

1. Relevant Information for this Application

This chapter discusses the previous attempts to put a wind farm on this site and lists the reasons for failure last time. It also draws attention to the lack of public consultation regarding this development. Then it notes the recent changes in planning legislation and shows that the 600m minimum distance to housing recommendation in the TDC Wind Energy Policy is a material consideration in the determination of planning applications, having support from National Government Guidance PPS22, the Devon Strategic Planning Authority and the Evidence Base informing the new TDC/NDC Joint Core Strategy.

This chapter comprises 7 sub-sections:

- 1.1 Previous rejection of this site by nPower and Cornwall Light & Power
- 1.2 The reasons for the failure of the last application
- 1.3 The Torridge District Council Wind Energy Policy
- 1.4 The TDC/NDC Joint Landscape Character Assessment
- 1.5 The TDC/NDC Joint Core Strategy
- 1.6 New National Policy Statements and The Localism Act 2011
- 1.7 Predetermination

1.1 Previous rejection of this site by nPower and Cornwall Light & Power

1.1.1 It is understood that the landowner bought the site approximately 12 years ago and has been seeking wind farm developers since 2001. nPower (formerly National Power, one of the six largest electricity generating/supply companies in the UK) considered the site's suitability for a wind farm approximately 8 years ago but did not proceed with any planning application.

1.1.2 In a letter to Torridge District Council dated 18th January, 2008, the landowner stated:

'The reason that a major developer did not take this project to planning was down to me and nothing whatsoever to do with the site, which they considered to be excellent for the purpose, and they were keen to proceed. At least two other wind energy developers have been keen to take on this site, other than Bolsterstone's [sic], because of the sites [sic] unique qualities.'

1.1.3 In making this statement the landowner is showing himself to be somewhat atypical. He is dismissing a major energy company, experienced and successful in wind farm development, financially sound and keen to proceed. Instead, he lets the project slip back a few years, losing much potential income as a consequence, before appointing a project management company with no previous wind farm experience. He suggests that this company, like the others, has been attracted by the site's 'unique qualities', but does not say what these 'unique qualities' are. If this is a reference to the sub-optimal wind speed, the proximity of 40 dwellings and the immediately adjoining SSSI and County Wildlife Site, then they probably are unique. Most responsible developers would give such a site a very wide berth.

1.1.4 Mr. Mike Corker of Bolsterstone plc, the current applicant's Project Director, has told DTOG that his company first considered the Dunsland Cross site around 2006. It was invited to buy the data nPower had collected but chose not to exercise this option. Instead, it was allowed to examine nPower's data free of charge providing it did not copy or photograph it. This examination led the applicant to believe that some of the data could be re-collected and re-interpreted to make the site viable. When asked why nPower had chosen not to proceed with this site itself, Mr. Corker said that the company had decided to restrict itself to bigger projects and that it had sold most of its smaller projects to Cornwall Light & Power (CLP), another experienced and successful wind farm developer. It is interesting to note that even CLP did not elect to take this project forward and seek planning permission for the Dunsland Cross site.

1.1.5 In section 3.1 of the Non-Technical Summary (NTS) in the Environmental Statement (ES) the applicant states:

'Bolsterstone have been meticulous in their search for potential sites for wind energy projects in England. Such sites are not however straightforward to locate given the technical requirements of wind energy and the need to minimise environmental and other impacts.'

1.1.6 This statement is disingenuous. The reality is somewhat different. The applicant was attracted by the landowner, a man determined to host a wind farm, after nPower and CLP had moved on. The landowner has stated publicly to DTOG members that this wind farm 'will be his pension'. Bolsterstone, a Midlands-based project management and investments company, which came late into the wind farm feeding frenzy, found that all of the suitable sites had already been optioned by true wind farm developers. As a result, 5 of Bolsterstone's first 11 'suitably selected sites' (at Brixworth, Great Cransley, Fletchertown, Aston and Woodland) were abandoned even before a planning application was ever prepared because they were soon found to be unsuitable.

1.1.7 The landowner lives approximately 3 kilometres from the site. In 2011 he and his wife actively objected to two proposals to site solar PV farms in the area. One was to be located in the field opposite their home. The other is destined for the field adjacent to the wind farm site on the other side of the A3079. Neither solar development would cause adverse noise or visual impact to the landowner in his home. This is in sharp contrast to the residents whose properties border the Dunslund Cross site. They will have to learn to live with three 100m visually mesmerising turbines and the noise they generate for the next 25 years (at least), or one third of their lives, if this application is approved.

1.2 The reasons for the failure of the last application

1.2.1 The current applicant applied for planning permission for a 4-turbine wind farm at the site in December 2008. In March 2009 Torridge District Council (TDC) refused permission on the following grounds (DTOG emphasis):

1. *The applicants have failed to demonstrate that there would not be an **unacceptable impact on the amenity of nearby residents by virtue of the noise** generated by the proposed turbines, and the proposed development would therefore be contrary to Policies DVT11 and DVT13 of the Torridge District Local Plan and Policy CO16 of the Devon Structure Plan.*

2. *The applicants have failed to demonstrate that there would not be an **unacceptable impact on wildlife and the ecology** of the area, and the proposed development would therefore be contrary to Policies ENV1 and ENV7, and ENV10 of the Torridge District Local Plan and Policies CO9 and CO10 of the Devon Structure Plan.*

3. *The applicants have failed to demonstrate that there would not be an **unacceptable impact on the cultural heritage** of the area, and the proposed development would therefore be contrary to Policies ENV1 and ENV4 of the Torridge District Local Plan and Policies CO7 and CO8 of the Devon Structure Plan.*

4. *The applicants have failed to demonstrate that the proposed development would not have an **adverse visual impact** on the area, particularly with regard to views from close to the site and from nearby residential properties and the proposal would therefore be contrary to Policies ENV1, ENV5, and DVT11 of the Torridge District Plan and Policy CO6 of the Devon Structure Plan.*

5. Given the sensitivity of the site **adjoining a Site of Special Scientific Interest** it would be premature to allow development to proceed in advance of **adequate wind data** being available to justify the proposed development.

6. The Local Planning Authority is unable to make a judgement as to whether the economic and overall environmental benefits of the proposed development would outweigh the potential adverse impact on the immediately adjoining environment in the **absence of full data regarding wind resources**.

1.2.2 The 6 reasons for failure shown above were taken verbatim from the planning officer's decision notice. The letter and comment below is the consultation response dated 6th March 2009, made by Mr Andy Bowman, representing the Devon County Council Executive Director of Environment, Economy and Culture, which arrived too late for inclusion in the officer's report but was read out by the officer at the committee meeting which determined the application (DTOG emphasis again):

Devon County Council
Edward Norton
Deputy Chief Executive and Executive Director of Environment, Economy & Culture

Development Control Manager
Torridge District Council
Riverside House
Barnstaple
Devon
EX39 2QG

County Hall
Tipton Road
Exeter
Devon
EX4 4BN

Subject to no objection from Natural England in relation to the impact on wildlife, in particular protected species, this authority has no objection.

Yours
Andy Bowman
for Executive Director of Environment, Economy and Culture

Dear Sir/Madam,

**Consultation with Strategic Planning Authority
Erection of 4 no wind turbines and ancillary development at Land at Dunsland Cross, south of Barndis Corner, Holsworthy**

Thank you for your consultation with regards to the above proposal.

The County Council as Strategic Planning Authority has no objection to the proposal subject to the following:

- The site falls within the area search identified in the Devon Structure Plan 2000 - 2016.
- No turbine should be erected closer than 600 metres from any sensitive property.
- The consultation guide to PPS 22, paragraphs 52 - 57 includes the following: "although wind turbines erected in accordance with best engineering practice should be a stable structure, it may be advisable to achieve set-back from roads or railways of at least fall over distance, so as to achieve maximum safety."
- The British Horseriding Society has suggested a 200 metre exclusion zone around bridle paths to avoid wind turbines frightening horses. While this can be deemed desirable, it is not a statutory requirement and some negotiation should be undertaken if this is difficult to achieve.

It appears from the submitted plan that the fall over distance can be achieved at the turbine positions indicated, however verification should be sought for the exact positions to achieve at least the fall over distance.

There are no bridle paths in the vicinity of the proposed turbines, however there is a possibility that some horse riders may use the roads. Your authority may therefore wish to seek that the turbines be sited far enough away from the roads to achieve the desired distance.

• No turbine should be erected closer than 600 metres from any sensitive property.

**Consultation with Strategic Planning Authority
Erection of 4 no wind turbines and ancillary development at Land at Dunsland Cross, south of Barndis Corner, Holsworthy**

N.B. The current application differs from the last in that the number of turbines has been reduced from 4 to 3 and the height of the turbines from 105m to 100m (to blade tip). The remaining turbines have been moved short distances from their original positions. Two of them are still well within 600 metres of nearby properties.

1.3 The Torridge District Council Wind Energy Policy

1.3.1 Since the last application was rejected in 2009 the TDC Wind Energy Policy has been written, consulted upon and adopted by the full council. It carries, therefore, the status of ratified, active policy. Whilst it may not yet be supplementary planning guidance it still carries the recommendations of elected councillors reflecting the wishes of their electorate and should be afforded weight in any determination.

1.3.2 The applicant does not agree. In the Planning Statement, section 6.9, Supplementary Planning Guidance, the applicant gives a cursory acknowledgement of the existence of the Policy, describing it as '*a material consideration, of limited weight.*' The rest of the application then ignores the Policy's recommendations altogether.

1.3.3 The applicant currently has another application, submitted in November 2011, awaiting determination by Newark and Sherwood District Council. Speaking to the *Newark Advertiser* on 10th October, 2010, about the proposed 3 x 126.5m turbine Hawton Wind Farm, Mr. Corker said that he wanted to make sure the work they were doing in preparation for the wind farm fitted in with the district council's requirements and stated:

'It is important that we provide them with the information they want, not the information we think they ought to have.' (<http://www.newarkadvertiser.co.uk/articles/news/Wind-farm-plans-on-the-horizon>)

1.3.4 At Dunsland Cross, with Torridge District Council, Mr. Corker has done exactly the opposite. The ES has consistently ignored the recommendations in the Wind Energy Policy and the instructions given in the case officer's Scoping Opinion, dated March 2011.

1.3.5 Three aspects of the TDC Wind Energy Policy need to be highlighted. These are:

1. The need for 12 months' worth of anemometer readings (see below paras 1.3.5 - 1.3.13)
2. Recommended minimum distances to properties and designated areas (1.3.14 - 1.3.25)
3. Early and meaningful public consultation (1.3.26 - 1.3.36).

The need for 12 months' worth of anemometer readings

1.3.5 At the same committee meeting in which the last wind farm application was rejected, permission was granted for the placement on site of a 60 metres tall anemometer mast. This was duly erected on 6th October 2010. Thus for this application, on-site hub-height wind data are available and must be submitted for scrutiny.

1.3.6 There are no wind data in any of the application documents. Without these data, refusal reasons 5 and 6 shown in paragraph 1.2.1 cannot be re-evaluated, nor can there be a reappraisal of refusal reason 1 (noise impact). Refusal of the revised application should, therefore, be automatic.

1.3.7 In the Planning Statement, Section 2: Planning History, the applicant states:

*'The fifth reason for refusal advised that adequate wind data is required to **allow the Council to make an accurate judgement** on the viability and benefits of the Development in relation considering [sic] those against any adverse effects of the nearby Site of Special Scientific Interest (SSSI) which ties into the sixth reason for refusal.*

A temporary meteorological mast has been on site and operating since October 2010, gathering data which has helped inform the revised layout.'

1.3.8 DTOG notes that the requirement is to allow the Council to make the judgement, not the applicant. That the readings from the met mast have been used to help inform the applicant with regard to the revised layout is of no help to the council, which still needs to see the raw wind data.

1.3.9 In the two-side flier sent out to local residents just weeks before the application was submitted (see paragraph 1.3.28 below), the applicant states that he does not think reasons 5 & 6 were valid reasons for refusal. He quotes from paragraph 20 of the supplement to PPS1 saying that renewable energy developments are not required to justify economic viability or the choice of site and that the effect of the development on Whiteleigh Meadow SSSI has already been considered in the impact assessments anyway. Unfortunately for the applicant, **as a result of the introduction of the Community Infrastructure Levy and the Localism Act 2011, financial considerations and the viability of schemes are now material considerations in planning applications** (see section 1.6 below).

1.3.10 Paragraph 20 in the PPS1 supplement was always inadequate. It allowed developers to pursue sub-optimal sites without justification for so doing, but it also prevented determining authorities from completing the balancing exercise necessary to ensure that the benefits of a proposal outweigh the costs and impacts. As long as the inability to do this prevailed, local planning authorities had no option but to conclude that the benefits to the wider community (but not to the developer or landowner) were miniscule or non-existent. This is the case in the current application, which is why the applicant is keen to keep these miniscule benefits suppressed by withholding the wind data. This conclusion can only lead to a refusal recommendation. If the applicant has nothing to conceal, then he can avoid such a refusal notice by cooperating with the authority by supplying the wind data required to verify the benefits claimed. (See paragraph 1.3.3 above.)

1.3.11 The government has signalled its wish to see an end to wind farm speculators and developers pursuing sub-optimal sites. In a Westminster Hall debate on Onshore Wind Turbines, 10th February, 2011, Energy Minister Charles Hendry announced that a review of the ROC subsidy scheme was being brought forward. He stated:

'The review will make sure that developers of wind farms are encouraged to go to the windiest locations...'

1.3.12 In a House of Commons debate in October 2011, Chris Huhne, Secretary of State for Energy and Climate Change, stated:

'The renewables obligation review proposes that support should be targeted particularly at areas where there is the most wind, because it is in no one's interest to build wind turbines where there is an inadequate wind resource.'
(Hansard, 20 October 2011, c1051)

1.3.13 Only by submitting the raw wind data with the application can the developer show that the site is more suited to wind farm development than any other type of renewable energy project and that as a wind farm site it is one of the windiest locations locally. Details of other sites in the area considered and rejected must also be submitted, together with the reasons for rejection and a comparison of the likely wind resource at those sites compared to the wind resource at Dunsland Cross. **These are all requirements of the European Union Strategic Environmental Assessment (SEA) Directive (2001/42/EC)**, better known as the EIA directive, which the applicant is duty bound to follow.

Recommended minimum distances to properties and designated areas

1.3.14 The TDC Wind Energy Policy recommends a minimum separation distance of 600 metres to non-involved properties and 500 metres to SSSIs. Setting such distances is allowed in PPS22. Paragraph 22 states:

'Plans may include criteria that set out the minimum separation distances between different types of renewable energy projects and existing developments.'

Existing developments are any developments which at some time required planning permission and include residential properties existing at the time of the application.

1.3.15 PPS22 paragraph 14 also states:

*'Regional planning bodies and local planning authorities should not create "buffer zones" around international or nationally designated areas and apply policies to these zones that prevent the development of renewable energy projects. **However, the potential impact on designated areas of renewable energy projects close to their boundaries will be a material consideration to be taken into account in determining planning applications.***

1.3.16 The 'material consideration' is all important. Setting a 500 metres protection zone around Whiteleigh Meadow SSSI sensibly keeps high impact developments away from such a sensitive area. Three 100 metres tall wind turbines are very high impact. A solar PV park is not. The 500 metres set back could be relaxed substantially for the latter but not for the former. That the latter could be accommodated successfully and with a low impact shows that the use of a reasonable set back will not *'prevent the development of renewable energy projects.'*

1.3.17 In the Scoping Report submitted in January 2011 the applicant notes that the minimum distances are 'starting points for discussion'. This point is clear in the TDC Wind Energy Policy. It is also clear, however, that in the opinion of the Devon Strategic Planning Authority's response, shown in paragraph 1.2.2, that it is also the end point of the discussion. The authority is clearly indicating that the TDC 600 metres separation distance between turbines and properties is to be considered a minimum value. This is borne out by other UK planning authorities adopting greater minimum distance values. Cherwell DC is setting **800 metres**, as a direct consequence of an application by this same developer (see http://www.oxfordmail.co.uk/news/8488210.Council_to_stop_windfarms_being_built_near_homes/) and Carmarthenshire Council is raising its minimum distance expectation from 500 metres to **1,500 metres** following complaints about turbine noise from residents (see <http://www.thisissouthwales.co.uk/environment/Council-ruling-change-future-windfarm-plans/article-3357779-detail/article.html>).

1.3.18 The Northern Ireland Government recently updated its renewable energy policies. Its equivalent of PPS22 is called PPS18 and was published in August 2009, along with its companion Best Practice Guide. Page 9 of PPS18 states:

'For wind farm development a separation distance of 10 times rotor diameter to occupied property, with a minimum distance not less than 500m, will generally apply.'

This is repeated in the Best Practice Guide in paragraph 1.3.43 (Noise) on page 20:

'As a matter of best practice for wind farm development, the Department will generally apply a separation distance of 10 times rotor diameter to occupied property (with a minimum distance of not less than 500 m).'

It occurs again in paragraph 1.3.52 (Safety) on page 24:

'For wind farm developments the best practice separation distance of 10 times rotor diameter to occupied property should comfortably satisfy safety requirements.'

1.3.19 Applying the 10 rotor diameters rule to Dunslund Cross would make the minimum distance requirement to properties **700 metres** (for the Enercon E70 turbine) or **800 metres** (for the Nordex N80 turbine). Both of these distances make TDC's recommendation of 600 metres seem very reasonable indeed.

1.3.20 One of the other wind farm applications currently in the TDC planning system is from a company called Wind Prospect, which is seeking permission to build a 5-turbine wind farm near the Cornish border. That company will not consider sites where the distance to nearby properties is less than 750 metres. On that part of its website inviting landowners to contact them for site appraisal (http://www.windprospect.com/assess_your_site?p=register) is the invitation:

Assess your site

We will assess your site for free without obligation.

If you think your land is:

750m clear of residential housing ...

1.3.21 Other wind farm developers adopt similar separation distances. In its leaflet, *'Turbines on your land'*, E.On states:

*'A certain distance should be kept between the location of every wind turbine and the nearest dwellings. As a starting point we use a **750 m** buffer.'*

1.3.22 TDC planners must ask why the current applicant at Dunslund Cross has no such criterion and still seeks to place turbines as close as 501 metres to occupied, non-involved property. Given the limited space available at Dunslund Cross it is clear that the applicant has a different attitude and set of values compared to more experienced and responsible wind farm developers.

1.3.23 The current application for Dunslund Cross also shows Turbine 3 to be only 188 metres and Turbine 2 to be 411 metres away from Whiteleigh Meadow SSSI. From a starting point of 500 metres this is unacceptable. It shows that the applicant is simply choosing to disregard and ride roughshod over the TDC Wind Energy Policy.


1.3.24 Again, in the Planning Statement, section 6.9, Supplementary Planning Guidance, the applicant states that the minimum distances have been considered, but they have been reduced because:

'No unacceptable significant effects have been identified throughout the ES, with the only residual significant effects being localised landscape effects, generally within 3km of the Application site. These effects are considered to be acceptable as they are not overbearing or oppressive, and while they will be a significant change, they are not considered to be an unacceptable change.'

Project Overview

Since the refusal of planning consent for 4 turbines at 105m in March 2009, we have been working to reformulate the scheme in order to address the council's reasons for refusal. Over this time the scheme has been developed into a proposal for 3 turbines at a maximum height of 100m to tip. In order to ensure that this work was fully compliant with Torridge District Council's requirements, a full scoping exercise was undertaken in early 2011.

A map of the proposed site is provided below:



A brief description of the work undertaken is as follows,

Noise
A further survey and assessment has been undertaken for the revised application and Torridge District Council's noise consultant has been involved with the survey and confirmed the appropriateness of the methods used.

Visual Impact
Additional work in relation to residential visual amenity was requested and has been completed by Bolsterstone and the scope of work agreed with the Council. The information will be included in the revised Environmental Statement.

Bolsterstone wind power

Wildlife
Correspondence between the Applicant and Natural England was undertaken throughout 2009 and 2010, including a request for further survey which was undertaken in 2009 and also in 2010. The results of this survey have helped to inform a detailed mitigation strategy to address Natural England's concerns. This strategy has been agreed in principle with Natural England, subject to the information to be contained within the revised application.

Cultural Heritage
This point of refusal was based upon a holding objection and request for further discussion from English Heritage and following further dialogue, the objection was withdrawn on 11th May 2009.

Scheme Affects SSSI & Economic Viability
We feel that these reasons were not valid reasons for refusal. Planning Policy Statement: Planning and Climate Change Supplement to PPS1 states at paragraph 20 that:
"In particular, planning authorities should not require applicants for energy development to demonstrate either the overall need for renewable energy or its distribution, nor question the energy justification for why a proposal for such development must be sited in a particular location."
The SSSI was taken into account in the relevant technical assessments and the economic stability of the development of the site should not be a planning issue for a renewable energy developments.

What's next?
Now we have most of the data needed, we shall shortly be in a position to submit our application for the revised 3 wind turbine scheme.

1.3.29 In an attempt to give the mistaken impression that the developer has been working closely with the community on this revised project, the flier states:

'We would like to take this opportunity to thank those within the community who have been kind enough to assist us in the development of the scheme by accommodating noise monitors in the grounds of their properties and/or allowing our landscape consultants "Open" access to their grounds and premises to conduct the residential amenity survey.'

1.3.30 This is a reference to the 4 local residents (the parish population is over 400) who, in October 2010, allowed noise monitoring equipment in their gardens. Two of the four residents are DTOG members who volunteered to assist to make sure that the correct procedures were being followed, so as to avoid a repeat of the noise monitoring fiasco in the 2008 application. The letter sent to a small number of selected households in October 2011, asking permission for a landscape photographer to visit, also resulted in at least three DTOG members participating to make sure that appropriate guidelines (e.g. *The Highland Council Visualisation Standards for Wind Energy Development*, as specified in the Scoping Report, subsequently ignored) were being followed. The vast majority of the local population was never told by the developer that any of this activity was taking place.

1.3.31 The December 2011 flier posted to some local residents includes photos of the wind farm site from two nearby viewpoints. One photo measures just 3.3 inches x 4 inches and the other 3.2 inches x 7.9 inches. Neither conforms to any visualisation standard and to add insult to injury, either through incompetence or intent, **these photos failed to show any turbines at all**, despite the fact that the turbines would have been prominent in both shots had they been included.

1.3.32 **By not holding a public exhibition for this application the developer has denied local people the opportunity to view full-sized photomontages (at least A3), properly mounted and viewed from the correct binocular distances so that a true impression of the completed wind farm could be gained.**

1.3.33 DTOG notes that the application was submitted on 21st December, 2011, just before the Christmas and New Year recess, as was the first application in 2008, no doubt in the hope that two of the three weeks available for the public to respond would see them distracted and otherwise occupied with the festive celebrations. In the event, this tactic failed again as TDC did not agree to validate the application until late February, 2012. For reasons best known to the case officer, the validation was then backdated to 13th January, 2012, and on 1st March, 2012, the application was slipped, unannounced, into the TDC Applications list for the week beginning 9th January. It was also given a 2011 application ID.

1.3.34 The first opportunity local people had to evaluate the application was when the ES and supplementary documents arrived in Holsworthy Library on 5th January, 2012, two weeks after the application was received by TDC. They would only have known to look there if they had found a note to that effect on a sub-page on the applicant's website. The documents were not visible to the wider public on the TDC website until March, some two months later.

1.3.35 The lack of early consultation and active community involvement, as recommended in PPS22 and the TDC Wind Energy Policy, tells its own story with regards to the approach of this wind farm applicant and his regard for the local population.

1.3.36 In the Westminster Hall debate referred to in paragraph 1.3.11 above, Energy Minister Charles Hendry also made the following two statements (DTOG emphasis):

*'We believe that renewable energy is necessary for our energy security and for environmental reasons **and that the view of local communities is vital in deciding where wind farms should be located.**'*

*'We are introducing provisions for projects to be submitted to local planning authorities, **so that developers will have to show that they have worked with communities to develop their planning applications.**'*

1.3.37 By no stretch of the imagination can this developer claim to 'have worked with communities to develop their planning applications.' The issuing of one inadequate two-sided flier just a few days before the application is submitted and an interactive website not fully updated until 10 weeks **after** it is submitted does not constitute working with communities to develop a planning application.

1.3.38 The south eastern states of Australia are leading the way in respect of Minister Hendry's two comments above. In August 2011, the Victoria government made it a requirement that if a wind farm proposal places turbines within 2km of existing residences, then the developer must obtain the consent of all owners of the land on which the residences are situated. The New South Wales government is following suit and is redrafting its own guidelines with this requirement included.

1.4 The TDC/NDC Joint Landscape Character Assessment

1.4.1 Another development since the last application was refused is the adoption by TDC of the Joint Landscape Character Assessment (LCA) for North Devon and Torridge Districts undertaken by Land Use Consultants on behalf of both councils, Devon County Council and Natural England. This document, dated November 2010, was formally adopted at the 14th February, 2011, meeting of the TDC Community and Resources Committee. In the Minutes of that meeting, the chairman of the TDC Planning Committee is reported as saying:

'... it [the LCA] will be a useful document for Ward Members and Developers, especially in relation to applications for wind turbines. The document details what makes the district unique and will also be an excellent tool for planners and policy makers.'

The meeting resolved:

*'That the joint Landscape Character Assessment be adopted as part of the evidence base to inform Local Development Framework preparation **and as a material consideration for Development Management purposes.**'*

1.4.2 The document identified in the paragraph above was only the first part of what became a much more comprehensive piece of work. The second part, *'An Assessment of the Landscape Sensitivity to Onshore Wind Energy & Large-Scale Photovoltaic Development in Torridge District'*, dated September 2011 by the same authors, was formally adopted by the council at the TDC Community and Resources Committee meeting on 5th December, 2011. This document assesses the sensitivity to wind or solar development of the 15 Landscape Character Types (LCT) found in Torridge. It will become known as the Landscape Sensitivity Assessment (LSA).

1.4.3 As with the TDC Wind Energy Policy, the applicant has paid only lip service to the new LCA and LSA. Although the LCT Map defining the new LCTs has been included as Figure 5.4b in Part Two of the ES, there is no mention of either the LCA or the LSA in the Planning Statement submitted with the application, nor do they merit a mention in Chapter 5: *Landscape and Visual Effects*, of the Non-Technical Summary.

1.4.4 Chapter 5: *Landscape and Visual Assessment*, of the main ES does acknowledge that the LCA is now complete and dates it 2010. But there is no mention of the LSA, the final version of which was sent out for consultation dated September 2011. It was adopted, unchanged, by TDC on 5th December 2011. This omission is surprising, because Mr. Michael Bird of Arcus Consulting, the man project managing the ES for the company hired by the applicant to get this project through planning, was one of the consultees for the LSA, as the last page of the final report shows :

Miss J Heischman	Rainbow Renewables Ltd
G. & C. Wilson	George S Wilson Associates
Mr Michael Bird	Arcus Renewable Energy Consulting
Miss Sally Bowdler	CMS UK
Miss Hannah Twells	CMS UK
Keith Wheaton	Green Associates
	Aspire Planning Ltd
Stephen Sherry	Sherry Consultants

Land Use Consultants

Appendix 6

1.4.5 As a consultee, Mr. Bird would have known that the sensitivity of the LCT upon which the three 'large' (76-110m) Dunslund Cross turbines are to be sited, and the sensitivity of the adjacent LCT just north east of the site, was going to appear in the final LSA as **'medium-high'**. Like everyone else, he would have concluded that the 100m turbines, being at the upper end of the 'large' classification, would attract the **'high'** sensitivity assessment.

1.4.6 Mr. Bird was in possession of this information weeks before Ms. Jo Phillips, of Optimised Environments Ltd. (OPEN) was sent to the site on the weekend of 22nd October, 2011, to undertake the new Landscape and Visual Impact Assessment for the ES. The applicant's printed ES is dated December 2011, so he had plenty of time to incorporate the conclusions of both the LCA and the LSA in the ES. Instead, they were ignored.

1.4.7 In paragraphs 5.6.2.1 and 5.6.2.2 of the ES the two adjacent LCTs for Dunslund Cross are correctly named but criteria different to those in the LCA and LSA are applied so that the sensitivity to the Development emerges as 'medium' instead of 'high'. This analysis is revisited in Chapter 2: *Impact on Landscape Character*, of this DTOG report.

1.5 The TDC/NDC Joint Core Strategy

1.5.1 The *North Devon and Torridge Joint Core Strategy* will replace the South West Regional Spatial Strategy (SWRSS) as the document which sets out the future spatial planning of northern Devon. The Core Strategy will become the key overarching document in the Local Development Framework.

1.5.2 Twenty-three Core Strategy COR policies will supersede the saved Local Plan Policies from each council's Local Plan. Throughout this DTOG report both the existing policies and their equivalent new COR policies will be referenced.

1.5.3 The coalition government abolished the SWRSS and the top-down renewable energy targets contained within it as part of the Localism and Decentralisation Bill, which received Royal Assent on 15th November, 2011, whereupon it became the Localism Act 2011.

1.5.4 This is welcome as the targets are meaningless. Although purporting to be energy targets, they are expressed in megawatts (MW), which is a unit of power, not energy. Meeting a target simply requires the installation of enough installed capacity anywhere in the region. Whether or not any useful renewable energy is generated by such installed capacity does not matter. The target will still be met wherever it is installed. Thus, 50 x 2MW wind turbines erected in sub-optimal sites like Dunsland Cross would generate insignificant amounts of electricity. Those same turbines in a truly windy location would generate much more electricity, but in either case they would still contribute 100MW to the regional target. Siting wind turbines in optimal wind locations is, therefore, much more important than meeting RSS targets.

1.5.5 With the SWRSS now abolished, until such times as the replacement strategy identified in paragraph 1.5.1 above is finalised, each local authority, when determining planning applications, must continue to have regard to its existing development plan. This now only consists of Adopted Development Plan Documents (DPDs), Saved Policies and any old style plans that have not lapsed. Evidence that informed the preparation of the RSS now being revoked is also permitted as a material consideration. One such piece of evidence is a document entitled, 'REvision 2020.'

1.5.6 Torridge District Council and North Devon Council started to prepare their Joint Local Development Scheme in October 2009. In reference to the Evidence Base being used to inform this work, the TDC website states:

7 Evidence Base

7.1 The LDF is prepared in the context of national and regional planning guidance. The evidence base for the preparation of LDDs and baseline information for Strategic Environmental Assessments (SEA), Sustainability Appraisals (SA), Equality Impact Needs Assessment (EINA), Health Impact Assessment (HIA) and Habitats Regulations Assessments (HRA) including any necessary Appropriate Assessments will be provided by a variety of documents. Some of these studies have been prepared by the District Councils, jointly or separately, to inform preparation of the LDF. Others have been prepared by other organisations. Development of the evidence base is a live process and an evidence base index is published in full elsewhere.

7.2 Our evidence includes the following documents (list abridged by DTOG):

... Local Nature Conservation Sites and Biodiversity Networks

County Wildlife Site Surveys

Biodiversity Action Plans

Landscape Character Assessments

North Devon AONB Management Plan

UNESCO Biosphere Reserve Management Plan ...

*... **REvision 2020***

Renewable Energy Action Plans 2020 Vision: A Strategy for Sustainable

Economic Regeneration in North West Devon

1.5.7 This means REvision 2020, which informed the SWRSS, is still a material consideration in determining current planning applications.

1.5.8 REvision 2020 is a report by the Centre for Sustainable Energy (CSE), Peter Capener and Wardell Armstrong International for the Government Office South West (GOSW) and the South West Regional Assembly (SWRA). It established the extent of the South West accessible onshore wind resource for the purpose of target setting in the SWRSS. In arriving at the conclusions the following constraints were amongst those used:

No development closer than 600 metres to urban/village habitations

6.5m/s at 80m agl (above ground level) is a minimum economic wind speed

(Source: REvision 2020 - Final Report to GOSW and SW RA. ANNEX 1 - Page 75.)

(<http://www.oursouthwest.com/revision2020>)

1.5.9 A follow-up study by the University of Exeter Centre for Energy and the Environment entitled '*A Review of Renewable Energy Resource Assessment and Targets for Devon*', written by A D S Norton and dated 15th March 2011, cites REvision 2020 in its Introduction. It goes on to give an estimate of what it regards as the number of 2.5 MW wind turbines which could be driven by the wind resource in each of the Devon districts. (This document may be accessed at: <http://www.devon.gov.uk/reviewofrenewableenergyresourceassessmentandtargetsfordevon.pdf>)

1.5.10 In paragraph 3.1 of the report a table is constructed from the findings in a more recent piece of work (2010) by Wardell Armstrong, one of the contributors to REvision 2020. The table shows that, in Wardell Armstrong's estimation, Torridge District could now accommodate a total of 183 turbines rated at 2.5 MW. Then, crucially, it states:

*'The Wardell Armstrong assessment excludes physical and environmental constraints, **places a 600m buffer around buildings** and is based on larger turbines.'*

1.5.11 It is thus clear that there are still sites in Torridge where larger turbines of the size specified for Dunslund Cross can be accommodated without encroaching nearer than 600 metres to properties. There is thus no reason to accept the current applicant's proposal to site two of the turbines closer than 600m at Dunslund Cross, as is his wish.

1.6 New National Policy Statements and The Localism Act 2011

1.6.1 The government is introducing new National Planning Statements (NPS) EN1 and EN3. These will be relevant to onshore wind farm applications when they become official guidance in April 2012. The applicant may insist that these documents, whilst still subject to the results of ongoing consultation, are already a material consideration. Using that argument, the emerging TDC/NDC Joint Core Strategy is already a material consideration, so the REvision 2020 document in the Evidence Base informing the strategy, with its 600m separation distance between turbines and houses, is also enforceable now.

1.6.2 The government is also promoting the 'Big Society' concept and part of that process was the introduction of the Localism and Decentralisation Bill, now the Localism Act 2011. The Act returns power to local communities in a range of areas including planning. The comments below were taken from the DCLG website (<http://www.communities.gov.uk/news/newsroom/1794971>) on 13th December 2010, the day the original bill was launched (DTCOG emphasis):

[DCLG Secretary] Eric Pickles said:

'The Localism Bill will herald a ground-breaking shift in power to councils and communities overturning decades of central government control and starting a new era of people power.'

'By getting out of the way and letting councils and communities run their own affairs we can restore civic pride, democratic accountability and economic growth - and build a stronger, fairer Britain. It's the end of the era of big government: laying the foundations for the Big Society.'

The Localism Bill contains further measures to strengthen local democracy by:

*Establishing powerful new rights for local people and communities - powers for councils are accompanied by greater powers for local people to hold their local authorities to account. **Local people and communities will have real power and a bigger say over their area ...***

*Radically reforming planning - Ministers believe the current planning system is too centralised and bureaucratic, too adversarial and remote from the communities it affects. The Bill will restore democratic and local control over planning ... The Bill will enable regional planning to be swept away and in its place neighbourhood plans will become the new building blocks of the planning system where **communities have the power to grant planning permission if a local majority are in favour;***

Decentralisation Minister Greg Clark said:

*'This Bill will provide the enduring legislative foundation for a new, decentralised Britain, where power is returned to the people to which it belongs. We believe that communities should have the freedom to manage their own affairs in their way, and be empowered, not suppressed, by Government. The Bill will enact new rights **allowing local people to shape and influence the places where they live, revolutionising the planning process by passing power down to those who know best about their neighbourhoods.***

Communities Minister, Andrew Stunell said:

*'The Localism Bill will pave the way for the long overdue push of powers out of Whitehall to councils and neighbourhoods across the country, and **give local communities real control over housing and planning decisions...***

*"The powerful new rights in the Bill will put real power in the hands of real people, **empowering local communities and putting them at the heart of local decision making.***

1.6.3 The last Dunsland Cross wind farm application in 2008/9 was refused following an overwhelming rejection of the proposal by **local** people. The planning committee should afford considerable weight to **local** opinion in this revised application, thus delivering the promises identified above, now in force in the Localism Act.

1.6.4 A significant change, and one which has sparked a great deal of ongoing debate in the House of Lords, is that financial considerations can now be taken into account in planning applications. Parliamentary Standard Notes are issued periodically to brief MPs with respect to recent legislative changes. In Standard Note SN/SC/3890, dated 31 January, 2012 and entitled '*Financing Infrastructure: Community Infrastructure Levy*', the following statements appear:

'Some infrastructure is financed via planning obligations, also known as section 106 agreements, whose scope is now reduced.

Regulations made under the Planning Act 2008 provided for the Community Infrastructure Levy (CIL). Local authorities could choose whether to charge CIL, and the appropriate rate. They would retain the revenue.

The Localism Act 2011 will allow financial considerations to be taken into account in determining a planning application. Opinions are divided as to whether this is an important change.

The property industry is concerned that high CIL charges may deter development.'

1.6.7 The last comment indicates that most observers thought that new housing development would be the main focus of these changes. However, there is no reason why an industrial power station in open countryside, such as that proposed by the current applicant for Dunslund Cross, should not also be included. Indeed, Bolsterstone's project director, Mr. Corker, was very quick to contact the *Holsworthy Post* on 2nd December, 2010 to announce to the residents of Torridge that the council would now be able to keep the first six years' worth of business rates from the wind farm, which he estimated as '*an extra half a million pounds*'.

1.6.8 The Standard Note introduced in paragraph 1.6.4 is keen to point out that, despite the ongoing concerns of noble peers, **planning consent still cannot be bought**. All planning applications must continue to be determined by reference to all relevant policies in force at the time of the application. Unacceptable proposals cannot be made acceptable because a large financial bribe is available for the taking.

1.7 Predetermination

1.7.1 The Localism Act now allows councillors voting on planning committees to hold and openly state predetermined opinions on issues such as renewable energy technologies. In the past, councillors who were known to have predetermined an application were required to withdraw from the discussion of the application in committee and take no part in the vote. The Localism Act no longer makes this a requirement.

1.7.2 Councillors will still be required to declare their predetermined viewpoint at the start of the consideration of an application, but will then have to consider all aspects of the application 'with an open mind'. It is noted that TDC planning committee has already moved to this position.