

Application No: 11/01932/F	Ward: Caversfield	Date Valid: 11/01/12
Applicant:	Bolsterstone Innovative Energy (Ardley) Ltd	
Site Address:	Land North of Willowbank Farm, Fritwell Road, Fewcott	

Proposal: Variation of condition 21 of 08/02495/F (APP/C3105/A/09/2116152)

UPDATE following the deferral from 22 March 2012

Consultations for this application had previously taken place in accordance with the Statutory requirements in January and February of this year with two site notices being posted, an advertisement in the press and notification to Ardley with Fewcott Parish Council who initially responded on 22 February 2012. However the application was deferred at Committee on 22 March 2012 to enable time for further consultation by way of additional/replacement site notices and wider consultation with neighbouring parish councils. The following Parish Councils were consulted on 27 March 2012;

- Hardwick with Tusmore
- Souldern
- Upper Heyford
- Middleton Stoney
- Bucknell
- Stoke Lyne
- Somerton
- Ardley with Fewcott
- Fritwell

Additional/replacement site notices were posted on 27 March 2012 in the following locations;

- Notice board by village hall at Ardley
- Public footpath sign on Fritwell Road, Fewcott
- Entrance to Willowbank Farm
- Sign at entrance to Fritwell (on Fewcott/Fritwell Road)
- Bridleway gate north of site and M40 on B4100

The end of the consultation period will be 17 April 2012. At the time of amending this report there was very little by way of additional representations. Those that have been received to date are summarised in Sections 2 and 3 below. Any further representations will be provided in an update.

Since the application last appeared on the agenda the Government has published the NPPF which replaces the majority of the PPSs and PPGs. This does not have any direct bearing on the assessment of this amendment but should be considered a material consideration. The significance of wider policy is not discussed in this report as the issues are isolated to the variation of the specific condition. However as a material change in circumstances it is worth noting that the NPPF contains the following guidance relevant to renewable energy schemes (in summary);

- Supporting the delivery of renewable energy
- LPAs should have a positive strategy to promote energy from renewable sources
- LPAs should not require applicants to demonstrate the overall need for renewable energy and recognise that even small-scale projects provide a valuable contribution
- LPAs should approve applications if its impacts are (or can be made) acceptable

It is not considered that by using the guidance in the NPPF to assess the proposal for the wind farm a different conclusion would be reached with regard to the principle of the development.

1. Site Description and Proposal

1.1 This application seeks consent to vary the wording of Condition 21 of application no. 08/02495/F. The original application was for the erection of 4 no. turbines and ancillary development at the above address and was granted planning permission on 6 July 2010 by an Inspector appointed by the Secretary of State following a lengthy public inquiry.

1.2 Condition 21 is worded as follows;
'No development shall take place until written confirmation has been provided to the local planning authority that a Safety Report has been submitted to an approved in writing by the operators of London Oxford Airport in consultation with the Civil Aviation Authority in relation to the safe operation of London Oxford Airport with the proposed wind farm in place. The turbines shall be operated in accordance with the terms of the safety report.'

1.3 The applicant's suggested wording for the variation is as follows;
'Fitting and maintenance of the air navigation warning lights fitted to the turbine shall accord with Pager Power document 55701 entitled Lighting Operation Recommendations – Fewcott Wind development, dated 25 November 2011.'

1.4 This application is for the variation of a condition of a planning consent and as such is a Section 73 application. The effect of approving such an application is to issue a new consent for the proposal. The principle of the development was found to be acceptable by an Inspector appointed by the Secretary of State therefore the Council should only consider the implications of the variation itself and any other material change in circumstances since the application was determined.

1.5 Planning History

1.5.1 Extracts from documents submitted during the Inquiry into application no. 08/02495/F may be referred to later in the report.

1.5.2 In August 2011 the applicants submitted an application to discharge conditions 21 and 22 of 08/02495/F (11/00218/DISC). Condition 21 is set out above at paragraph 1.2 and condition 22 is as follows;
No development shall take place until written confirmation is received by the local planning authority and approved in consultation with London Oxford Airport and Civil Aviation Authority that radar mitigation measures in accordance with CAP (Policy and Guidance on Wind Turbines) (and any other relevant CAA guidance in force at the time) can be implemented by London Oxford Airport such that radar operation at London Oxford Airport will be safe when the turbines become operational.

1.5.3 The submission included a letter from the applicant setting how they had sought to comply with the conditions. Discussions between the applicant, LOA and the Council have been ongoing but to date no decision has been issued with regard to discharging these conditions as there are particular issues on which agreement

can't be reached.

- 1.5.4 In April 2011 the applicants sought to amend the detail of Condition 23 of the consent to allow the use of 200 candela aviation lights instead of 25 candela lights approved by the Inspector. It is understood that the applicants made this request to satisfy the requirements of London Oxford Airport. Given the way in which the condition was worded it was possible to amend it with the written approval of the local planning authority. Prior to agreeing to this amendment the Council sought clarification from London Oxford Airport (who also sought advice from the CAA) and the Ministry of Defence Safeguarding department. The MOD raised no objections stating that 25 candela lighting is the minimum requirement for their purposes. London Oxford Airport were satisfied with 200 candela lights assuming the lights are LED type or similar with back up on each turbine in case of failure and the lighting fixtures being subject to regular cleaning and maintenance.
- 1.5.5 The reason for imposing the condition restricting the lighting to 25 Candela was in order to protect residential amenity by limiting intensity of the air navigation lights. However based on the information submitted on 11 April 2011 it is understood that 200 candela aviation lights with variable intensity are likely to have less of an impact on residential properties than omni-directional 25 candela lights.

2. Application Publicity

- 2.1 The application has been advertised by way of site notices and press notice. Following the Committee's earlier resolution the final date for comment is extended until 17 April 2012. At the time of drafting this report 6 representations have been received in relation to the proposal. The reasons for commenting/objecting are set out below;
- Not been able to object online
 - Believe that correct consultation procedures and timescales have not been adhered to
 - Site notices placed in inappropriate locations and no letters have been sent to residents
 - Variation appears to be a direct alteration to the public safety conditions imposed following public inquiry
 - If approved CDC would be giving permission for a statutory nuisance which is illegal
 - Matter is about safety of aircraft, their passengers and crew, the public and residents of the area
 - The Inspector agreed the necessary measures to ensure an acceptable development
 - Nobody is better advised than the Inspector or the air safety advisor professionals who advised him – therefore the Council should not amend the clause
 - Public being treated as an inconvenience rather than member of local community which the Council are supposed to serve
 - CDC appears to want this development come hell or high water by altering conditions even where they were set by consultation
 - Already shocked by disregard for objections on the basis of visual impact to

- countryside and noise
- Residents concerns have been brushed aside and gaps left in the analysis (in relation to noise assessment) – other applications in the country have been refused based on proximity
 - Can CDC seriously be considering playing with the lives of its residents by allowing an air traffic hazard to exist so close to our houses without due consultation and the opportunity to summon true experts
 - Oxford Airport are the experts and likely to bear the legal liability if a crash occurs
 - Need to consider following facts, that the turbines will unavoidably be a hazard to air traffic, as flying jets and helicopters often fly over the properties, have military airports been considered, other flight paths may exist
 - The firm employed by the applicants are not experts in the relevant field
 - The proposed amendments appears to have been 'secret'
 - The airport authority must retain its control and responsibility
 - Financial ambitions of applicants being put ahead of the safety of residents who will receive no benefit from the proposed development and even less if concerns of the airport are ignored
 - Only the airport and the CAA can properly assess the risks and be accountable for safety implications
 - Careful consideration should be given to the material facts before regrettable decision are made

Please refer to the electronic copy of consultation responses, available on Public Access, for the full responses.

3. Consultations

Please refer to the electronic copy of consultation responses, available on Public Access, for the full responses.

- 3.1 Although the application only seeks to vary Condition 21 **Ardley with Fewcott Parish Council** has also referred to the variation of Condition 22 in its response received 22 February 2012. The response is summarised as follows;

History

- London Oxford Airport (LOA) objected to proposal on grounds of aircraft safety as turbines were on approach to airport
- Established that revised form of radar installation would overcome main objection but LOA was unwilling to proceed without some commitment as to costs from the applicant
- Applicant agreed to contribute up to £100,000 towards costs which was acceptable to LOA subject to securing the contribution. Applicant unwilling to provide such security and Inspector suggested it be dealt with by Condition – wording was agreed by both the applicant and LOA.

Current Position

- The intensity of the air navigation warning lights as stated at Condition 23 has been increased without consultation with the Parish but with the

- agreement of the applicant, LOA and CDC, with no justification.
- An approved safety report has not yet been submitted to CDC but it is assumed this will deal with lighting and radar mitigation.

Parish Council's Position on proposal

- Objects on the following grounds;
 1. CDC should not discharge either condition 21 or condition 22 without the consent of LOA as stated in the Inspector's report
 2. Aircraft safety and the safety of people on the ground is paramount and for CDC to discharge these conditions without the consent of LOA could amount to negligence in the event of an accident attributable to the effect of the wind turbines
 3. HOW Planning LLP has at great length set out to rubbish these condition but it is the Parish Council's view that CDC should resist this as it was specifically designed by the Inspector to get over the log jam and therefore must be regarded as an exception
 4. The Parish Council is well aware of the cost constraints placed on Councils but if the applicant threatens to appeal to the Inspectorate, CDC should not compromise their position and give way to the applicant on the grounds of cost.

Two further responses have been received dated 21 and 22 March expressing concern that the item was a late inclusion on the agenda for 22 March, and that other procedures have not been complied with including the public consultation process. There is concern that the variation will result in ever increasing traffic into Oxford Airport transiting over the villages, in the safety zone, in a way that the airport considers unsafe, with potentially catastrophic consequences for passengers and residents alike. It is considered that the issue should be rectified through the courts and not planning committee if there is an error in law. The Condition was thought to be imposed to ensure public safety of the scheme would fail and it should not be overturned by officers or Councillors. The application should be refused and no other decision made until a full investigation takes place. The representation suggests that the planning department has 'gone native' with this application and it must be addressed.

3.2 **Upper Heyford Parish Council** raises no objections.

3.3 A solicitor on behalf of **London Oxford Airport** has made the following points;

- There are two issues arising from the Safety Report, namely the acceptability of air navigation warning lights fitted to the turbines and Instrument Flight Procedures (IFP)
- The Lighting Operation Recommendation dated 25 November 2011, produced by Pagerpower is agreed. The recommendation now satisfactorily deals with repair and maintenance of the lighting
- LOA does not agree to the proposed wording of Condition 21 as the condition as revised would entirely ignore the Safety Report in relation to IFPs
- The applicants are asking the Council to discharge the condition in so far as it relates to IFPs, without obtaining the written confirmation that the Safety Report has been approved by the Airport in consultation with the CAA. The issue here is simply one of safety.

- It is not possible on basic safety grounds for the Airport to provide details of new or amended IFPs until such time as the radar installation is fully operational. The relevant installation procedures are currently in progress and it is expected that the IFPs can be designed accordingly once these have been carried out and the radar is Safety Regulatory Group (SRG) approved for operational use (expected May 2012).
- It is the Airport's duty to demonstrate to the CAA that it can operate safely at all times; safety has to be the paramount objective in terms of satisfying condition 21 and the District Council is in no position to override the Airport's objections in this respect, given the wording of the condition imposed by the Inspector on appeal.
- The airport believes that the Council has previously set out the correct current position is a letter to the applicants of 7 November 2011 in which it was stated, "...however, the Council finds itself in a difficult position as the condition requires that written confirmation be provided to the Council that a safety Report be submitted to an approved by the operators of the Airport. This effectively puts the Airport as the determining body and therefore it has some control as to how quickly this condition could be discharged...if the Council were to approve this condition without the written agreement of the Airport it could be liable if at a later date safety measures were found to be inadequate."
- The Instrument Flight Procedure Notes document supplied by Pagerpower dated 9 December 2011 cannot give the Council any comfort whatsoever that safety would not be compromised
- The author of the report is not a qualified IFP designer
- The Airport does not know how the radar will be used and how future air traffic services will be provided – that is the point of testing the procedures which will be carried out as part of the radar development
- In the critique by Davidson Ltd it is stated that there are requirements both extant and anticipated that will result in changes to IFPs – Pagerpower's document contradicts this
- The Davidson critique states that no design or detailed technical analysis of the development was carried out
- Although application is in respect of Condition 21 only it is necessary to consider condition 22.
- The Inspector states at paragraph 91 that; "*The proposal would have an adverse effect on aviation interests; the adverse effect would be the extra work in making the radar capable of working satisfactorily with the turbines in place. The 'no adverse effect' test would be met only if the radar is not installed at all, or if the Airport was relieved of the extra work in making the radar accommodate the wind farm.*"
- Wind turbines are known to cause interference through signal clutter which can give rise to safety issues on radar operations. Such turbines must comply fully with the CAA's CAP 764 Policy and Guidelines on Wind Turbines which indicates that suitable mitigation measures must be taken in order to safeguard the Airport from such risks. In light of this, no wind farm development should proceed without the explicit consent of LOA who may need to take advice from its contractors or other third parties as to the potential impacts on its operations and any mitigation options available. In this case, the airport has made it clear to both the Council and the developer that they expect the full cost of mitigation measures to be borne

- by the developer before the development proceeds.
- In addition to the capital cost of the radar mitigation measures there will also be an annual fee to maintain the compliance of the installation and for hosting it at the Airport together with the provision of any upgrades necessary for the life of the radar system. The airport will expect the applicants to fully cover all such costs as is common with wind turbine development at other airports.

3.4 The **Civil Aviation Authority** has stated that Oxford Airport is responsible for the safeguarding of their aviation operations and as such they are the experts on local aviation issues affecting the airport. Therefore, it is the responsibility of Oxford Airport to satisfy themselves as to the impact of proposed developments upon their operations, including the discharge or variation of any related conditions.

4. Relevant Key Planning Policies

4.1 National Planning Policy Framework

4.2 South East Plan

NRM14 – Sub-regional targets for land-based renewable energy

NRM15 – Location of Renewable Energy Development

4.3 Adopted Cherwell Local Plan

C7 – Topography and character of the landscape

C8 – Sporadic development in open countryside

4.4 Non Statutory Cherwell Local Plan

EN21 – Renewable energy schemes and impact on local environment

EN34 – Character and appearance of landscape

4.5 Draft Core Strategy

SD3 – Renewable energy proposals

4.6 Other relevant documents

Renewable Energy and Sustainable Construction Study (CAG September 2009)

Council's Planning Guidance on the Residential Amenity Impacts of Wind Turbine Development (February 2011)

5. Appraisal

5.1 In considering this submission for the variation of Condition 21 Officers reached the view that the two main issues which remained unresolved in relation to the Safety Report submitted in an attempt to discharge the condition were;

- a) ensuring the installation and maintenance of appropriate lighting and;
- b) the testing/modifications of the Instrument Flight Procedures (IFPs).

5.2 The applicants have submitted a light maintenance programme as an addendum to the Safety Report which is satisfactory to LOA. It would be possible to require through a revised condition that the submitted maintenance programme be complied with, thus satisfying LOA in this respect.

- 5.3 In relation to IFP's the applicants submission was supported by a Review of the Pager Power Report into IFPs carried out by a UK CAA approved IFP Design Organisation. The Review concludes that new IFPs will be required as a result of the installation of radar at LOA but that it was not envisaged that a new IFP will be affected by the wind turbines. The applicant's case therefore is that the airport should be able to operate safely when the turbines are installed and operational. The Council does not benefit from access to expert knowledge in aviation issues and as such Officer's were minded to except the conclusions of this report given that they originated from a UK CAA approved IFP Design Organisation. The Council often relies on expert advice submitted on behalf of applicants for example in relation to ecological issues. However as a result of the wording of the existing condition 21 the Council cannot discharge the condition without the agreement of LOA and as such the opinion of LOA was sought. When officers contacted LOA it was requested that if they were to maintain objections on the grounds previously expressed that they should be substantiated with a report from a suitably qualified expert. Such a report has not been forthcoming but LOA do maintain their objections in the form set out in the consultation responses at Para. 3.2.
- 5.4 When considering the wording of the original condition it is apparent that it is unusual as it requires the Safety Report to be submitted to and approved in writing by the operators of LOA, a third party. Circular 11/95: Use of conditions in planning permission clearly states that;
- 'It is unreasonable to impose a condition worded in a positive form which developers would be unable to comply with themselves, or which they could comply with only with the consent or authorisation of a third party (for example, a condition which requires an aerodrome owner to impose a particular pattern of aircraft routeings, where air traffic services for the particular aerodrome are the responsibility of the Civil Aviation Authority or the National Air Traffic Service). Similarly, conditions which require the applicant to obtain an authorisation from another body should not be imposed.'* (Para. 38)
- 5.5 The wording of the condition means that the Council cannot discharge the condition without the consent of LOA and this would seem inappropriate for two reasons. Firstly it takes the matter completely out of the control of the Council and the applicant and secondly, LOA does not have the same requirements as Council's to act reasonably and it may well be that LOA could be considered as acting unreasonably in this instance as it is becoming clear from the content of some of the correspondence received from them that they are seeking to secure sufficient funding from the applicants to enable the complete installation and continuous upgrade/maintenance of the mitigation measures required for the radar when the wind farm becomes operational. Contrary to what the Parish Council understand to be the position it is believed that the applicants had been willing to contribute a sum of £100,000 towards a mitigation strategy (discussed at the time of the Inquiry) but it would seem that LOA now consider that this sum is not sufficient. It also appears to come down to a matter of timing because if the application for the turbines had been approved and implemented before the radar was installed the cost of mitigation would be entirely the responsibility of the airport and certainly not a matter for the Council to get involved in.
- 5.6 The Council has a duty to act reasonable and cannot withhold consent for applications or refuse to discharge conditions unless there is a reasonable

argument to do so. If applicants consider the Council has reached the wrong decision or acted unreasonably there is the opportunity to appeal to the Planning Inspectorate. This is an opportunity currently open to the applicant's but it appears that the applicants are seeking to resolve the issues without resorting to costly and time consuming appeals. They are also of the view that they have done everything within their power to demonstrate that the safety of the airport will not be compromised by the wind farm.

- 5.7 Notwithstanding the fact that the planning system can't be used to secure payments between applicants and independent commercial third parties and as an aside it is worth considering the fairness of requiring that the applicants for this application pay the entire cost of mitigation and upgrade/maintenance when it is clear that other wind turbines may be constructed in the future that may also affect the operation of the radar. At this time it is understood that similar negotiations are ongoing between LOA and Cherwell Valley Services about appropriate contributions, yet this would seem to be doubling up on costs/contributions if LOA are expecting the applicants for the wind farm to pay for the entire mitigation package.
- 5.8 The revised wording of Condition 21 suggested by the applicants simply requires that they comply with the agreed maintenance for the lighting. If this was to be agreed by the Council it would in effect result in the original condition 21 being discharged or complied with and would not necessarily require that the applicants comply with other aspects of the Safety Report. This is not considered to satisfactorily deal with the issues that the Inspector sought to secure or the fact that LOA maintain their objections, although these remain unsubstantiated.
- 5.9 Officers therefore consider that the following wording would be appropriate;
That work to construct the turbine on site shall not be commenced until an aviation Safety Report covering the issues of aviation lighting and Instrument Flight Procedures has been submitted to and approved in writing by the local planning authority, in consultation with London Oxford Airport and the CAA (or any successor body), in relation to the safe operation of LOA with the proposed turbines in place. The turbines shall only be operated in accordance with the terms of the Safety Report.
- 5.10 The objections from LOA seem to be twofold. Firstly that any revised IFPs can't be tested until the radar is fully operational, possibly in May 2012 and secondly that the applicants have not agreed to pay for the entire radar mitigation strategy. It would seem unreasonable for LOA and the Council to withhold consent based on issues that are constantly evolving, and have been since the original application was submitted back in 2008, and as such are out of the control of the applicant.
- 5.11 When the application was submitted for the wind turbines and it was being considered by Committee Members it was an aspiration of LOA to install radar and as such Members were advised in the committee report that;
'given that the issue of radar was only brought to light some time after the end of the statutory consultation period, it did not form part of the original consultation response and the potential of installation remains only an intention, it is not considered reasonable to either hold up the determination of the application or recommend refusal on these grounds.'

- 5.12 During the Inquiry process it was clear that LOA had made progress towards the acquisition of radar and this led to the discussion around the safe operation of radar when the turbines are installed and operational. The Inspectors decision includes reference to the fact that LOA stated that it is not envisaged that there would be an outcome where no appropriate form of technical mitigation would be available; it would be a matter of cost. The decision, at paragraphs 89 to 91, went on to state;

'The evidence is that the appellant is prepared to contract with London Oxford Airport Limited to make a reasonable contribution towards meeting the extra costs of technical mitigation of the adverse effects expected to be caused to the operation of a future radar installation by the appeal proposal. But notwithstanding the stated intention of both parties, no such agreement is before me. Instead, both parties suggest that the matter could be addressed by a Grampion Condition.'

No case was put that, if the appeal were allowed and the wind farm built without such a condition, the Airport would be constrained to install a radar system that would lack the features necessary to mitigate the effect of the appeal proposal. There is no reason to conclude that the future operation of the Airport would be compromised if the appeal proposal were brought into use. But it seems to me that aviation interests are wide, and extend to the cost of the planned radar system.'

Paragraph 96 of the Wind Technical Annex to PPS22 places the onus on the appellant to prove that the proposed wind farm would have no adverse effect on aviation interests. It is common ground that the proposed radar would be more expensive if it made provision for the wind farm if it did not. And there is no dispute that an unmodified radar would be inadequate if the wind farm was built. Therefore the proposal would have an adverse effect on aviation interests: the "no adverse effect" test would be met only if the radar is not installed at all, or if the airport was relieved of the extra work in making the radar accommodate the wind farm.'

- 5.13 LOA have taken from this that the applicants should be responsible for covering the entire cost of the radar mitigation measures, yet this is not what the final decision and the conditions imposed by the Inspector conclude. To reiterate, Condition 22 reads as follows;

'No development shall take place until written confirmation is received by the local planning authority and approved in consultation with London Oxford Airport and the Civil Aviation Authority that radar mitigation measures in accordance with CAP 764 (Policy and Guidance on Wind Turbines) (and any other relevant CAA guidance in force at the time) can be implemented by London Oxford Airport such that radar operation at London Oxford Airport will be safe when the turbines become operational.'

- 5.14 It is the view of Officers, following the receipt of legal advice, that LOA is not correct in stating that the applicants have to pay for the implementation of the mitigation measures, merely that a report should be prepared confirming that there are measures that could be put in place by London Oxford Airport. Whilst it is relevant to consider the above paragraphs, as the issues have been raised by London Oxford Airport and the Parish Council it seems that the two conditions can be considered independently and that areas of disagreement in relation to condition 22

should not distort the issues of dealing with the variation of condition 21.

- 5.15 Therefore to conclude it would seem that there is some dispute between the applicants and LOA. LOA consider that the applicant's evidence in relation to IFPs covered by the Safety Report is not sufficient or reliable, therefore the issue should not be ignored and the condition should not be amended in a manner that disregards the concerns of LOA. However the applicants have attempted to show that there would be no adverse impact on IFPs as a result of operating the turbines and yet LOA has not provided any substantiated evidence to the contrary. The proposed reworded condition 21 therefore requires that a Safety Report be submitted by the applicant to the Council, providing the applicants with the opportunity to expand on their existing reports. LOA will then be consulted on the matter and if they maintain their objection they should substantiate it with a full report carried out by a suitably qualified expert. Furthermore LOA may be in a better position to comment on the effects on IFPs as the radar is expected to become fully operational in May 2012. Without clear evidence, consent should not be withheld pending the outcome of testing when the timing is in the control of a third party and subject to change of an indefinite nature. If, when the applicants seek to discharge the amended condition 21, LOA fails to substantiate their objections the Council would be able to consider if it thought the Airport was being unreasonable and potentially discharge the condition, something which is not currently within the Council's power. Whilst the discharge of condition remains in the control of LOA it would seem that the issue is out of the control of both the applicant and the Council providing no assurances to the applicant that the issue can ever be resolved, potentially resulting in a consent that can't be implemented, an unreasonable outcome.
- 5.16 Whilst the Council is not yet in a position to discharge the conditions relating to aviation conditions it should be possible to resolve these issues when the Council considers that sufficient information has been presented so as to demonstrate that the airport can operate safely when the turbines are in place. Once this is done the Council will have fulfilled its responsibility. The responsibility to ensure that LOA is operated safely lies directly with the airport itself and as such the matter of how the safety and mitigation measures are implemented is one to be agreed between the applicants and the airport.
- 5.17 Following the receipt of some consultation responses it seems that there is a general view that officers are seeking to allow the applicants to do away with any aviation safety responsibilities. This is most certainly not the case. If members are minded to agree to the suggested variation of the condition the applicants will still have to provide safety reports which will need to be consulted upon with LOA. The variation will put the Council in a better position to enable the condition to be discharged or otherwise if it is considered that either party is acting unreasonably.

6. Recommendations

- a) That Condition 21 be amended, not in accordance with the applicant's suggestion but in the following manner;
'That work to construct the turbine on site shall not be commenced until an aviation Safety Report covering the issues of aviation lighting and Instrument Flight Procedures has been submitted to and approved in writing by the local planning authority, in consultation with

London Oxford Airport and the CAA (or any successor body), in relation to the safe operation of LOA with the proposed turbines in place. The turbines shall only be operated in accordance with the terms of the Safety Report.

b) and that the remaining conditions be imposed as set out in the Inspectors decision dated 6 July 2012 with the exception of Condition 23 as discussed at Paragraph 1.5.4.

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