for example those who are interested in 'green energy' or, simply, the curious. There is no evidence that footpath use overall would decline." (p.141) In the Thackson's Well/Long Bennington inquiry, the focus was on the safety impact of the development on public rights of way. The Inspector concluded here that: "the PPS22 Companion Guide advises that the British Horse Society normally recommends only a 200m separation distance, adding that there is no statutory separation distance between turbines and public rights of way, the

	minimum distance often being taken to be that the turbine blades should not be permitted to oversail a public right of way. The latter requirement would be met in respect of all public rights of way and the 200m dimension would be met with regard to Viking Way, and all other riding routes. In these circumstances, I can see no reason to insist upon the re-siting of turbine 9 (the nearest to Viking Way) or any of the others in the interests of rider or walker safety." (p.23) A similar decision was reached at the Guestwick inquiry (p.11). However, the subsequent impact of development on the local tourist industry is less well received as a representation. In the Goveton Inquiry the Inspector concluded that: "local tourist businesses have objected to the proposal, but there is little hard evidence about what effects the turbines would be likely to have on tourism. This is not a matter for the exercise of a precautionary approach…but falls to be assessed on the evidence put before the Inquiry. Much of this represented generalised concerns or apprehensions about the local economy, the substance of which was difficult to assess. In the absence of clear evidence about harm to tourism or the local economy, either from experience elsewhere, or in the circumstances which apply here, I am not convinced that it is a factor which weighs significantly against the proposal." (p.15) Similar conclusions have been reached at Inner Farm/Edithmead, Fullabrook Down and Den Brook/North Tawton. In the cases of Bickham Moor and Three Moors/Paul's Moor the Inspector recognised that the effect of windfarms on tourism was ' a developing area of expertise' but concluded in both cases that the evidence suggested there would be 'a very limited effect, if any, on tourist visits.'
CPRE's recommended response	The impact on recreation still provides a valid representation on applications for onshore wind turbines. However, outside of nationally significant sites it is more difficult to make this case. The impact on public safety needs to be considered with respect to the guidelines contained within the companion guide for PPS22. The impact on the local tourist industry is less of a valid representation. **In conclusion, hard evidence is needed before representing that there would be an adverse economic impact on tourist activity arising as a result of new onshore wind turbines. The impact on recreation and on public rights of way for horses, cyclists and walkers, however, remain valid representations.**

X) Decent Home to Live/Living Conditions	
Relevant Government Policy	Paragraph 23 (vii) of Planning Policy Statement 1 (PPS1): Delivering Sustainable Development
Case Examples	Bickham Moor, Den Brook (North Tawton), Goveton, Grise, Grove (Retford), Inner Farm (Edithmead), Matlock Moor, North Dover (Langdon), Thackson's Well (Long Bennington), Three Moors (Paul's Moor), and Shipdham (see Annex III for details)
CPRE's analysis of the Planning Inspectors' decisions	In the Den Brook/North Tawton case the Inspector considered whether "it may be the case that development is proposed of such a scale, design or proximity that it would be so visually intrusive as to turn an otherwise satisfactory dwelling into one that is an unsatisfactory place in which to live. That would compromise the aim of ensuring that everyone has the opportunity of a decent home (paragraph 23 (vii) of Planning Policy Statement 1 – "*Delivering Sustainable Development*" refers). From the standpoint of those affected, this is a different test than simply judging whether the *view* would be significantly affected or not, because (as with other non-visual impacts, such as noise and un-neighbourliness in general) it is the *resulting adequacy of living conditions* within dwellings and their gardens that is determinative, not the view in itself. In essence, being able to see the turbines is one thing but not, in itself, sufficient to demonstrate unacceptable harm in a land use planning context. Indeed, to adopt visibility alone as the decisive criterion would potentially represent an arbitrary and unduly stringent restraint on development of many kinds in many locations." (p.7) In this case the Inspector concluded "that given the numbers, types and distribution of properties concerned in this case the *view* alone of the turbines would not result in unacceptable living conditions within the dwellings (or their gardens) surveyed in the EIS, even though the negative visual impact on the view from almost half of them is recorded as significant" (p.8). The Inspector has had to deal with the same dilemma in other cases, notably Bickham Moor (p.12-16), Inner Farm/Edithmead (p.17), Goveton (p.8), North Dover/Langdon (p.22), Thackson's Well/Long Bennington (p.22), Three Moors/Paul's Moor (p.14-18) Grise, and Grove/Retford (p.10). At North Dover/Langdon, Inspector Lavender said that "Paragraph 39 of the PPS22 Companion Guide affirms that the planning system exists to regulate the development and use of land in the public interest. In most cases, the outlook from a private property is a private interest, not a public one, and the public at large may attach very different value judgements to the visual and other qualities of wind turbines than those who face living close to them. Equally, people pass through a diverse variety of environments when going about their daily lives, whether by car or when using the local rights of way network, and I find nothing generally objectionable in turbines being part of that wider experience. *However, when turbines are present in such number, size and proximity that they represent an unpleasantly overwhelming and unavoidable presence in main views from a house or garden, there*

	is every likelihood that the property concerned would come to be widely regarded as an unattractive and thus unsatisfactory (but not necessarily uninhabitable) place in which to live. It is not in the public interest to create such living conditions where they did not exist before.(p.22) The italicised text (our emphasis) has since been labelled "The Lavender Test" and has been used in a number of subsequent inquiries. At Matlock Moor the Inspector said that "It is not in the public interest to create living conditions that are overwhelmed by the unavoidable presence of large structures such as wind turbines. I therefore consider visual impact to be an important material consideration in my assessment of living conditions." She continued "For example, at Cuckoostone House Farm and Cuckoostone Grange (both of which have adjacent holiday accommodation), the turbines would be clearly visible from principal views from the dwellings and gardens. The turning blades, prominent above the trees, would be about 750m away. To my mind, their proximity would mean that they would be visually intrusive features that could not be ignored. The fact that they might also be audible would compound the problem. In my view, living conditions would be unacceptably harmed." (p.16) On the issue of a minimum separation distance between existing dwellings and the wind turbine development there is no clear legal requirement. It is worth considering how the Inspector has handled this matter in relation to cases at Inner Farm/Edithmead (p.18), North Dover/Langdon (p.32), Thackson's Well/Long Bennington (p.7) and Shipdham (p.11) before putting forward representations.
CPRE's recommended response	To demonstrate that the impact of onshore wind turbines would be unacceptable for those living in the vicinity is a difficult representation to make. However, it is important to restate that there is a clear distinction between a significant and an unacceptable impact. Furthermore, separation distance is highly dependent on local factors. CPRE has supported turbines within 500m of houses in Dagenham on the basis that their industrial location meant that their impact would be minimal. **In conclusion, representations against onshore wind turbines on this issue need to be considered carefully against the Inspector's comments in the cases cited and closely referenced against paragraph 23(vii) of PPS1. Separation distances are not arbitrary but the cases cited may illuminate what matters the Inspectorate considers significant in forming his judgment.**

XI) Noise

Relevant Government Policy	Planning Policy Guidance 24 (PPG24): Planning and Noise
Case Examples	Bickham Moor, Den Brook (North Tawton), Fullabrook Down, Goveton, Grise, Grove (Retford), Matlock Moor, Princes Soft Drinks, Shipdham, Swinford, and Three Moors (Paul's Moor) (see Annex III for details)
CPRE's analysis of the Planning Inspectors' decisions	In the Den Brook/North Tawton case the Inspector was led by the relevant noise assessment methodology for wind turbines – ETSU-R-97 – as developed by the Department for Trade and Industry in 1997. The Inspector noted that in 2006 the Department for Communities and Local Government clarified that this methodology should set the standard for these types of development, rather than using the more stringent standards from the World Health Organisation, though the inspector criticised some aspects of the methodology (see p.30). The conclusion of the Grove/Retford Inquiry supported this view in saying that: "I also recognise that there are commentators who believe that that government advice is out of date. Even so, in the absence of clear and authoritative evidence to show that national policy is based on flawed information, I rely on the advice in the (2004) Companion Guide to PPS22. This indicates that, as things stand, there is no basis for concluding that ground transmitted low frequency noise from turbines is at a sufficient level to be harmful to human health." (p.13) The Goveton Inquiry also concluded that wind turbine noise can be dealt with through planning conditions and that this is consistent with Government policy. The proposed wind farm at Matlock Moor was refused in part due to concerns that "The appellant's noise predictions take wind shear into account, and they show that the ETSU-R-97 daytime and night-time limits would be met. But at Grouse Cottage Farm (about 650m to the north east of the nearest turbine), when the wind is blowing at 5 or 6 metres per second (m/s), the predicted daytime noise would be equal to the ETSU-R-97 limit, with no safety margin. Indeed, the appellant accepts that there is a theoretical possibility that the noise limit could be breached. At Cuckoostone House Farm (about 750m to the south of the nearest turbine), when the wind is blowing at 5m/s, the predicted daytime noise would be within 2dB of the ETSU-R-97 limit and, when the wind is blowing at 6m/s, it would be within only 1dB of the limit. To my mind, these situations are uncomfortably tight. A slightly noisier model of turbine, or a minor difference between a turbine's warranted sound power level and its actual sound power level, or unexpected atmospheric or ground conditions, could make all the difference between the noise limits being met or not met at Grouse Cottage Farm and Cuckoostone House Farm." (p.15) Similar conclusions were reached at Grise (p.96) and Princes Soft Drinks, where the Inspector noted that ETSU-R-97 limits might be breached: "According to WHO standards, there would be times when this noise could result in sleep disturbance, or prove to be a serious annoyance to residents. I find this to be unacceptable." (p11).

	The recent Shipdham decision, however, casts new light on this issue. This is a drawn out case where the original decision to approve the application on appeal was quashed in the High Court and a subsequent appeal has now recently been dismissed by the Planning Inspectorate. In this recent decision, the Inspector considered at some length whether noise could be controlled through the use of conditions (paragraphs 45 to 55) and she concluded that: "the suggested conditions could not control noise effectively. They fail the Circular 11/95 tests of precision and enforceability, and they are too cumbersome for frequent use…I accept that it is within my remit to improve the wording of the conditions. The improvements would have to be extensive. In my view, even if I were to make some improvements, the conditions would still be too complex and unwieldy for frequent use. Furthermore I am not convinced that future problems in relation to precision and enforceability could be avoided." (p.10) The Goveton Inquiry and the Fullabrook Down High Court ruling also considered the evidence from the Salford study into Aerodynamic/Amplitude Modulation (AM). The latter concluded that: "the study concluded that although AM cannot be fully predicted, the incidence of AM resulting from wind turbines in the UK is low. Out of the 133 wind turbines in operation at the time of the study, there were four cases where AM appeared to be a factor. Complaints have subsided for three out of these four sites, in one case as a result of remedial treatment in the form of a wind turbine control system. In the remaining case, which was a recent installation, investigations are ongoing…" (paragraph 53) The Three Moors/Paul's Moor inquiry considered Amplitude Modulation (AM) and concluded that, due to uncertainties surrounding this effect, no significant weight could be attached to it in that instance (p.15). However, at Den Brook/North Tawton and Swinford, inspectors concluded that a planning condition controlling Amplitude Modulation could be imposed. At Bickham Moor, the inspector concluded that due to questions about spacing of turbines, a condition would not be sufficient to control noise due to pervasive uncertainty about AM (p15).
CPRE's recommended response	In planning policy terms, noise pollution impacts from onshore wind turbines are a lot less significant than other developments like transport and quarrying. The High Court ruling in the Den Brook/North Tawton case relate to failures of procedure rather than policy. However, if the ETSU-R-97 guidelines are not met by the application, the Shipdham decision needs to be considered to ensure that planning conditions can practically mitigate the impact. Similarly, the effect of the Prince's Soft Drinks application in Bradford, where the inspector cited WHO noise standards, should be considered. **In conclusion, as long as the applicant has taken measures to comply with the standards and as long as this is supported by effective planning conditions, there are no clear policy grounds for representations on this issue. However, inspectors have increasingly highlighted uncertainties related to ETSU-R-97 and have occasionally imposed planning conditions to control AM.**

Annex III: Planning Appeal Decisions Considered

Location		Decision Date	Planning Inspectorate Case Number	Secretary of State (S of S) and/or High Court Ruling
Armistead	Cumbria	July 2009	APP/MO933/A/08/2090274	N/A
Aston Grange Farm	Cheshire	November 2008	APP/L0635/A/07/2047477	N/A
Benington	Hertfordshire	March 2010	APP/J1915/A/09/2104406	N/A
Berrier Hill	Cumbria	June 2010	APP/H0928/A/09/2093290	Secretary of State Decision
Berwick-upon-Tweed	Northumberland	January 2010	APP/P2935/A/08/2078347; APP/P2935/A/08/2079520; APP/P2935/A/08/2077474	Secretary of State Decision
Bickham Moor	Devon	January 2010	APP/Y1138/A/08/2084526	N/A
Bradwell on Sea on Sea	Essex	September 2007	APP/X1545/A/06/2023805	N/A
Boxworth	Cambridgeshire	December 2006	APP/W0530/A/05/1190473	N/A
Carsington	Derbyshire	September 2008	APP/P1045/A/07/2054080	High Court Ruling
Darrington	West Yorkshire	June 2010	APP/X4725/A/09/2101120	Secretary of State Decision
Den Brook / North Tawton	Devon	March 2007	APP/Q1153/A/08/2017162	High Court Ruling
Fullabrook Down	Devon	May 2007	GDBC/003/00024C (determined under Section 36 of the 1989 Electricity Act)	Secretary of State Decision High Court Ruling
Gatebeck	Cumbria	January 2010	APP/M0933/A/09/2099304	N/A
Glyndebourne	East Sussex	May 2008	APP/P1425/V/07/1201986	Secretary of State Decision
Goveton	Devon	April 2009	APP/K1128/A/08/2072150	N/A
Grise	Cumbria	March 2010	APP/H0928/A/09/2093576	Secretary of State Decision

Grove / Retford	Nottinghamshire	June 2007	APP/A3010/A/06/2017850	N/A
Guestwick	Norfolk	December 2007	APP/K2610/A/05/1180685	High Court Ruling
Inner Farm / Edithmead	Somerset	January 2008	APP/V3310/A/06/2031158	N/A
Kiln Pitt Hill	Northumberland	February 2009	APP/R2928/A/08/2075105	N/A
Matlock Moor	Derbyshire	April 2010	APP/R1038/A/09/2107667	N/A
Mawdesley	Lancashire	September 2008	APP/D2320/A/08/2069152	N/A
North Dover / Langdon	Kent	March 2009	APP/X2220/A/08/2071880	N/A
Princes Soft Drinks	West Yorkshire	February 2010	APP/W4705/A/09/2114165	N/A
Shipdham	Norfolk	March 2009	APP/F2605/A/08/2089810	N/A
Thackson's Well / Long Bennington	Lincolnshire	November 2008	APP/E2530/A/08/2073384	N/A
Three Moors / Paul's Moor	Devon	January 2010	APP/X1118/A/08/2083682	N/A
Wadlow Farm	South Cambridgeshire	November 2009	APP/W0530?A?07/2059471	Secretary of State Decision
Whinash	Cumbria	February 2006	GDBC/001/00135C (determined under Section 36 of the 1989 Electricity Act)	Secretary of State Decision