

## Den Brook Wind Farm

### High Court Judicial Review - 27/8/9<sup>th</sup> July 2010

Leading member of the Den Brook Judicial Review Group (DBJRG), Mike Hulme, is returning to London's High Court of Justice later this month seeking a second judicial review [s288 appeal] challenging the decision of the Planning Inspectorate to allow the development of a wind farm in the heart of the mid Devonshire countryside.

The driving force behind the challenge is directed towards the noise conditions that are widely considered to be defectively worded. Nine further grounds are also to be pursued, and it is estimated that the hearing will last for three days.

For the past 6 years Mr Hulme has quizzed developer, Renewable Energy Systems (RES), over issues concerning potential noise impacts from the proposed wind turbines. As a consequence, a number of significant changes have been made to the developer's assessments, but the levels of potential noise pollution remain in dispute.

RES continue to claim that there will be "*no noise nuisance*" from the Den Brook wind farm development, and that conditions to control excessive noise are unnecessary. On the other hand, evidence from DBJRG's noise experts, following detailed analysis of RES' own long-term wind speed data, convinced the Planning Inspector that a noise condition to control excessive noise was both "*reasonable and necessary*".

Disturbing noise problems have recently become a major issue with a similarly sized wind farm close to the Welsh village of Altwalis. After more than 6 month of complaints, the problems remain unresolved. Local MPs are now calling for the Altwalis wind farm to be shut down, and environmental health officers from Carmarthenshire's District Council are currently faced with a dilemma for whether to take out a statutory noise nuisance action, which could cost local taxpayers many tens of thousands of pounds.

*"The defective wording effectively renders the Den Brook noise conditions useless for our protection,"* claims Mike Hulme. *"Similar circumstances to those at Altwalis could very easily happen here. We must ensure that the noise conditions here are both precise and enforceable"*.

*"Shortly after I lodged the appeal, RES proposed a written scheme attempting to get around the wording errors. Astonishingly, the scheme actually makes the Den Brook noise conditions even worse in terms of protection for neighbours."*

RES appear reluctant to have noise conditions imposed on the development that would adequately protect neighbours in the event of excessive noise pollution. In the event that such noise problems do occur, an effective noise condition would compel the developer to adopt mitigation measures that may require switching off some, or all, of the turbines for considerable periods of time. This could drastically affect the developer's profitability, or even significantly undermine the overall financial viability of this wind farm.

DBJRG's legal team is in no doubt that a precautionary approach should be adopted, as indeed was the view expressed by the Inspector in his decision to approve the wind farm.

*"Adequate protection preventing neighbours from becoming exposed to excessive noise and health risks is definitely not up for negotiation, nor should it be,"* commented Mr Hulme, who is personally taking the case to the High Court.

***"DBJRG needs your help - We have the expertise onboard, the evidence and the resolve, but seriously short of funds. We are very grateful and appreciate that many of our hundreds of supporters have already generously donated a great deal of hard-earned cash towards challenging this development over the years. Please dig deep and help to financially support our resolute efforts once more."***

#### **Notes:**

(i) Although commonly termed a Judicial Review, the appeal is more correctly an "s288 appeal".

(ii) For a full copy of the s288 grounds of appeal, please email: [info@denbrookvalley.co.uk](mailto:info@denbrookvalley.co.uk)

(iii) Further information contact: Mike Hulme of the Den Brook Judicial Review Group (DBJRG): phone# 01363 82220 or by email as (ii) above.

(iv) Donations can be made through PayPal via DBJRG's website: <http://www.denbrookvalley.co.uk/11.html>

Or by cheque made out to "DBJRG Fund" and send to:

**DBJRG Treasurer, Nick Jewel, Lynderies, Heath, Spreyton, Devon EX17 5AN**

Or to: **Mike Hulme, Coxmoor, Spreyton, Crediton, Devon EX17 5AR**

(v) The 'Hearing' is scheduled for 27/8/9<sup>th</sup> July 2010 at the High Courts of Justice, London -Case reference no. CO/977/2010

The court number and hearing time can be found on the Administrative Court Daily List at [http://www.hmcourts-service.gov.uk/cms/list\\_admin.htm](http://www.hmcourts-service.gov.uk/cms/list_admin.htm) after 2.30 on the working day before the hearing. To receive regular updates of the daily list by email please send us your email address and we will add you to our mailing list.

If you are unable to access the Internet you may telephone the Administrative Court List Office on 020 7947 6655 after 2.30pm on the last working day before the hearing. Please have your case reference number to hand if you telephone the Court.

(vi) Altwalis wind farm noise problems, see:

<http://www.jonathanedwards.org.uk/calls-for-alltwalis-wind-farm-to-be-shut-down>

DBJRG  
21<sup>st</sup> July 2010

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