

Application Number: F/YR13/0116/EXTIME

Minor

Parish/Ward: March Town Council

Date Received: 15 February 2013

Expiry Date: 12 April 2013

Applicant: Mr B Skoulding, Snowmountain Enterprises Ltd

Agent: As applicant.

Proposal: Erection of a 70 metre high (hub height) wind turbine and transformer kiosk (renewal of permission granted on appeal APP/D0515/A/09/2114817/NWF in relation to planning application F/YR09/0020/F).

Location: Land South of 2 Foundry Way, March.

Site Area: 0.33 ha

Reason before Committee: This proposal is before the Planning Committee as Councillor Skoulding is a director of Snowmountain Enterprises Ltd

1. EXECUTIVE SUMMARY/RECOMMENDATION

Planning permission was granted on appeal in March 2010 for the erection of a 70 metre high (hub height) wind turbine and transformer kiosk (APP/D0515/A/092114817).

Permission is now sought to extend the time limit for implementing this permission, which expired on 10 March 2013, although the application was received on 15 February 2013.

All matters relating to the current proposal, in terms of design, siting, height and appearance of the proposed wind turbine and transformer kiosk, remain exactly the same as that approved on appeal in 2010.

The development proposed in an application for extension of time, will by definition, have been judged to be acceptable in principle at an earlier date. Therefore in making a decision, this should focus on the development plan policies and other material considerations, which may have changed significantly since the original grant of permission.

In this instance, it is considered that there have been no significant changes to development plan policy or any other material considerations in terms of the proposed site layout or design of the proposal.

The extension of time application is therefore recommended for Approval.

2. HISTORY

Of relevance to this proposal is:

2.1	F/YR11/3085/COND	Details reserved by Condition 8 of Appeal Decision APP/D0515/A/092114817	Approved 19/12/2011
	F/YR09/0020/F	Erection of 70 metre high (hub height) wind turbine and transformer kiosk.	Refused 15/04/2009 Appeal Allowed 10/03/2010 (APP/D0515/A/092114817)
	F/YR08/0775/SCO	Erection of 1 no 67.0 metre high (hub height) wind turbine	Concluded further details not required 25/09/2008
	F/YR08/0035/F	Erection of a 67.0 metre high (hub height) wind turbine and 1.8 metre high chain link fence	Withdrawn 18 August 2008
	F/YR08/0274/F	Erection of 3 industrial units	Granted 27/08/2009
	F/YR01/1212/F	Erection of 10 no. Industrial units for B1/B2 and B8 Uses together with 1 no. 67 metre (hub height) wind turbine with associated access road, sub station and balancing pond.	Approved 04/07/2003

3. PLANNING POLICIES

3.1 National Planning Policy Framework:

Paragraph 2: Planning law requires that application for planning permission must be determined in accordance with the development plan.

Paragraph 14: Presumption in favour of sustainable development.

Paragraph 93: Meeting the challenge of climate change, flooding and coastal change.

Paragraph 109: Conserving and enhancing the natural environment.

Paragraph 98: Need for renewable energy and acceptable impacts.

3.2 Draft Fenland Core Strategy – Proposed Submission Feb 2013:

CS14: Responding to climate change and managing the risk of flooding in Fenland.

CS16: Delivering and Protecting High Quality Environments across the District.

3.3 Fenland District Wide Local Plan:

EMP1: Proposals will normally be favoured for new, or the extension or expansion of existing firms ... outside DABs the expansion of existing firms will only be permitted where certain criteria are satisfied.

E1: To resist development likely to detract from the Fenland landscape. New development should meet certain criteria.

E8: Proposals for new development should: allow for protection of site features, be of a design compatible with their surroundings, have regard to amenities of adjoining properties and provide adequate access.

E20: To resist any development which by its nature gives rise to unacceptable levels of noise, nuisance and other environmental pollution.

E3: To retain existing trees and hedgerows. To impose, where appropriate, conditions on planning applications requiring landscaping and tree planting schemes. To request the submission of a landscaping scheme with planning applications on visually important sites.

4. CONSULTATIONS

- | | | |
|------|------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.1 | Parish/Town Council | Recommend Approval |
| 4.2 | FDC Scientific Officer | No objection – the existing noise condition should be retained |
| 4.3 | FDC Conservation Officer | No objection to proposal. Although the setting of the Grade II listed railway water tower will be affected, minded to consider that the 175m between them will give some separation. |
| 4.4 | Cambs CC Highways | Awaited |
| 4.5 | Cambs CC Rights of Way | No objections |
| 4.6 | Cambs CC Police Architectural Liaison Officer | No objections. |
| 4.7 | Middle Level Commissioners | No objection in principle – Land drainage Consent to alter the watercourse will be required to create the new access. |
| 4.8 | Chatteris Airfield | No objection |
| 4.9 | NATS | No objection – no safeguarding objection to the proposal in relation to en route air traffic. |
| 4.10 | Ministry of Defence (Defence Infrastructure Organisation) | Object. The turbine will be 33.2km from detectable by, and will cause unacceptable interference to the ATC at Marham.
<i>(NB. Previously raised no objection to 2009 application)</i> |
| 4.11 | Civil Aviation Authority | Request that if consent granted to extension the Defence Geographic Centre is informed of the expected dates of construction and heights to ensure the accuracy of aviation charts and publications. |

4.11 **Natural England**

Application does not fall within the scope of consultations that Natural England would normally comment on. Would expect LPA to assess and consider the possible impacts resulting from this proposal on protected species.

4.12 **Local Residents:**

4 letters of objection raising the following concerns:

- I objected from the start and listed many reasons
- What is it with FDC and wind turbines, does it have something to do with cash incentives
- gradually being surrounded by turbines – then have now crossed the Twenty Foot River - wind turbines will not provide us with our power needs
- please consider the residents of March North – no confidence in proposals relating to the future planning of March following non-democratic method of deciding on Core Strategy.
- the outlined area for the installation is incorrect and does not reflect the current status of the land
- our business premises experiences the occasional adverse effect of noise from the applicants current turbine, so another wind turbine so close to the site would be unacceptable
- level of noise unacceptable
- our business would have to re-locate in order to conduct our business, which would eliminate employment opportunities presented by this business.

5. **SITE DESCRIPTION**

5.1 The site comprises an area of land situated to the southern end of Foundry Way an existing industrial complex. The site itself has no particular features save for mounded soil and the temporary storage of waste construction materials from the adjacent site which at the time of site inspection was under construction. The eastern boundary has been formed as part of the adjacent development site and comprises weldmesh fencing. The boundary to the northern side of the development site appears to encroach on the established boundary of the adjoining industrial premises, the current boundary being formed by post and wire fencing. It is however noted that the submitted plans show the area referred to as within the ownership/control of the applicant.

To the west of the site lie the Railway sidings, with open areas leading on to residential properties to the south-east.

The site lies within Flood Zone 1.

Foundry Way is an unclassified road.

The site area measures 0.33 hectares.

6. PLANNING ASSESSMENT

6.1 Background

Planning permission was granted on appeal in March 2010 for the erection of a 70 metre high (hub height) wind turbine and transformer kiosk (APP/D0515/A/092114817).

Permission is now sought to extend the time limit for implementing this permission, which expired on 10 March 2013, although the application was received on 15 February 2013, and as such complies with the extension of time arrangements.

All matters relating to the current proposal, in terms of design, siting, height and appearance of the proposed wind turbine and transformer kiosk, remain exactly the same as that approved on appeal in 2010.

6.2 Principle and Policy Implications

The Communities and Local Government guidance document 'Greater Flexibility for Planning Permissions' (2009) sets the mechanism for dealing with extensions to time limits for implementing planning permissions. This measure has been introduced to make it easier for developers and LPAs to keep planning permissions alive for longer during the economic downturn. The outcome of a successful application will be a new permission with a new time limit attached.

Outline permissions can be extended under this power, provided that the time limit for the submission of reserved matters has not yet expired – in this case the 2010 permission expired on 10 March 2013.

LPAs are advised in current circumstances, to take a positive and constructive approach towards applications which improve the prospects of sustainable development being taken forward quickly. The development proposed in an application for extension, will be defined, have been judged to be acceptable in principle at an earlier date. While these applications should be dealt with in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004. LPAs in making their decisions, should focus their attention on development plan policies and other material considerations, which may have changed significantly since the original grant of permission.

In this instance there have been no changes to any material considerations in terms of the proposed site layout or design of the proposal.

In terms of changes to National Planning Policy, PPS22 (Renewable Energy) has been superseded by the NPPF in 2012. Paragraph 17 of the NPPF supports the transition to a low carbon future in a changing climate by encouraging the use of renewable resources (e.g. by the development of renewable energy).

Paragraph 93 to 98 of the NPPF re-iterates this approach by encouraging LPA's to adopt proactive strategies to mitigate and adapt to climate change (para 94) and help to increase the use and supply of renewable energy, recognizing the responsibility on all communities to contribute to energy generation from renewable or low carbon sources, by having a positive strategy to promote energy from renewable or low carbon sources (para 97). When determining planning applications, LPA's should approve the application, unless material conditions indicate otherwise, if its impacts are (or can be made) acceptable.

In terms of development plan policy, the Fenland Core Strategy has reached its submission stage, and its policies carry now some weight. Policy CS14 states that:

Renewable energy proposals will be supported and considered in the context of sustainable development and climate change. Proposals for renewable energy technology, associated infrastructure and integration of renewable technology on existing or proposed structures will be assessed both individually and cumulatively on their merits taking account of the following factors;

- The surrounding landscape, townscape and heritage assets
- Residential and visual amenity
- Noise impact
- Specific highway safety, designated nature conservation or biodiversity considerations
- Aircraft movements and associated activities
- High quality agricultural land

These matters are addressed in the relevant sections below.

As a result the proposal is still considered to be acceptable in terms of its compliance with national and local development plan policies, and there is nothing in policy terms that would warrant the LPA in taking a contrary view to that made in the appeal decision in 2009.

For these reasons the proposal is therefore considered to comply with guidance contained in Policies H3, H16 & E8 of the saved Fenland Local Plan (1993) and Policies CS14 & CS16 of the Fenland Core Strategy – Submission Version (2013).

6.3 **Noise/Shadow Flicker.**

The appeal inspector in 2009 dealt with the question of the noise and amenity impacts on nearby residents as follows:

In this regard the local planning authority accepts the noise report submitted by the appellant which demonstrates that with both wind turbines working together, at various wind speeds, the noise levels at sensitive properties would not exceed acceptable limits established by the noise condition set by the existing planning permission and which would similarly apply to the appeal proposal.

Moreover, in the absence of any corroborative evidence of complaints about the existing wind turbine, through investigations by the local planning authority, and the ability to control the noise emissions of the existing and proposed wind turbines, the generalised claims of some local residents do not provide a robust basis to dismiss the appeal on noise grounds.

Turning to shadow flicker, the appellant's pre-application assessment sets out details of potential shadow flicker and it indicates that some properties are likely to experience such effects. Some residents already report problems from the existing wind turbine and remedial action has been taken to resolve effects at Whitemoor Prison. The appellant and the local planning authority agree that it would be appropriate to impose a planning condition to provide a robust means of protecting nearby living conditions.

Material circumstances remain unchanged since 2009, when the Appeal Inspector judged the proposal to be acceptable in terms of noise impacts and shadow flicker. Therefore the current extension of time application is considered to be acceptable.

6.4 Visual Impact

The appeal inspector in 2009 dealt with the question of the visual impact of the proposed turbine on the nearby residents as follows:

The appeal site lies within an industrial setting on the north-western edge of the built up area of March and close to Whitemoor Prison. An existing wind turbine, of similar height to the appeal proposal, lies to the north of Longhill Road. This road serves The Fenland Business Centre industrial estate and the prison.

Looking first at the nearby work-place homes within the estate, their west facing windows are backed by commercial uses and buildings and the existing wind turbine is set to one side. The proposed wind turbine would be similarly off-set in the opposite direction. In my opinion, whilst it would be clearly visible above other buildings, it would not be unduly overbearing given the scale of nearby buildings and the overall character of the area.

Residential properties along Elm Road, to the south of Longhill Road, have, for the most part, an east-west orientation and aspect. Although a number of these residents have objected to the proposal, I found the existing wind turbine to be neither intrusive nor dominant having particular regard to it being very much on the periphery of residents' views, the industrial setting of The Fenland Business Centre and the more direct outlook in the direction of active railway sidings. Whilst the proposed wind turbine would be closer to these houses than the existing installation, I consider that its additional and combined visual impact would be relatively minor.

Moving farther away to the residential areas to the south and south-east, from where there are also a number of objections, the existing wind turbine does not, in my view, have a significant visual presence due to distance and partial screening by intervening buildings and landscaping. Whilst the proposed wind turbine would be closer to existing houses, I am satisfied that as a result of the characteristics that I have already described, it would not, either alone or in combination with the existing wind turbine, have a significant impact on the outlook of these residents.

Finally, in terms of Whitemoor Prison, the accommodation is generally low rise and it is separated by a part-wooded area from the industrial estate. In my opinion, as a more distant feature than the existing wind turbine, the proposal would not have an adverse visual impact on the aspect from the prison as a whole.

I have considered the effect of the proposed wind turbine on surrounding generally isolated and more distant dwellings to the north and on the residential properties to the west in Westry. In each case the proposal would be seen with the existing installation and often with a backdrop of more distant grouped wind turbines. On this basis I am satisfied that the visual impact of the proposed wind turbine would be very minor.

Material circumstances remain unchanged since 2009, when the Appeal Inspector judged the proposal to be acceptable in terms of visual impact. Therefore the current extension of time application is considered to be acceptable.

6.4 **Access**

The comments of the Highway Authority are awaited.

A condition was placed on the previous appeal decision requiring details of a route for the delivery of components, turning and tracking. This is proposed to be included again.

6.5 **Air Traffic Control**

In 2009 the Ministry of Defence (Defence Infrastructure Organisation) raised no objection to the proposed turbine, but now object to it in their latest consultation response based on interference to the Air Traffic Control at Marham.

Officers have requested the MOD clarify why they have changed their stance, to this extension of time proposal, and will report the outcome of this at your meeting.

7. CONCLUSION

- 7.1 LPAs are advised in current circumstances, to take a positive and constructive approach towards applications which improve the prospects of sustainable development being taken forward quickly. The development proposed in an application for extension of time, will by definition, have been judged to be acceptable in principle at an earlier date. Therefore LPAs in making their decision, should focus their attention on development plan policies and other material considerations, which may have changed significantly since the original grant of permission.

In this instance, it is considered that there have been no significant changes to development plan policy or any other material considerations in terms of the proposed site layout or design of the proposal.

Consequently the proposal is considered to comply with Policies H3, H16 and E8 of the Fenland District Wide Development Plan and Policies CS3, CS12 & CS16 of the Fenland Core Strategy – Submission Version (Feb 2013).

The same planning conditions placed on the 2009 appeal decision are reproduced in the current extension of time recommendation.

8. RECOMMENDATION

Grant subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.**

Reason – to ensure compliance with Section 51 of the Planning and Compulsory Purchase Act 2004

- 2) The generation of electricity from the wind turbine hereby approved shall cease no later than 25 years after the first commercial generation of electricity at the site. At the end of this period the wind turbine and the transformer kiosk shall be dismantled and removed from the site, and the site shall be restored in accordance with a scheme of restoration which shall have been submitted to the local planning authority within a period no later than 12 months before the expiry of the planning permission. The approved scheme shall be implemented within 12 months of the expiry of the permission.**

Reason – In the interests of the visual amenity of the countryside.

- 3) If the turbine fails to produce electricity for a continuous period of 12 months, the turbine and the transformer kiosk shall be dismantled and removed from the site in accordance with a scheme of restoration which shall have been submitted to the local planning authority within 3 months following the expiry of the 12 month period; and the approved scheme shall be implemented within 12 months of the date of approval.**

Reason – In the interests of the visual amenity of the countryside.

4) No development shall take place until a scheme of highway routing for the delivery of the wind turbine components has been submitted to the local planning authority and has been approved in writing. The scheme shall be implemented as approved.

Reason – In the interests of highway safety

5) The temporary construction compound and all materials, plant and structures within it shall be removed and the land returned to its former use within a period of three months following the commissioning of the wind turbine.

Reason – In the interests of the visual amenity of the countryside.

6) No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to the local planning authority and approved in writing. The scheme shall include the following components, completion of each of which will trigger the phased discharging of the condition:

- (i) fieldwork in accordance with the approved programme of archaeological work which shall be completed in accordance with the approved scheme before any other works commence on site;**
- (ii) post-excavation assessment (to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the local planning authority);**
- (iii) completion of post-excavation analysis; preparation of site archive ready for deposition at a store approved by the local planning authority; completion of an archive report; and the submission of a publication report (to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the local planning authority).**

Reason – To enable the inspection of the site by qualified persons for the investigation of archaeological remains in accordance with a written scheme of investigation.

7) No development shall take place before details of likely bat habitats, if any, within the vicinity of the site, and an assessment of the potential risk of bats colliding with the proposed wind turbine, has been submitted to the local planning authority and approved in writing. If bat activity and potential risk of collision is confirmed, no development shall take place before a detailed scheme for the post construction monitoring of bats and bat activity on the site during the first active season following the commissioning of the wind turbine has been submitted to the local planning authority and approved in writing. The monitoring shall thereafter be undertaken in accordance with the approved scheme.

Reason – To ensure that any possible bat collision situations are monitored and prevented where possible.

8) No development shall take place before details for the provision of a 25 candela omni-directional red light on the wind turbine have been submitted to the local planning authority and approved in writing. The light shall be installed in accordance with the approved scheme and it shall thereafter be retained and operated until the wind turbine is dismantled.

Reason – In the interests of aircraft safety.

9) The combined noise level of the wind turbine hereby approved and the existing wind turbine to the north of Longhill Road shall not exceed the following levels when measured at any noise sensitive property which is in existence (or for which planning permission has been granted) at the date of this permission and is at a distance exceeding 375 metres from either turbine:-

(a) between 07:00 hours and 23:00 hours a limit of 35dB (LA90, 10 minute);

(b) between 23:00 hours and 07:00 hours a limit of 38dB (LA90, 10 minute);

(c) Or, 5dB (LA90, 10 minute) above the background noise level, whichever is the greater.

The noise levels shall be measured and calculated in accordance with steps 2 – 6 specified at pages 102 – 104 of 'The Assessment and Rating of Noise from Wind farms, ETSU-R-97' published by ETSU for the Department of Trade and Industry.

Reason – To safeguard the amenity of nearby properties.

10) At the reasonable request of the local planning authority the operator of the development shall employ an independent consultant approved by the Council to measure and assess the level of noise emissions from the wind turbine generator, following the procedures described in 'The Assessment and Rating of Noise from Wind Farms, ETSU-R-97' published by ETSU for the Department of Trade and Industry.

Reason – To safeguard the amenity of nearby properties.

11) No development shall take place until a scheme detailing the protocol for the assessment of any complaints of shadow flicker resulting from the development, including remedial measures, has been submitted to the local planning authority and has been approved in writing. Operation of the turbine shall take place in accordance with the agreed protocol.

Reason – To safeguard the amenity of nearby properties.

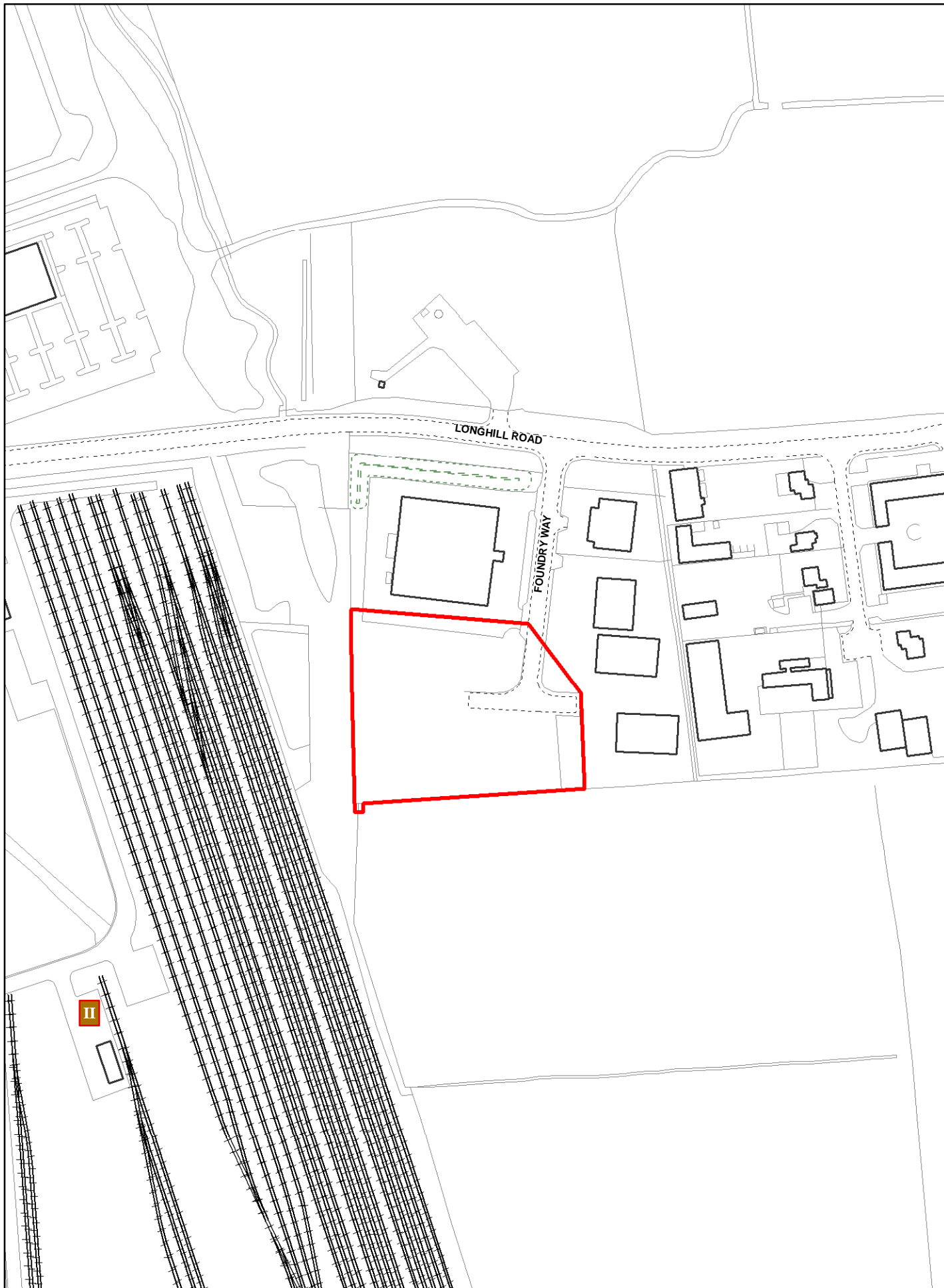
12) No development shall take place until a scheme designed to safeguard existing television reception quality arising from the operation of the wind turbine has been submitted to the local planning authority and has been approved in writing. The scheme shall, in particular, provide a protocol for dealing with any complaints arising from the operation of the wind turbine and for the identification and implementation of necessary mitigation measures to be undertaken in accordance with details and a time-table previously submitted to and approved in writing by the local planning authority.

Reason – To safeguard the amenity of nearby properties.

13) No development shall take before a Construction Method Statement, including details of all on-site construction, drainage and restoration/reinstatement work, has been submitted to the local planning authority and has been approved in writing. Thereafter construction works shall be carried out in accordance with the approved Method Statement.

Reason – To ensure that site construction works are carried out appropriately.

14) Approved Plans



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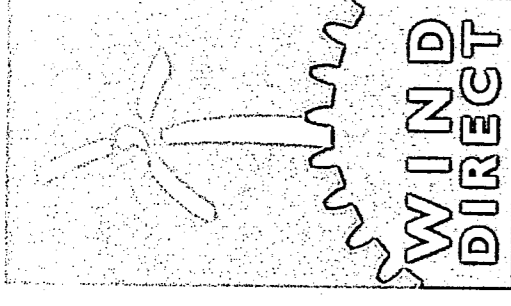
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Figure 3


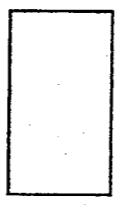
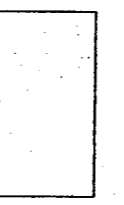

Site Layout 1:500

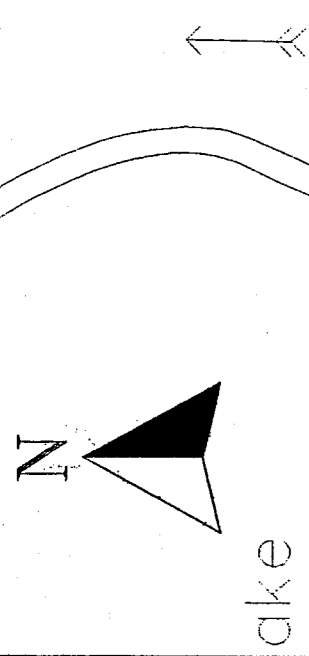
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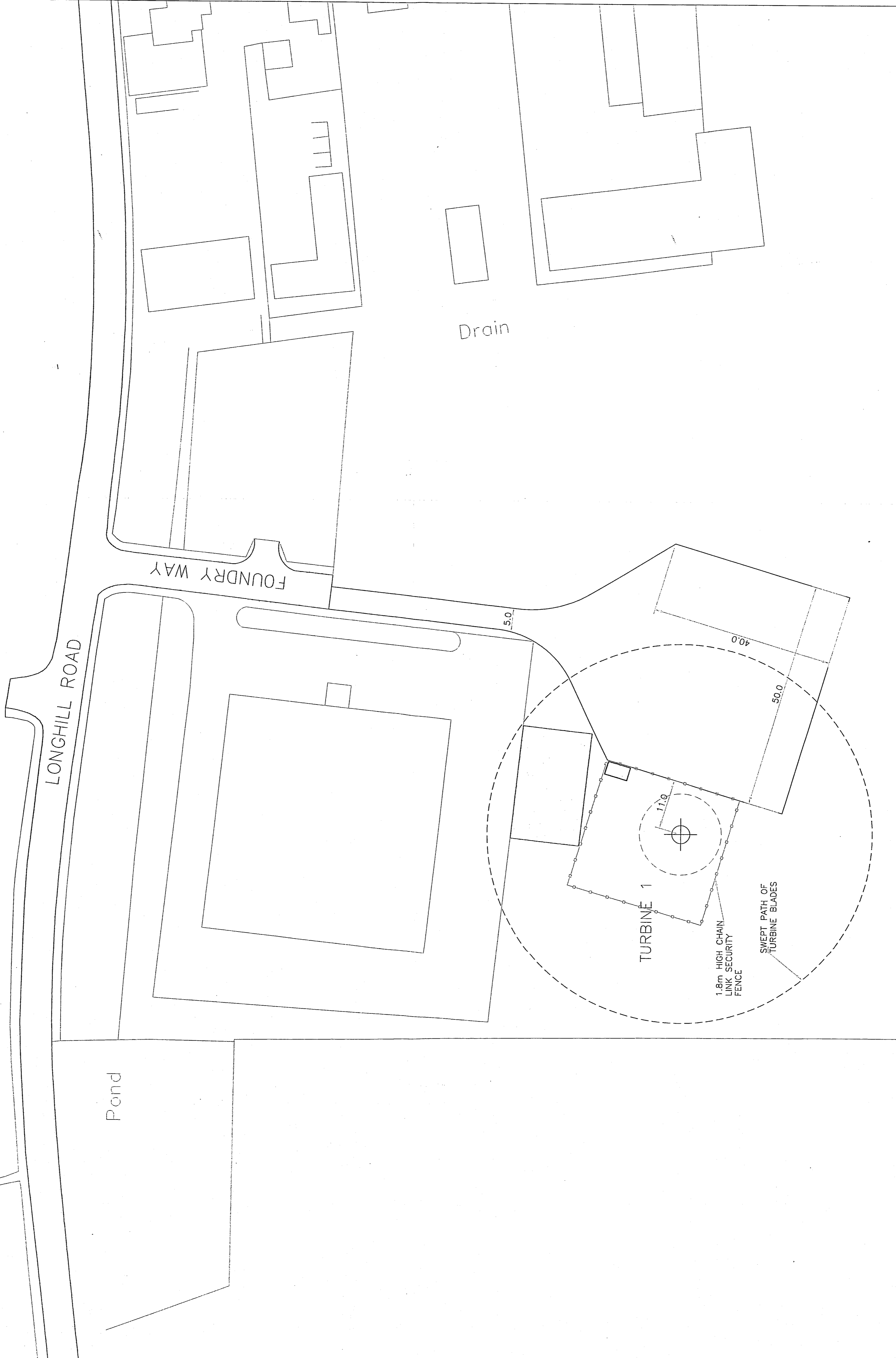
Foundry Way Wind Energy Scheme

Legend

-  SITE TRACKS
-  TRANSFORMER KIOSK
-  CONSTRUCTION COMPOUND
-  TURBINE POSITION

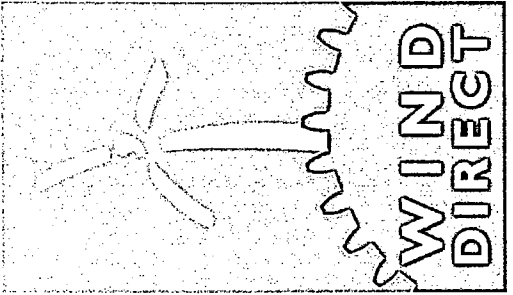


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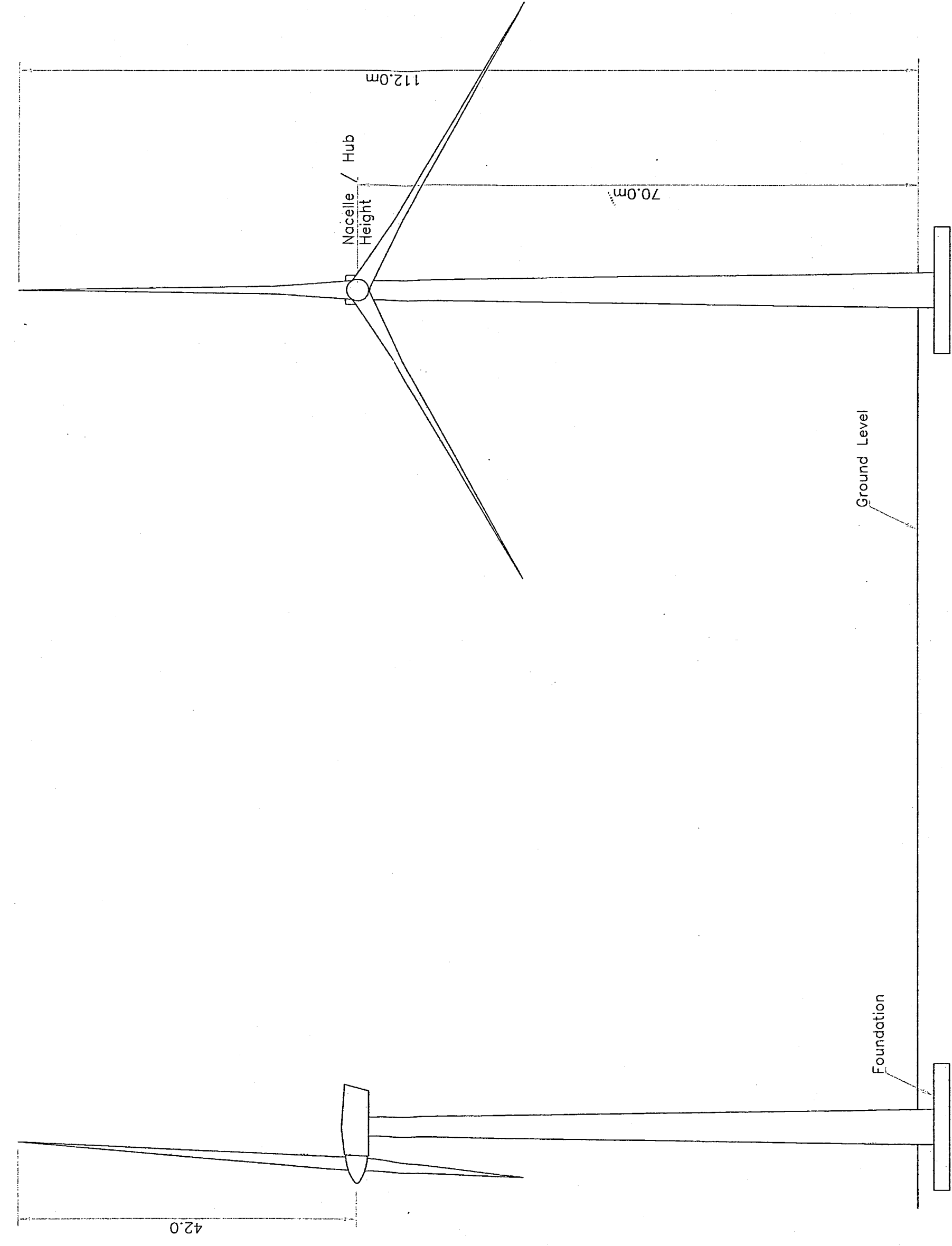




Foundry Way Wind Energy Scheme

Typical Turbine Dimensions

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