

**ANGUS COUNCIL**

**DEVELOPMENT MANAGEMENT REVIEW COMMITTEE – 18 AUGUST 2015**

**FIELD 600M NORTH WEST OF BALHALL LODGE, MENMUIR, BRECHIN - CONDITIONS**

**REPORT BY THE HEAD OF LEGAL AND DEMOCRATIC SERVICES**

**ABSTRACT:**

This report sets out proposed conditions for planning application No. 14/00781/FULL following on from the decision of the Development Management Review Committee at its meeting of 9 July to uphold the Review and grant planning permission in respect of the erection of a wind turbine and ancillary development, re-application, at Field 600M North West of Balhall Lodge, Menmuir, Brechin.

**1. RECOMMENDATION**

It is recommended that Committee agrees the proposed conditions as appended to this report.

**2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/CORPORATE PLAN**

This Report contributes to the following local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

**3. CURRENT POSITION**

At its meeting of 9 July 2015, the Development Management Review Committee considered an application for Review of the decision taken by the Appointed Officer in respect of a planning application (14/00781/FULL refers) for the proposed erection of a wind turbine and ancillary development, re-application, at Field 600M North West of Balhall Lodge, Menmuir, Brechin. (Report 262/15 to the Development Management Review Committee refers).

Following consideration of the case, the decision of the Review Committee was to uphold the Review subject to conditions. Having consulted with the Service Manager – Planning, it is recommended that the Committee agree the conditions as detailed in Appendix 1 to the Report.

**4. FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

**5. HUMAN RIGHTS IMPLICATIONS**

The grant of planning permission, subject to conditions, has potential implications for the applicant in terms of his entitlement to peaceful enjoyment of his possessions (First Protocol, Article 1). It is considered that any actual or apprehended infringement of such Convention Rights is justified. The conditions constitute a justified and proportionate control of the use of property in accordance with the general interest and was necessary in the public interest with reference to the Development Plan and other material planning considerations which had been referred to in Report 262/15.

**NOTE:** No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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List of Appendices:

Appendix 1 – 14/00781/FULL – Proposed Review Board Conditions

**14/00781/FULL – Proposed Review Board Conditions**

**Proposed Conditions:**

1. That the wind turbine hereby approved shall be removed from the site no later than 26 years after the date when it is erected unless otherwise approved by the Planning Authority through the grant of a further planning permission following submission of an application. Written confirmation of the date of erection of the turbine shall be provided to the Planning Authority within one month of that date.

Reason: In order to limit the permission to the expected operational lifetime of the wind turbine and to allow for restoration of the site.

2. That prior to the commencement of development, the applicant shall provide the Ministry of Defence (Defence Estates - Safeguarding) with the following information, a copy of which shall also be submitted to the Planning Authority;

- o Proposed date of commencement of construction;
- o Estimated date of completion of construction;
- o Height above ground level of the tallest structure;
- o Maximum extension height of any construction equipment;
- o Latitude and Longitude of the proposed turbine.

Reason: In the interests of aviation safety.

3. That should the wind turbine no longer be required or should it cease to generate electricity for a period of six months it shall be removed and the site restored to its previous condition in accordance with the details approved under condition 4(iii) of this permission. The restoration works shall be completed no later than twelve months following the date that the turbine has ceased to generate electricity or as otherwise agreed in writing with the Planning Authority.

Reason: In order to ensure that the turbine is removed and the land restored to its previous condition in the event that the turbine is no longer required in the interests of the visual amenity of the area.

4. That prior to the commencement of the development hereby approved the following information shall be submitted to and approved in writing by the Planning Authority: -

(i) The precise route and details of the transmission cables from the turbine. Thereafter the transmission cables shall be provided only in accordance with the approved details;

(ii) Details of the colour of the wind turbine which shall be Agate Grey (RAL 7038) unless otherwise agreed with the Planning Authority. Thereafter the turbine shall be finished in accordance with the approved details;

(iii) A scheme for the decommissioning and restoration of the site including aftercare measures. The scheme shall set out the means of reinstating the site to agricultural land following the removal of the components of the development. The developer shall obtain written confirmation from the

Planning Authority that all decommissioning has been completed in accordance with the approved plan and (unless otherwise agreed in writing by the Planning Authority) works for removal of site apparatus shall be completed within 12 months of the final date electricity is generated at the site;

(iv) A survey of existing television signal reception to establish a baseline against which to assess the impact of the wind turbine. Thereafter, within six weeks of the wind turbine coming into operation, and subsequently at the reasonable request of the Planning Authority following receipt of a complaint, a report assessing the effect of the wind turbine on local television signal reception ('the report') shall be submitted to the Planning Authority. If any impact on TV reception signal takes place, the report shall include detailed measures to overcome reception interference. In the event that interference with TV signals occur, the operation of the turbine shall cease until measures to mitigate any such interference are implemented. Should such measures fail to address the TV interference the operation of the turbines shall cease until otherwise approved in writing by the Planning Authority.

Reason: In order that the Planning Authority may verify the acceptability of the transmission lines, access route and turbine colour in the interests of visual amenity; in order to ensure appropriate site restoration; and in order to mitigate any impacts on television reception.

5. That unless otherwise approved in writing by the planning authority, the turbine hereby approved shall: -

- o have no symbols, signs, logos or other lettering by way of advertisement displayed on any part of the wind turbine;
- o not be lit other than for the purposes of aviation safety.

Reason: In the interests of the visual amenity of the area.

6. The rating level of noise immissions from the wind turbine (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed at any property lawfully existing at the date of this planning permission:

- (a) the LA90 dB (A) 10min levels, shown in table A, where there is more than one property at a location the noise limits apply to all properties at that location or;
- (b) LA90 28dB (A) 10min at wind speeds up to 10 m/s at 10m height at any other location.

Reason: In order to safeguard the residential amenity of adjacent property.

7. Prior to the commencement of development the make and model of the turbine selected for use in the development shall be submitted for the written approval of the Planning Authority.

Reason: In order that the planning authority can verify the model of turbine to be used to ensure that noise limits could be met.

8. In the event that any turbine other than the candidate turbine is to be installed, a detailed noise assessment, including where necessary a cumulative assessment taking into account any existing wind turbine developments approved prior to the date of this permission, demonstrating that the noise limits specified by this permission shall not be exceeded shall be submitted for the written approval of the Planning Authority.

Reason: In order to safeguard the residential amenity of adjacent property.

9. In the event that any wind turbine is required to operate in a reduced power mode in order to comply with the noise limits specified by this permission a scheme for the mitigation of noise shall be submitted for the written approval of the Planning Authority.

Reason: In order to safeguard the residential amenity of adjacent property.

10. The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.

Reason: In order to safeguard the residential amenity of adjacent property.

11. No electricity shall be exported until the wind farm operator has submitted to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake noise compliance measurements in accordance with this permission. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.

Reason: In order to safeguard the residential amenity of adjacent property.

12. Within 21 days from receipt of a written request from the Local Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local 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 Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

Reason: In order to safeguard the residential amenity of adjacent property.

13. 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 Local 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 by the Local Planning Authority to investigate a complaint, and such others as the independent consultant considers likely to result in a breach of the noise limits.

Reason: In order to safeguard the residential amenity of adjacent property.

14. Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval proposed noise limits 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 Local Planning Authority for the complainant's dwelling.

Reason: In order to safeguard the residential amenity of adjacent property.

15. The wind farm operator shall provide to the Local 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 Local Planning Authority for compliance measurements to be undertaken, unless the time limit is extended in writing by the Local 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 Local Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

Reason: In order to safeguard the residential amenity of adjacent property.

16. Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to condition 13 above unless the time limit has been extended in writing by the Local Planning Authority. Reason: In order to safeguard the residential amenity of adjacent property.

Reason: In order to safeguard the residential amenity of adjacent property.

17. Prior to the commencement of development a shadow flicker assessment shall be submitted for the written approval of the Planning Authority. The aforementioned assessment shall consider any sensitive receptors a minimum of 1km from any proposed turbine. Where under worst case conditions any property is predicted to be affected by shadow flicker for more than 30 minutes per day or more than 30 days per year then a scheme of mitigation shall be submitted for the written approval of the Planning Authority. Once approved the operation of the wind farm shall take place in accordance with the said scheme unless the Planning Authority gives written consent to any variation. For the avoidance of doubt sensitive receptors includes all residential properties, hospitals, schools and office buildings.

Reason: In order to safeguard the residential amenity of adjacent property.

18. That in the event of a pollution incident or interruption to supply, caused by the wind farm development, affecting or likely to affect any private water supply, the wind farm operator shall provide an immediate temporary supply to those affected until permanent mitigation can be effected to the satisfaction of the Planning Authority. Any replacement supply shall be of a quality to meet the private water supplies (Scotland) Regulations 1992 or any other appropriate Regulation in force at the time. In any case a permanent replacement supply or mitigation measures shall be provided no later than one month after the supply is first affected.

Reason: In order to safeguard the residential amenity of adjacent property.

19. Noise associated with construction operations including the movement of materials, plant and equipment shall not exceed the noise limits shown in table C below for the times shown. At all other times noise associated with construction operations shall be inaudible at any sensitive receptor. For the avoidance of doubt sensitive receptors includes all residential properties, hospitals, schools and office buildings.

**Table A: Operational wind turbine noise at all times**

Location	LA90 (10 min) Noise limit at a standardised wind speed of up to 10m/s at 10m height
Balhall Lodge	28 dBA

**Table C: Construction Noise limits**

Day	Time	Average Period (t)	Noise limit
Monday-Friday	0700-0800	1 hour	55 dBA Leq
Monday-Friday	0800-1800	10 hour	65 dBA Leq
Monday-Friday	1800-1900	1 hour	55 dBA Leq
Saturday	0700-0800	1 hour	55 dBA Leq
Saturday	0800-1800	10 hour	65 dBA Leq
Saturday	1800-1900	1 hour	55 dBA Leq
Sunday	0800-1800	10 hour	55 dBA Leq

20. That, prior to the commencement of development, details for the formation of the new length of access track between the existing access track and the site shall be submitted for the written approval of the Planning Authority. The details shall, as a minimum, include the following:

- (i) a drawing showing the width of the track and/or provision of inter-visible passing places. The passing places shall extend to the junction of the existing track with public road;
- (ii) a construction specification in accordance with the council's planning advice note; PAN 17 – Miscellaneous Planning Policies;
- (iii) the provision of surface water drainage; and
- (iv) an agreement with the land owner or other persons with rights of access over the track.

Reason: In order to ensure a satisfactory standard of access in interests of road safety

21. That, prior to the commencement of development, a Construction Traffic Management and Routing Plan shall be submitted for the written approval of the Planning Authority. Thereafter, the development shall be undertaken in accordance with the approved details of the plan. The Construction Traffic Management and Routing Plan shall consider arrangements for the following:

- (i) agreement with the Roads Authority on the routing for abnormal loads;
- (ii) the type and volume of vehicles to be utilised in the delivery to the site of construction materials and turbine components associated with the construction and erection of the wind turbines;
- (iii) assessment of the suitability of the proposed routes, including bridge capacities, to accommodate the type and volume of traffic to be generated by the development. The assessment shall include details of swept path analyses and include DVD video route surveys;
- (iv) any proposed accommodation works / mitigating measures affecting the public roads in order to allow for delivery loads including carriageway widening, junction alterations, associated drainage works, protection to public utilities, temporary or permanent traffic management signing, and temporary relocation or removal of other items of street furniture;
- (v) the restriction of delivery traffic to agreed routes;
- (vi) the timing of construction traffic to minimise impacts on local communities, particularly at school start and finish times, during refuse collection, at weekends and during community events;
- (vii) a code of conduct for HGV drivers to allow for queuing traffic to pass;
- (viii) liaison with the roads authority regarding winter maintenance;
- (ix) contingency procedures, including names and telephone numbers of persons responsible, for dealing with vehicle breakdowns;
- (x) a dust and dirt management strategy, including sheeting and wheel cleaning prior to departure from the site;
- (xi) the location, design, erection and maintenance of warning/information signs for the duration of the works, at site accesses and crossovers on private haul roads or tracks used by construction traffic and pedestrians, cyclists or equestrians;
- (xii) contingencies for unobstructed access for emergency services;
- (xiii) co-ordination with other major commercial users of the public roads on the agreed routes in the vicinity of the site;
- (xiv) traffic management, in the vicinity of temporary construction compounds;
- (xv) the provision of data from traffic counters, installed at locations and at intervals to be agreed with the Roads Authority, at the applicant's expense;
- (xvi) arrangements for the monitoring, reviewing and reporting on the implementation of the approved plan; and
- (xvii) procedures for dealing with non-compliance with the approved plan.



The Construction Traffic Management and Routing Plan shall be implemented in accordance with the approved details.

Reason: In the interests of road safety and to ensure the free flow of traffic for the convenience of road users and to ensure that any works required to the local road network to facilitate the development are undertaken.

22. Prior to any works commencing, the developer shall secure the implementation of an archaeological survey of the extant structures, to be carried out by an archaeological organization acceptable to the planning authority. The scope of the archaeological survey will be set by the Aberdeenshire Council Archaeology Service on behalf of the planning authority. The name of the archaeological organization retained by the developer shall be given to the planning authority and to the Aberdeenshire Archaeology Service in writing not less than 14 days before the survey commences. Copies of the resulting survey shall be deposited in the National Monuments Record for Scotland and in the local Sites and Monuments Record upon completion.

Reason: To record features of the historic environment in the area.

23. The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Aberdeenshire Council Archaeology Service on behalf of the planning authority, during any groundbreaking and development work. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. Terms of Reference for the watching brief will be supplied by the Aberdeenshire Council Archaeology Service. The name of the archaeological organization retained by the developer shall be given to the planning authority and to the Aberdeenshire Council Archaeology Service in writing not less than 14 days before development commences.

Reason: To record Items of archaeological Interest

## **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 farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm 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 ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (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 Local 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 farm operator shall submit for the written approval of the Local 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 farm.

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height 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 Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

(f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

### **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)

(b) Valid data points are those measured in the conditions specified in the agreed written assessment protocol, 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 measurement periods set out in Guidance Note 1. In specifying such conditions the Local 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 farm noise level at each integer speed.

### **Guidance Note 3**

(a) Where, in accordance with the approved assessment protocol, 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.

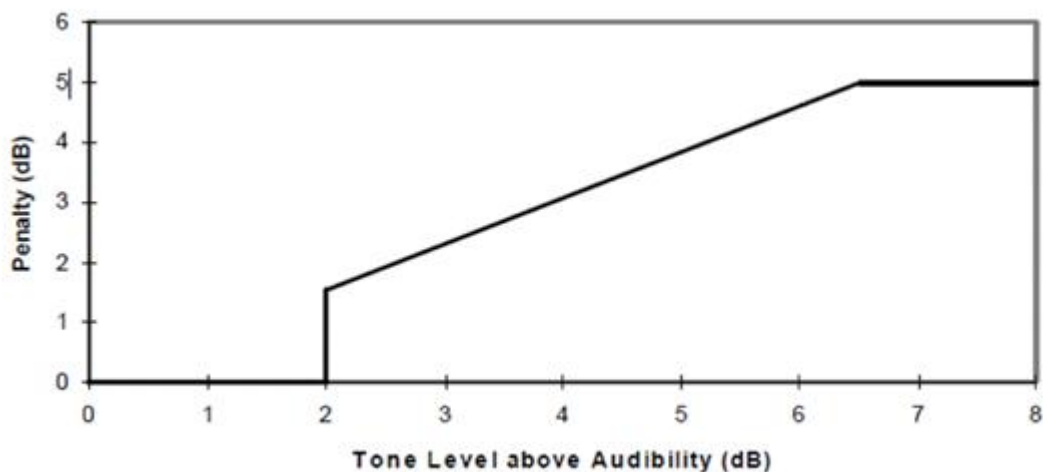
(b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that 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 used.

(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 below.



#### 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 Guidance 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 agreed written assessment protocol.

(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, 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 farm operator shall ensure that all the wind turbines in the development are 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 farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request and the approved protocol.

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

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

(g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm 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 3 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 Local Planning Authority for a complainant's dwelling 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 Local Planning Authority for a complainant's dwelling then the development fails to comply with the conditions.