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Susan Ring
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Your Ref:

Our Ref: APP/Q1153/A/06/2017162/NWF

Date: 11 December 2009

Dear Ms Ring

**Town and Country Planning Act 1990
Appeal by RES Developments Ltd
Site at land at Den Brook, North Tawton, Devon**

I enclose a copy of our Inspector's decision on the above appeal together with a copy of the decision on an application for an award of costs.

If you have queries or complaints about the decision or the way we handled the appeal, you should submit them using our "Feedback" webpage at www.planning-inspectorate.gov.uk/pins/agency_info/complaints/complaints_dealing.htm. This page also contains information on our complaints procedures and the right of challenge to the High Court, the only method by which the decision can be reconsidered.

If you do not have internet access, or would prefer hard copies of our information on the right to challenge and our complaints procedure, please contact our Quality Assurance Unit on 0117 372 8252 or in writing to the address above.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 0207 947 6655.

You should also note that there is no statutory provision for a challenge to a decision on an application for an award of costs. The procedure is to make an application for judicial review. This must be done promptly. Please contact the Administrative Court for further information.

Yours sincerely

Andy Lumber

COVERDL2





Appeal Decision

Inquiry opened on 23 July 2009

Site visits made on 3 August and 27 October 2009

by **Andrew Pykett** BSc(Hons) PhD MRTPI

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

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Decision date:
11 December 2009

Appeal Ref: APP/Q1153/A/06/2017162

Land to the south east of North Tawton and the south west of Bow

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by RES Developments Ltd against the decision of West Devon Borough Council.
- The application Ref: 8250/2005/OKE, dated 10 November 2005, was refused by notice dated 31 January 2006.
- The development proposed is nine 3-bladed horizontal axis wind turbines, electricity transformers, access tracks, crane hardstandings, control building, sub-station, met mast, temporary construction compound and met masts.
- The inquiry sat for 13 days on 23, 24, 27-31 July, 3 August, 20-23 and 26 October 2009.
- This decision supersedes that issued on 22 March 2007. That decision on the appeal was quashed by order of the Court of Appeal.

Preliminaries

1. At the Inquiry an application for costs was made by RES Developments Ltd against the West Devon Borough Council. This is the subject of a separate Decision.
2. The original public inquiry into the above appeal was held in November 2006. The appeal was successful but the decision was challenged in the High Court. Although the challenge was unsuccessful, the appeal decision was subsequently quashed by the Court of Appeal in July 2008. The decision was therefore returned for re-determination taking account of all matters raised. I held a pre-inquiry meeting in Spreyton to consider the arrangements for the inquiry on 1 June 2009. Two third parties were granted Rule 6 status for the purposes of the inquiry. These are: the Den Brook Judicial Review Group Ltd (DRJRG), and the Campaign to Protect Rural England (CPRE).
3. An Environmental Statement (ES) was prepared in 2005 under the provisions of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 to accompany the application. Volume II of the ES is accompanied by Volume I, which comprises a non-technical summary, and Volume III is a series of plans, drawings, maps, photographs and photomontages. Supplementary Environmental Information (SEI) was prepared and issued in 2006 in three equivalent volumes on behalf of the appellant and before the first inquiry. It pays attention to the landscape and visual assessment of the scheme, together with assessments of its archaeological impact, and its effect on scheduled ancient monuments and the

it is evident that it was not the subject of specialist evidence by the principal parties to the inquiry. As I have recorded above, that inquiry also pre-dated the SEI prepared in 2009. The council's position in relation to this matter remained the same for both inquiries – it raises no objection to the scheme on noise grounds, but notwithstanding this I have identified it as a component of the first main issue as far as this re-determination is concerned.

Reasons

9. The nine turbines would be sited on land within the valley of the upper reaches of the Den Brook – a tributary of the River Yeo which itself flows to the north into the River Taw. The appeal site covers an area of approximately 2km² (200ha), although the land actually occupied by turbine bases and ancillary development would amount to just over 3½ha. The ES records that the actual make of turbine has not yet been selected, but at its maximum extent it would not exceed a height of 120m above ground level. The blades would be about 45m in length, and the tower would be approximately 75m in height. The turbines would be generally arranged on a south-west/north-east axis over a distance of about 1500m. The scheme includes the erection of two temporary 80m high monitoring masts, together with a network of 4.5m wide access tracks and a centrally located temporary construction compound. The control building and sub-station would also be centrally located. The necessary grid connection does not form part of the appeal proposal, but I understand the current proposal would follow a route to the west and north-west to North Tawton.
10. The ES is based on turbines with a nominal capacity of 1.65 – 2.3 MW, and, subject to the weather and ground conditions, the development operations would take up to about 12 months. The scheme envisages the delivery of most plant and materials from the A30 at Whiddon Down, along the A382 and the A3124 towards North Tawton, and thence to a new site entrance off the A3072. Some minor road improvement and traffic management works would be necessary at Whiddon Down, at the railway bridge on the A3124, and at the A3124/A3072 junction.

Character and appearance

11. The appeal site lies in the gently rolling agricultural landscape which characterises that part of mid Devon between Dartmoor to the south and Exmoor to the north. The site and its surroundings fall within two of the character areas included in the Countryside Agency's character map of England – area 148: Devon Redlands, and area 149: The Culm. The former area extends from the east and includes most of the appeal site itself. Amongst other key characteristics, reference is made to the hilly landscape of villages, hamlets, farmsteads, hedgebanks and winding lanes. The village of Bow lies within this area. However, this character area forms a relatively narrow extension into The Culm. This includes extensive areas to the north, south and west, and it comprises the vast majority of the land between Dartmoor and Exmoor.
12. Reference is made, amongst other key characteristics, to rolling open pasture separated by many small valleys; to the wide views across a remote landscape, and the scattered hamlets and farms connected by winding sunken lanes.

the south and south-west of the site – the land is designated as an Area of Great Landscape Value. Structure plan Policy CO4 records that such areas are particularly sensitive to new development, and local plan Policy NE9 is similarly protective. However, in the determination of renewable energy schemes both paragraph 24 of Planning Policy Statement (PPS) 7: *Sustainable Development in Rural Areas* and paragraph 15 of PPS22: *Renewable Energy* promote the use of criteria-based policies in preference to such local designations.

17. The highest parts of the Dartmoor National Park lie along its northern edge, and there is a distinct boundary between the surrounding agricultural landscape and the moorland itself. Other than in the vicinity of Whiddon Down, the designated area is essentially defined by the A30 dual-carriageway, but the proximity of the high and open moorland to the surrounding agricultural landscape facilitates an appreciation of the qualities and characteristics of both areas in both directions.
18. Amongst other matters, structure plan Policy CO2 (National Parks) records that the application of particular care is necessary to ensure that no development outside the Park is permitted which would damage its natural beauty, character or special qualities. Similarly, local plan Policy NE7 (Dartmoor National Park) seeks to avoid development which would have an unacceptable adverse effect on the setting of the Park's landscape, or on viewpoints within the Park. The significance of national designations is also recognised and acknowledged in PPS22. Although paragraph 14 records that buffer zones should not be created around designated areas, it also specifies that the potential impact of renewable energy projects close to their boundaries will be a material consideration to be taken into account in the determination of planning applications. At the inquiry my attention was drawn to the contents of the *Dartmoor National Park Management Plan 2007*. It includes a comprehensive list of Dartmoor's special qualities. Amongst these, reference is made to the extensive views across Devon which the moor is able to provide.
19. Policy EN 1 of the *Regional Planning Guidance for the South West* (RPG10) (2001) also provides for both the strong protection of the region's nationally important landscape areas and the conservation and enhancement of local character. The *Regional Spatial Strategy for the South West* (RSS) is in the course of preparation. The draft revised version incorporating the Secretary of State's proposed changes was issued in July 2008, and I am therefore able to lend it significant weight in this appeal. Policies ENV1 and ENV2 also seek to protect and enhance the region's natural and historic environment, and Policy ENV3 records that particular care will need to be taken to ensure that no development is permitted outside the National Parks which would damage their natural beauty, character and special qualities.
20. During my visits to the appeal site and the surrounding area I was able to consider all the views expressed on behalf of the both the principal parties and those who have made representations. I visited the four closest settlements – North Tawton, Bow, Spreyton and Zeal Monachorum – together with most of the viewpoints discussed, including those on Dartmoor. I have considered the impact of the scheme in terms of its effect on both landscape character and visual amenity.

distance, in my view the topography of the site itself becomes less significant – a perception which to my mind would be reinforced by the number, distribution and height of the turbines.

25. The ES includes a total of 13 photographs of the site and its surroundings, with a photomontage for each viewpoint indicating the appearance of the proposed turbines. Photographs were also taken from an additional 11 locations and wireframes prepared. These were supplemented with the submission of the initial SEI by revisions to the photomontages for viewpoints 1, 3, 4 and 9, and by the addition of 4 further viewpoints – A, B, C and D. At the inquiry I also had the benefit of photographs from 25 viewpoints supplied by the landscape witness for the DBJRG. I have considered the photographic material and the wireframes within the terms in which they were supplied – as an aid to my experience of visiting the site and many of the viewpoints.
26. The site is crossed by a railway line which I gather is subject to modest seasonal use by passenger trains, but I saw on my visit that visibility from the line would be severely curtailed by trees. The closest publicly accessible vantage points to the turbines would be to the south where a minor road from the A3124 at Itton Cross passes through the hamlet of Itton, before crossing Itton Moor and turning south towards Spreyton. The closest turbine (T3) would be about 150m from the lane. I agree with my predecessor however that the more attractive prospects of the appeal site and its background are to be obtained from the north. From this general direction, and especially from the north-east, the bulk of Dartmoor is invariably present. Quite apart from the difference in height, the distinction between the agricultural landscape of the foreground and middle-distance, and the moorland leading to the horizon, enables the viewer to appreciate and value the interdependence of its components.
27. ES Viewpoint 1 from close to Nichols Nymett Moor Cross is an example of the views available from the minor road which connects North Tawton with Zeal Monachorum and Bow. The appellant draws attention to the low proportion (14%) of the 30km radius zone of theoretical visibility study area from which the turbines would be theoretically visible. Although this proportion would be further reduced by characteristic high hedgebanks and hedges, I noted on my visits that prospects were available in the direction of the appeal site and beyond through field gates, lanes and tracks. Such apparently fortuitous glimpses are always gratifying in the countryside. From this and similar vantage points the viewer would be at about 150-200m AOD at a distance of just over 2kms to the nearest turbine. The complete height of most of the turbines would be visible, but the panorama is extensive and the essential components of the scene are on a large scale. I recognise the turbines would exceed the scale of trees and farmsteads by many times, but on the contrary, their size would complement the scale of the scene as a whole. In this sense I do not depart from my predecessor's view that the turbines would be framed by the landscape. It follows that in my opinion the proximity of the site to Dartmoor would not detract from the appreciation, experience or prospect of the national park. Although the turbines themselves would be very large, I consider that in number and extent the project would not be excessive in relation to its landscape setting.

over the horizon to the south-east, but in my view they would be sufficiently distant not to have an adverse effect on visual amenity.

31. A gateway at Itton Cross (ES Viewpoint 3) is a good vantage point for the assessment of the visual effect of the proposed turbines from the west. At this location the viewer would be above the level of the turbine bases, and the topographical context – the shallow basin – of the development would be evident. The fields in the foreground are quite large, and the ridge to the east of North Tawton provides a degree of enclosure. In contrast to the prospects from the north however, there is no complementary upland area and the turbine blades would be seen against the background of the sky. Although in clear weather Exmoor is visible to the north-east, in my view it is too distant to make the same contribution as Dartmoor does in views from the north.
32. The proposed wind farm would be theoretically visible from Spreyton looking north-west. However, the principal street through the village follows an east-west route blocking visibility to the north. ES Viewpoint 8 is from a footpath at the northern end of the village. I saw on my visit that there are variations in the prospect along the footpath, but in my view the resultant differences in the visibility of the wind farm would have only a minor effect. From this viewpoint the landscape has a different character with smaller fields, more hedgerow trees and steeper slopes. The trees would partially obscure some of the turbines, the closest of which would be some 2.9kms away. I do not dispute that the turbines would change the prospect from this part of Spreyton, but in my view the overall effect would be limited.
33. Bow would be a little closer to the nearest turbine than Spreyton, but more significantly, the valley of the River Yeo effectively connects the village with the appeal site. The village is sited on rising land on the east side of the valley and the turbines will therefore be clearly visible – especially from houses with south-west facing windows in, for example, Hobbs Way, Nymet Avenue, Collatons Walk and Gregory Close. ES Viewpoint 7 indicates the visual impact of the turbines from the village hall and playing fields. The photograph shows some of the houses on streets in the south-western quadrant of the village. From the viewpoint selected three of the turbines would be almost in line – an arrangement which in my view is bound to increase the impact of the rotation of the blades by continually creating and recreating a series of angles. On the other hand, the proximity of the turbines to each other would result in the wind farm occupying a lower proportion of the total scene than equivalent views from the more southern or northern viewpoints. As the viewpoint illustrates, the scene includes the northern hills of Dartmoor – principally Cosdon Hill. A wind farm would be an uncompromisingly new and man-made addition to the landscape, but in the light of its design, form and purpose I would not regard it as a challenger to Dartmoor. Nor do I consider the view of Dartmoor would be blighted. In my view a wind turbine has a readily comprehensible design simplicity, and although the proposed turbines would undoubtedly be large, I do not consider the number and distribution of turbines would be inconsistent with its landscape setting as seen from the village.
34. The churchyard at Zeal Monachorum would be nearly 4.3kms from the nearest turbine. The surrounding village occupies a low hill-top and the Zone of Visual Influence plans included in the ES indicate that the turbines would be visible at both blade tip and hub heights. Many potential views from village streets

Dartmoor forms part of the background. From the opposite direction I believe there is a distinction to be made between viewpoints where no part of the moor is visible and those where the prospect includes part of the designated area. Although ES Viewpoint 4 at Whiddon Down would provide an elevated view of the turbines, no part of the designated area would be included, and it is difficult to contend that from this location there would be any effect on the moor. I acknowledge however that such circumstances would apply in only a limited number of cases.

39. To my mind, the other ES Viewpoints which include part of the designated area in the foreground are of much greater significance. There is no dispute as to the visibility of the proposed turbines from both the tops of hills and tors and from the slopes below them. Another of the special qualities referred to in the national park's management plan is the absolute peace which can still be experienced, contributing to the strong sense of wildness on the open moorland. This aspect of the experience of the moor is emphasised in visual terms by its openness and the almost complete lack of trees. Some of these qualities are evident in ES Viewpoints 9 (Yes Tor) and 10 (Cosdon Hill) and from Belstone Tor. The openness of the moor also results in far fewer interruptions to visibility than those which occur in the agricultural and settled landscape closer to the appeal site.
40. I have considered whether the openness and wildness of the moor, as aspects of its natural scenic beauty, would be compromised or diminished by the visibility of the turbines. One of the principal benefits of the extensive views across Devon from the edges of the open moorland area is to be found in the contrast it affords and appreciation of the differences it makes possible. The lower ground is settled by small towns, villages, roads, railways and farms. It is an agricultural and occupied landscape where human activity is continually present. Notwithstanding its size and impact, in my opinion a self-evidently man-made structure such as a wind farm is more appropriately and compatibly sited in such an area. From the highest vantage points the tops of the turbines would be well below the level of the observer, and although the same would not apply to ES Viewpoint 5 (Ramsley Hill), this lies within a different landscape character zone under the Devon County Council appraisal. It falls within the enclosed moor (Zone 30), which virtually surrounds the high moor (Zone 31).
41. I have taken account of the status afforded to Ramsley Hill through its identification by the Ordnance Survey as a recognised viewpoint. It is also located on the Dartmoor Way long distance recreational route. I understand the chimney to the north-west of the viewpoint is a remnant of former mining activity, and this too sets it apart from the prospects provided by the high moor. Although the turbines would appear above the horizon from this vantage point, I believe their number and distribution would ensure that the development as a whole would be but one component of the scene. I do not think the turbines would detract from the prospect as a whole.
42. I have considered the impact of the appeal proposal from vantage points on two other long distance footpaths – the Tarka Trail and the Two Moors Way. The Tarka Trail passes the site to the west along the valley of the River Taw. At its closest it is just over 2kms away and it follows a north/south direction. Along this length it is either close to the river or on minor roads between hedgebanks. The ZVI plans indicate that the turbines would be only partially

earth or timber. Most specifically, it is considered the principal means of access to the henge would have followed an east-west axis, but that the earth mound on its south side could have constituted a representation of Cosdon Hill visible on the horizon. Thus the setting of the henge would have a direct relationship with the horizon of the principal landform to the south-west.

47. The appeal site lies almost directly between the henge site and Cosdon Hill, as illustrated in SEI Viewpoint C. There would be no impact on the monument from the works themselves, but its setting would be affected, and I agree with the council that the intrusion of development into the setting of a monument – albeit one which is not upstanding – can impair our appreciation of its function, location and context. As is recorded in paragraph 6 of PPG16: *Archaeology and Planning*, archaeological remains are part of our sense of national identity and they are valuable both for their own sake and for their role in education, leisure and tourism.
48. However, paragraph 27 of PPG16 refers amongst other matters to a presumption against proposals which would have a significant impact on the setting of visible remains. It thus effectively makes a distinction between the settings of upstanding monuments and those which are now only or largely below ground level. There must remain a substantial element of debate and speculation about the design and form of the henge, and about the extent to which it would have sought to derive its inspiration from the surrounding landscape. In any event, the proposed development would not obscure Colson Hill – its presence would remain clear and obvious, and I cannot see that the proposed development would hinder the archaeological interpretation of the monument site. I conclude that notwithstanding its archaeological importance, the effect of the turbines on the setting of the monument is of limited significance. In my view the appeal scheme would breach neither the terms nor the purpose of structure plan Policy CO8 (Archaeology) or local plan Policy BE7 (Archaeology and Sites of Local Importance).
49. St Martin's Chapel at Broadnymett is both a scheduled ancient monument and a Grade II* listed building. It forms part of a small complex of buildings at Broadnymett, and would be just under 800m from the nearest turbine (T5). The chapel dates from the late thirteenth century and it is no longer in use, other than as an agricultural store. It originally served the ancient parish of Broad Nymett – an area of only about 17ha (42 acres) – before it was absorbed into the parish of North Tawton. SEI Viewpoint B shows both the chapel and its proximity to the proposed wind farm.
50. I saw on my visit to the chapel that its setting is already severely affected by agricultural buildings and activities, although the effect of these is ameliorated by an extensive growth of trees and bushes close to the chapel itself. In contrast to the henge, the chapel is both a visible and tangible expression of historic interest. The photomontage reveals that it would be possible for the chapel and the turbines to be simultaneously visible, but in my view the chapel can now have only a very limited setting. It is a small building in a very secluded location, and to my mind its impact is confined to a very limited surrounding area. I do not consider the setting or the experience of visiting the chapel would be diminished by the existence of the proposed turbines. In this respect I depart from the view expressed by my predecessor as the chapel becomes visible only from close locations.

two elements of the scene (the building and the landscape) contribute so much to each other. However, the nearest turbine would be 4.3kms, and the top of Cosdon Hill is 15kms away. There is disagreement as to whether the blades would or would not just break the skyline, but in my view it is unlikely that, in most conditions, they would be as distinct as suggested by the parish council. Furthermore, the turbines would be below the ridge level of the church roof, and well below the top of the tower. In addition, the corner of the church yard from which the photograph is taken cannot be a frequently used route. I thus conclude that, notwithstanding their visibility, the turbines would not detract excessively from the setting of the building.

56. I have also given consideration to the effect of the proposed development on the setting of the relevant local conservation areas and on views out of them. It is suggested on behalf of the DBJRG that, particularly in relation to the Bow, North Tawton and Zeal Monachorum Conservation Areas, the turbines would intrude into the views of the valleys and the approaches towards the settlements. However, although at some locations it would be possible to simultaneously observe both the turbines and buildings falling within the conservation areas, the distances would be such that I do not believe they would seriously harm their character or appearance. Nor do I consider harm would result to views out of the areas sufficient to compromise the preservation of their character or appearance.

Conclusion on character and appearance

57. Except perhaps in a limited number of industrialised or urbanised locations, it will invariably be the case that modern commercial wind turbines will be out of scale with both the natural vegetation and other man-made structures in the vicinity. Similarly, it might have been expected within the context of the Devon landscape that the proposed wind farm would be too large for its landscape setting. The wind farm would be most closely observed from the minor road which passes through Itton, but this is only a lightly trafficked route. In contrast, the next closest route is the A3072, and this is relatively heavily trafficked. In my view the greatest visual harm resulting from the scheme would be experienced both on this route, and, to a lesser extent, from the bridleway to the north-east of Burrow. In this sense the scheme would therefore conflict with the landscape protection policies, or parts of policies, of the development plan to which I have referred – principally structure plan Policy CO1, local plan Policy NE10, Policy EN 1 of RPG 10, and Policy ENV1 of the emerging RSS.
58. There would certainly be an impact on the prospects towards, through and beyond the turbines at many other locations, but the development would be seen from greater distances and in the context of larger panoramas. From the north, and perhaps ironically, the presence and scale of Dartmoor would allow the comparatively smaller mass of the wind farm to provide a landscape context for the development. Similarly, from Dartmoor the distance from the site and the difference in height would ensure that the visual effect of the scheme would be manageable³. From these locations I believe the development would not be incompatible with the landscape protection policies

³ In this respect I believe the case is distinguishable from that at Yelland (CD27v) where, although the turbines would have been smaller and fewer, the site was on higher land significantly closer to the national park boundary.

not thought to be threatened. The parties agreed that the most vulnerable species found at the site is the noctule bat. It both flies at a higher level and does not adhere to linear features such as hedges. However, only low numbers were recorded, and it is not considered by the appellant that the proposed wind farm would significantly impact on the conservation status of the local populations.

63. The appellant acknowledges that, although no turbine would be located closer than 50m to woodland habitat, some would be located closer to hedgerows. I understand that this would only happen at locations near to relatively defunct hedgerows and/or areas of relatively low bat activity. It is considered this would minimize the overall impact on the conservation status of the local bat populations. Hedgerow enhancement would not take place at such locations, and the maternity roost (previously proposed for the centre of the site) has been dropped⁴.
64. I have considered the possible effect of the scheme on bats and on the local bat population in the light of the advice included in PPS9: *Biodiversity and Geological Conservation*. It records that the aim of planning decisions should be to prevent harm to biodiversity interests. If significant harm cannot be prevented, adequately mitigated, or compensated for, then planning permission should be refused. As far as protected species are concerned, planning permission should be refused where harm to the species or their habitats would result, unless the need for, and benefits of, the development clearly outweigh that harm.
65. Figure 6.6 of the ES reproduces the data from the bat surveys onto an OS base with the areas of high and moderate activity identified. The plan clearly illustrates the importance of both hedgerows and watercourses for foraging purposes. The principal routes are: the course of the Den Brook itself across Broadnymett Moor; the access track south of Sandford Barton towards the railway; the course of the Roman road; and the route of the minor road north-east of Itton leading to Itton Moor. Along these routes there appears to be only one turbine site (T1)⁵ which would be close to the existing hedgerow. The submitted layout plan indicates the centre of the turbine site would be about 60m from the hedgerow to the north.
66. I recognise that understanding the relationship between bats and wind turbines is a developing area, and the potential for surveys to become out-of-date exists. An additional survey using the latest equipment would doubtless have improved the extent and detail of our knowledge of the site. However, in my view the work carried out in 2004 constituted a thorough survey of the land, and I agree with the appellant that new surveys would be unlikely to reveal significantly changed circumstances. I do not dispute the danger that turbines present to bats, including the noctule bat. The scheme thus entails the threat of some harm to individuals, but not to roosts, and there is no suggestion that the turbines would constitute a threat to local bat populations.
67. The possibility of birds colliding with the turbines was also raised by the DBJRG. The ES noted the abundance of starlings at the appeal site, with a

⁴ See Figure 6.21 Rev 0.1 attached to Dr Holloway's Proof.

⁵ The site of T3 appears to have been incorrectly plotted on this plan. The site layout plan (Figure 3.1) shows the site some distance further north.

ETSU-R-97

71. The purpose of ETSU-R-97 is recorded as being the description of a framework for the measurement of wind farm noise with indicative noise levels thought to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on wind farm development or adding unduly to the costs and administrative burdens on wind farm developers or local authorities. It thus attempts to strike a balance between the environmental benefits of wind energy development on one hand (which are often expressed on a global scale), and the potential for environmental damage by noise pollution (which are assessed at a local scale). The guidance constitutes an exhaustive – even elaborate – examination of the issues relating to the assessment of wind turbine noise and its regulation, but it was recognised by the authors that it and its recommendations should be reviewed 2 years after publication⁷. However, there has been no review, and evidence submitted by the appellant indicates that there are no current plans to revise ETSU-R-97⁸.
72. It is recognised by the parties nevertheless that the commercial wind turbines currently favoured (and proposed in the current case) are materially larger than those considered by the authors of the report. At the inquiry it was clear there was agreement that ETSU-R-97 fails to pay adequate attention to the impact of wind shear resulting from atmospheric changes, and the manner in which wind turbine noise is propagated is not considered. Amongst many other matters, the report promotes a correlation between background noise levels at receptor locations with simultaneous measurements of the mean wind speed at 10m above ground level measured at the proposed site. Some of the acousticians who practice in this field fear that the failure to pay sufficient regard to variations in wind shear could result in significant errors when comparisons are made between background noise levels and wind turbine noise immission⁹ levels. A methodology has been identified which seeks to overcome this problem¹⁰.
73. The report (ETSU-R-97) refers to a number of source documents including PPG24: *Planning and Noise*, and BS 4142: 1990: *Method for rating industrial noise affecting mixed residential and industrial areas*. The latter records that, in relation to background levels, a difference of +10 dB or more indicates that complaints are likely, while a difference of +5 dB is of marginal significance¹¹. ETSU-R-97 favours the setting of noise limits relative to the background in a manner similar to that adopted in BS 4142, but it adopts a number of limits derived from different times of the day and different locations.
74. For small schemes or in remote locations away from noise-sensitive receptors the report recommends a simplified limit of 35 dB(A) $L_{A90,10min}$ for 10m high wind speeds up to 10m/s. This obviates the need for a background noise survey. In locations where a background survey is necessary – as in the current case – a night-time (23:00 – 07:00) limit of 43 dB or 5 dB above background, whichever is the greater, is specified outside the relevant building (usually a dwelling). This is derived from the 35 dB(A) sleep disturbance

⁷ CD61, pages 2 and 111

⁸ Document 32

⁹ As in 'to send in' or 'inject'; the correlative of emission

¹⁰ CD100, *Prediction and assessment of wind turbine noise*, Acoustics Bulletin March/April 2009

¹¹ CD62, paragraph 9

78. Uncertainty over the variously expressed purposes of the limits is aggravated by the WHO's most recent advice – *Night Noise Guidelines for Europe*¹⁴. This recognises the variations which exist in relation to the health effects observed in the population to different levels of night noise, and refers to the needs of vulnerable groups such as children, the chronically ill and the elderly. It concludes that the population should not be exposed to night noise levels of greater than 40 dB $L_{\text{night, outside}}$ during the part of the night when most people are in bed. This, of course, is less than the 43 dB(A) night-time lower limit referred to in ETSU-R-97, and it serves to emphasise the critical importance of the limits. As the appellant observes, this limit would equate to 38 dB(A) L_{A90} and I acknowledge that it is based on a whole year of nights. Although I accept the wind would not be blowing in the same direction for a whole year, it is evident nevertheless that the wind can blow in the same direction for long periods.
79. I mention in passing that the noise levels to which I have referred in PPG24 are identified in relation to the boundary between noise exposure categories (NEC) A and B. The NECs are designed to assess proposals for residential development close to noise sources. Paragraph 8 of PPG24 records that the NEC procedure cannot be used in the reverse context for proposals which would introduce new noise sources into areas of existing residential development. According to Annex 1 this is because in general, developers are under no statutory obligation to offer noise protection measures to existing dwellings which will be affected by a proposed new noise source.
80. I have referred to these matters to both provide a context for the ensuing considerations, and to record my sympathy with the view that a review of ETSU-R-97 is overdue. Nevertheless, I recognise and acknowledge its significance in the context of the current case.
81. Other than participating in the discussion of draft conditions the council did not offer any evidence in relation to possible noise disturbance at the inquiry. Evidence was submitted primarily by the appellant and DBJRG. The parties did seek to produce a Statement of Common Ground in respect of noise matters¹⁵, but I fear much of this document records the extent of their disagreement. In this decision I have sought to consider and take account of what I regard as being the most critical differences.

Background surveys

82. The Companion Guide to PPS22 records¹⁶ that noise levels from turbines are generally low and, under most operating conditions, it is likely that turbine noise would be completely masked by wind-generated background noise. A link is thereby established between the noise generated by the turbines at varying wind speeds and the noise experienced by nearby receptors who, it is assumed, will be experiencing corresponding meteorological circumstances – at least as far as wind is concerned. The existing (pre-development) noise environment at potential receptor sites therefore needs to be established. Chapter 7 of ETSU-R-97 provides detailed guidance about the practices to be adopted. The ES and SEI record the 6 locations where background surveys

¹⁴ Document 44

¹⁵ Document 40

¹⁶ Page 167

of the recordings. I acknowledge that a site closer to the building may experience lower wind speeds, but it may also be subject to greater reflections. The dominant noise source during my visit was again that generated by the wind in the many surrounding trees.

89. I am more sympathetic to the views expressed by DBJRG in relation to the selection of a site at Coxmoor. Although I do not describe the site as being in the middle of a field, it was certainly some distance from the house and its adjoining neighbouring property, and it did not have the appearance or character of a domestic curtilage. There are more appropriate areas for external rest and relaxation in the extensive but domesticated garden to the south and south-west of the house. Although these locations were more sheltered than the site actually chosen, I am far from convinced that background noise levels would be lower as suggested by DBJRG. The sites closer to the houses were surrounded by trees, and, on the contrary, I would anticipate that wind generated noise would be rather greater. During my visit however I noted that at all the locations the dominant noise was the wind in the trees.

Rain distortion

90. Under the heading of the 'analysis and derivation of background noise levels', ETSU-R-97 discusses¹⁷ the effects on the noise environment of receptor dwellings of both weather conditions not associated with wind speed and other sources of noise. It is considered in particular that rain results in a distortion of the background environment, and it is suggested that recordings made during periods of rain should be removed from the data. The DBJRG contends that this can only be reliably achieved when a rain gauge is located at the same site as the microphone. I acknowledge that this would increase the reliability of the circumstances when there is a need to remove rain-induced noise recordings. I also agree with DBJRG that some rain events can be very localised. However, in my experience such events are more likely to be associated with significant increases in wind speed. The appellant has used rainfall records from the met station at North Wyke to remove data which may be affected by rainfall, and it is less likely that rain falling over more extensive areas would be associated with localised high winds. I conclude that an appropriate correlation exercise has been executed in accordance with the purpose of the guidance included in ETSU-R-97.
91. At the inquiry DBJRG also referred to other typical background noises mentioned in ETSU-R-97. In my view it is not entirely clear whether it was the intention of the authors that such noises – work in fields, milking equipment and milk chillers, traffic and aircraft noise – should or should not be included. The position is clearer for the night-time; the noise of traffic and owls should be included as part of the noise environment of the dwelling concerned. In general I favour the appellant's view that, even in countryside locations like the appeal site, the artificial circumscription of background surveys would result in a misleading record of the rural environment.

¹⁷ Page 86

96. ETSU-R-97 discusses¹⁹ the effects of variations in topography on wind speed and noise experienced at receptor locations. It appears the increasing height of modern turbines renders the effect of variations in atmospheric stability on wind shear of equal importance. Wind direction can also have an important effect in relation to both the wind profile and the more readily apparent effect on downwind propagation. To my mind all these factors serve to illustrate the complexity of the subject – especially taking account of the continual and substantial variations in wind speed and direction which are such a notable feature of the weather in the UK. The characteristics of two such capricious phenomena as wind and noise, and the effect of the former on the latter, must make predictions at receptor locations inherently uncertain. Indeed, paragraph 5.4 of the Statement of Common Ground (Noise)²⁰ records that the parties agree there is no single mathematical expression which will hold true at all times to describe the vertical wind profile. I think the circumstances serve to emphasise the necessity, at the least, for the imposition of robust and adequate noise conditions. By referring to conditions I do not mean to undermine the attempt to forecast turbine noise as it would be experienced at receptor locations, but I do believe it must be an exercise fraught with difficulty and uncertainty.
97. Partly in response to the realisation that stability induced wind shear was not taken into account by ETSU-R-97, the appellant's acoustic advisors have altered the manner in which they seek to predict the noise generated and propagated by turbines. They have departed from the guidance included in ETSU-R-97. My attention was drawn by DBJRG at the inquiry to many locations within ETSU-R-97 which refer to the correlation of measured background noise levels with wind speeds up to 12m/s measured on the site of the proposed development at a height of 10m above ground level. As I understand it the justification for the correlation to the 10m high site wind speed was adopted because this was the height of readily available portable anemometer masts²¹, and because this is the reference height used by turbine manufacturers.
98. Although I agree with DBJRG that 10m above ground level is the height frequently cited in ETSU-R-97, I see no overriding reason why the necessary correlation should not be made with the wind speed at the actual proposed hub height of the turbines. I recognise that omitting the correlation with the 10m reference height amounts to a departure from the methodology adopted by ETSU-R-97, but in many other respects DBJRG is critical of the document. In any event, although ETSU-R-97 enjoys the status afforded it by PPS22 and subsequent Government endorsements, I see no reason why alternative improved or otherwise adequate methodologies should not be utilised. There is no useful purpose to be served by slavishly following guidance if more robust processes are available and reliable. In my view the 10m reference height is simply a means to an end – the end in this case being to relate the background noise measurements to the wind speed and hence the noise generated by the turbines. I cannot see that the method adopted by the appellant undermines this principle.

¹⁹ Pages 47-49

²⁰ Document 40

²¹ ETSU-R-97 page 85

103. Three sites were considered, but I agree with the DBJRG that they all appear to be at odds with the current appeal site. Site A is described as being located on a relatively high plateau characterised by moderately undulating terrain and minimal vegetation – a mixture of grassland and peat bog. The land was effectively frozen during the survey. Site B is located on flat terrain with minimal vegetation. It too is surrounded by peat bog and was water logged during the survey. Site C is lightly undulating but effectively flat in acoustic terms. There is minimal vegetation but with large areas of forestry further away. At Site A, a 110° arc of downwind propagation was used, but ISO 9613-2 specifies a maximum angle of +/-45°. At Sites B and C, two datasets were produced using 30° and 90° arcs, but at all sites the study focussed on the periods in which all the two speed turbines were generating in the high speed mode²⁶. It is only at Site C that a ground factor of G=0.5 was used – as with the current appeal case – and the graphs indicate that the measured noise levels are generally higher than the predicted levels. Finally, I note in the conclusions to the paper that further study is considered to be desirable, including in more complex terrain profiles and using variable speed machines. In my view the three sites studied certainly appear to be radically different from the land in the immediate vicinity of and surrounding the current appeal site. For the reasons expressed by the DBJRG I have attributed little weight to the paper, and I am concerned that the propagation model appears to have been used outside the terms of its limitations.
104. The utility and accuracy of the propagation model is further complicated by doubts over the identity of the actual machine which would be used. For understandable commercial reasons the prospective developer is reluctant to specify a particular manufacturer or model other than as a candidate. There are a number of turbine manufacturers producing machines of similar dimensions and appearance, but exhibiting differing sound power characteristics.
105. Both the appellant and DBJRG have provided evidence of the different sound power levels emitted by the candidate machine – a 2MW Vestas V90 – and others. There are evident differences between the machines. The information provided by the parties indicates a difference at cut-in speed (4m/s) of about 4 dB. With a wind speed of between 8 and 12m/s DBJRG's figures show a difference of 1.5 dB (on the basis of 4 machines), while the appellant shows a difference of about 1 dB at 12 m/s (on the basis of 3 machines). It is in this context that the DBJRG has referred to the significance of the compatibility of the application for planning permission and the ES in *R v. Rochdale MDC* [2000]²⁷. I acknowledge that the differences between machines constitutes an additional element of uncertainty, but I do not believe it would be sufficient to undermine any permission granted. Similarly, I understand wear and tear, particularly of the blades, would also have an effect, together with variations implicit in the warranty of machines. It would however endow any conditions designed to regulate noise at receptor sites all the more important.
106. As is recorded in paragraph 2 of DoE Circular 11/95 : *The Use of Conditions in Planning Permissions*, the power to impose conditions when granting planning permission is very wide. Amongst other matters however, conditions

²⁶ The candidate turbine in the current appeal is a variable speed machine.

²⁷ Document 36

proportions for Lower Itton, Broadnymett and Coxmoor are 25%, 21% and 16% respectively.

111. On the basis of their duration and the level of exposure, DBJRG suggests the day-time lower limit should be set at 35 dB. I agree that these are relatively long periods, but I note the comment in ETSU-R-97 that the approach is difficult to formulate precisely and a degree of judgement should be exercised. I saw on my visits that there are only a limited number of dwellings in the vicinity of the appeal site. On the basis of these considerations, and notwithstanding the low background noise levels, I raise no objection to the adoption of 37.5 dB as the day-time lower limit.

Amplitude modulation

112. Evidence was submitted at the inquiry by the residents of dwellings close to existing wind farms. Particular reference was made to the adverse effect of amplitude modulation (AM) – the modulation of aerodynamic noise at blade passing frequency. Under the heading of ‘penalties for the character of the noise’ in ETSU-R-97²⁹ the phenomenon is described as blade swish, and it records that it has been considered by some to have a characteristic that is irregular enough to attract attention. The noise levels recommended in the report take account of the phenomenon, but it is acknowledged that further research may be required to enable proper measurements and assessments to be made.
113. According to the appellant, the precise causes of high levels of modulation are not clearly understood, but five possible contributory factors are identified. They are: close separation distances between turbines in a line where such a line points towards noise-sensitive buildings; unusual topography; the ratio of blade length to tower height; high levels of wind shear; and specific turbine types.
114. DBJRG also refers to very stable atmospheric conditions as a possible contributory factor. ETSU-R-97 records that the modulation in blade noise can result in a variation in the overall noise level by up to 3 dB(A) close to the turbine. Receptor locations close to reflective surfaces may result in an increase in the modulation depth by as much as +/- 6 dB(A). It is reported on behalf of DBJRG that such greater modulations can occur at distances in excess of 900m from the closest relevant turbine. In some cases the noise experienced can possess intrusive impulse characteristics.
115. One of the potential contributory factors referred to by both parties is the proximity of turbines. The same matter was referred to in evidence submitted on behalf of CPRE. In its section on the technology of wind turbines the Companion Guide to PPS22 provides an example of turbine spacing of around 6 times the rotor diameter (540m) where the machines are in line with the prevailing wind direction, and the General Specification of the Vestas V90³⁰ itself specifies a distance of 5 rotor diameters (450m). In contrast, the appellant observes that a typical minimum is 3 rotor diameters. In this case the layout of the proposed wind farm is such that the majority of the turbines would be aligned in two lines on a south-west/north-east orientation, with T2,

²⁹ Page 68

³⁰ CD150, paragraph 1.4

would be misguided not to amend and refine the procedure it adopts when this will improve the value of the exercise. In my view, this is what the appellant has sought to do without losing sight of the essential purposes of the document.

119. It is important in this context to record that its purpose is two-fold. It seeks to protect the living conditions of residents who would be near wind turbines, but it also aims to avoid placing unreasonable restrictions on wind energy development. It does not set out, for example, to render wind turbines inaudible at nearby dwellings. I have considered the matters raised by DBJRG and others in the light of the contents, purposes and general principles of ETSU-R-97, as improved in current practice.
120. In my view the appellant has carried out a detailed and comprehensive assessment of the noise environment in the vicinity of the appeal site. An assessment has also been made of the impact the proposed wind farm would have on the locality. No doubt more exhaustive surveys and assessments could have been undertaken over more extended time periods and meteorological conditions, and a number of the uncertainties identified by DBJRG could be reduced. I fear however that the application of the practice of acoustics to the noise generated by wind turbines is such that they could never be entirely extinguished, and in this case some of the day-time margins – especially at Ham Farm and Lower Itton – are very small.
121. It is in the light of these inherent uncertainties that I conclude the living conditions of local residents would not be unreasonably affected provided the necessary and appropriately worded conditions were imposed. If the appellant's predictions are correct there would be no need for the conditions to be enforced, but it is important that the council is able to take the necessary action if it became expedient to do so. In my view the uncertainties which have been identified serve to accentuate the necessity for the imposition of conditions on any permission granted. I conclude on this basis the proposed development would not conflict with the provisos included in both structure plan Policies CO12 and CO16 and local plan Policies PS10 and BE18.
122. The possibility was raised at the inquiry that I should consider whether the scheme gave rise to a likely violation under Articles 3 and 8 of the European Convention on Human Rights. Article 3 is the prohibition of torture, and Article 8 is the right to respect for private and family life. The matter is raised in the context the possibility of sleep deprivation. I recognise that allowing the appeal would inevitably result in some interference at the homes of residents in the surrounding area. I do not believe the turbines would be inaudible. However, this consideration must be balanced against the rights and freedoms of others, and I am satisfied that if the development, subject to conditions, goes ahead, its effect would not be disproportionate.

Other Matters

123. A number of additional matters have been raised during the processing of this case which in my view do not constitute main issues. These include the potential impact of the proposal on tourism, health, safety and agriculture.

129. A number of representations have been made in relation to the possible effects of shadow flicker and reflected light. It is recognised that in some circumstances the former can trigger an epileptic reaction, and both can be irritating. However, the Companion Guide to PPS22 records that the phenomenon should not apply to the slower moving new generation of turbines, and in any event the Statement of Common Ground includes a draft condition designed to overcome the problem. It is not possible to entirely eliminate reflected light, but there is no indication that it might be the cause of a similar reaction.

Safety

130. Evidence submitted on behalf of CPRE refers to the potential for wind turbines to present a source of high risk to the public. Possible causes refer to blade failure, fire, structural failure, ice and lightning strikes. Others have referred to the possibility of driver distraction and the inadequacy of the local roads to accommodate large delivery vehicles. The latter matters are also addressed by the Companion Guide to PPS22. I acknowledge that the implementation of the scheme would necessitate some minor road alterations. These are essentially matters between the appellant and the local highway authority. As far as the possible distraction of drivers is concerned, I saw on my visits that the local network does not carry substantial volumes of traffic and the turbines would be set well back from roads and junctions. I see no objection to the project on these grounds.
131. I acknowledge that the EIA Regulations refer to the risk of accidents in the selection criteria for the screening of Schedule 2 development, but in my view the ES is not deficient in its consideration of the safety implications of the development or the associated risk assessment. Modern wind turbines are undeniably large structures, and, as with any man-made machine, they can be subject to failure from time to time.
132. However, both the ES and the Companion Guide to PPS22 record that properly designed and maintained wind turbines are a safe technology. I have no reason to doubt that the turbines would be certified to withstand extreme conditions. The technology itself is fairly simple, and this in itself must reduce the risk of accidents. I understand the turbines will include lightning conductors, and the possibility of the icing of the blades would result in the turbine being shut-down.
133. The Companion Guide to PPS22 records that maximum safety can be achieved by ensuring the turbines are set-back from roads and railways by at least fall over distance. I understand however that two of the proposed turbines (T6 and T8) would be within 100m and 90m respectively of the railway line which crosses the appeal site. However, in my view the likelihood of a collapse is extremely remote.

Agriculture

134. Representations were made at the inquiry to the effect that the proposal had had a divisive effect on the agricultural community. The earthmoving operations necessary to construct the wind farm would also adversely affect the hydrology of the land and possibly sterilise large areas. The scheme would not be as reversible as the appellant suggests.

latterly, paragraph 11 of the Supplement to PPS1: *Planning and Climate Change* (2007) records that authorities should have regard to the contents of the Supplement as a material consideration which may supersede the policies of the development plan. *The UK Renewable Energy Strategy*³³ (2009) refers to the legally-binding target to ensure that 15% of our energy comes from renewable sources by 2020. The strategy's lead scenario is that more than 30% of our electricity should be generated from renewables by 2020 – up from about 5.5% today. I acknowledge nevertheless that notwithstanding the new imperative, the need for a balance to be struck between the requirement for sites and their local impact remains central to decision making. I note also the council's point that the strategy does not seek to establish sectoral or technology targets. On the contrary, the Government has sought to introduce a raft of measures including a reduction in demand and use, and the securing of diverse and secure energy supplies. The development of onshore wind energy remains but one part of a wide range of measures.

140. The most directly relevant policy included in RPG 10 (2001) is Policy RE 6 (Energy Generation and Use). Amongst other matters, it encourages a minimum of 11-15% of electricity production to be from renewable energy sources by 2010; it has full regard for the recommendations and background information included in the *Renewable Energy Assessments and Targets for the South West* (2001)³⁴; and it also records that development plans should specify the criteria against which renewable energy projects will be assessed, balancing the benefits of developing more sustainable forms of energy against the environmental impacts, in particular on national and international designated sites.
141. The draft revised RSS including the Secretary of State's proposed changes was issued in 2008. Policy RE1 includes renewable energy targets for 2010 and 2020. The 2010 minimum target is 509-611 MW installed onshore capacity, of which about 151 MW would be in Devon. The equivalent regional cumulative target for 2020 is 850 MW. Policy RE4 (Meeting the targets through development of new resources) records that in considering individual applications, local planning authorities will take account of the wider environmental, community and economic benefits of proposals, whatever their scale. They should also be mindful that schemes should not have cumulative negative impacts, and proposals in protected areas should be of an appropriate scale and not compromise the objectives of designation. The draft strategy has now reached an advanced stage and its contents therefore enjoy significant weight.
142. Policy CO12 is the most directly relevant policy of the *Devon Structure Plan 2001 to 2016* (2004). It repeats the sub-regional target of 151 MW by 2010, but, as I have already reported, it renders schemes subject to consideration of their impact on the qualities and special features of the landscape and upon the conditions of those living and working nearby. It also identifies priority search areas in the Key Diagram. Although the appeal site does not fall within such an area this does not in my view seriously undermine the consideration which should be given to other sites.

³³ Document 35

³⁴ CD 11

supersede the policies of the development plan. The Supplement (2007) also post-dates PPS22 (2004) and its Companion Guide (2004).

148. I therefore agree with the council that the content of the Supplement appears to diminish the extent to which the deficit in relation to the renewable energy targets can have a significant bearing on this case. However, my view is tempered by the wider remit of the Supplement, and by the evident weight with which they – the renewable energy targets – are promoted in PPS22. Indeed, paragraph 3.13 of Chapter 3 of the Companion Guide specifically states that targets are important because they have to be followed through into local development frameworks and the development control process. Even within the context of the appeal, there are few who doubt or question the legitimacy of the targets in terms of either climate change or the attractions of renewable energy, and in my view, a poor performance must add some weight to the benefit of a project which would serve to decrease the size of the deficit. In this case it appears the 2010 renewable energy target for Devon will be only be about 22% achieved, and the equivalent proportion for the region will be between 25 and 30%. I recognise that with the addition of the consented schemes the Devon proportion would rise to about 77%, but evidence submitted on behalf of the appellant notes that lead-in times can be long. Even though the appeal scheme could not now make a contribution to the 2010 target, if the project was implemented with the other consented schemes, the proportion would rise to just over 88%. However, it seems inevitable therefore that the targets will not be achieved, and, though by no means determinative, I conclude this state of affairs must make its own contribution to the benefit of the project.
149. I have taken account of the council's concern that both the output of the proposed wind farm and the predicted emissions saved have been exaggerated. The council has referred to the predicted long-term mean annual capacity factor for the proposed wind farm of 25.2% - equivalent to 39.77 GWh/annum. These figures are indeed less than those included in the ES in 2005. Similarly, I accept that the savings in terms of reduced CO₂ emissions are now much reduced – from 860g/kWh to 430g/kWh. However, as the council observes, although these benefits would be notably less than those originally predicted in the ES, the targets are expressed in terms of installed capacity. Even on the basis of their recalculated levels, the scheme would still make a significant and valuable contribution. I note in this context that the Companion Guide to PPS22 reports that capacity factors in the UK generally fall anywhere between 20 and 50%, with 30% being typical.
150. The council has also drawn my attention to a challenge in 1999 to the decision in respect of an unsuccessful appeal for a wind farm in County Durham - *National Wind Power Ltd v. SSETR* [1999]³⁵. In that case the judge held that the decision-maker could take account of both the absolute and relative contributions of the scheme then under consideration – that is, the installed capacity and the anticipated actual output. It appears in the current case that a similar argument formed part of the challenge in respect of the first appeal decision. However, the point was essentially overtaken by other events before the decision was quashed. I do not dispute the point made by the council, but

³⁵ Document 56

158. There was no objection to draft condition 5 concerning the preparation of a construction method statement.
159. Draft condition 6 regulates the external finish and colour of the proposed turbines and buildings. The CPRE favoured a white finish, but both the council and the appellant would prefer a more subdued finish. Paragraph 3.2.15 of the ES specifies a pale grey colour with a semi-matt finish. In my view this would appear less stark than white, and I have specified it accordingly.
160. There was no objection to draft condition 7 concerning the direction of rotation of the proposed turbines.
161. The purpose of draft condition 8 is to allow some flexibility in the siting of turbines to take account of, for example, ground conditions. Both the council and DBJRG drew attention in this context to the effect of *R v. Rochdale MBC*, and the danger that an assessment made on the basis of submitted drawings may be undermined by an excess of flexibility. The appellant also expressed some sympathy for this view, but felt the matter could be left to the council. In my view the condition fails the test of precision included in Circular 11/95. The proposed siting of the turbines is capable of being clearly and precisely defined on the ground on the basis of the submitted drawings, and in the event of adverse ground conditions a revised application may be necessary. It follows that I consider draft condition 8 should be omitted. Departing from the 50m micro-siting flexibility included in Figure 3.1A of the ES also largely resolves the concern expressed in English Nature's Technical Information Note about the proximity of turbines to hedgerows.
162. There was no objection in principle to draft condition 9 concerning ecological mitigation and compensation measures, nor draft condition 10 concerning archaeology.
163. Draft condition 11 seeks to establish a means of regulating the possible incidence of shadow flicker. In my view a clause requiring the implementation of the scheme is both necessary and reasonable.
164. The purpose of draft condition 13 is to secure a scheme to investigate and alleviate any electro-magnetic interference with radio or television reception. There was no objection.
165. Neither the council nor the appellant were enthusiastic about a lighting scheme for the proposed turbines. However, the area is one which is subject to low altitude training and in my view a condition is both necessary and reasonable. I have constructed a condition based on draft condition 18 which in my view would have only a limited adverse effect on local amenity.
166. There was no fundamental objection to draft condition 15 concerning off-site highway works, nor draft condition 16 concerning working times and practices during the construction phase.
167. Draft condition 17 specifies the type of turbine and their maximum height.
168. The council has suggested an additional condition preventing the commencement of the proposed development unless and until a connection to the national grid is approved by the council. In the appellant's view such a condition would fail the test of relevance included in Circular 11/95. The local

174. In relation to draft noise condition 2, DBJRG observes: that the council should be able to investigate noise immissions in the absence of a complaint; that the consultant's report should include all relevant data in an electronic format; and that the 28 day period is excessively rapid. I see no practical benefit in the council being able to instigate an investigation without a complaint. The data sought by DBJRG would be available under the provisions of draft noise condition 3, but I agree that 28 days could be too short a period to take account of different meteorological conditions. I have therefore increased the period to 56 days.
175. In relation to draft noise condition 3, DBJRG observes that locations for the data cited are not defined. However, the data is from each turbine so the locations would be known. In the interests of consistency I have increased the period specified to 56 days.
176. In relation to draft noise condition 4, DBJRG observes: that there is a need for a consultant to be appointed at the expense of the developer to advise the council; and that the council's satisfaction should be agreed in writing. I agree with both suggestions. I have also altered 'developer' to 'wind farm operator' in the interests of consistency with draft noise condition 2.
177. The council has suggested, with the support of DBJRG, that a fifth noise condition would be necessary seeking details of the actual wind turbine design and technical specification which it is intended to install. Notwithstanding the case of *R v. Rochdale MBC* to which I have previously referred, the appellant considers such a requirement is unnecessary. One of the purposes of the planning system is to seek to anticipate and forestall adverse impacts on the living conditions of neighbours. To this end details of design and technical specifications are a useful source of information, but absolute predictability is neither possible nor necessary. It is in order to minimise the effect of uncertainty that conditions would be necessary and reasonable. What would matter in the current case would be that the noise immissions at the receptor locations would not exceed the specified limits. The design and technical specification of the turbine would be irrelevant.
178. The DBJRG also made some observations on the schedule of Notes which supplement the draft noise conditions. In relation to Note 2(a) it is suggested that other meteorological criteria should be added – wind shear level, frozen ground and cloud cover. I agree that these are important variables. At Note 2(b) the need to specify adjacent rain gauges and to avoid atypical data points should be specified. I have included references to both these matters. At Note 2(c) a 3rd order polynomial is recommended. The appellant's preference is for a 2nd order polynomial. In my view either would be sufficient for its purpose, and I have therefore retained the Note as drafted.
179. It is in Note 4 that the conditions reach their conclusion. The DBJRG holds that the Note should require that any offending turbine is switched off. I acknowledge that this would be a logical conclusion of the process, but it would clearly constitute a serious step which should only be taken after due consideration of all the circumstances. It would be a matter for the council in the first instance. In this respect I agree with the appellant that such action falls to be specified in either a Breach of Condition Notice or an Enforcement Notice. I anticipate that the scheme required by draft noise condition 4 would

technology is viable and environmental, economic, and social impacts can be addressed satisfactorily. Similarly, and notwithstanding the extensive landscape protection policies which are integral to the planning system, paragraph 19 effectively requires that proposals are considered on a case by case basis. In the identification of the main issues in this case I have sought to balance the requirement that any adverse effects on the locality should be weighed against the widely accepted benefits of renewable energy generation. As is so often the case with planning decisions, the effects of both the development proposed and the policies of the development plan pull in different directions.

186. As far as the effect of the scheme on the character and appearance of the surrounding area is concerned, I have concluded that although the development would result in the creation of a localised zone in which the turbines would dominate the landscape character, this would diminish quite rapidly. I see no significant objection to the proposed development in relation to its effect on the historic environment. In visual terms however, I believe there would be locations to the north of the appeal site which would be harmed by the development. In contrast, I have concluded there would be no equivalent effect in relation to the local ecology. The effect of the scheme on the noise environment was the subject of much evidence and occupied a significant proportion of the inquiry. The issue is the subject of specific guidance, but I am concerned that with the growth of knowledge and the advent of larger commercial machines, ETSU-R-97 is not now as applicable as previously. However, subject to some important conditions, I have concluded that the effect of the scheme is likely to fall within the limits which were designed, in part, for the protection of wind farm neighbours. I have also taken account of other matters which I did not consider constituted main issues but which were raised by contributors to the inquiry.
187. In conclusion, the harm I have identified is fairly limited. In respect of the landscape protection provisions of the development plan there is conflict with structure plan Policy CO1, local plan Policy NE10, and Policy EN 1 of RPG 10. The protection of the landscape is also a component of Policy RE 6 of RPG 10, of structure plan Policy CO12, and of local plan Policy PS10. The purpose of these policies is to support the exploitation of renewable energy, but they require in each case that a balance is struck. The latter policies also require that account is taken of the living conditions of nearby residents. The purpose of structure plan Policy CO16 and local plan Policy BE18 is more specific – to protect existing residents from noise pollution. This is also one of the purposes of ETSU-R-97. I have concluded that, subject to conditions to regulate its impact, the scheme would conflict with neither Policy CO16 nor Policy BE18, and that the conflict with the landscape policies to which I have referred is sufficiently limited to be outweighed by the purposes of structure plan Policy CO12, local plan Policy PS10, and Policy RE 6 of RPG 10. It is for the reasons given above that I have concluded the appeal should be allowed.

Andrew Pykett

INSPECTOR

FOR THE CAMPAIGN TO PROTECT RURAL ENGLAND:

Mr T J W Hale	Chairman, Devon CPRE
He called himself and:	
Mr James Paxman BA	Chief Executive, Dartmoor Preservation Association
Dr P A W Bratby BSc	Energy consultant
PhD ARCS	

WRITTEN STATEMENTS AND LETTERS BY INTERESTED PERSONS

OBJECTORS

Mr Justin Whittaker
Cllr James McInnes
Dr & Mrs K E Whitaker
Mr Nick Jewell
Ms Lesley Jewell
Mr David Gribble
Mr Luke de Haan
Mr George Livingstone-Learmouth
Ms Ruth Harvey
Cllr Paul Rogers
Ms Christine Lovelock
Ms Brenda Ware, for Bow Parish Council
Mr J K Welsbey, for Zeal Monachorum Parish Council
Ms Nicola Poultney, for Visit Devon
Mr Martin Quick
Mr Q Morgan Edwards
Mr Tony Wood
Ms Muriel Goodman
Ms Alix Quested
Ms Maggie Greaves
Mr P F Coles
Mr Peter Green, for Bow and District Historical Society
Mr Michael Addison
Ms Alison Thornton
Mr Colin Stabler
Ms Christine Stabler
Ms Anne Ramsey
Ms Carol Hughes
Cllr Jenny Rosser
Ms Maureen Thomson
Mr Peter Hadden

- 21 Two large biomass proposals in the South West Region, submitted by the council
- 22 Pages 1-4 Climate Change Act 2008, submitted by CPRE
- 23 BWEA Statistics 2008, submitted by the council
- 24 Letter and enclosures dated 30 July 2003, Scheduled Ancient Monuments: West Devon, submitted by the council
- 25 Note – Wind shear model used to calculate wind speed at turbine hub height, Submitted by the appellant
- 26 Draft non-noise conditions: Comments of DGJRB
- 27 Additional draft condition, submitted by the council
- 28 Note – grid connection wayleaving, submitted by the appellant
- 29 Extract from Option Agreement, submitted by CPRE
- 30 Chapter 7, Draft Revised RSS for the South West incorporating the Secretary of State’s Proposed Changes, July 2008, submitted by the council
- 31 *The UK Low Carbon Transition Plan*, submitted by the council
- 32 Exchange of letters dated 21 August and 1 October 2009 between Mr Philip Mulligan and Lord Hunt of Kings Heath, submitted by the appellant
- 33 Plan showing proximity of North Wyke and Halse Farm, submitted by the appellant
- 34 *Derbyshire Dales District Council and Peak District National Park Authority v. Secretary of State for Communities and Local Government and Carsington Wind Energy Limited* [2009], submitted by the appellant
- 35 *The UK Renewable Energy Strategy*, submitted by the appellant
- 36 *R v. Rochdale MBC* [2000], submitted by DBJRG
- 37 CPRE Policy Position Statement *Onshore Wind Turbines*, submitted by the appellant
- 39 Den Brook Wind Farm – Planning Conditions 2009, submitted by the appellant
- 40 Draft Statement of Common Ground (Noise)
- 41 Email dated 6 October 2009 and Draft Noise Conditions
- 42 Diagram, submitted by the appellant
- 43 Number 10 official website extract, submitted by DBJRG
- 44 *Night Noise Guidelines for Europe*, World Health Organization, submitted by DBJRG
- 45 Draft noise condition for Amplitude Modulation, submitted by the DBJRG
- 46 Draft noise condition for Wind Farm noise, submitted by the DBJRG
- 47 Den Brook Wind Farm – Planning Conditions 2009
- 48 Third International Meeting on Wind Turbine Noise, Aalborg, Denmark, submitted by the DBJRG
- 49 Rationale for general noise level condition for Wind Farm noise, Den Brook, submitted by the DBJRG
- 50 Rational to the Den Brook excess Amplitude Modulation condition, submitted by the DBJRG
- 51 MAS Errata, submitted by the DBJRG
- 52 Den Brook Wind Turbines – Human Rights Issues, submitted by Mr Hadden

Schedule of Conditions

1. The development hereby permitted shall begin not later than 4 years from the date of this decision.
2. Other than in respect of the temporary construction compound and the 2 temporary meteorological masts shown in figures 3.1, 3.9 and 3.10 of the Environmental Statement (Volume III), the permission hereby granted is for the proposed development to be retained for a period of not more than 25 years from the date that electricity from the development is first supplied to the grid, this date to be notified in writing to the local planning authority. By no later than the end of the 25 year period the turbines shall be decommissioned and all related above ground structures shall be removed from the site. Six months before the due date for the decommissioning of the turbines, a scheme for the restoration of the site shall be submitted and approved in writing by the local planning authority. The scheme shall make provision for the removal of all the above-ground elements, plus 1m of the concrete turbine base below ground level, and all associated equipment before its return to agricultural use. The scheme shall include details of the phasing of the works. Upon approval, the restoration scheme shall be implemented in accordance with the phasing details, the turbines having been removed not later than the due date.
3. The temporary construction compound and the 2 temporary masts referred to in condition 2 above shall be removed within 2 years of the date that electricity is first supplied to the grid, and the ground shall be restored to its previous condition within 6 months thereafter.
4. If any turbine hereby permitted ceases to generate electricity for a continuous period of 12 months all its above-ground elements plus 1m of the concrete turbine base below ground level, save for the access tracks, shall be removed within the ensuing period of not more than 6 months.
5. No work shall commence on site until a Construction Method Statement including details of all on site construction, drainage, mitigation, restoration and reinstatement works, together with details of their timetabling has been submitted to and approved in writing by the local planning authority. This shall detail the following:
 - The construction of the access into the site from A3072 and the creation and maintenance of associated visibility splays, as illustrated in figures 3.1 and 10.5 of the Environmental Statement (Volume III);
 - The nature and use of access by rail, including any improvement works (eg signals, passing loop) for the purposes of transporting construction materials and turbine components to or from the site;
 - The formation of the construction compound;
 - The construction of the crane pads;
 - The carrying out of foundation works;
 - The construction of the sub-station and control building;

11. The development hereby permitted shall not commence until a scheme to avoid the incidence of shadow flicker at any dwelling or other sensitive property has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved and as necessary.
12. The development hereby permitted shall not commence until a scheme to secure the investigation and alleviation of any electro-magnetic interference to television and radio reception, caused by the operation of the wind turbines, has been submitted to and approved in writing by the local planning authority. The procedure set out in the approved scheme shall be followed at all times.
13. The development hereby permitted shall not commence until a detailed Construction Management Scheme for off-site highways works has been submitted to and approved in writing by the local planning authority. This shall include a Traffic Management Plan for the routing of construction traffic to and from the site, addressing in particular the movement of abnormal loads, the arrangements to be made for any Highways Act Agreement that may be required, and the re-instatement of off-site works not needed to be retained after the construction phase. The development shall be carried out in accordance with the approved scheme.
14. Notwithstanding the statement prepared in accordance with condition 5 above, construction work shall take place only between the hours of 07:00 and 19:00 on Monday to Friday inclusive, 07:00 and 13:00 on Saturdays with no such working on a Sunday or local or national public holiday. Outside these hours, development at the site shall be limited to turbine erection, maintenance, dust suppression and the testing of plant and equipment or construction work that is not audible from any noise-sensitive property outside the site. The receipt of any materials or equipment for the construction of the site, other than turbine blades, nacelles and towers, is not permitted outside the said hours.
15. The development hereby permitted is confined to 3-bladed horizontal axis wind turbines with a maximum height to the blade tip of 120m above ground level.
16. The rating level (as defined in the Glossary of PPG24: *Planning and Noise*) of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty), when assessed in accordance with the attached Guidance Notes, shall not exceed the values set out in the attached Tables 1 and 2 below. Noise limits for dwellings which lawfully existed at the date of this permission but not listed in the Tables attached shall be those at the nearest location listed in the Tables.
17. At the request of the local planning authority following a complaint the wind farm operator shall, at its expense, employ a consultant approved

terminate when compliance with condition 20 has been demonstrated to the satisfaction of and agreed in writing by the local planning authority.

SCHEDULE OF GUIDANCE NOTES RELATING TO CONDITIONS 16 - 18

These notes (or any superseding equivalent UK adopted procedure) are to be read with conditions 16 - 18. They further explain these conditions and specify the methods to be deployed in the assessment of complaints about noise immissions from the wind farm.

NOTE 1

- (a) Values of the $L_{A90,10min}$ noise statistic should be measured at the complainant's property, using a sound level meter of IEC 651 Type 1, or BS EN 61672 Class 1, standard (or the equivalent relevant UK adopted standard in force at the time of the measurements) set to measure using a fast time weighted response. This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent relevant UK adopted standard in force at the time of the measurements).
- (b) The microphone should be mounted at 1.2 - 1.5m above ground level, fitted with a two layer windshield or suitable equivalent approved by the local authority, and placed outside the complainant's dwelling. Measurements should be made in "free-field" conditions, so that the microphone should be placed at least 3.5m away from the building facade or any reflecting surface except the ground.
- (c) The $L_{A90,10min}$ measurements should be synchronised with measurements of the 10-minute arithmetic average wind speed and with operational data from the turbine control systems of the wind farm.
- (d) The wind farm operator shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods from the hub height anemometer on the site to enable compliance with the conditions to be evaluated. Such data shall be 'standardised' to a reference height of 10m as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05m.

NOTE 2

- (a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements should provide valid data points for the range of wind speeds, wind directions, wind shear levels, frozen ground, cloud cover, times of day and power generation requested by the local planning authority. In specifying such conditions the local planning authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise. At its request the wind farm operator shall provide all of the data collected under condition 17 to the local planning authority.
- (b) Valid data points are those that remain after all periods during rainfall have been excluded as informed by a rain gauge sited adjacent to the measurement location. Additional atypical data as agreed by the local planning authority shall also be removed.

NOTE 4

If the rating level is above the limit set out in the conditions, measurements of the influence of background noise should be made to determine whether or not there is a breach of condition. This may be achieved by repeating the steps in Note 2, with the wind farm switched off, and determining the background noise at the assessed wind speed, L_3 . The wind farm noise at this speed, L_1 , is then calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

The rating level is re-calculated by adding the tonal penalty (if any) to the derived wind farm noise L_1 . If the rating level lies at or below the values set out in the conditions then no further action is necessary. If the rating level exceeds the values set out in the conditions then the development fails to comply with the conditions.

TABLES OF NOISE LIMITS RELATING TO CONDITION 16**Table 1:** Between 23:00 and 07:00 hours (Noise Level in dB $L_{A90, 10min}$)

	Standardised Wind Speed at 10 m height (m/s)											
Location	1	2	3	4	5	6	7	8	9	10	11	12
Halse Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.4	48.9	52.0	54.4	55.8
Itton Manor	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.4	48.7	51.7	54.2
Ham Farm	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	47.2	52.7
Crooke Cottage	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.9	49.7
Crooke Burnell	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.9	49.7
Broadnymett	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.1	46.8	50.6	54.4	58.0
Coxmoor	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.6	49.5	53.3	56.9	59.9

Table 2: At all other times (Noise Level in dB $L_{A90, 10min}$)

	Standardised Wind Speed at 10 m height (m/s)											
Location	1	2	3	4	5	6	7	8	9	10	11	12
Halse Farm	37.5	37.5	37.5	37.5	38.0	40.5	43.6	46.9	50.1	53.0	55.4	56.9
Itton Manor	37.5	37.5	37.5	37.5	37.5	37.5	40.1	43.1	46.0	48.7	50.7	52.0
Ham Farm	37.5	37.5	37.5	37.5	37.5	37.5	37.5	37.9	40.2	42.8	45.3	47.6
Crooke Cottage	37.5	37.5	37.5	37.5	37.5	37.5	37.5	37.9	40.6	43.5	46.6	49.7
Crooke Burnell	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.6	43.5	46.6	49.7
Broadnymett	37.5	37.5	37.5	37.5	37.5	37.6	40.4	43.5	46.6	49.7	52.4	54.7
Coxmoor	37.5	37.5	37.5	37.5	37.5	38.8	42.2	45.9	49.7	53.3	56.4	58.7



Costs Decision

Inquiry opened on 23 July 2009

Site visits made on 3 August and 27 October 2009

by **Andrew Pykett** BSc(Hons) PhD MRTPI

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

The Planning Inspectorate
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Decision date:
11 December 2009

Costs application in relation to Appeal Ref: APP/Q1153/A/06/2017162 Land to the south east of North Tawton and the south west of Bow

- The application is made under the Town and Country Planning Act 1990, sections 78, 320 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by RES Developments Ltd for a partial award of costs against West Devon Borough Council.
- The inquiry was in connection with an appeal against the refusal of planning permission for nine 3-bladed horizontal axis wind turbines, electricity transformers, access tracks, crane hardstandings, control building, sub-station, met mast, temporary construction compound and met masts.
- The inquiry sat for 13 days on 23, 24, 27-31 July, 3 August, 20-23 and 26 October 2009.

Summary of Decision: The application fails and no award of costs is made.

The Submissions for RES Developments Ltd

1. The scope of the application comprises the costs incurred by the applicant from the date of the pre-inquiry meeting (1 June 2009) and the close of the inquiry. It is confined to the need to present evidence on policy matters and in respect of landscape and visual issues.
2. The applicant acknowledges that landscape and visual evidence would have had to have been submitted to counter that given on behalf of DBJRG, but additional costs were incurred because of the council's approach. Specifically: the costs of submitting evidence on policy matters by Mr Stewart; the costs of Mr Trinick in the cross-examinations of Mrs Hart and Mr Holland; and the costs of submitting evidence by Mr Goodrum. The applicant considers the council has behaved unreasonably and has caused unnecessary cost.
3. The original appeal decision was quashed in July 2008. Following much correspondence a new inquiry was arranged. The principal parties were required to submit Statements of Case, and the council submitted its Statement on 2 December 2008. It indicated that it would not lead evidence against the proposed development on either planning policy or landscape and visual issues. But on 1 June 2009 the council indicated that it would in fact be presenting evidence on these matters.
4. During the cross examination of Mrs Hart (for the council) it emerged that the decision to bring evidence on the 2 matters was taken on the basis of: a new Inspector being appointed with all issues being considered; there had also been a number of new documents published since the first inquiry – the *Energy*

14. Although initially the Planning Inspectorate had intended to confine the issue before the inquiry to possible noise interference, it had changed its position following representations by third parties. The council therefore had no choice other than to react to the changing circumstances.
15. As far as the attendance of Mr Stewart is concerned, he would have had to have been present in order to have presented the applicant's case. The same applies to Mr Goodrum's presence. In relation to taking instruction from the council; there was no obligation to refer the matter back to committee. It was a matter which had effectively been taken out of their hands by the submission of the first appeal and subsequent events. Had a new application been submitted, this would have been referred to committee in the normal way. As it happens members were aware of the stance taken by the council, even if they may not have been formally consulted. The matter was also in the knowledge of the Chief Executive and the Management Board. It is in any event obvious that there were major changes in material circumstances since the first inquiry. Mr Goodrum himself departs from the conclusions reached by the previous Inspector.
16. In conclusion the council contends the circumstances do not fall within the terms of the Circular, and that there has been no unreasonable behaviour.

Conclusions

17. I have considered this application for costs in the light of Circular 8/93 and all the relevant circumstances. This advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused another party to incur or waste expense unnecessarily.
18. Much of the applicant's case for an award of costs is founded on the passage of events between the determination of the appeal following the first inquiry and the matters under consideration at the second inquiry. After the first decision had been quashed in the Court of Appeal the applicant's preference was that the same Inspector should be appointed to give fresh consideration to possible noise interference. Although the Planning Inspectorate was initially in favour of this procedure, it altered its view in the light of many representations. A new Inspector would be appointed with all matters reconsidered. In my view it was clear from that point that a comprehensive case would have to be presented by the applicant.
19. Notwithstanding the contents of the council's Statement of Case, the applicant evidently realised by the time of the pre-inquiry meeting that policy and landscape and visual matters would have to be addressed. The note of the meeting records that both Mr Stewart and Mr Goodrum were retained to prepare and give evidence to the inquiry. Although it was apparent that the focus of DBJRG's case would be possible noise disturbance, it was also clear that this was by no means its only concern. Even had the council decided to take little part in the inquiry, the circumstances necessitated the preparation and presentation of evidence by Mr Stewart and Mr Goodrum. It was also clear at the pre-inquiry meeting that the council would be presenting evidence on both planning policy and landscape matters.