

## 8. The Balancing Exercise

This chapter lists the arguments weighing in favour of the proposal alongside the arguments weighing against it. It gives a clear indication of where the balance point lies. It also reminds planning officers of The Lavender/MacKenzie Test, which requires that each separate impact of a scheme (which on its own might not cause a scheme to be rejected) should be aggregated to form an overall final impact, which may then tip the balance towards refusal. Community benefits and financial incentives are then re-affirmed as NOT being part of the decision-making process by reference to the DECC Community Benefits Toolkit 2009.

This chapter has 4 sub-sections:

- 8.1 The Balancing Exercise
- 8.2 The Lavender/MacKenzie Test
- 8.3 Community Benefits/Financial Incentives
- 8.4 Summary of this Chapter and Recommendation

### 8.1 The Balancing Exercise

8.1.1 The arguments weighing in favour of the proposed 3-turbine wind farm at Dunslund Cross are listed on the left side of the page. The arguments against are listed on the right. First there is a general section, then a site-specific section.

#### General

#### WEIGHING IN FAVOUR

The Primary fuel which propels the turbines is free and from a renewable resource.

Around 1,795 homes (applicant's figure, 3,645) will be supplied annually by this wind farm. (See Chapter 6.)

CO<sub>2</sub> emissions will be saved by this wind farm.

#### WEIGHING AGAINST

The Primary fuel which propels the turbines is intermittent, variable in strength and not always available in times of demand for electricity generation.

The Secondary fuel which powers the turbines' internal mechanisms, control systems and lighting must be drawn from the national grid.

These homes are already supplied by a stable, reliable source of electricity. Hinkley Point Nuclear Power Station supplies baseload and Langage CC Gas Power Station supplies baseload and load following on demand. The applicant seeks to replace a stable, reliable system with an unreliable, intermittent supply.

Hinkley Point does not emit any CO<sub>2</sub> so none can be saved by replacing it with a wind farm. Langage is a low CO<sub>2</sub> emitting plant. It will have to be kept spinning anyway, but the wind farm will make it emit more CO<sub>2</sub> as it is forced to ramp its output up and down to cover the wind farm's intermittent output in variable wind conditions. The actual CO<sub>2</sub> savings will be less than half of what the applicant predicts. (See Chapter 6.)

The **annual** amount of electricity generated is derisory and is equivalent to under 8 hours' combined output from Hinkley and Langage. (See Chapter 6.)

**Site Specific****WEIGHING IN FAVOUR****WEIGHING AGAINST**

The site has been deemed unsuitable by two other wind farm developers in the past. (See Chapter 1.)

**The Wind Resource**

The applicant has failed to submit 12 months' worth of wind data with the application, as required by the TDC Wind Energy Policy, saying that it is a matter for the developer alone to assess the wind resource. This is not true. It is also a matter for the local planning authority as the balancing exercise cannot be completed if the alleged benefits of the proposal cannot be substantiated. (See Chapter 6.)

The hub-height wind resource at this site, as indicated by valid proxy readings taken over a 15-month period, shows that the site is sub-optimal for the production of electricity from wind turbines. The hub-height wind speed threshold of viability is quoted by many developers, including the current applicant, as being between 6.5 - 7.3 m/s. The indications are that the wind resource at Dunslund Cross is just 5.83 m/s at 60m agl hub-height. (See Chapter 6.)

**Impact on Landscape Character and Residential Visual Amenity**

The TDC LCA and LSA reports indicate that this site has a HIGH sensitivity to turbines of the size proposed. The applicant has ignored this, claiming that the sensitivity is only 'medium'. Turbines have been sited on a ridgeline and long views to Dartmoor will be destroyed. This is contrary to the siting advice in the LCA/LSA. (See Chapter 2.)

The applicant is still trying to site turbines closer than the advisory 600 metres minimum distance to properties, as recommended in the TDC Wind Energy Policy and required by the Devon Strategic Planning Authority and assumed in the new Joint Core Strategy (as informed by REvision 2020). Turbine 1 will be just 501 metres and 506 metres from the nearest properties.

The applicant has not produced photomontages to the required standard, consequently the visualisations of the wind farm are inaccurate and incomplete. Despite that, the applicant identifies EIGHT significant adverse landscape visual impacts and a further TWELVE significant adverse residential visual impacts in the Residential Amenity Survey. The adverse impacts are so significant that the 'character of the view will be redefined.'

**WEIGHING IN FAVOUR****WEIGHING AGAINST**

The wind farm will have an unacceptable impact on the setting of the nearest cultural heritage asset (The 6 Listed Railway Cottages).

Views into and out of Whiteleigh Meadow SSSI will be destroyed.

As a consequence of the above, the application is in conflict with Policies ENV1, ENV3, ENV5, ENV6, DVT2C, DVT6, DVT8, DVT11, CO1, CO6, CO7, CO16 and COR6. (See Chapters 2 & 3.)

**Noise**

The applicant has made errors and omissions in the identification and location of some of the properties around the site. Consequently the noise predictions for these properties are missing or unreliable. (See Chapter 4a.)

The measurement of the existing background noise levels at properties around the site is deeply flawed. The applicant has produced two separate background noise assessments for the same properties at the same time and they do not agree. The assessments assume that the existing background noise levels are dependent on the future choice of turbine at the site, which is clearly nonsense. The background noise levels at higher wind speeds are shown to be sometimes higher at night than during the day which is also clearly wrong. The applicant did not have enough variation in wind speed and direction during the monitoring period to make a robust assessment of the background noise levels. (See Chapter 4a.)

The applicant has departed from ETSU-R-97 and has used an unofficial method known to underestimate predicted noise levels at nearby properties. The two separate assessments are based on contradictory ground parameters. One assessment assumes hard ground between the turbines and properties, the other assumes mixed ground. This bears no resemblance to reality. Like the background noise levels, the existing ground conditions are not dependent on any future choice of turbine. They should be the same in both assessments. (See Chapter 4a.)

The applicant has had to model the turbines running in noise-suppressed modes (with consequent loss in power output) to get the noise levels below ETSU-R-97 limits. Even then, the noise level is actually on the limit at one property and just below at a number of others. When the inaccuracies in the background noise assessment and the methodology used are corrected, the noise limits are breached at many properties around the site. (See Chapter 4a.)

**WEIGHING IN FAVOUR****WEIGHING AGAINST**

The applicant has failed to address the issue of noise IMPACT on nearby properties, despite it being a requirement of PPS22. When an impact assessment is carried out it shows that complaints will be inevitable from all properties around the site. (See Chapter 4b.)

Citing out-of-date and subsequently discredited research, the applicant has sought to dismiss AM and LFN and has made no provision for the mitigation of AM and LFN in his noise assessment, yet these are known to be the major cause of annoyance to wind farm neighbours. (See Chapter 4c.)

The applicant's sub-standard noise assessment means that he has still not demonstrated that there would not be an unacceptable impact on the amenity of nearby residents by virtue of the noise generated by the turbines, so policies DVT11, DVT12, DVT13 and CO16 are still not satisfied by this proposal.

**Impact on Wildlife**

The applicant is still trying to site two turbines closer than 500 metres to Whiteleigh Meadow SSSI, despite it being a requirement of the TDC Wind Energy Policy. Turbine 3 is only 188 metres from the SSSI.

The applicant admits that there will be '*significant ecological effects and/or potential legal offences for some receptors*'.

An Ecological Management Plan (EMP) is proposed but this plan is fundamentally flawed and will not prevent unnecessary deaths of bats and avian species. The deaths must occur before remedial mitigation is started. As a result, the application fails to satisfy policies PPS1, PPS7, PPS9, RE6, COR6, SS20, EN1, SD3, CO1, CO9, CO10, CO13, ST1, ENV1, ENV5, ENV7 and ENV10. (See Chapter 5.)

**Other Material Considerations**

The applicant has moved Turbine 1 to within 120 m of the A3079. This could reduce to the minimum fall-over distance with micrositing. This creates a potential road safety issue for drivers approaching the point in the A3079 where users of the Ruby Way (walkers, cyclists and horse riders) will be crossing the road. As a result, the application is in conflict with Policy DVT18. (See Chapter 7.)

Four local businesses will be adversely affected if this wind farm is consented. They are Dragon Archery, BSY, OLCI & The Bickford Arms (See Chapter 2.)

TV reception problems will occur at 249 local properties. (See Chapter 9.)

## 8.2 The Lavender/MacKenzie Test

8.2.1 Inspector David Lavender officiated at the North Dover (Enifer Downs & Langdon) Public Inquiry (APP/X2220/A/08/2071880) in March 2009. The application, from Ecotricity, was for a 5 x 120m turbines wind farm. No single turbine was further than 570 metres from the nearest non-involved occupied dwelling (at Dunslund Cross one of the 100m tall turbines will be 501m and 506m respectively from the two nearest non-involved occupied dwellings) and there were over 100 dwellings within 820m of the turbines (at Dunslund Cross there are 40 within 886m).

8.2.2 Regarding residential amenity, Inspector Lavender said in his report (DTOG emphases):

*'Separation distance is not, in itself, a decisive factor in judging policy compliance or the associated standards of environmental quality, **but it provides a broad context for consideration of amenity impacts in this particular case which I find notable for proposing turbines of the size proposed as close neighbours to places of habitation.** As I indicated both orally and in writing to the parties at the Inquiry, noise, light flicker and visual intrusion are in my estimation the three factors with greatest potential to affect local amenity. Each warrants careful examination...'* (Para. 43)

*'Paragraph 39 of the PPS22 Companion Guide affirms that the planning system exists to regulate the development and use of land in the public interest. In most cases, the outlook from a private property is a private interest, not a public one, and the public at large may attach very different value judgements to the visual and other qualities of wind turbines than those who face living close to them. Equally, people pass through a diverse variety of environments when going about their daily lives, whether by car or when using the local rights of way network, and I find nothing generally objectionable in turbines being part of that wider experience. **However, when turbines are present in such number, size and proximity that they represent an unpleasantly overwhelming and unavoidable presence in main views from a house or garden, there is every likelihood that the property concerned would come to be widely regarded as an unattractive and thus unsatisfactory (but not necessarily uninhabitable) place in which to live. It is not in the public interest to create such living conditions where they did not exist before.**'* (Para. 66)

8.2.3 Inspector Lavender went on to conclude that while he was satisfied that shadow flicker, even at this close range, could be addressed by a condition, the proximity of the turbines to a large number of properties was not acceptable in planning terms due to noise and visual domination. He also picked up again on the statement from the paragraph above:

*'As I indicated both orally and in writing to the parties at the Inquiry, noise, light flicker and visual intrusion are in my estimation the three factors with greatest potential to affect local amenity.'*

by saying later in his decision letter:

*'However, public perception of the least satisfactory living conditions will inevitably attach to those properties considered to be most exposed to the **combined** effects of noise, flicker and visual impact.'* (Para. 103)

8.2.4 Inspector Lavender has, therefore, made it abundantly clear that the three factors of noise, flicker and visual impact cannot be dismissed individually in isolation from the others. They must be considered together in order to assess the full impact of a scheme. Even if all three criteria manage to appear marginally acceptable under existing official guidance, together they may aggregate to make 'the straw that broke the camel's back' in terms of adversely affecting the amenity of nearby residents who end up having a wind farm in their midst.

8.2.5 In Chapter 4b, paragraph 4b.2.14 it was shown that Inspector Lavender is not the only Planning Inspectorate official to hold these views. After the Public Inquiry for 2 x 100m turbines proposed by Ecotricity for Wood Farm, Shipdham (APP/F2605/A/08/2089810), Inspector Ruth MacKenzie wrote in her Appeal Decision Report in March 2009:

*'I have decided that the points in favour of the scheme, listed above, are not sufficient to outweigh my concerns about living conditions. There is not one single factor that makes the proposal unacceptable. It is the accumulation of several factors that has led me to the decision that, on balance, the appeal should be dismissed. They include:*

- *the turbines' close proximity to dwellings*
- *the tightness of the margins by which noise limits would be met at other times' (Para. 75)*

8.2.6 This could be said to be the situation with the current application for Dunslund Cross. The applicant would insist that the first part of the statement is true. DTOG would disagree with that, but would agree with the second part of the statement which resulted in the Inspector dismissing the Appeal.

### **8.3 Community Benefits/Financial Incentives**

8.3.1 On 2nd December, 2010, Bolsterstone plc, the applicant for the Dunslund Cross Wind Farm, had a short item published in the '*Holsworthy Post*'. In that article, Mr. Corker, the man project managing this application, enthused about the possibility of the [then] imminent Localism Bill re-directing 'an extra half a million pounds' in business rates to TDC instead of central government. His motives for highlighting this aspect of the Localism Bill, well before it was laid before Parliament, are for him to explain. He knows perfectly well that such 'bribes' have no place in determining planning applications.

8.3.2 This is made clear in a document entitled '*Delivering Community Benefits from Wind Energy Development: A Toolkit. A report for the Renewables Advisory Board. July 2009 Edition*', more popularly known as the '*DECC Community Benefits Toolkit 2009*'.

8.3.3 On page 18 of the toolkit is the following:

#### **4 Community benefits and the planning process**

*There is a strict principle in the planning systems in all parts of the UK that a decision about a particular planning proposal should be based on planning issues; it should not be influenced by additional payments or contributions offered by a developer which are not linked to making the proposal acceptable in planning terms.*

*Current planning legislation also prevents local planning authorities from specifically seeking developer contributions where they are not considered necessary to make the proposal acceptable in planning terms. This is to ensure that unacceptable development is never permitted because of unrelated benefits being offered by the applicant. To put it simply, planning permission cannot be 'bought'.*

*This approach means that community benefits, such as those explored in this Toolkit, are generally considered to be not relevant to the decision on granting planning permission.*

*Of course, communities can still ask for benefits and developers can still offer them. And local authorities can still play a role in facilitating the process provided that they ensure that officers or councillors directly involved are not in a position to influence the planning decision (see below). This approach is supported and encouraged by national policy statements in England, Wales, Scotland and Northern Ireland (details of the 'UK National Planning Policies' can be found on the DECC website at [www.decc.gov.uk](http://www.decc.gov.uk)).*

*The relationship between the planning system and community benefits is examined in more detail in this section.*

### **Planning decisions must be based on planning issues**

*If planning decisions must be based on planning issues, what are the relevant 'planning issues'? This has been defined partly by legislation and also by test cases in the courts.*

*Fundamentally the planning issues – or 'material considerations' – must be related to the development and use of land in the public interest. This will include the number, size, layout, siting, design and external appearance of the proposed development, the means of access, together with landscaping, impact on the neighbourhood, and the availability of necessary infrastructure.*

*Any planning proposal must fit within the local planning authority's own planning policies. Government planning and renewable energy policies and, in England, regional planning policy statements can also carry significant weight in the decision-making process.*

*In this context, community benefits are generally not considered legitimate material considerations within the planning decision making process as they do not relate to planning issues or directly to the proposed wind farm.*

### **Actions necessary to make a development 'acceptable'**

*Community benefits should be considered as separate and different from those actions and contributions from the developer which are necessary to make a proposed development acceptable in planning terms. This is particularly relevant to the consideration of 'benefits in kind' in [Section 6](#) of this Toolkit.*

8.3.4 For the record, the applicant is offering to pay the local community £4,000 per turbine per year for the lifetime of the project. For a 2.5 MW turbine this equates to £1,600 per MW, which is just 32% of the going rate for Community Benefits in 2012. £5,000 per MW per annum is now the standard amount according to RWE nPower:

*'It [RWE nPower] claimed the "market rate" for community benefits had increased from £2,000 per megawatt (MW), per year, when Carnedd Wen was unveiled in 2008, to £5,000 now.'*

*(24th February, 2012 'Llanbrynmair wind farm 'sweetener' fund trebles to £18.8m'  
<http://www.bbc.co.uk/news/uk-wales-mid-wales-17143460>)*

8.3.5 This means that £34,500 - £37,500 per annum should now be on offer to the local community in Dunsland Cross and Brandis Corner, depending on whether 2.3MW Enercon E70 turbines or 2.5MW Nordex N80 turbines are used.

8.3.6 This would total £862,500 - £937,500 over 25 years but the applicant is only offering £300,000 in that time. Thus he intends to withhold between £562,500 - £637,500 from the people who will have to suffer the impacts of the wind farm, 24 hours a day, 7 days a week, 52 weeks a year for one third of their natural lives. To add insult to injury, these people will also be paying towards the cost of the ROCs given to the wind farm operator in the first place.

8.3.7 According to *the applicant's* figures, he expects to receive £792,416 per year in ROC subsidies alone for this wind farm (see paragraphs 6.4.11 and 6.1.6), making a total of £19.8 million over 25 years. This does not include the sale of the electricity generated which will double this figure to nearly £40 million. Thus the £300,000 community benefit on offer amounts to less than 1% of the income of the wind farm.

#### **8.4 Summary of this Chapter and Recommendation**

This chapter has examined the reasons weighing in favour and against the application. It has identified 3 general reasons in favour and 5 general reasons against, and 0 site-specific reasons in favour and 22 site-specific reasons against. A total of 30 National, Regional, County and District policies fail to be satisfied by this application.

It has shown that the '*Lavender/MacKenzie Test*' is appropriate when multiple impacts are evident.

This chapter has also put the intended community benefit from the developer in the context of the income he expects to receive from this project when the turbines are operational.

#### **Recommendation: REFUSAL**

**The multiple adverse impacts of this proposed wind farm far outweigh the single benefit, namely that the wind is a renewable, free resource. The application should be refused.**