BURNISTON
Parish Council

Further report from Burniston Parish Council NY/2025/0030/ENV.

January 2026.

Construction of a temporary wellsite for the appraisal of gas, including drilling operation, proppant squeeze and flow testing operation and site restoration at Land East of the Mill Yard, Burniston Mill, Coastal Road, Burniston, Scarborough, YO13 0DB

Applicant - Europa Oil and Gas Limited, 30 Newman Street London W1T 1PT

Introduction.

Burniston Parish Council submitted its response to the planning application in April 2025 along with two neighbouring Councils – Cloughton Parish Council and Newby & Scalby Town Council. Our submission wholly objected to the planning application and set out the reasons why this decision had been reached.
The three Councils of Burniston Parish Council (BPC), Cloughton Parish Council and Newby and Scalby Town Council formed a working group (wg), the recommendations of the wg were considered by the three Councils individually prior to the submissions being made.
A further response was subsequently submitted.

Our submissions still stands.

Since the last submission further information which is extremely relevant has been considered and forms this document.

1. Should the planning application be considered as a standalone temporary application?

The answer is an emphatic **NO** the North Yorkshire Council Strategic Planning Committee **must** take into account the possibility of a future long-term application for the same site.

This consideration is fundamental to the principles of sound planning, preventing detrimental environmental precedent, and complying with national and local policy.

By setting a planning precedent creates the 'Thin End of the Wedge'.

A temporary consent can set a crucial and often damaging **precedent**. By granting permission for an exploratory rig—which is essentially heavy industrial development in a rural setting—the committee is establishing that, in principle, the site is acceptable for hydrocarbon extraction infrastructure.

If the drilling is successful, EOG Ltd is highly likely to submit a subsequent application for a long-term production phase which could last 20+ years. In that future application, the developer will argue:

- "The principle of industrial use has already been established by the temporary permission."
- "The local planning authority accepted the initial amenity impacts."

This makes it significantly harder for the committee to resist the future, much more impactful, long-term application, even if the permanent impacts would be far greater.

While the application is for a temporary use (e.g., exploratory drilling for a limited time), UK planning law and strategic local policy require the committee to fully assess the potential for permanent, harmful impacts.

Below is a breakdown of why this consideration is mandatory and how it relates to North Yorkshire's planning framework:

i. The Principle of Planning Precedent

In planning, a "temporary" approval can set a **precedent**. A committee is generally required to consider two scenarios:

A. The Risk of Future Permanent Applications

A successful exploratory well, even if temporary permission is granted and fulfilled, creates a strong incentive for the developer to return and submit a subsequent application for long-term production.

The committee must ask: **Would granting this temporary permission prejudice the outcome of a future application for permanent use?**

If the temporary development causes significant, demonstrable harm (e.g., to local amenity, landscape, or environment), granting it still validates the principle of industrial activity in that location. If a future application for permanent production were to be submitted, the developers would argue that the principle of the use has already been established by the temporary permission. This makes subsequent refusals much more difficult to defend at appeal.

B. The Risk of Unauthorised Permanent Use

If the temporary consent expires and the applicant fails to fully restore the site, the development could effectively become a permanent breach of planning control. While enforcement action is available, the damage to the environment or landscape may already be done.

This is why the **North Yorkshire Joint Minerals and Waste Local Plan** (MWJP) and other relevant policies emphasise the need for robust **reclamation and aftercare conditions** and, critically, a **Restoration Bond**. The bond is a financial guarantee to cover the cost of restoration should the operator fail to do so, protecting the public purse from a permanent scar on the landscape.

ii. Strategic Policy Requirements (The Joint Minerals and Waste Local Plan)

The North Yorkshire MWJP provides the strategic framework for this type of development and reinforces the need for long-term thinking:

- **Policy D10: Reclamation and Afteruse:** This policy directly addresses the temporary nature of mineral workings and requires that any planning application includes a detailed scheme for **reclamation and aftercare** of the site, ensuring that the land is returned to a beneficial and appropriate after-use (e.g. agriculture or biodiversity). The committee must assess if the proposed restoration is credible and would fully mitigate all long-term physical impacts.
- **Policy D02: Local Amenity and Cumulative Impacts:** This policy requires the committee to assess the **cumulative impact** of all developments in the area. While a three-year disruption might be considered temporary, the long-term potential for this site (plus any other mineral/waste sites nearby) to become a permanent fixture must be factored into the overall assessment of harm to amenity, traffic, and landscape.
- **The Precautionary Principle:** Where there is a threat of **serious or irreversible harm**—such as contamination of a public water supply or major, permanent damage to the landscape—the committee should apply a precautionary approach, even if the application is for a

temporary period. The scale of the potential long-term harm is a material planning consideration.

iii. The Test of Irreversible Impacts

The key legal and policy test for any temporary permission is whether the adverse effects are truly reversible.

For a gas drill site, the planning committee must assess the potential for **permanent damage,** for example to our already unstable cliffs and to the nearby residences, resulting from:

- **Ground Conditions:** Any lasting geological disturbance or contamination.
- **Infrastructure:** The creation of access roads or groundworks that significantly and permanently alter the physical nature of the site, even if the rig is removed.
- **Hydrology:** Any irreversible alteration to groundwater flow or quality.

In summary, the North Yorkshire Council Strategic Planning Committee cannot simply approve a gas drill site based on its temporary time limit. It must thoroughly examine the likelihood of a permanent follow-on application and ensure that the temporary application does not set a damaging precedent or involve risks of irreversible long-term harm to the rural environment.

2. Have EOG Ltd indicated long term intentions for this site?

Quite clearly the answer is yes.
In discussions between EOG Ltd and the three Councils Working Group, also independently with BPC, EOG Ltd have been clear that they expect this site to prove commercially viable, upon assessment, which will lead to a further application for a permanent site with an expected life span of up to 25years. The risk of Planning Precedent is very high.
In a direct lift from the EOG Ltd website the following quotes have been obtained -
'The appraisal drilling will tell us if the gas contained in the underground reservoir can be extracted at sufficient rates to make it commercially viable for production. If successful, any production phase would be subject to a separate planning application at a later stage.'

'If the appraisal drilling tells us that the gas contained in the underground reservoir can be extracted at sufficient rates to make it commercially viable for production, we will prepare an application for production. Any application for gas production would be subject to a separate planning application. This is likely to be at least two years away.'

'Europa regards Cloughton as a gas appraisal opportunity with the critical challenge being to obtain commercial flowrates from future production testing operations. A location for an appraisal well pad has been identified and following successful testing operations the field would be monetised by connecting to the nearby gas grid.'

In the discussions outlined above, EOG Ltd was very clear of their long term intentions for this site. Information that should be of great help to the NYC Planning Committee.

3. Has this site ever been subject to a previous planning application?

The answer to this is yes.
A planning application for the installation of a solar farm was successfully submitted. The solar farm produces clean energy and contributes to the North Yorkshire Plan towards net zero.
The irony of EOG Ltd.'s application is that the clean energy production will be reduced with the removal of part of the solar farm to facilitate a gas drilling operation.
In 2011 an application (11/00507/FL) from the current Landowner, Mr Morgan, was received by the planning committee. This was for the installation of two wind turbines measuring 24.6m high. The application was refused.
An appeal was submitted to the Planning Inspectorate and decided upon by Inspector Mr John Woolcock BNatRes(Hons) MURP DipLaw MPIA MRTPI, an Inspector appointed by the Secretary of State for Communities and Local Government.
The appeal was decided upon on 14th December 2012. The appeal was dismissed.
In conclusion Mr Woolcock wrote –
'Notwithstanding my favourable findings for the appellant on the second and third main issues, I consider that the harm I have identified to the character and appearance of the area represents a compelling objection to the proposal. I note that the Framework provides that renewable energy development should be permitted if its impacts are, or can be made, acceptable. However, in this case the proposal would not maintain the character of the undeveloped coast, or protect and enhance its distinctive landscape. Having regard to the Framework as a whole, I find that the proposal does not represent sustainable development to which the presumption in favour set out in the Framework would apply. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.'

The main points for consideration are –
a. In the 2011 plan the wind turbines were planned to be 24.6m tall.
b. In EOG's plan the drilling rig is 38m to 40m tall. Around 15m taller than the refused 2011 plan.
C. The undeveloped coast and its distinctive landscape remains unchanged from 2011.
D. Mr Woolcock concluded in dismissing the appeal in 2012 'the proposal would not maintain the character of the undeveloped coast, or protect and enhance its distinctive landscape.'
E. The NPPF still requires a planning authority to take into account the character and appearance of the area. This means that Mr Woolcocks judgement remains current.

It is very clear that the proposed industrial structure for Burniston Mill and its intrusion on the character of the undeveloped coast and its distinctive landscape was decided upon at a planning hearing for a less intrusive structure in 2011 and on appeal in 2012.

For complete openness and clarity Mr Woolcocks full report is attached below pages 8 to 14. The conclusion on p14 below is absolutely relevant to this planning application.

4. Should a restorative bond be a part of any planning consent?

NYC could insist upon a legal agreement for restoration of the site under Section 106 of the Town and Country Planning Act 1990. This is within itself a useful tool that ensures that the restoration happens. However should EOG Ltd cease to exist (including any unknown partners they sell part of

the project on to), the legal agreement becomes worthless. We would point NYC in the direction of the drill site at Preston New Road in Lancashire, a site that was closed due to the Fracking moratorium. To this day that site has not been restored fully. Had Lancashire C.C. imposed a restorative bond during the planning decision process, that site would already have been returned to its natural state or as close as it can be.
There is also the issue that with a S106 agreement, in the event of EOG Ltd ceasing to exist the full costings of restoration may well fall on the landowner via planning enforcement.
An upfront, independently costed, fully funded restoration bond has to be in place. The finances of the people of North Yorkshire should never be put at risk for this or any other private project.

5. Proposed reforms to the National Planning Policy Framework and other changes to the planning system.

In December 2025 the Ministry of Housing, Communities and Local Government published a proposed reforms document for the National Planning Policy Framework (NPPF). This document is in its consultation stage with a closing date of 10th March 2026.
P63 of the document outlines two key areas –

A. A more restrictive approach to the extraction of coal, oil and gas

'The new proposed planning policy on fossil fuel extraction is intended to support this direction of travel and to align with the proposed licensing reforms. It is recognised that the licensing reforms are to be finalised and remain pending, but the opportunity to propose updates to planning policy is being taken now in acknowledgement of the transition to green energy and to reduce the climate impacts associated with fossil fuel extraction.'

B. New policy on critical and growth minerals –

'Aligning with those set out in the government's recently updated Critical Minerals Strategy . This new policy reflects their importance in supporting the green energy transition, achieving net zero, safeguarding national security and supporting the growth of key sectors set out in the Industrial Strategy.'

P65 of the document outlines a key factor for planning committees.

National decision-making policies M3:

Assessing the Benefits of Mineral Development

'The footnote in policy M3 makes clear that this policy does not apply to development involving peat, coal, or onshore oil and gas extraction. ***This represents a policy change for oil and gas (i.e. the policy no longer provides that "great weight" should be given to the benefits of oil and gas extraction).'***

The application from Europa Oil and Gas Ltd relies very heavily on the 'great weight' policy and references it, as correctly pointed out by the Friends of the Earth', on at least four occasions as a substantial part of their argument to have the planning application passed.

The proposed reforms to the NPPF are reforms for the long term. At Burniston Parish Council we understand that the NPPF reforms will allow a planning committee or Planning Inspector to make a decision, which is clear and transparent, based on all the evidence presented, without the external pressure of the 'great weight' policy.

Conclusion.

As described in detail above this application cannot be decided upon without proper consideration being given to EOG's future plans. Those plans by EOG Ltd are well documented. They intend to be at this site for the next 25 years.

The site itself has already been considered locally by the planning committee and refused and dismissed by the Planning Inspectorate upon a planning appeal. That appeal, for a far less intrusive construction, was dismissed. The grounds for dismissal remain current.

In the event of the objections to this planning application being dismissed by the Planning Committee, a restoration bond, for all the reasons described above, has to be in place prior to any site development taking place. Experience in other areas of the country show that without a bond, our countryside will be at further threat should a developer be unable to meet the restoration requirements.

The forthcoming changes to the NPPF, in particular for onshore oil and gas drills cannot be ignored.

Burniston Parish Council and our community remain opposed to the planning application NY/2025/0030/ENV.

The Appeal decision from Mr Woolcock as described above is attached below pages 8 to 14.

The Planning Inspectorate

Appeal Decision

Site visit made on 10 October 2012

by John Woolcock BNatRes(Hons) MURP DipLaw MPIA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 November 2012

Appeal Ref: APP/H2733/A/12/2168578
Burniston Mill, Coastal Road, Burniston, Scarborough YO13 0DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr D Morgan against the decision of Scarborough Borough Council.
- The application No.11/00507/FL, dated 10 March 2011, was refused by notice dated 19 August 2011.
- The development proposed is siting of two 24.6 m high wind turbines to the north east of the farmstead.

Decision

1. I dismiss the appeal.

Preliminary matters

2. The scheme proposes two 50 kW Endurance E-3120 turbines. They would have a tower height to hub of 24.6 m and a rotor radius of 9.6 m, giving a maximum height of 34.2 m to blade tip. Grid connection is proposed via an underground link to a building on the site which contains an electricity meter that serves the existing feed mill.

3. The Council received more than 120 letters, along with a petition, signed by 134 people, objecting to the proposal. In addition, I have taken into account the written representations submitted at the appeal stage. I note that one of the aims of national planning policy is to strengthen local decision making.[1] However, it remains a general principle of the planning system that local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons.[2] I have had regard to the volume of local opinion against the proposal, but have determined the appeal on its planning merits.

4. The site lies within open countryside that is part of a designated Heritage Coast. The Cleveland Way footpath passes on the cliff tops along this part of the coastline. The North York Moors National Park lies some 870 m to the north of the appeal site and extends further to the west of Burniston. Wayside Farm is a dwelling located close to the mill and about 200 m from the nearest proposed turbine. There are other dwellings further away, on the opposite side of Coastal Road, and within Burniston.

[1] *National Planning Policy Framework* Annex 1: Implementation.
[2] *The Planning System: General Principles,* ODPM, 2005.

Main issues

5. The main issues in this appeal are:

   (a) The effects of the proposed development on the character and appearance of the area.

   (b) The effects of the proposed development on the living conditions of neighbouring residents with particular reference to visual impact, noise and disturbance.

   (c) The compatibility of the proposed development with national and local policy in respect of the generation of energy from renewable sources.

   I have also considered whether the benefits of the scheme would be sufficient to outweigh any harm that might be caused, and whether there are any other considerations which would justify allowing the appeal.

Planning policy

6. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. The development plan for the area includes The Yorkshire and Humber Plan Regional Spatial Strategy to 2026, published in 2008 (RSS), and saved policies of the Scarborough Borough Local Plan 1999 (LP). The Localism Act 2011 contains provision for regional strategies to be abolished, but the RSS remains part of the development plan at the present time. The Government's stated intention to carry out the abolition is a material consideration, but one to which I give relatively little weight, since abolition is still dependent upon the outcome of a strategic environmental assessment. The *National Planning Policy Framework* (hereinafter the *Framework*) was published after the Council determined the application. I have taken the comments submitted about the *Framework* into account in determining this appeal.

7. RSS Policies YH2 and ENV5 aim to reduce greenhouse gas (GHG) emissions. RSS Policies C1 and ENV10 seek, amongst other things, to protect and enhance the coastal landscape. RSS Policy E7 aims to strengthen the rural economy. LP Policy E.1 aims to protect open countryside. However, the weight given to this policy should have regard to the more recent national policy concerning sustainable development and the core planning principles set out in the *Framework*, which refer to recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. The site lies within the defined Coastal Zone where LP Policy E.2, amongst other things, strictly limits development to that for which a coastal location is essential, and where it would enhance the open, expansive character of the coastal landscape. LP Policy E.35 provides for development for renewable energy production, including wind turbines, subject to certain criteria. These include that it would not harm the character and appearance of the landscape. However, the weight given to this aspect of the policy should have regard to the *Framework*, which provides that policies should maximise renewable energy development while ensuring that adverse impacts are addressed satisfactorily. LP Policy H.10 concerns residential amenity.

8. I have had regard to the landscape and visual impact assessment submitted, and to representations about how the proposed turbines would appear in this location. In assessing possible adverse landscape and visual impacts a degree

of subjectivity is inevitable. In coming to my own judgements on these matters, I have considered whether sensitivity and impact magnitude would be either very low, low, medium, high or very high; and so have assessed whether the proposal would have a negligible, minor, moderate, substantial or major significance of effect.

Reasons

Character and appearance

9. The site lies within the Countryside Commission's North Yorkshire Moors and Cleveland Hills character area, which contains a distinctive and dramatic coast with high cliffs, small coves and bays, along with extensive views to and from the National Park. The existing mill building, including a grain drier, is visible from the A165 and appears as an industrial type structure, albeit screened in some views by nearby trees. This building is also apparent at a distance from some parts of the Cleveland Way. So too is the sewage treatment works, which is located in an open area to the south of the appeal site. However, this is designed to look like farm buildings. Notwithstanding these structures, this is an attractive coastal area where the steep cliffs down to rocky coves abut undulating farmland. The coastal footpath offers dramatic views of the rugged coastline, along with contrasting views over a rolling rural landscape towards a backdrop of wooded hills within the National Park. The quality and variety of this landscape give the area considerable scenic value. The *Framework* provides that authorities should maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes, particularly in areas defined as Heritage Coast.

10. I have taken into account the distribution of visual receptors and the sensitivity for those who use the local footpaths. I consider that the vicinity of the appeal site has high landscape sensitivity to the change that would result from the construction of the proposed wind turbines. The magnitude of landscape effects concerns the degree of change to the landscape resource and the nature of the effect. The proposed turbines would appear as large utilitarian structures in this coastal setting. They would introduce a built form, with moving blades, into an open countryside area that is an important element of this coastal hinterland. I find that they would detract from the landscape resource and that an impact magnitude of high would be appropriate here. The proposed turbines would impair the character, quality and value of the local landscape. I find that the overall significance of the impact of the proposed development on the landscape resource would be substantial and adverse. I turn next to visual effects, considering sensitivity of receptors and magnitude of visual change, so as to assess significance.

11. The Cleveland Way is well used by those enjoying the coastal scenery. Receptors here would have very high sensitivity. Parts of the proposed turbines would be visible on the skyline at a distance of about 1000 m from View Point VP13, which is a small parking area that provides access to the coastal footpath. However, it was evident from my site visit that the turbines would be more prominent in views from other vantage points to the south along the Cleveland Way, which are both more elevated and closer to the appeal site than VP13. The turbines would be an intrusive feature in these views. They would appear as discordant elements at odds with the attractive rural landscape that draws the eye towards the distant National Park. Given their height, location and movement, I consider that the turbines would harm

views from the coastal footpath. This would adversely affect the more gentle rolling rural landscape that provides a context for the dramatic coastal scenery. The proposal would, therefore, have a high magnitude of visual effect. I disagree with the appellant's view that the proposed turbines would have a low to negligible magnitude of change. I find that the overall significance of the impact of the proposed turbines on visual effects from the Cleveland Way, with very high receptor sensitivity, would be major and adverse.

12. Receptors along the Former Scarborough to Whitby Railway Line footpath and cycleway would have high sensitivity [VP12, VP5 and VP6]. However, the views from this route around Burniston and towards the northern parts of Scarborough are mixed, including some views of open countryside, but also of trees, buildings and infrastructure associated with the urban areas. The proposed turbines would be visible from some parts of this route, but given the separation distance and other features likely to provide intermittent screening, I consider that the turbines would have a low magnitude of effect on views from this route. From the Former Scarborough to Whitby Railway Line footpath and cycleway, I find that the proposal would have moderate visual impact significance.

13. From the local roads, including the A165 and A171 [VP1, VP2, VP3 and VP8] the turbines would be visible from some vantage points, but would not unduly affect views because they would be seen intermittently within the wider landscape and overall context of roadside vegetation, buildings and other structures. Similarly, the turbines would have limited impact on views from built areas [VP4, VP7 and VP14] because of intervening development and the local topography. From these areas, I find that the proposal would have minor/moderate visual impact significance.

14. The Zone of Theoretical Visibility indicates that the turbines would be visible from some parts of the higher land within the North York Moors National Park [VP9, VP10, VP11, VP15 and VP16]. However, at this distance, and given the wide panoramic views from some of these points, the turbines would not be a significant feature. Although in some of these areas receptors would have high sensitivity, I consider that the proposed turbines would have a low to very low magnitude of effect on views from this area to the north and west of the appeal site. From this area, I find that the proposal would have minor/moderate visual impact significance.

15. Taking into account all the information available from the submitted documents, and from my site visit, concerning the likely effects of the proposed turbine on the areas outlined above, I find that the proposal would have an adverse visual impact ranging from minor/moderate to major significance. In my judgement, the appellant's assessment, understates the likely harm.

16. On the first main issue, I find that the proposal would have significant adverse landscape and visual effects, and would harm the character and appearance of the area. The proposed development would not accord with the aims of RSS Policies C1 and ENV10. It would conflict with LP Policy E.2, irrespective of whether it would be essential development in a coastal location, because it would not enhance the coastal landscape. The harm and policy conflict I have identified weigh heavily against allowing the appeal.

Living conditions

17. The proposed turbines would not adversely affect the outlook from the nearest dwelling because of the intervening high boundary treatment and the mill. From some of the other dwellings nearby and in Burniston it might be possible to see the turbines, or at least their blades, especially when moving. However, at this distance the turbines would not unduly affect the outlook. From many parts of Burniston the turbines would be screened, or their impact softened, by nearby buildings, trees or the local topography. I do not consider that the turbines would adversely affect the living conditions of nearby occupiers by reason of any dominating or overbearing visual impact.

18. The appellant's noise assessment does not fully accord with the guidance in ETSU-R-97 because the monitoring equipment was not placed in a position representative of typical low noise levels likely to be experienced in the vicinity of nearby dwellings. The monitoring position was on a high bank where it was evident at my site visit that noise levels at times are significantly affected by an extractor fan on the side wall of the mill. Furthermore, data was effectively available for only four days, and I am not convinced that this was sufficient to provide for the range of wind speeds and directions necessary for a full ETSU assessment.

19. However, ETSU provides that if the developer can demonstrate that noise conditions [the lower absolute limits suggested in ETSU are $L_{A90,10min}$ 35-40 dB day-time and 43 dB night-time] would be met even if there was no increase in background noise with wind speed until quite high wind speeds, then a simplified approach can be adopted that if the noise is limited to an $L_{A90,10min}$ of 35 dB up to wind speeds of 10 m/s at 10 m high then this condition alone would offer sufficient protection of amenity, and background noise surveys would be unnecessary. Calculations from sound power levels for an E-3120 turbine modelled a combined turbine noise level at the nearest dwelling of 35.4 dB at a wind speed of 10 m/s. This would be very close to the lower limit set out in ETSU. Subject to the imposition of appropriate planning conditions, which could take into account background noise, the proposed development would be unlikely to have an unacceptable adverse effect on those living nearby because of noise and disturbance. I find no grounds to dismiss the appeal by reason of its likely noise impact on the living conditions of nearby residents.

20. On the second main issue, I do not consider that the proposed turbines would, subject to the imposition of appropriate planning conditions, have an unacceptable adverse effect on the living conditions of neighbouring residents. I find no conflict with LP Policy H.10 concerning residential amenity.

Renewable energy

21. Local submissions raise concerns about the efficiency of, and need for, the proposed wind turbines. However, the *Framework* provides that applicants do not need to demonstrate the overall need for renewable energy development and notes that even small-scale projects provide a valuable contribution to cutting GHG emissions. The proposed turbines would, cumulatively, make a significant contribution to meeting targets for renewable energy. The proposal gains support from national and local policies which promote renewable energy generation, including RSS Policies YH2 and ENV5. It would also contribute to the energy efficiency of the mill and to the rural economy, and so would accord with RSS Policy E7. On the third main issue, the contribution of the appeal

scheme to renewable energy and the reduction of GHG is a consideration which should properly be given significant weight in determining this appeal.

Other matters

22. I note concerns about the effects of the proposed turbines on bats, and I have had regard to guidance by Natural England. The planted woodland area along the south-eastern side of the field is not mature enough to provide roosting opportunities, and the nearest substantial trees would be about 200 m from the proposed turbines. The hedgerows on the other boundaries of the field are low with many wide gaps. The proposed turbines would be located in the central part of the field.[3] Given the separation distance, along with the condition of the hedgerows, I consider the likelihood that the proposed turbines would result in any criminal offence being committed against protected bats would be low. There is no compelling evidence to support local concerns about the turbines materially affecting birds or other wildlife. I find in the circumstances applying here that likely harm to nature conservation and biodiversity is not a consideration which would justify dismissing the appeal.

23. Given the separation distance between nearby properties and the proposed turbines they would not pose an unacceptable safety risk. I have taken into account all the other matters raised in the evidence, including submissions about possible alternative sites and renewable energy generation technology. However, I have determined the appeal on its own merits. This is not a case where it would be necessary to establish whether the proposed project represents the best option.

24. I saw on an unaccompanied part of my site visit the turbine erected within the Heritage Coast near Bempton. This is of comparable size to the turbines proposed in the appeal scheme. However, the Bempton turbine does not justify allowing the appeal, because the policy background which applied in that case, and its local context, are not directly comparable to that which applies in the scheme before me. The coastal footpath would come closer to the proposed turbines at Burniston Mill than it does to the existing turbine at Bempton. Furthermore, the aspect at Bempton does not include the backdrop of the National Park.

25. Neither these, nor any of the other matters raised, are sufficient to outweigh my conclusions on the main issues, which have led to my decision on this appeal.

Planning balance

26. The economic, social and environmental roles for the planning system, which derive from the three dimensions to sustainable development in the *Framework,* requires in this case that a balancing exercise be performed to weigh the benefits of the proposed turbine against its disadvantages. The proposed development would, cumulatively, make a significant contribution to renewable energy targets and towards the reduction of GHG. This, along with policy support for renewable energy in the RSS, should be given significant weight. However, in my judgement, the harm to the character and appearance of the area and to the Heritage Coast would be substantial, and would outweigh the economic, renewable energy and GHG benefits of the appeal scheme. I find that the proposal would conflict with the development plan

[3] Clearance distances of 48 m and 44 m could be achieved between each turbine and the nearest hedgerow.

when read as a whole.

Conclusions

27. Notwithstanding my favourable findings for the appellant on the second and third main issues, I consider that the harm I have identified to the character and appearance of the area represents a compelling objection to the proposal. I note that the *Framework* provides that renewable energy development should be permitted if its impacts are, or can be made, acceptable. However, in this case the proposal would not maintain the character of the undeveloped coast, or protect and enhance its distinctive landscape. Having regard to the *Framework* as a whole, I find that the proposal does not represent sustainable development to which the presumption in favour set out in the *Framework* would apply. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Woolcock
Inspector